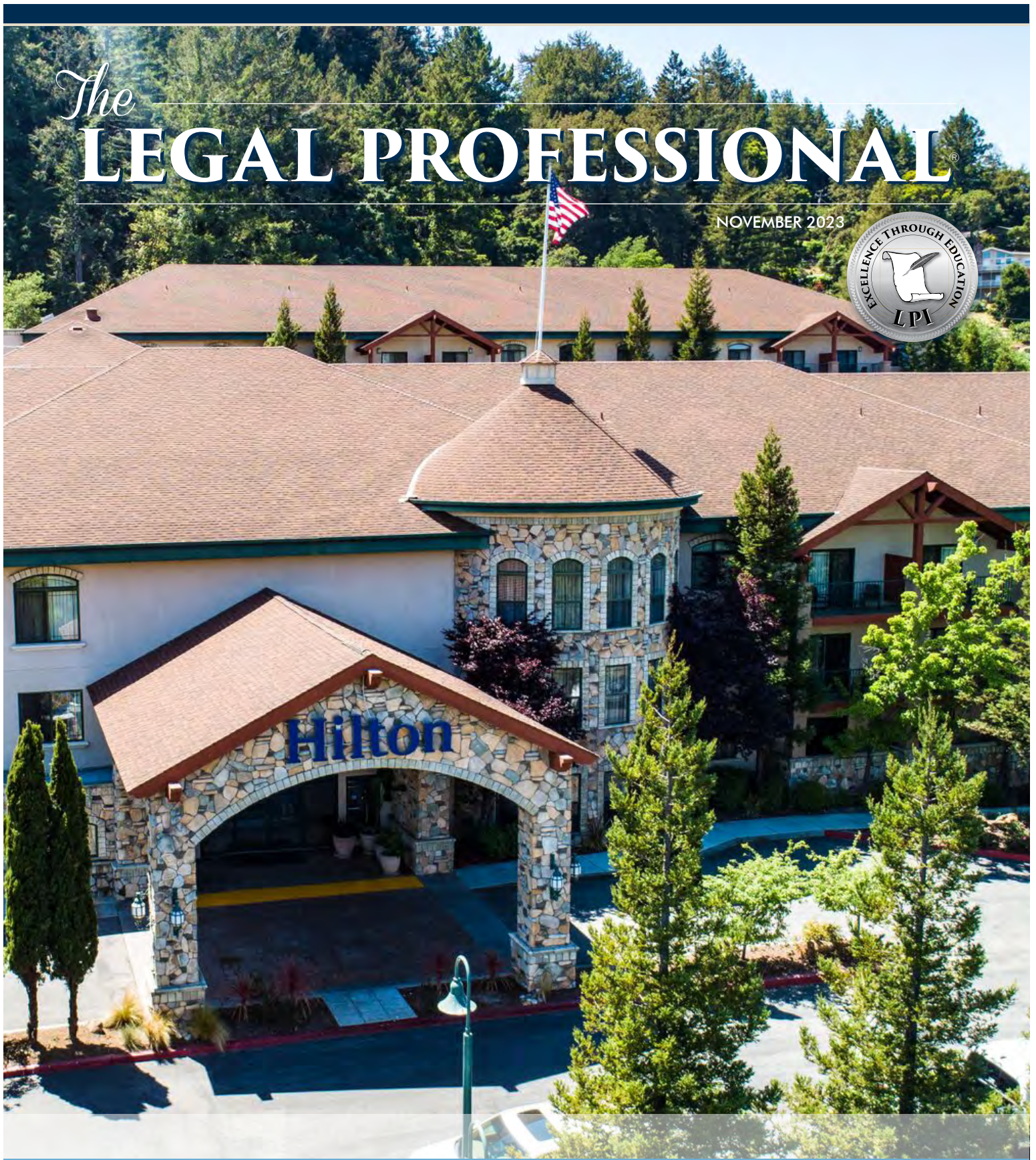


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NOVEMBER 2023



PROTECTING LAW FIRMS FROM CYBER ATTACKS: WHY IT SERVICES COMPANIES ARE ESSENTIAL

by Vince Corralejo, Page 10

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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.

