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AUGUST 2023



"COASTING TO COSTA MESA"

by the LPI Conference Committee, Page 5

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LPI CODE OF ETHICS

It shall be the duty of each member of Legal Professionals, Incorporated, to observe all laws, rules, and regulations now or hereafter in effect relating to confidentiality and privileged communication, acting with loyalty, integrity, competence and diplomacy, in accordance with the highest standards of professional conduct.

*Dedicated to LSI Past President,
Joan M. Moore, PLS, CCLS*

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ROD CARDINALE, JR.

is LPI's President and a member of the Santa Clara County Legal Professionals Association ("SCCoLPA"). He is a Sr. Paralegal and Officer Manager at The Law Office of Janet L. Brewer. Rod served as President of SCCoLPA from 2010-2014. In Rod's spare time he likes to cook, travel, watch sports and spend time with his family.

Stronger
Together

PRESIDENT'S MESSAGE

BY ROD CARDINALE, JR.

Can you feel it? Can you start to see it?

I'm talking about the emergence of LPI as the go-to place for legal education in California.

This time last year, I outlined the changes to LPI that I intended to introduce to the Board of Governors and all members of LPI. Those changes were to overhaul and streamline LPI's educational offerings and completely restructure LPI's conferences.

The Board of Governors approved the three new educational silos outlined last year, which went into effect on May 1st. After completing our first quarter under the new structure, we're already starting to see an increase in attendance at our educational classes. For example, we presented a one-hour webinar on Legal Research Overview, and over 300 attendees signed up and attended the class taught by LPI's newest educational trainer Bethany S. Ensz, M.S.

You will be excited to learn about the additional education classes we will offer this fiscal year. Remember, as a member of LPI, all of the classes presented by the Continuing Legal Education Silo are free to LPI members. If you're not in a local association and LPI member, please **click here** to join. You can't find the quality of continuing legal education as affordable as LPI offers anywhere else in the market. Becoming a member of a local association of LPI, or as an LPI Member at Large, pays for itself after the first class you take, and membership is open to anyone working in the field of law. LPI is a California State Bar approved MCLE provider. Please visit our **website** to see all of the amazing education opportunities we already have scheduled for this year, and encourage all the attorneys,

paralegals, legal assistants, legal secretaries, etc., to join LPI so they can begin to benefit from all the continuing legal education that is either included in the nominal annual dues or at a reduced rate.

The second promise I made last year was that we were going to completely restructure the LPI conferences to allow more time for education and networking, streamline the Board of Governors meeting while still maintaining the integrity of the business meeting, and structure the leadership meetings to allow for a more inclusive and collaborative environment so the leadership team could be as successful in ensuring that LPI becomes the go-to place for continuing legal education in California.

After the first year of the new LPI conference structure, I'm happy to report that the new structure has done what I hoped it would do. Attendees can now spend more time taking educational classes and networking with others in the legal field. The leadership team has become closer as a unit, stronger as a team, and the level of ability, knowledge, and the sheer will to succeed are truly inspiring. I'm honored to be able to lead such an amazing group of legal professionals.

LPI's conferences are not only a great place to take educational classes but also a great place to meet others engaged in the legal field. I have always said that in life, particularly in the legal field, it's 10% what you know and 90% who you know. Knowing how to prepare legal documents, research, interpret, defend, argue, or rule on the law are all skills and knowledge that we as legal professionals have gained from school, continuing legal

Continued on page 3 ➔

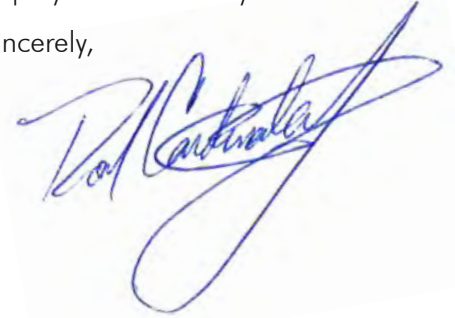
← Continued from page 2

education, or work experience that aid the individuals in our communities. Still, the greatest asset and tool that membership in LPI offers our members is the ability to confer, collaborate, and help each other through the relationships we make while attending LPI conferences. I can't tell you how many times during my daily routine as a senior paralegal and office manager, when we were struggling with how to deal with a situation, my boss said to me, "Call one of your LPI peeps and see if any of them can help us out." The relationships you make attending an LPI conference or getting involved with your local association are invaluable to the level of success attainable as legal professionals.

If you have not attended an LPI conference in a while or have never attended one, now is the time to start. LPI is on the rise, and we need everyone's support if we're going to become the go-to place for continuing legal education in California. Everything LPI needs to succeed as a corporation that provides continuing legal education to all legal professionals is in place. It's time to reintroduce ourselves to the legal community and firmly establish ourselves as California's go-to place for legal education.

I started this article with two questions for you all. I can tell you that I feel the excitement and awareness growing, and I'm starting to see the results with increasing membership and attendance in our educational classes. I'm excited about what lies ahead for LPI, and I hope you all share my excitement.

Sincerely,



Dates to Remember | 2023

AUGUST 8 – SEPTEMBER 26, 2023

LPI/NextGen Legal

Appellate Procedures in California and the Ninth Circuit Court of Appeals Online Course commencing

AUGUST 11-13, 2023

LPI's First Quarterly Conference Board of Governors Meeting – "Coasting to Costa Mesa"

Hilton Orange County, Costa Mesa, CA | Hosted by LPI

AUGUST 12, 2023

Continuing Legal Education, Legal Technology Training & CCLS Seminars at August Conference

(In Person or Via Zoom) (Details on Page 4)

AUGUST 24, 2023 | 12:00 P.M. – 1:00 P.M.

Continuing Legal Education Summer Court Series

San Francisco Superior Court (FREE to LPI Members!)

LPI 1st Quarterly Conference Seminars - 08.12.2023



Legal Professionals, Inc. Presents



CONTINUING LEGAL
EDUCATION

Seminars *

11:00 a.m. - 12:00 p.m.

AI in the Court Reporting Industry:

Beware Before you Schedule

Speaker: Mary Pierce, CA CSR 6143

1:45 p.m. - 2:45 p.m.

**Deposition Subpoenas for Business Records,
Notice to Consumers, Custodian Declarations**

Speaker: Jim L. Ayer

Titan Legal Services, Inc., Vice President

3:15 p.m. - 4:15 p.m.

**The Nuts and Bolts of a Multi-Million Dollar
Settlement: *How to Maximize Your Recovery in a
Personal Injury Case***

Speaker: Kevin McDonough, Esq.

Morey & Upton LLP

**LPI Members ~ Pre-register FREE; Walk-ins \$5
Non LPI-Members ~ Pre-register \$15; Walk-ins \$20**



LEGAL TECHNOLOGY
TRAINING

Seminars**

11:00 a.m. - 12:00 p.m.

Citations

Speaker: Bethany Ens

1:45 p.m. - 2:45 p.m.

Table of Authorities

Speaker: June Hunter

Two Classes - One Low Price

**LPI Members ~ Pre-register \$20; Walk-ins \$30
Non LPI-Members ~ Pre-register \$35; Walk-ins \$45**

Individual Classes

**LPI Members ~ Pre-register \$15; Walk-ins \$25
Non LPI-Members ~ Pre-register \$25; Walk-ins \$35**



3:15 p.m. - 4:15 p.m. - CCLS

Real Estate 101

Speaker: Vivian Shreve, CCLS

Chair - California Certified Legal Secretary



**All Seminars Are
Available In Person
or Via Zoom!**

The last day to pre-register at the discounted rate is July 31, 2023.

**The 2023 August Quarterly Conference will be held at:
Hilton Hotel, 3050 Bristol Street, Costa Mesa, CA.**

**To Register go to: <https://www.legalprofessionalsinc.org/events/>
or Scan the QR Code**



*Continuing Legal Education is a program of Legal Professionals, Inc., an approved provider, and certifies that these seminars have been approved for minimum continuing education credit in the amount of 1.0 hour by the State Bar of California.