I hope this message finds you in good health and enjoying all the new benefits of your Legal Professionals Incorporated ("LPI") membership. For those of you who are not members of LPI, there is no better time than the present to get your membership applications in. These are very exciting times for LPI and for you as a member.

LPI's First Quarterly Conference

Our 1st Quarterly Conference was held in beautiful Costa Mesa, CA, at the Costa Mesa Hilton. The Costa Mesa Hilton served as the perfect setting for engaging discussions, insightful leadership meetings, a variety of top-notch educational seminars, and invaluable networking opportunities. Over the course of those three days, members from across the state came together, sharing their expertise and experiences, fostering meaningful connections, and charting the path for our collective growth.

The conference was a testament to our unwavering commitment to providing our members with exceptional educational and networking opportunities. The diverse range of educational opportunities, led by the LPI Education Council, provided those who attended a great opportunity for continued legal education. The LPI Education Council, led by LPI's Education Director, Renee Evans, CCLS, is doing a great job as we navigate this new and prosperous time for LPI's educational offerings.

Membership Growth Through Strategic Marketing

One of the most exciting developments over the past quarter has been the continued increase in our membership numbers. Our team's relentless

efforts in implementing our strategic marketing campaigns have borne fruit, as we welcomed a substantial number of new members into our LPI family. This growth demonstrates not only the increasing recognition of our organization within the legal community but also the value and benefits we provide to our members.

At LPI, we understand the importance of adapting to changing times. Our marketing strategies leverage the latest digital tools and platforms to reach a wider audience, ensuring that legal professionals from various backgrounds and career stages can benefit from the wealth of resources and opportunities we offer. The continued growth in our membership is evidence of the relevance and appeal of LPI in today's legal landscape.

Rising Attendance at LPI Educational Opportunities

Our commitment to being the go-to resource for legal education in California remains unwavering, and I am delighted to report that our educational opportunities have seen a surge in attendance. Legal professionals are increasingly turning to LPI as their go-to resource for quality education, relevant insights, and professional development. Our ever-expanding range of webinars, workshops, and conferences are starting to become more popular within the legal community and beyond.

Our dedication to providing top-notch educational content is evident in the caliber of speakers and trainers we have brought into our family. The Education Council ensures that our offerings cover not only the latest legal developments but also critical soft skills, such as communication and technology proficiency. This holistic approach to education equips our members with

Continued on page 3 ➔

← Continued from page 2

the tools they need to thrive in a rapidly evolving legal landscape, and I hope you are enjoying the offerings. If you have any suggestions, please share your ideas with us. At the end of the day, we want to offer the type of educational classes that the legal community is looking for.

Introducing Individual Usernames and Passwords

I am thrilled to announce our latest membership benefit. Starting this quarter, all LPI members will now have individual usernames and passwords for the LPI website. By logging in, you gain access to a members-only section, where you will find a multitude of reference material at your fingertips.

One of the exciting features accessible through your individual login is our brand-new LPI Forums page. These forums are designed to be a dynamic space for members to engage in discussions, ask questions, and share insights on specific areas of the law. Whether you have questions about a recent legal development, seek guidance on a challenging case, or simply want to connect with fellow members, the new LPI Forums provide the perfect platform. We are also introducing LPI Leadership Forums, where you can engage with our other associations, Presidents, Governors, and Treasurers. Please ensure that you select "Subscribe" on the Forums that you want to be notified when a post is submitted.

Looking Ahead: Santa Cruz Hilton Conference

As we celebrate our recent successes, it is essential to keep our eyes on the horizon. I am excited to announce that our next conference is just around the corner, scheduled to take place November 10-12, 2023, at the Santa Cruz Hilton. Building on the momentum of our Costa Mesa conference, this conference promises to be even more remarkable. We have a fantastic lineup of speakers, engaging workshops, and networking opportunities that will leave you inspired and equipped for the challenges ahead.

I encourage all of you to mark your calendars and make plans to attend. The Santa Cruz conference will be a prime opportunity to connect with your peers, learn from experts, and shape the future of our organization.

In Conclusion: Together Towards Success

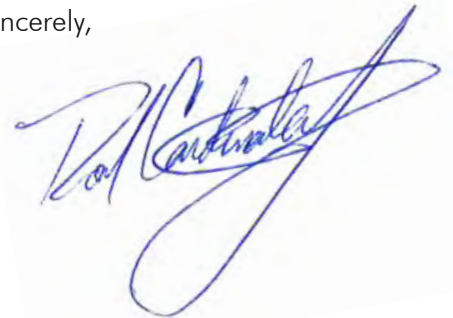
As we reflect on our journey through the first half of the 2023 -2024 fiscal year, it is obvious that Legal Professionals, Incorporated is on a trajectory of growth and success. Our unwavering dedication to our members, our commitment to providing exceptional educational opportunities, and our innovative approach to member engagement have set us on a path to even greater heights.

I want to express my deepest gratitude to each and every one of our members for your continued support and dedication. It is your passion, your engagement, and your unwavering commitment to excellence that make LPI the incredible organization it is today. Together, we will continue to shape the future of the legal profession, inspire each other, and achieve even greater success.

As we move forward into the second half of the 2023-2024 fiscal year and beyond, let us do so with a sense of optimism, unity, and purpose. Together, there is no limit to what we can accomplish. I look forward to seeing you all at the Santa Cruz Hilton in November and to the many exciting milestones that lie ahead.

Thank you for being a part of Legal Professionals Incorporated, and here's to a future filled with success and shared achievements.

Sincerely,



UNDER THE BOARDWALK LPI SECOND QUARTERLY CONFERENCE NOVEMBER 10–12, 2023

BY SECOND QUARTERLY CONFERENCE COMMITTEE

*"Oh, when the sun beats down and
burns the tar up on the roof,*

*and your shoes get so hot you wish your
tired feet were fireproof,*

*Under the Boardwalk, down by the sea,
yeah, . . ."*

That's where I'll be. And we hope that you'll be there with us too. The theme for LPI's Second Quarterly Conference, co-hosted by LPI and Santa Clara County LPA, is "Under the Boardwalk." And Boy! Have we got some good stuff planned!

On Friday evening, Esquire Deposition Solutions will be hosting a welcome reception for the attendees, where we will have a taco bar and make some fun outdoor lanterns using mason jars. I am proud to announce that we'll have more than a dozen vendors exhibiting at this conference, so please make a point to stop by and say hello to them. We are so appreciative of our vendors. It is important that we give them our support and thank them for theirs.

All educational events will be held on Saturday, November 11th theme being "All About Ethics." Our Continuing Educational Committee has scheduled excellent seminars with top notch speakers, including two current judges, the Director/Chief Counsel for the Commission on Judicial Performance, and the Chair and founding member of the California Lawyers Association's Ethics Committee. Additional speakers will be discussing on all things related to ethics – from "Ethics for Legal Professionals" to "Ethics Related to Remote Work" and everything in between.

WHAT? You're not planning to attend any of the fascinating Ethics seminars? Maybe you'd like to take in some of

sights of beautiful Santa Cruz. Most people know about the Santa Cruz Beach Boardwalk and the fun rides and amusement park food favorites.

Maybe you'd like to spend the afternoon perusing some local bookstores.

We suggest downtown's local trifecta for all you book lovers: Bookshop Santa Cruz is a local favorite. Owned and operated by a multi-generational family that takes pride in being an independent bookstore with the ability to reflect the interests of local readers, they have a very extensive selection in a building spanning more than 20,000 square feet. Right next door, you'll find Comicopolis, offering a wide variety of graphic novels, games and puzzles. Then finish off the afternoon around the corner at Bad Animal, which is more of a 'hip' bookstore/wine bar/restaurant, where you can browse the musty bookshelves and enjoy a nice glass of wine or a meal.

Feeling more outdoorsy? Maybe you're up for a surfing lesson at Cowell Beach and the Capitola Jetty, where they're known for their beginner waves. There are a number of programs at Surf School Santa Cruz and Capitola Surf and Paddle. But it will be November, so maybe a nice hike is what you're looking for. From the parking lot at Henry Cowell State Park just off Highway 9, there is a lovely half-mile path to the San Lorenzo River. There is a fun swimming spot, shallow and warm if you're inclined to stick a toe in



the water. For a bit more exercise, try the 5.3-mile Enchanted Loop Trail at Wilder Ranch State Park, or the 4.3-mile Redwood Grove Loop Train at Henry Cowell State Park.