**Please note: The TOA class is eligible for CCLS credit only. MCLE credit is not available.

"COASTING TO COSTA MESA"

LPI's First Quarterly Conference - August 11-13, 2023

BY LPI CONFERENCE COMMITTEE



LPI is looking forward to "Coasting to Costa Mesa" with you in Orange County for the First Quarterly Conference on August 11 – 13, 2023 at the Hilton Orange County/Costa Mesa. The hotel is five minutes from John Wayne Airport and has a free shuttle to make life easy! It is also less than seven miles from the waterfront attractions and dining of Newport Beach Pier. To top it off, South Coast Plaza mall is right across the freeway from the hotel which has some of the best stores and restaurants around.

Since we'll be so close to the ocean, it's a beachy affair so wear your resort wear. At the Friday night reception you will meet the LPI Officers and Chairs and socialize with LPI members; this will be followed by an optional Bingo Night / Social Event where prizes will be handed out to all of the winners (including LPI merch!).

Room rates are \$179 and the room reservation deadline is July 20, 2023. Guest rooms offer a coffee maker, iron/ironing board and hair dryer. There is an on-site restaurant, room service, fitness center and outdoor swimming pool. There is discounted overnight parking for \$20/day and parking for day of event is \$10.

The script ticket, which includes Registration, Continental Breakfast on Saturday and Sunday, Saturday Roundtable Lunch, and Banquet is \$205.00 (if purchased prior to July 10, 2023). Individual ticket prices are: Registration \$30 (after July 10, 2023 price increases by \$10); Continental Breakfast (Saturday and Sunday) \$30, Saturday Lunch \$40, Banquet \$75; and Optional Friday Night Social Event (Taco Bar) \$30.00. The last day to register is August 2, 2023.

Many educational opportunities are scheduled (listed below).

A quarterly conference is a great place for education, networking and meeting other professionals working in the legal field (some of whom will become your forever friends). This is a great opportunity to begin your career advancement through education.

Saturday, August 12, 2023 11:00 a.m. to 12:00 p.m.

Topic: AI in the Court Reporting Industry – Beware Before you Schedule

Speaker: Mary Pierce, CA CSR 6143

Legal Technology Training

Topic: Citations

Speaker: Bethany Ensz

Saturday, August 12, 2023 1:45 p.m. to 2:45 p.m.

Topic: Deposition Subpoenas for Business Records, Notice to Consumers, Custodian Declarations

Speaker: Jim L. Ayer, Titan Legal Services, Inc., Vice President

Legal Technology Training

Topic: TOA's

Speaker: June Hunter

Saturday, August 12, 2023 3:15 p.m. to 4:15 p.m.

Topic: The Nuts & Bolts of a Multi-Million Dollar Settlement: How to Maximize Your Recovery in a Personal Injury Case.

Speaker: Kevin McDonough, Esq.

Saturday, August 12, 2023 3:15 p.m. to 4:15 p.m.

CCLS Topic: Real Estate 101
Speaker: Vivian Shreve, CCLS

We hope to see you there!

CONGRATULATIONS

TO OUR 100% CLUB MEMBERS!

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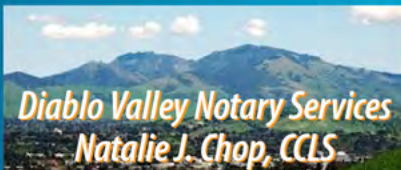
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CONGRATULATIONS!

MEMBERSHIP GAIN CONTEST

GROUP A (0-25 MEMBERS)

Santa Cruz Co. LPA (50% increase)

GROUP B (26-50 MEMBERS)

Stanislaus Co. LPA (130% increase)

GROUP C (51-75 MEMBERS)

San Francisco LPA (1.85% increase)

GROUP D (76-100 MEMBERS)

NONE

GROUP E (101-125 MEMBERS)

Sacramento LSA (71.21% increase)

GROUP F (126+ MEMBERS)

San Diego LSA (17.07% increase)

SCRAPBOOK CONTEST

1ST PLACE – Santa Clara Co. LPA

2ND PLACE – San Francisco LPA

GOVERNOR'S CHOICE – Santa Clara Co. LPA

BULLETIN CONTEST

1ST PLACE – Sacramento LSA

(Editor: Lynne Prescott, CCLS)

2ND PLACE – Stanislaus Co. LPA

(Editor: Linda Fischer, CCLS)

3RD PLACE – Orange County LPA

(Editor: Debbie Murphy, CCLS)

SCHOLARSHIP WINNERS

CATEGORY A (HIGH SCHOOL SENIOR)

1st Place: San Mateo Co. LPA

– Guadalupe Ramirez-Palacios

2nd Place: San Gabriel Co. LSA

– Kayla Nguyen

1st Alternate: LPI

– Isabella Fortier

CATEGORY B (COLLEGE STUDENT)

1st Place: San Mateo Co. LPA

– Taylor Guio

CATEGORY C (CAREER CHANGE STUDENT)

1st Place: Santa Clara Co. LPA

– Bess Ho

2nd Place: San Diego LSA

– Sasha Lopez



CHAPTER ACHIEVEMENT CONTEST

GROUP A (0-25 MEMBERS)

Conejo Valley LPA (9,700 points)

GROUP B (26-50 MEMBERS)

Mt. Diablo LPA (18,025 points)

GROUP C (51-75 MEMBERS)

San Francisco LPA (21,025 points)

GROUP D (76-100 MEMBERS)

No entries

GROUP E (101-125 MEMBERS)

Santa Clara Co. LPA (49,500 points)

GROUP F (126+ MEMBERS)

San Diego LSA (50,100 points)

RISING STAR AWARD

Leanne Ruesink – LPI Northern California Career
Promotion/Professional Liaison Chair

LEGACY AWARD

Patricia E. Miller, PLS, CCLS – LSI Past President
1998-2000

PRESIDENT'S AWARD

Lynne Prescott, CCLS – LPI Executive Advisor

ANNUAL CONFERENCE WINNERS!

MAY 12-14, 2023 | LAS VEGAS, NV

LPI'S 89TH ANNUAL CONFERENCE OF DELEGATES & BOARD OF GOVERNORS MEETING



LPI's 89th Annual Conference of Delegates and Board of Governors meeting was hosted by Legal Professionals Incorporated at The D Hotel in Las Vegas, Nevada on May 11-14, 2023. What a fun weekend it was and being in downtown Las Vegas was a bonus with all of the fun and frivolity in the casino and outside on Freemont Street!

On Friday morning, it started out with the "Speed Mentoring" LPI's Officer/Chair Workshops where every 15 minutes an LPI officer or chair would join your table and discuss the procedures or tips for their specific chairmanship and answer any questions attendees had. On Friday afternoon, there were a few Continuing Legal Education seminars to attend, followed by the Welcome Reception and "VIP Backstage Pass Party" where the

likes of Elvis and his groupies, Brittany Spears, Stevie Nicks, Prince and other rock stars were spotted. What a fun evening!

On Saturday morning at the Annual Conference of Delegates Meeting, excitement was in the air since winners were announced for the Membership Gain Contest, Annual Bulletin Contest, and the Eula Mae Jett Scholarships. At lunchtime, the Kalman S. Zempleny II CCLS Luncheon was hosted by the CCLS Certifying Board to honor the 4 most recent CCLSs. On Saturday night at the banquet, the Golda J. Cooper Chapter Achievement Awards were announced and LPI President, Rod Cardinale, Jr., announced the recipients of the Rising Star Award (Leanne Ruesink, LPI Northern California Career Promotion/Professional Liaison Chair), Legacy Award (Patricia E. Miller, PLS, CCLS, LSI Past President 1998-2000) and President's Award (Lynne Prescott, CCLS, LPI Executive Advisor).

On Sunday morning, to end the conference on a high note, the 2023-2024 LPI Officers were installed.





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GROWING IN OUR TECHNOLOGY FILLED WORLD

BY CARRIE HUGHES, CCLS – SUBMITTED BY CONTRA COSTA COUNTY LPA

These have been challenging times for associations. How do we come back together after a pandemic and, more importantly, how do we grow now?

My name is Carrie Hughes, CCLS and I was recently elected President of Contra Costa County LPA. I've decided on growth as my theme. I think it's an important topic for all associations as the times have changed drastically these last three years and we have to continue to change with it. There's a great saying, "If you're not moving forward, you're moving backwards." There is no standing still or technology will pass you by!

While law offices and courts have typically been slower to embrace technology, COVID gave us all a giant shove into the technology world. We all had to figure out working from home, and navigate court appearances and depositions via Zoom. Many offices are still fully remote or have a hybrid schedule.

With younger generations entering the legal field, our associations also need to embrace the changing technology.

What do I mean by growth, why is it important for each association, and what can you or your members do? I'd like to break it down to three categories.

First, personal growth. That's why we're all here, right? We joined our local association to keep on top of all the changing laws, rules, and procedures. We wanted to stay informed and relevant – be the best we can be in our field. For personal growth, it's important for us to attend our local association's meetings (and even some other associations meetings!). This is where we get firsthand knowledge; where we have the opportunity to hear directly from a speaker and ask questions. This is also where we network and form connections and friendships. There's nothing better than impressing your boss when a situation comes up and you say "let me make a quick phone call." You reach out

to another member and have an answer for your boss in no time (this is also a great way to introduce the idea of your employer paying for your membership dues if they aren't already).

Second, the growth of our association. We were a newer association when COVID hit and the previous Board did an amazing job of keeping us going and engaging our membership. Now that we have returned to in-person meetings, it's time to focus on growing our membership. Members can help their association by following their social media accounts, liking and sharing posts, attending meetings, inviting friends and colleagues to the meetings. Even better, you can volunteer for a Chair or Board position. Each of the positions are not overly time consuming and there is so much support from other members and LPI. They are also a great resume builder and extremely personally rewarding!

Fundraising is also an important aspect for each association. Whether that's having an opportunity drawing at meetings, putting on a fundraising event like a crab feed, or hosting a conference. Having the necessary funds to run your association is vital and it helps us to reach out to the community with opportunities like scholarships. It helps to spread the word of our association, invites new prospective members, and can form relationships with vendors/donors who help support the association.

Growth for the association may also look very different than it has in the past. Perhaps its hybrid meetings. Perhaps it's quarterly meetings instead of monthly meetings. Whatever is right for your association, it includes embracing more technology and also getting speakers familiar with the technology and who can talk about it.

Lastly, the growth of LPI.

Like your local association, you can help LPI grow by following their social media accounts, liking and sharing posts,

attending conferences and educational workshops, and inviting friends.

LPI has some amazing educational workshops for a very reasonable price. You can bring these educational workshops to your employer and share them with coworkers and friends. It's showing your employer the Law Office Procedures Manual and the Legal Professional's Handbook and how invaluable those resources are to you, your co-workers, and the attorneys in your office. This is another opportunity to talk with your employer about LPI and the great benefits of being a member and introducing the idea of your employer paying for your membership dues if they aren't already.

Most of all, it's just showing up and being an active, positive member!

I've been very impressed with LPI and its embrace of technology and the changes it has made to stay relevant to the ever changing world and younger generations while still holding on to tradition.

Change is always scary. The unknown can be intimidating. The best thing to come out of these last three years is realizing how resilient we are, and how we have learned to embrace fast-paced changes so go out there and do it! Your energy will be infectious.



CARRIE HUGHES,
CCLS obtained her

CCLS in 2008 and has been in the legal field for over 25 years. She is the Office Administrator at Galloway, Lucchese, Everson & Picchi in Pleasant Hill and President of Contra Costa County LPA.

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IS YOUR COURT REPORTER A CALIFORNIA-LICENSED CSR?

BY AMY MANN, CCLS - SUBMITTED BY DESERT PALM LPA

Do you always confirm that your court reporter is a Certified Shorthand Reporter, licensed in the State of California? In the past, when I've contacted my court reporting agency to schedule a court reporter, I have always assumed that the reporter provided would be a Certified Shorthand Reporter (CSR).

However, recently our firm has had a few unusual experiences in which opposing counsel has hired court reporters for depositions for our related cases, then we soon learned that the court reporters provided were not Certified Shorthand Reporters who were licensed in California.

In one case, the court reporter that the agency sent advised the attorneys that he was a "deposition officer". When he was asked what that title entailed, he advised that he would be recording the deposition, but he was not certified. He said he could swear in the witness because he was also a Notary Public.

On another case, a court reporter, a videographer, and a Notary Public appeared for our deposition being held on Zoom. The attorney inquired as to why there was a notary present, and the court reporter advised that she could not swear in the witness prior to the deposition because she was not a certified court reporter, so the deposition agency instructed the Notary Public to appear at the Zoom deposition to swear in the witness.

Finally, in another matter, our attorney appeared for a deposition and asked the court reporter for her CSR number. When the attorney ran the number on the Court Reporters Board of California website (<https://www.courtreportersboard.ca.gov/>), it was the CSR number for a different court reporter, and that license had expired

in 1995! Further investigation revealed that the number provided was a CCR number from the State of Washington. We could find no information confirming the court reporter was licensed, or certified, in California.

After the attorney at our firm advised me of these occurrences, I started digging and found out that these are not isolated incidents.

I found an excellent article published in the Daily Journal in July 2022, by Melissa B. Buchman and Mary Pierce, entitled *Are You Sure Your Court Reporter Is Really a Court Reporter?* In this article, the authors describe a situation in which the person who appeared for the deposition and referred to himself as a "court reporter" was, in fact, a Notary Public who digitally recorded the deposition. He was not a California-licensed CSR. He simply recorded the deposition proceedings, then the deposition agency sent short clips of the deposition to several different individuals for transcription. In Buchman's case, 55 pages of the deposition was inadvertently not included in the final transcript. When opposing counsel sought to lodge a copy of the transcript with the court, Buchman filed an objection advising that the transcript was inaccurate and missing substantial testimony. Nevertheless, the court admitted the transcript, and her client's request for a Domestic Violence Restraining Order was denied. The "court reporter" that recorded this deposition was not licensed and was not vested with any legal authority to certify the accuracy of the deposition transcript. Buchman states that this type of transcript does not meet the burden for admissibility at trial without having to lay foundation.



The Buchman/Pierce article reminds us that:

California Code of Civil Procedure §2025.40 (m) states, "if no stenographic record of the deposition testimony has previously been made, the party offering an audio or video recording of that testimony under Section 2025.620 shall accompany that offer with a stenographic transcript prepared from that recording." The law is clear that when it refers to a stenographic transcript, that means it must be prepared by a California-licensed CSR.

California Code of Civil Procedure §2025.330(b) states, "Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. If taken stenographically, it shall be by a person certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13, of Division 3 of the Business and Professions Code.

The authors' advice in this article is, "Never take a deposition or defend a deposition unless it is before a Certified Shorthand Reporter in the State of California. The success or failure of your case may depend on it."

Continued on page 15 ➔

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As I continued to research this issue, I also found an article in our own LPI Blog published on August 5, 2021 by Charlotte Mathias (CSR 9792), entitled *Is Your Record Protected for Admission in Court?* <https://www.legalprofessionalsinc.org/is-your-record-protected-for-admission-in-court/>.

Mathias states:

- By using a licensed California CSR, you have the confidence that your transcript is certified and admissible in court.
- Only a California CSR is licensed in the State of California and is under the jurisdiction of the California Court Reporters Board. If there is an issue with your court reporter or your transcript, you can then file a complaint with the Court Reporters Board.
- California CSRs have rigorous training in grammar, medical/legal terminology, ethics and courtroom/deposition procedures.