Finally, you can't visit Santa Cruz without checking out the Mystery Spot! This historical landmark includes a walk-through of George Prather's former home, set at a 17-degree slant on a very steep hill, and reveals the site's mysterious gravitational properties – or optical illusions, depending on who you ask.

Then for the Saturday evening Banquet, we have a great evening in store enjoying good food with good friends and finishing off the evening with good music while we dance the night away to live music from a local band. We'd love to see you all in your best "beach party" outfits (no bathing suits please) and come ready to have a great time!

We're looking forward to seeing you all "Under the Boardwalk" in November!



LPI LEGAL PROFESSIONALS INCORPORATED
Educating California's Legal Support Professionals

Second Quarterly Conference Seminars

Saturday, November 11, 2023



CONTINUING LEGAL EDUCATION

11:00 a.m. — 12:00 p.m.

ETHICAL ISSUES WITH VIRTUAL REMOTE WORK

Speaker:
Alison P. Buchanan, Esq.
Hoge Fenton

11:00 a.m. — 12:00 p.m.

REASONING & ETHICS

Speaker:
Vivian Shreve, CCLS
LPI California Certified
Legal Secretary Chair

1:45 p.m. — 2:45 p.m.

JUDICIAL ETHICS AND THE COMMISSION ON JUDICIAL PERFORMANCE

Speaker:
Greg Dresser
Director-Chief Counsel for the
Commission on Judicial Performance

3:15 p.m. — 4:15 p.m.

ETHICS FOR LEGAL PROFESSIONALS

Speaker:
Hon. Sunil R. Kulkarni
Santa Clara County
Superior Court Judge

IN-PERSON
Registered for Conference

LPI Member: FREE!
Non-LPI Member: \$15

Walk-Ins
LPI Member: \$5
Non-LPI Member: \$20

VIA ZOOM

LPI Member:
First Seminar: \$15
Each Additional: FREE!

Non-LPI Member:
First Seminar: \$30
Each Additional: \$15

(\$5 LATE FEE AFTER NOVEMBER 3)



LEGAL TECHNOLOGY TRAINING

1:45 p.m. — 2:45 p.m.

ETHICAL CONSIDERATIONS IN E-DISCOVERY

Speaker:
June Hunter

3:15 p.m. — 4:15 p.m.

REDACTIONS IN ADOBE

Speaker:
June Hunter

(There is no MCLE credit for this seminar.)

IN-PERSON or VIA ZOOM

LPI Member: \$20
or \$30 for both

Non-LPI Member: \$55
or \$100 for both



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

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Continuing Legal Education seminars are FREE for LPI members registered for conference.

All Zoom participants attending a Continuing Legal Education seminar pay a one-time registration fee of \$15.

LEGAL PROFESSIONALS INCORPORATED, AN APPROVED PROVIDER, CERTIFIES THAT THESE SEMINARS HAVE BEEN APPROVED FOR FOR ONE (1) HOUR OF PARTICIPATORY AND ETHICS MCLE CREDIT BY THE STATE BAR OF CALIFORNIA.



CONGRATULATIONS

TO OUR 100% CLUB MEMBERS!



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WE'RE EXCITED TO ANNOUNCE THE NEW CCLS LOGO

The California Certified Legal Secretary (CCLS) emblem is a circular shield with the inscriptions "Legal Professionals Incorporated" and "California Certified Legal Secretary" around the circumference.

The emblem's center features a background color of sky-blue, representing trust and security. This is further emphasized by the presence of a double line outlining the perimeter.

The acronym "CCLS" is prominently displayed in the upper center of the circle, above a composite of the state outline of California and scales of justice, superimposed behind a quill pen. Both the state and scales

of justice are interconnected with the primary organizational logo of LPI. The quill pen has maintained its presence inside the judicial setting throughout various periods of history. It represents confidence, strength, wisdom, authority, and liberty. It is a highly revered object and a mark of distinction. Numerous important documents, including the Magna Carta and the Declaration of Independence, were written and signed using quills.

Directly below these images lies an olive-green laurel wreath. During the period of Ancient Rome, the wearing of a laurel headpiece served as a significant representation of triumph.



In contemporary vernacular, a laurel wreath is commonly employed to symbolize triumph or success. It denotes an individual who has attained notable recognition, and distinguished themselves in a specific field.

Congratulations

TO LPI'S NEWEST CALIFORNIA CERTIFIED LEGAL SECRETARIES!

The CCLS Certifying Board, CCLS Chair and LPI Executive Committee
are so proud of the following people who passed the
September 2023 California Certified Legal Secretaries exam:

Lourdes Bassett - Sacramento LSA
Yolanda Bullock – Riverside LPA

Faye Miranda - San Francisco LPA
Lindsey Souther - San Diego LSA

AUGUST 11-13, 2023 | COSTA MESA, CA

LPI'S FIRST QUARTERLY BOARD OF GOVERNORS MEETING



We were “Coasting to Costa Mesa” at Legal Professional, Inc.’s (LPI’s) First Quarterly Conference at the Hilton Orange County/Costa Mesa.

The conference started with the Friday night reception where everyone came in their beachy resort wear to socialize with the Executive Committee, Officers, Chairs and LPI members; this was followed by an optional Bingo Night. Deborah Schmidt, CCLS kept us entertained while calling the Bingo numbers. Candles and LPI merchandise were awarded to the winners and lots of fun was had by all!

Saturday began with a wonderful breakfast and visits with the vendors and exhibitors before the Board of Governors commenced. The Board of Governors meeting began and all of the Executive Committee member’s

reports were given during the morning session. Afterwards, several Continuing Legal Education and Legal Technology Training seminars were offered before the Joint Roundtable Luncheon commenced where the Executive Committee Resume was discussed. After the Luncheon, several more Continuing Legal Education and Legal Technology Training seminars were offered. At the Saturday evening banquet, attendees socialized and danced the night away.

Sunday started off with another wonderful breakfast before the Board of Governors meeting recommenced where Governors voted on several LPI Bylaw and Standing Rule amendments and recommendations. Once business was taken care of, acknowledgments were made and LPI’s First Quarterly Conference of 2023-2024 was adjourned. The weekend was filled with wonderful opportunities for educational seminars, networking and fun!



PROTECTING LAW FIRMS FROM CYBER ATTACKS: WHY IT SERVICES COMPANIES ARE ESSENTIAL

BY VINCE CORRALEJO, RIZE TECHNOLOGIES
- SUBMITTED BY SACRAMENTO LEGAL SECRETARIES ASSOCIATION

The digital age has brought significant changes to the legal industry. It has also opened up new avenues for cyber threats. Hackers are becoming more sophisticated, and law firms are not immune to the rising cyber-attacks; in fact, they're an enormous target:

- The legal industry is struggling to cope with the growing threat of cyber-attacks. In the first financial quarter of 2023, global weekly cyber-attacks increased by 7% compared to the same period in 2022, according to a recent report by Checkpoint Research.
- According to Checkpoint's report, organizations encountered an alarming average of 1,248 attacks per week. Furthermore, it revealed that law firms and insurance providers were specifically targeted in one out of every 40 of these attacks.
- According to a 2022 survey conducted by the American Bar Association, over 25% of law firms reported experiencing a data breach, which is a 2% increase from the previous year.

The diversity of client data that law firms handle—financial statements, medical data, and criminal records—makes them a valuable target for cybercriminals. Obviously, then, it is incredibly important for law firms of all sizes to understand the threats and risks of cyber security.

But the good news is that they don't have to fight those forces by themselves. IT service companies are at the forefront of managing cyber threats and can help law firms of all sizes mitigate those risks.

How are Law Firms Targeted for Cyber Security Attacks?

The variety of sensitive information handled by law firms, including financial statements, medical records, and criminal

histories, makes them a prime target for cybercriminals.

Cybercriminals then take advantage of the law firm's digital infrastructure by exploiting weaknesses.

These cyber-attacks are usually well-orchestrated and can lead to significant damages to law firms and their clients. While many law firms may feel that they are too small or obscure to be targeted by hackers, that assumption is simply not true. Anyone can fall prey to these attacks, and it is important to be as secure as possible.

To better protect themselves from these attacks, law firms must understand the types of attacks they are likely to face.

Phishing Attacks

Phishing emails are a common method that hackers use to target law firms. They send an email that appears to be from a trusted source, such as a bank or a client, asking for sensitive information. Once opened, these emails can install malware or convince employees to provide information such as usernames and passwords that will be used to steal data.