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Related articles and information:

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AMY MANN,

CCLS began her legal career in 1992. She has

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THE OVERLOOKED DEVICES MONITORING OUR LIVES

BY BRIAN CHASE, MANAGING DIRECTOR OF DIGITAL FORENSICS AND EDISCOVERY AT ARCHERHALL

It's 6:00 am, and John's smart alarm clock starts going off as it does every morning. John rolls over and hits the snooze button. Ten minutes later, his smartwatch starts vibrating – it's his backup alarm; he has to get up for work. John gets out of bed, gets himself showered and dressed, and heads to the kitchen for some coffee. As he does every morning, he asks his Amazon Echo in the kitchen to play him the news. He pours his coffee into his travel mug, grabs his bag, and heads out the front door toward his car. Just as it does every day, his phone buzzes in his pocket from the alert he just received from his Ring Video Doorbell as it detects motion at his door. Parked in front of his house is his dream car – his Tesla Model S that was finally able to save up enough money to purchase. He gets in his car and drives to work.

John's simple morning routine just left a lengthy trail of data. His alarm clock, his watch, his Echo, his doorbell, and even his car are all tracking his activity. That activity can go back months or even years, painting a very clear picture of John's daily routine. That data is also available to produce in litigation.

In recent years, the use of this kind of "Internet of Things" data has exploded in litigation. The term Internet of Things, or IoT, is generally used to describe Internet-connected devices other than cellphones and computers. The term includes smart speakers, like the Amazon Echo or Google Nest speakers. It can include smart home devices like Nest Thermostats, Ring Cameras, Phillips Hue Lightbulbs, and even WiFi-enabled refrigerators, washers, or dryers.

IoT Data in Use

One of the earliest cases of IoT data used in litigation came out of Bentonville, Alabama, in 2015.¹ James Bates has some friends over to watch football at his house. A couple of his friends are drinking and decide to spend the night. The next morning, they awake to discover one of their friends, Victor Collins, dead in the hot tub. When police arrive, they find what looks like a crime scene. There are broken beer bottles, the house is in a state of disarray, and there is some blood near the hot tub. Due to the suspicious nature of the death, they sent Mr. Collins' body to the medical examiner for an autopsy. The medical examiner then rules the death a homicide.

Police then get a search warrant and search the home. During the search, they find an Amazon Echo. They seize the device and go back to the judge with another warrant affidavit. In this new affidavit, they assert that they have reason to believe that Amazon.com is in possession of records relating to a homicide investigation being conducted by the Bentonville police department.² The judge signs the warrant, and the police send it off to Amazon.

Amazon decides to fight the warrant. They assert there is a First Amendment protection at play and that the Bentonville police department must establish a compelling need for the data, and that the evidence is integral to the investigation. However, instead of a battle over first amendment rights, Mr. Bates simply agrees to the release of the data. It turns out there is nothing there. The Echo did not capture any audio related to death.



This is not surprising to anyone who knows how an Amazon Echo functions. While these devices are always listening, they are not always recording. The device listens for the wake word of "Alexa." Upon hearing the wake word, the device records the audio and sends it to Amazon servers, where it is saved indefinitely. The only reason Amazon would have had audio related to the death of Mr. Collins is if someone said "Alexa" at the time, and it then recorded the audio. It seems unlikely that Mr. Collins would have shouted, "Alexa, help! I'm being attacked."

While much of the national news media coverage ended at this point in the case, there was actually more IoT data. Mr. Bates's home has a smart water meter. This meter measures water usage down to the hour. While the men are watching football, they are using about 10 gallons of water an hour. However, between the hours of 1:00 am and 3:00 am, they use 140 gallons of water. This spike in water usage makes investigators suspicious. Did they kill Mr. Collins in the hot tub and then drain and refill it? Did they use the hose to wash away evidence of the crime? That water meter data does not look good for Mr. Bates. He is charged with the murder of Victor Collins.

But the story doesn't end there. According to local reporting, Mr. Bates has a step-counting app on his iPhone. That app shows that once he went to bed that night, he didn't get up again. Partially as a result of this data, the prosecutor dismisses the case against Mr. Bates. However, the reporting is

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likely slightly incorrect. If it was truly just a step-counting app on his phone, Mr. Bates could have simply taken his phone out of his pocket and set it on a table. Then it would not have registered any steps. What likely happened is that Mr. Bates had a wearable device, like an Apple Watch or Fitbit, that tracked his steps but also tracked his heart rate and sleep. With a device like that, it would be clear if Mr. Bates wore it through the night. Therefore, this data could establish that Mr. Bates could not have murdered Mr. Collins.

Wearable devices, like Apple Watches and Fitbits, are showing up more often in cases now. One woman in Pennsylvania calls 911 saying she had been sexually assaulted. When the police arrive, she tells them that she woke up to the assailant on top of her. She struggles with him, and her Fitbit falls off in the struggle. Police are skeptical of her story. They decide to look at the data from the woman's Fitbit and discover that she is not asleep prior to the assault, as she describes. Instead, her Fitbit shows she is awake and walking around all night. They ended up charging her with false reporting to law enforcement. She is eventually convicted and sentenced to probation.

In this case, the Fitbit data is only one part of the investigation. It is important to put digital evidence in the context of the overall facts. The reason police are originally suspicious of her claims is that it had just snowed that night, and the only footsteps leading to or from her house are those of the police. How did the assailant escape without leaving footprints in the fresh snow? The circumstantial evidence of no footprints led them to dig deeper into her claims and discover the Fitbit data.

In another case covered by both Dateline and 48 Hours, Nicole Vander Heyden is found dead in a field.³ She has been beaten and strangled to

death, and the killer disposes of her body in the field. The night before her murder, she is at a bar with her boyfriend, Doug Detrie. The two get into a fight, and text messages between the two show she accuses Doug of cheating on her. Her blood is found in the garage of their home, and the cord used to strangle her is across the street. Given the evidence of motive, the blood in the garage, and the cord across the street, police naturally look to Mr. Detrie as their prime suspect.

Mr. Detrie, however, has been wearing a Fitbit. The Fitbit shows that once he goes to sleep that night, he only gets up a few times. Fitbit watches track more than just step counts; they also track heart rate and sleep. The Fitbit data shows he wore the watch all night and couldn't have killed her that evening.

Additionally, he has a device called Snapshot from Progressive installed on his car. Many auto insurance companies offer such devices. They track your driving for a period of time, and if you are a safe driver, they will give you a discount. The device plugs in to the car's OBD port, the diagnostic port under the steering wheel. When the driver starts the car, the device turns on. It uses GPS to track the driver and sends that data to Progressive. Mr. Detrie's Snapshot shows the car does not move that night.

If Mr. Detrie is asleep most of the night and his car doesn't move, how can he kill Nicole and dispose of her body in a field? This data helps exonerate him. When the DNA results come back, it is clear Mr. Detrie is not the murderer. The DNA points to another man, George Burch. Police are able to obtain Mr. Burch's location data for the night of the murder, and it shows Mr. Burch near the bar where Nicole is, then at her home, and finally at the field where her body is found.

In Connecticut, there is a case called the

Fitbit Murder.⁴ Richard Dabate calls 911, saying a home intruder has tied him to a chair, cut him with a knife, demanded his wallet and credit card, and then shot and killed his wife in the basement. Police find it odd that this home intruder doesn't steal anything from the home, and uses Mr. Dabate's own gun to kill his wife. They begin looking into the digital evidence. Mrs. Dabate is wearing a Fitbit at the time of her death. The Fitbit shows she logs 1,200 steps after Mr. Dabate alleges she has been shot and killed. In 2022, Mr. Dabate was tried and convicted for the murder of his wife.

Health Data in Personal Injury Cases?

While it is not hard to find law enforcement using this data in criminal cases, it is starting to make its way into other case types. Given the amount of personal health data these wearable devices track, it should come as no surprise that the data is making its way into personal injury cases. When an injured plaintiff says that their injury disrupts their sleep or prevents them from exercising like they used to, the Fitbit data can be the digital confirmation.

Devices like the Fitbit, or Aura ring, measure both waking and sleeping activity. A frequent battle in personal injury cases is whether the plaintiff is truly injured or just malingering. A smart wearable device can show the real consequences of the injury. How many steps a day is the plaintiff taking before the injury? How many workouts a week are they logging? What is their average sleep score or the number of hours slept each night? This data may provide a pre-injury baseline for the plaintiff. Attorneys and experts can then look at that activity after the injury. Is the injury causing the plaintiff to wake up constantly throughout the night? Has

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their daily exercise measurably declined?

Health data is not limited to wearable devices, and it can also include implanted devices. Ross Compton is an Ohio man who has a pacemaker installed.⁵ He is an elderly gentleman that is not in the best of health when his house goes up in flames. Before his house burns down, he manages to pack several bags and a suitcase of his belongings and get them out to the street. Police are curious as to how this elderly man is able to do this while his house burns down around him. Thinking he may have set the fire himself, they get a warrant for his pacemaker data and have a cardiologist review it. The cardiologist concludes that Mr. Compton's story is highly improbable, and Mr. Compton is charged with arson. Because Mr. Compton passes away while his case is pending, we do not know the details of what the cardiologist found in their review. An educated guess would be that the pacemaker did not show the signs of an elevated heart rate or other cardiac stress that you would expect to see from someone frantically packing their belongings while their house is burning down around them.

Stalking in Family Law Cases

Unfortunately, these devices designed to make our lives easier are often misused. So many of these smart home devices can be used for stalking. Imagine a married couple in their home with an Amazon Echo, some Ring Cameras, a smart garage door opener, and a Google Chromecast for streaming TV. The couple splits up, and the husband moves out. The husband can likely still access all of these devices. That means the husband can get the recording of what is being said to the Amazon Echo, see everyone coming and going with Ring Cameras, get alerts when the garage door opens and closes, and see what the kids are watching on YouTube.

Frequently in family law cases, one

party alleges the other has hacked their device and is monitoring them. The reality, however, is that most of this stalking does not occur by hacking. It occurs through access to cloud accounts and IoT devices using existing access or known usernames and passwords. People often forget their smart device isn't just turning the lights on and off, but is actually recording data and sending it to the cloud. As long as the ex-spouse still has access to those accounts, they can monitor the activity on these devices. Often just changing passwords and turning on two-factor authentication can cut off such access.

Obtaining the Data

Users can see most of this IoT data on their phones. Almost all IoT devices are set up using an app on the phone. Through that app, the users can view the history of activity, recordings, videos, etc. For example, in the Alexa app for the Amazon Echo devices, a user can view the history and play the recordings of everything that is said to the device. Through the Ring app, a user can play the videos of every recording made by a Ring Camera.

That means users can also access this data for use in litigation. Nearly every company gives users the ability to download their own data. For example, a user can download their Google data easily by going to takeout.google.com and selecting which data they wish to obtain.

Some of this data may also be obtained via subpoena or warrant. The Stored Communications Act may prohibit the disclosure of the content of any communications via a subpoena but allows for the disclosure of metadata.⁶ Be sure to check the requirement of the Act before issuing a subpoena to ensure that the provider does not reject the subpoena.

The law is not yet settled on when law

enforcement needs to use a warrant vs. a subpoena. The third-party doctrine states that a user has no expectation of privacy in data voluntarily turned over to a third party.⁷ That would suggest that a user has no expectation of privacy in their smart home data, as it goes to companies like Amazon, Google, Apple, etc. However, the U.S. Supreme Court decision in *Carpenter* calls the third-party doctrine into question when it comes to modern technology.⁸ In this case, the Court declined to apply the third-party doctrine to cell site location information that is generated by simply owning a cellphone.⁹ The Court found that a user does not need to opt out of modern society to enjoy the benefits of the 4th Amendment.¹⁰ After the Court decided *Carpenter*, the 7th Circuit found that the reasonable expectation of privacy extends to data collected from smart electricity meters that measured electricity usage in 15-minute intervals.¹¹ Relying on the guidance of *Carpenter*, they too, decline to apply the third-party doctrine to this data.

Using the Data at Trial

While it may be easy for users or attorneys to obtain the data from IoT devices directly, a litigator should not forget that a witness will need to lay the proper foundation at trial. Likewise, a litigator should consider if the data at issue requires an expert to testify to its meaning.

Often, the foundation could be easily laid by the user of the device. For example, a user can testify that they downloaded their Amazon Echo data, that a recording was made on a certain date, that they listened to the recording, and that the audio fairly depicts what was said to that device at that time. However, not all cases are as clear-cut.

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Luckily, the Federal Rules of Evidence can assist. Under Fed.R.Evid. 902(14), a qualified person who obtains data from a digital medium can write a declaration about how that data was obtained, and it can be considered self-authenticated at trial. For example, a digital forensic expert witness can obtain data from Google relating to Nest smart home devices. The expert can write a declaration about how they use Google Takeout to obtain the data, that Google Takeout is a reliable way to capture the data, that digital forensics experts around the country commonly use it, and that the data has not been altered since acquiring it from Google. The litigator then needs to give notice to the other side under Fed.R.Evid. 902(11)/(12), and the data will be self-authenticating at trial.

If the expert's testimony is needed to discuss the data, the expert can also rely on Fed.R.Evid 703. An expert's conclusions do not need to be based on admissible data. Additionally, if an expert does base their opinion on data that is normally inadmissible, a judge can admit that data if it is substantially more probative than prejudicial in helping the jury assess the expert's opinion. This gives a litigator another way to admit such digital evidence in situations where Fed.R.Evid. 902(14) will not work or is not available.

Conclusion

There are no signs of slowdown in the IoT market. In fact, it is quite the opposite - the popularity of these devices is only growing. It is only a matter of time before the use of IoT data is commonplace in litigation. While the primary uses of this data have been in criminal and family law cases, it is going to make its way into more corporate litigation. Consider, for example, how all of the data Amazon collects in its warehouses may be used for employment dispute matters. Amazon, through IoT devices, records nearly every action a warehouse worker takes. As the adoption of IoT devices in the workplace grows, so will the use of the collected data in litigation.

This data can be essential in the right case. It can show guilt or innocence in a criminal case, expose stalking in a family law case, or establish damages in a personal injury case. It is important for litigators to be aware of these devices and think about what data may be available in a case. Attorneys should act quickly to preserve and collect the data in litigation before it can be lost or overwritten. Do not overlook these tiny devices, they may just store the data needed to prove the case.



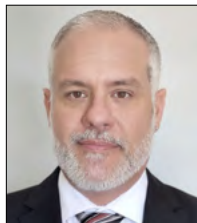
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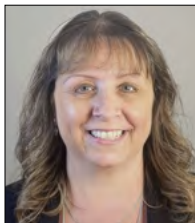
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- ¹ Arkansas Prosecutors Drop Murder Case That Hinged on Evidence From Amazon Echo. <https://www.npr.org/sections/thetwo-way/2017/11/29/567305812/arkansas-prosecutors-drop-murder-case-that-hinged-on-evidence-from-amazon-echo>
- ² The Search Warrant: <https://www.documentcloud.org/documents/3473740-Arkansas-vs-James-Andrew-Bates-Amazon-Echo-and>
- ³ "48 Hours": The high-tech alibi: <https://www.cbsnews.com/news/48-hours-the-high-tech-alibi>. "Justice for Nikki." Datelie, Season 2, Episode 11. Aired 8/16/22.
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- ⁶ 18 U.S.C.A. § 2703
- ⁷ "We have previously held that 'a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties.' Smith v. Maryland, 442 U.S., at 743-744, 99 S.Ct. 2577". Carpenter v. United States, 201 L. Ed. 2d 507, 138 S. Ct. 2206, 2216 (2018).
- ⁸ Carpenter v. United States, 138 S. Ct. 2206 (2018).
- ⁹ Id. at 2220.
- ¹⁰ Id.
- ¹¹ Naperville Smart Meter Awareness v. City of Naperville, 900 F.3d 521 (7th Cir. 2018).