To combat phishing attacks, IT service companies can install security measures like two-factor authentication, provide employee training on how to identify suspicious emails and update anti-phishing software regularly.

Ransomware Attacks

Ransomware is another common method used by hackers to target law firms, and it is becoming more and more frequent. This malware encrypts files on the law firm's network, making the information inaccessible until a ransom is paid. Even if the ransom is paid, though, there's no guarantee that the data will be released. This can be particularly damaging for

law firms, as they depend on access to confidential information, and it can lead to major reputational harm, as well as financial penalties.

An IT service provider can employ measures such as backing up data on cloud-based servers, installing anti-virus software, and providing training sessions to employees on how they can remain safe.

Social Engineering

Hackers also use social engineering to trick employees into giving up confidential information. They often use psychological tricks to convince employees that they are trustworthy or take advantage of the knowledge that they can get from social media. For example, if an attacker can find out an employee's name, position, and organizational information, they can craft a convincing email or message that leads the employee to provide them with confidential information.

An IT service provider can provide extensive training in security protocols, implement strict policies that dictate how clients' data gets handled, and ensure that all employees are competent in protecting clients' information.

Insider Threats

An insider threat is a breach that occurs from within an organization. Law firms are particularly vulnerable to insider threats as they employ a wide range of personnel with varying levels of access to confidential data and systems. Employees having access to sensitive client data are the most likely perpetrators of this type of threat, which involves misusing privileged access to data systems or allowing unauthorized access to these data systems.

An IT service provider can evaluate

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the data systems that an organization has, identify risk areas, design policies, and offer employee training on how to identify and minimize the risk of malicious insiders.

Third-Party Risks

Most law firms depend on third-party service providers such as cloud service providers and software vendors. This reliance puts the third-party service provider at risk of exposing the company's confidential information, thus causing serious financial and legal problems for the firm.

IT service providers can offer oversight of third-party service providers by conducting audits, risk assessments, data breach response plans, and due diligence assessments such as client security agreements.

More Ways an IT Service Provider Can Help

The importance of law firms cannot be understated. Given the sensitive nature of the information that lawyers handle, it is no surprise that firms are prime targets for cyber-attacks. As technology continues to evolve, so do the risks of cyber threats. This is why IT services companies are increasingly being relied upon to provide managed IT services that protect sensitive client data from cyber threats.

Increased Security Measures

IT services companies offer managed services that provide increased security measures like endpoint protection, vulnerability scanning, threat monitoring, and penetration testing. With these in place, law firms can be confident in their ability to protect their client data from cybercriminals.

Regular Maintenance and Updates

Hackers are continually finding new ways to infiltrate systems, making updates critical in keeping data safe. IT services companies provide scheduled maintenance and update schedules to ensure that law firms' IT infrastructure is

always up to date. This is crucial because outdated software is often an easy target for cyber-attacks.

Disaster Recovery and Backup Services

Law firms absolutely must have a disaster recovery plan in place in case of a cyber-attack. IT services providers can help to create and implement these plans, ensure reliable backups are taken, and provide a way to quickly recover after an attack. By using cloud backups and virtual machines, law firms can avoid long downtimes and lost data. IT service providers have specific backup and recovery experience that law firms can leverage to minimize the impact of a cyber-attack.

Cybersecurity Training

Human error is often the leading cause of cybersecurity threats in any industry, and the legal industry is no exception. Employees are the first line of defense in preventing cyber-attacks. IT service providers can provide training to law firm employees to ensure that they are knowledgeable about cybersecurity. They can teach employees about phishing attacks, social engineering, and other tactics used by cybercriminals to infiltrate systems. Training can also help in identifying signs of attempted cyber-attacks, thereby minimizing the damage done in case of an attack.

Compliance Requirements

Law firms have regulatory compliance requirements that they must adhere to. Some of these requirements relate to data security and the protection of sensitive information. Failure to meet compliance requirements can result in hefty penalties and lawsuits. IT services providers with experience working with legal IT systems can ensure that the firm remains compliant. They can set up systems that meet regulatory standards, ensure that data encryption is in place, and provide evidence of compliance to regulators.