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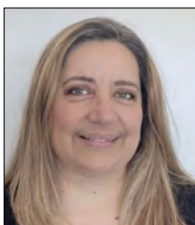
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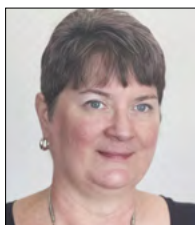
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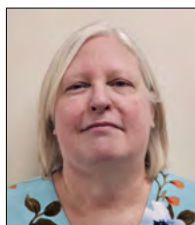
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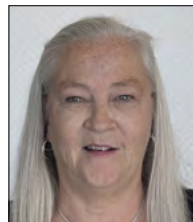
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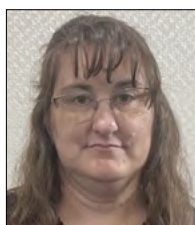
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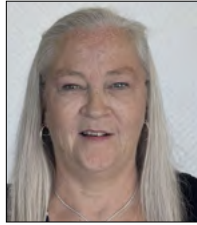
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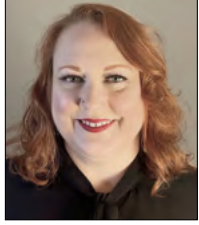
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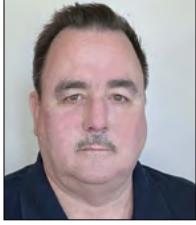
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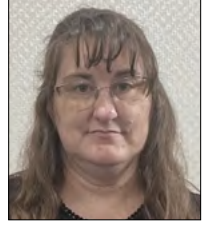
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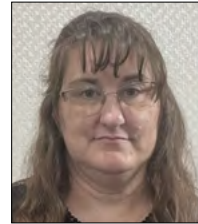
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REAL ESTATE TERMINOLOGY

For the words/phrases in Column A,
choose the best definition from Column B.

COLUMN A

1. Real Property
2. Personal Property
3. Quitclaim Deed
4. Grant Deed
5. Foreclosure
6. Grantee
7. Trustor
8. Community Property
9. Chattel
10. Promissory Note
11. Escrow
12. Legal Description
13. Encumbrance
14. Homestead
15. Preliminary Title Report

COLUMN B

- A. Description of real property as used in legal documents, in contrast to a street address by which the property is commonly known, or to the tax assessor's parcel number.
- B. A person's right or interest in the property of another that affects the property's value, such as a mortgage, deed of trust, or tax lien.
- C. The land and all buildings and fixtures permanently attached to the land and intended to be part of the land.
- D. The dwelling and contiguous land of the head of a family, which grants statutory exemptions protecting homestead property against the rights of creditors.
- E. All property which is not land, buildings, or fixtures permanently affixed to land (child's swing set, furniture, jewelry, stocks, cars).
- F. A contract detailing the terms of a promise by one party to pay a sum of money to the other.
- G. A report showing the condition and/or clouds on the title of real property in preparation for issuance of a title policy.
- H. Implies covenants of the grantor that the grantor has not transferred the same estate to anyone other than the grantee and that the property is free of encumbrances placed on the property or suffered by the grantor, unless such are expressly excepted.
- I. A deed which conveys whatever right, title, or interest the grantor may have in property at the time of conveyance, if any.
- J. A proceeding to enforce a lien by the sale of the property in order to satisfy the debt. The procedure ends, the debtor's right to redeem the property by paying off the debt.
- K. One to whom a grant is made; the recipient of title on a deed.
- L. Personal property
- M. One who creates a trust (in a deed of trust, the borrower).
- N. Property acquired by husband and wife, or either, during marriage and while domiciled in California or another community state, when not acquired as the separate property of either.
- O. A system to transfer documents or property between two or more people in which the documents or property are held by a third party pending fulfillment of specified conditions.

MY JOURNEY TO J.D.: INSIDE THE MIND OF A LEGAL PROFESSIONAL TURNED LAW STUDENT

BY MONICA MONTANARI - SUBMITTED BY CONEJO VALLEY LPA

When I finished my Master's degree in 2016, I walked out of that school with no intention of enrolling in any school ever again. By that time, I had already spent at least 17 years of my life inside the walls of various classrooms and finally, I was to be free from them forever (or so I thought).

The jokes on me, though. Because just 6 years later, there I sat, in a classroom, with the same 2014 laptop in front of me that had gotten me through my final year of college and my Master's, beginning again.

* * *

I had a career in marketing for two solid years before I decided to take on a part-time position at a law firm as a receptionist in 2018. It wasn't long before part-time became full-time, and answering phones turned into actual legal assistance.

I remember when I was first learning how to be a legal assistant. I looked at things like pleadings and court forms and learned how to fill them out and file them but kept wondering why the processes worked this way. I couldn't help but feel like I was going through the motions (pun intended), without truly knowing what I was doing. LPI's classes gave me a sturdy foundation upon which to build and the education to be able to make sense of everything in the legal field.

It took a few years for me to get comfortable in the role of the legal assistant; and even though I've progressed on to become a certified paralegal, I still have so much to learn before I'll ever feel like I have a good handle on the legal system. Nonetheless, after working as a certified

paralegal for a few years, I decided to just bite the bullet and go to law school. It was an idea I had toyed around with since I was a little girl, and I decided that I would put the wheels in motion and let fate decide the rest.

I started by buying a few LSAT books. I absolutely refused to spend \$5,000 taking some awful course to prepare for the test that was just to help me get into law school. I had done that with the LSAT/ACT and the GMAT, and I didn't feel like the kind of person who benefitted much from those experiences. So I decided that this time around, I would take the self-study route.

Those books sat in my room for at least a year. I tried to read them, I swear, but it just wasn't happening. My options slowly became: (1) "Just give up because if you can't get yourself to study for the LSAT, how are you going to get yourself to study if you get into law school?" or (2) "Just take the stupid test. Just see how you do. Just take some step toward the goal." I decided on the latter. With maybe one hour of studying under my belt and never having taken a practice exam, I decided to sit for the LSAT. Would I recommend it? I don't know. But it was the baby step I needed to just get me somewhat closer to the goal.

See, here was the problem: I wanted to become an attorney but I did not want to go to law school. I still don't, and I'm in it. Law school is a necessary evil which I knew was the only way I was going to ever become an attorney. Although California does offer an independent-study route, it often takes four times longer and ends up being much harder anyway. So I had zero motivation to do a ton of work to get



into a school I didn't want to go to anyway. All I wanted was to learn the law and to make that my focus. Not focus on learning how to get into a school to study the law. (Does that make sense?)

I thought the LSAT was the only means by which law school could be done, but when a tiny law school reached out to me (because they had seen that I had taken the LSAT), I realized that it was not the case. The LSAT was not necessary for the school I go to but it was necessary for them to find me, and in that way, I did kind of need the LSAT. Otherwise, I might have never found the Ventura College of Law (or, rather, they might have never found me), and I definitely would not be where I am today.

It was really once I discovered that school that law school blossomed from a distant dream into an actual possibility. I had been unemployed at various times after getting my Master's, and I vowed to myself that I would never be unemployed by choice ever again. So if I was going to consider going to law school, it had to be in a program where I could still work at least part-time. It had to be somewhere that I could find a way to afford, and (most importantly) it had to be somewhere I could get into. The Ventura College of Law checked all the boxes.

Continued on page 25 ➔

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Classes are at night from 6:30 to 9:30. They are in-person (if you elect to take them that way), which is truly the only way I learn. That's something else that my LSAT experience taught me. The school is accredited by the California Bar, but not by the American Bar Association, which ended up being an advantage. It allows them to teach specifically to the California Bar Exam and cuts the cost of the program by 75%. It's a tiny school; one that I lovingly refer to as "the community college of law schools." Nowhere else could I be in a cohort with 40 people from all walks of life. The youngest of us is 19 and the oldest is 61. Some of us have been working in law for a while, and others have careers in everything from nursing to construction. We're all there for one reason, and one reason alone: we actually want to learn the law. Nobody in a school like this is there for the prestige, or because their parents made them. We are people with options and expertise in every area, and when I think about how I could have possibly gone to a more "prestigious" school where I never got to see anybody in person because all of my classes would have been online, I know that I made the right decision.

All of this is just to say that if you're a legal support professional who wants to get a juris doctor legal education, there's a way. There's a place for everyone in this profession if it's where you want to be.

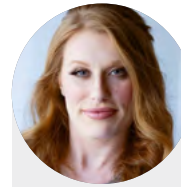
Those of us in Legal Professionals, Inc. live and breathe to be legal professionals, and we often forget that "legal professionals" include everyone in the law from receptionists, mail clerks and paralegals to associates and partners.

If your goal in law is to become an indispensable source of support, LPI offers programs that will develop you into the most amazing secretary, paralegal, or legal support professional you can be. But if you are someone in LPI who has been thinking about pursuing a J.D. and hasn't done it yet, just know that you have options. If furthering your legal education is something you are passionate about, you're in the right group of people.

If I had it all to do over again, there's not a single thing that I would change. Being a legal professional has given me all of the practical knowledge that law school doesn't give. The resources I have from LPI have been invaluable in my life. I am **constantly** referring to LPI educational materials that explain things in a way that actually makes sense when law school can't.

So if my journey has made you think about your own, I will leave you with one last piece of advice. When I entered a Master's program immediately after finishing my Bachelor's, it seemed that everybody had an opinion they wanted me to hear. Some people said that this was a good time to get my Master's because I would just be continuing the momentum I already had with school and get it over with. Others said that I was making a mistake in not taking a few years to work first and gain practical experience in my field. But realistically, all of them were wrong.

Here's the thing that I've come to learn through this process: there's **never** going to be a good time to go back to school. But if it's something you feel called to do, the support that LPI provides you, along with knowing what options exist, is enough to get you where you want to go; and you can do it.



**MONICA
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earned a Bachelor's in Business Administration from Menlo College in 2015 and a Master's in Sports Business from The University of Alabama in 2016. She is a Certified Paralegal at Michaelis, Montanari & Johnson, and now a law student at the Ventura College of Law. Monica is a member of the Conejo Valley Legal Professionals Association and can be reached at mmontanari@mmjlaw.net.



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ANSWERS FROM QUIZ ON PAGE 23

CCLS QUIZ

ANSWER KEY

- | | | |
|------|-------|-------|
| 1. C | 6. K | 11. O |
| 2. E | 7. M | 12. A |
| 3. I | 8. N | 13. B |
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LEGALLY FIT: NOURISH YOUR WAY TO LEGAL SUCCESS

BY ADAM SANTA MARIA, CONTENT AND COMMUNICATIONS MANAGER AT RAPIDLEGAL

Ditch the crash diets, “thinspiration” influencers, and supplements.

We’re going back to basics.

As legal professionals, you deal with complicated matters all day so why should your diet be complicated? Perhaps it is all of the advertising we see on TV, hear on the radio, and view online. Cue the infomercial with the fast-talking, ultra-fit TV personality who is hawking the latest health supplement promising to “take four inches off your waist in a month” or the influencer who will “make you your best self”, only to find that influencer testifying before Congress for making false claims the next week.

The beauty of eating healthy is that it is simple. Maddeningly simple. When it comes to nutrition, follow the holy trinity: eat lean proteins and anti-inflammatory foods, eat your big meals early, and snack smart with whole foods.

Lean, Mean, Anti-Inflammatory Machine

As a busy legal professional with a maelstrom of work awaiting you each morning, you’re going to need a reliable source of energy to sustain you through the day. Avoid refined sugars and processed foods. They may fill you up and provide quick energy, but they will leave you bloated, sluggish, and uncomfortable in a few hours. These foods also cause inflammation, which can lead to health problems down the line.

Lean proteins such as chicken or salmon, healthy unrefined fats like olive oil and nuts, and complex carbohydrates such as oatmeal, ancient grains, and sweet potatoes are guaranteed sources of clean energy to propel you through even the most taxing days. They also promote a healthy gut biome, which

is linked to increased mood and decreased stress and anxiety.

To fight inflammation, eat fatty fish like salmon or tuna, nuts, green leafy vegetables, and fruits such as strawberries, blueberries, and cherries. These foods take longer for your body to digest, meaning the energy they provide is more sustained throughout the day. If you are looking for meal ideas that combine these whole foods without dietary restrictions, check out the Mediterranean diet.

Front Load Your Big Meals

Did you know when you eat can be just as important as what you eat? There is a behemoth of scientific evidence that shows eating a big breakfast rather than a big dinner supports healthier cholesterol levels, insulin levels, and overall metabolic rates. You will also have far higher energy levels at the start of your day.

Moreover, eating late disrupts your circadian rhythm, which will negatively impact your sleep cycle. As a general rule of thumb, eat your biggest meals earlier in the day so your body isn’t digesting as much food while you sleep.

To maximize your breakfast, eat within an hour of waking up. Oatmeal with some berries and nuts or an omelet with colorful vegetables will jumpstart your metabolism to conquer the day.

Dinner should be the lightest meal of the day and should be eaten two to three hours before you go to sleep, so your body has time to digest the food. If you feel yourself getting peckish before bed, have a glass of water or a tablespoon of peanut butter.



Snack Smart to Stay Focused

Snacks are like document management systems, they’re not required, but boy, do they make life easier. A smart snack is crucial in maintaining your energy and blood sugar levels throughout the day, so choose snacks that provide a balance of macronutrients, essential vitamins, and healthy fats. Here are three recommended snacks with nutritional breakdowns:

Greek Yogurt or Skyr with Berries: Packed with protein, calcium, and cancer-preventing antioxidants. Choose plain Greek yogurt or Skyr, a healthier Icelandic alternative, and add fresh berries and a touch of honey to satisfy your sugar craving.

Sliced Banana with Cottage Cheese: It’s time we give cottage cheese the love it deserves. It’s a satiating, tasty, and protein-rich snack that pairs with a ton of fruit. When coupled with a banana, it delivers vitamins B6, A, and C, fiber, potassium, phosphorous, iron, protein, and healthy carbohydrates.

Continued on page 29 ➔

Veggie Sticks with Hummus: Bright crunchy vegetables like carrots, cucumber, and bell peppers paired with a protein-rich hummus dip are always healthy. Aside from its satisfying crunch, this savory snack is loaded with vitamins, minerals, fiber, and protein. Pro tip: chickpeas are a great source of fiber and protein, and they're super affordable.

Enjoy But Moderation Is Key

Cheat meal. Reward meal. Whatever you want to call it. It's okay to eat unhealthy foods occasionally. Life is short, so you should enjoy it. If you never allow yourself to eat that a Bolognese from your favorite Italian restaurant or drink that Frappuccino which is basically a glorified milkshake with caffeine, you'll be miserable. Sometimes we need a glorified milkshake with caffeine!

The whole point of eating healthy is to feel good, but if you take all the joy out of eating because you only allow yourself to eat baby carrots with

hummus and a side of ice chips, then you're missing the point.

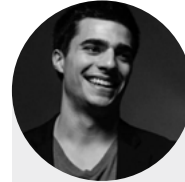
Yes, baby carrots with ice chips and hummus is a low-calorie, nutrient-dense snack, but there's more to life than eating healthy snacks while you file motions at your desk. Food is one of the purest joys in life, and it's one you should allow yourself to enjoy.

Of course, you should only have junk food in moderation as a treat but give yourself enough grace to treat yourself. Pick a night out in the week and go big. One cheat meal won't undo a week's work of healthy choices, so channel your inner Tom Haverford and Donna Meagle and treat yourself.

Eat Your Heart Out

The amount of nutritional and wellness information out there can be overwhelming, but focusing on eating lean protein and anti-inflammatory foods, eating your big meals early, and snacking smart will do wonders for your health and energy levels.

Whether you are a paralegal assisting with legal research, a legal administrator managing the office's operations, or a lawyer preparing for trial, these simple tips can maximize your productivity, improve your longevity, and boost your mood to deliver legal excellence.