Hiring an IT Service Provider for Your Firm

When it comes to choosing an IT provider for law firms, it is important to make sure that the provider meets the highest possible standards in terms of quality and security. It is also essential to ensure that the provider has a proven track record of reliable service that can meet all of the firm's needs. Vetting is an important part of this process; here are some of the key elements to consider when vetting an IT provider for a law firm:

1. **Security** - It is important to ensure that all security measures are in place and that the data of clients and employees is kept secure at all times. Ask questions about the provider's security protocols, such as encryption standards and data access policies.
2. **Expertise** - Make sure that the provider has extensive experience working with law firms and understands the unique requirements of this sector. Also, ask for references from other law firms to verify their ability to provide excellent service.
3. **Experience** - Consider the provider's experience in the legal space and their understanding of the particular needs of law firms. This is especially important if your law firm has highly specialized IT requirements, such as large databases or document management systems.
4. **Service record** - Ask about the provider's track record in terms of customer satisfaction, technical support response times, and uptime records. This will help you determine whether the provider is a good fit for your firm.
5. **Technology** - Ask about the technology infrastructure that the provider uses and make sure it meets your needs and can handle any growth in demand that may occur over time.
6. **Support** - Find out what type of customer support is available and how quickly the provider can respond to inquiries or problems. Also, consider whether the provider offers additional

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services such as remote access, backup, and disaster recovery solutions to ensure your data is safe and secure.

7. Cost - Pricing should obviously be a factor when selecting an IT provider, but make sure you get value for your money. Price should be weighed in conjunction with the other criteria, such as experience and reputation. A provider that is cheaper but less experienced may cost you more in the long run.
8. Flexibility and Scalability - Check whether the provider is able to provide custom solutions for specific tasks or if they offer a more rigid 'one size fits all' approach. Ensure that the provider can meet your current and future IT needs, so you don't have to switch providers or upgrade too soon.
9. Compliance - Ask about the provider's compliance with relevant laws and regulations, particularly those related to privacy and data protection.

10. Long-Term Partnership - Finally, make sure the provider is a reliable partner that will be able to support you for the long term. Investigate their customer service history, and look into any awards or recognition they have received from customers or industry groups. With all of these criteria in mind, you should be able to narrow down your options and find the best IT provider for your law firm.

Law firms face increasingly complex cyber threats that require advanced expertise and resources. Working with a vetted IT service provider that specializes in cyber security specifically for law firms can provide effective risk management and far greater security than would be available otherwise. By adopting a comprehensive approach, including employee training, data protection, policy, and risk management, an IT service provider can be an essential ally for law firms seeking to preserve the confidential data of their clients.



VINCE CORRALEJO

comes from a technical recruiting background involving hiring and screening professionals that are qualified to meet company standards guidelines. He began working with Rize Technologies in March 2022 as a business development representative. For the last two decades, Rize Technologies' team has been providing IT services specifically to law firms of all sizes. Their primary goal is to ensure a measurable return on investment that will be the foundation of a long-term partnership.

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DEPOSITION TRANSCRIPTS: THE IMPORTANCE OF A SINGLE WORD OR PUNCTUATION MARK

BY ESQUIRE DEPOSITION SERVICES

"I shot the clerk?" Or was it "I shot the clerk." Accurate punctuation can affect the guilt or innocence of a litigant. Punctuation can also save lives: "Let's eat, grandma," or "Let's eat grandma."

A court reporter, whether stenographic, voice, or digital, is charged with the responsibility to ensure the accurate capture of the spoken word. Words matter. Punctuation matters. Cases turn on a single word, phrase, or piece of punctuation. When due respect is not paid to the capture of the record, the results potentially change lives.

Accurate deposition transcripts are vital for trial preparation, dispositive motions, impeachment at trial, and for appellate review. Accurate deposition transcripts can be more persuasive to judges and juries, and are more likely to serve their intended function as an authoritative record of a witness' testimony.

Prescriptions for Reducing Transcription Errors

Errors in deposition transcripts have several common sources. When deposition court reporters, litigants, and participants take the time to address known stumbling blocks, the accuracy of the resulting transcript improves significantly, thereby producing an accurate deposition transcript, usable and unimpeachable in a proceeding.