ADAM SANTA MARIA is

the Content &

Communications Manager at Rapid Legal, in Los Angeles. He has a Bachelor of Arts and Science from the University of Oklahoma in Humanities with a concentration in Constitutional Studies. Before joining the Rapid Legal team, Adam created brand narratives for start-ups and wrote for a men's lifestyle magazine.

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BACK TO BASICS: INITIATING THE LAWSUIT

(Part 2 of LPI's "Back to Basics" Legal Procedure Series)

BY LYNNE PRESCOTT, CCLS, LPI EXECUTIVE ADVISOR

The civil litigation process begins when a person or entity files a dispute against another person or entity, suing for compensation for damages caused. The judge or jury listening to the case will then apply the appropriate law to the facts presented in court by both parties. The plaintiff files a complaint in court seeking monetary compensation, an injunction, or order as a result of an action by the defendant.

What types of cases do you think of when hearing the term "litigation?"

Following are some examples:

- Personal Injury (aka "Tort" cases)
- Contract Disputes
- Class Action Suits
- Divorce and Family Law Disputes
- Property Disputes
- Landlord/Tenant Issues
(aka Unlawful Detainer)
- Construction Defect
- Medical Malpractice
- Labor/Employment Issues
- Civil Rights
- Mechanics Liens
- Probate Issues
- Conservatorships

That covers a lot, doesn't it? Fortunately, most of these types of actions all begin the same way - - with the filing of the civil case cover sheet, the summons, and the initial complaint or petition. It has been said that the summons is the "voice of the court," while the complaint is the "pleading of the party."

Summons, Complaint, and Civil Case Cover Sheet

The complaint typically identifies the parties, addresses any Doe defendants, identifies the court of jurisdiction, lists the causes of action with allegations to support them, and the relief, legal remedy, or damages sought. The

summons tells the defendant that they have been sued, who is suing him/her, what court the lawsuit was filed in, and gives instructions for responding to the lawsuit as well as the consequences of failing to file a response.

The plaintiff must serve the summons and complaint on the defendant(s) within the prescribed time by law (60 days for state court actions) and file the proof of service with the court. The civil case cover sheet is informational and only for the purposes of the court. It does not get served on the defendant(s).

EXHIBITS

Not every complaint will contain exhibits, but if they are to be included, they should be marked as "Exhibit A," "Exhibit B," etc., and should follow the signature page of the complaint or be prepared as its own document titled "Index of Exhibits." Regardless of which method is used, California Rules of Court, rule 3.1110(f) requires that an index of exhibits must be included. The exhibits should be separated by slipsheets marked as "Exhibit A," etc., with the exhibit following the slipsheet if filing electronically. If filing at the court's counter, bottom exhibit tabs should be used (add slipsheets also for the original).

Electronic exhibits must be bookmarked with links to the first page of each exhibit and include a brief description of the exhibit (Cal. Rules of Court, rule 3.1110(f)(4).)

VERIFICATIONS

While not required for every complaint that gets filed, there are instances where the complaint must include a signed verification statement by the client attesting to the truth of the facts set forth



in the complaint. Most petitions are verified and must contain a verification statement. Check with your attorney as to whether you will be filing a verified complaint and will need a signed verification statement from your client.

If it is verified, the plaintiff makes assertions under penalty of perjury. A verified complaint also forces the defendant to respond to the lawsuit with a verified answer. This tactic forces the defendant to immediately make statements about the allegations under oath. There are strategic reasons to use – and not use – a verified complaint when filing a lawsuit.

PETITION

In legal terminology, a petition is made to the court by a petitioner against a respondent, while a complaint is filed by a plaintiff against a defendant. A petition asks the court to provide a court order, while a complaint seeks damages or to force the defendant to start or stop doing something. A petition also may be used to appeal a court's decision. The petition to appeal states why the legal issues surrounding a case should be reviewed by another court. A summons is generally not required when filing a petition in civil matters.

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Because a petition is asking the court for an order, generally a hearing is required to assess the merits of the petition. A notice of hearing with a memorandum of points and authorities in support of the petition, any declarations in support, requests for judicial notice, etc., should be filed with the court and served on all parties once the petition has been filed and hearing date obtained from the court. Opposition responses are due no later than 14 days before the hearing, and replies are due five days before the hearing.

In Part 3 of the "Back to Basics" Legal Procedures Series, we will cover Service of Process, Proofs of Service, and Defending the Lawsuit.



**LYNNE
PRESCOTT, CCLS,**

is LPI's Executive Advisor, and a member of Sacramento Legal Secretaries Association. She first became a member of LPI in 1990 while working as a legal secretary in Fairfield, CA. She is currently employed by the law office of Messing Adam & Jasmine. Lynne is a two-time past president of both Solano County LSA and Sacramento LSA, and obtained her CCLS certification in 2013. She resides in Yuba City with her husband, Randy, and four fur-babies, and is a proud mother and grandmother.

QUARTERLY ASSIGNMENTS

2023-2024

The following associations are expected to secure articles from guest writers for publication in the magazine issues specified below.

- a. *August Issue (to be submitted no later than June 1st):*
Alameda County, Beverly Hills/Century City, Conejo Valley, Contra Costa County, Desert Palm, Fresno County
- b. *November Issue (to be submitted no later than Sept. 1st):*
Livermore-Amador Valley, Long Beach, Los Angeles, Marin County, Merced County, Mt. Diablo, Orange County
- c. *February Issue (to be submitted no later than Dec. 1st):*
Placer County, Riverside, Sacramento, San Diego, San Fernando Valley, San Francisco
- d. *May Issue (to be submitted no later than March 1st):*
San Gabriel Valley, San Mateo County, Santa Clara County, Santa Cruz County, Santa Maria, Stanislaus County, Stockton-San Joaquin County



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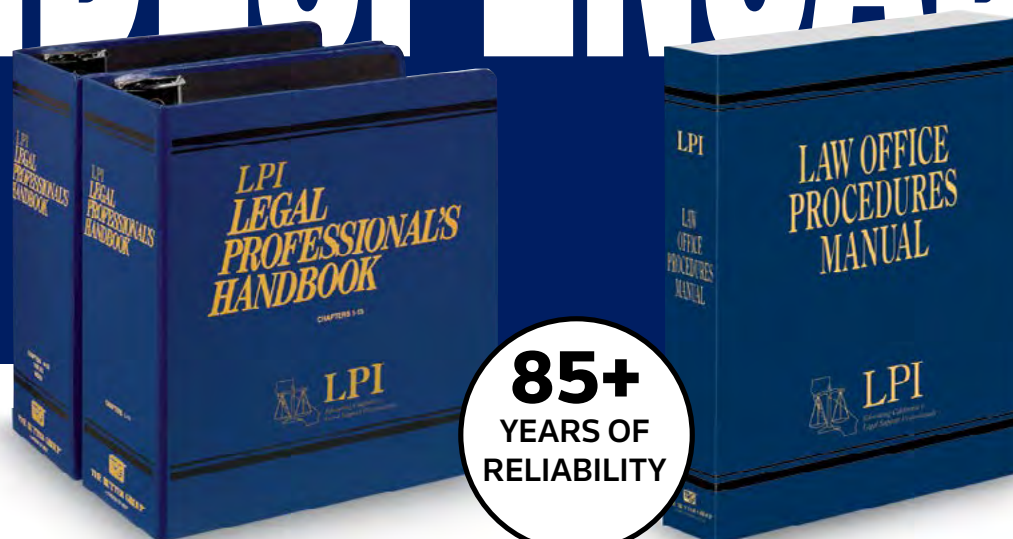
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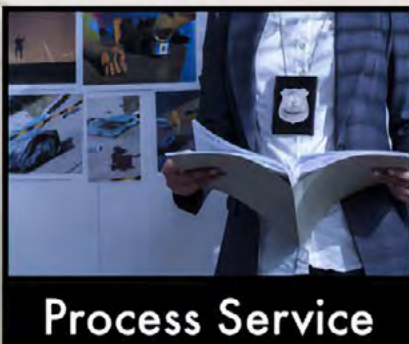
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