Strive for Impeccable and Complete Capture

- Stenographic, voice, and digital reporters should strive to control the proceedings and remove background noises or distractions to improve the capture of the spoken word.
- Court reporters should control the proceedings and seek clarification when needed.

Attorneys should conduct the deposition in a manner that ensures the best possible record capture.

- Attorneys should control proceedings by not allowing cross-talk during the deposition.
- Attorneys should ensure that each participant communicates clearly and enunciates words to convey information.

Attorneys and reporters should work together to:

- Ensure the venue provides a room without background noises and where distractions are kept to a minimum.
- Ensure that the proceedings are conducted with diction clarity, steady pacing, and controlled intonation.
- Strive to implement a seating arrangement so those charged with capturing the spoken word can clearly hear the proceedings.

Be Vigilant for Homonyms

Many words in the English language sound the same but have different meanings.

Were the combatants really engaged in gorilla warfare?

Did the magician impress the audience with her slight of hand expertise?

Is it really a best practice to share sensitive information on a knead-to-know basis?

Errors attributable to homonyms can be difficult to unearth. They pass right by spell-checking programs. Grammar checkers also stumble on them. Here again, it's humans to the rescue. Court reporters and transcriptionists are expert grammarians. Their careful review of the transcript will unearth and correct these

types of errors.

Proper Names and Unique Terminology

The task of accurately transcribing proper names and technical terms is a challenging one. Experienced, professionally trained court reporters and transcriptionists are adept at delivering deposition transcripts containing the correct punctuation and spelling of proper names and places. Litigators can assist the court reporter by taking the time to identify and spell out difficult-to-discern proper names and terminology that is unique to their case.

The Role of the Errata Sheet

Federal and some state civil procedure rules give deponents the right to review deposition transcripts and suggest changes or clarifications, if necessary. The changes cannot be substantive in nature but, rather, are meant to address typographical errors and testimony misinterpreted or misheard by the reporter or transcriptionist. The so-called "errata sheet" is the record of this process. Although the errata sheet is a separate attachment to the deposition transcript, it is a part of the official court record as a whole.

Clients Win with Accurate Transcripts

The work required to produce a transcript free of errors requires time and dedication to the process. The court reporter must capture the testimony and is ethically obligated to produce an accurate transcript of the proceedings. The legal assistant or paralegal should facilitate requests for clarification of spellings and other case information

Continued on page 17 ➔

← Continued from page 16

upon request. The litigator has an ethical obligation of competence and candor to both the client and the court.

At least one court has ruled that error-laden legal pleadings can violate an attorney's ethical duty of competence. In the case of *Disciplinary Action Against Hawkins*, 502 N.W.2d 770 (Minn. 1993), the Minnesota Supreme Court remarked that "[p]ublic confidence in the legal system is shaken when lawyers disregard the rules of court and when a lawyer's correspondence and legal documents are so filled with spelling, grammatical, and typographical errors that they are virtually incomprehensible."

In an industry that is increasingly driven by technology, it's important to be mindful that a professional's thoroughness and judgment are still necessary to produce the level of transcript accuracy required by the legal profession. The wrong words – even a single wrong word – can, if left uncorrected, have negative consequences for the litigation. Attorneys who adhere to the best practices set out above (controlled proceedings, no cross-talk, special attention to unique terms) will ensure that their client's message and litigation objectives are effectively conveyed on the deposition transcript.



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Dates to Remember | 2023

NOVEMBER 7, 2023 | 12:00 P.M. – 1:00 P.M.
Legal Technology Training – Best Authority
By June Hunter (Details on LPI's website)

NOVEMBER 10-12, 2023
LPI's Second Quarterly Conference Board of Governors Meeting – "Under the Boardwalk"
Hilton Santa Cruz/Scotts Valley, Santa Cruz, CA
Co-hosted by LPI and Santa Clara County LPA

NOVEMBER 11, 2023
Continuing Legal Education, Legal Technology Training, and CCLS Seminars at November Conference (In Person or Via Zoom) (Details on LPI's website)

NOVEMBER 14, 2023 | 12:00 P.M. – 1:00 P.M.
Legal Technology Training – Federal & State Court Systems
By Bethany Enszt, M.S. (Details on LPI's website)

DECEMBER 5, 2023 | 12:00 P.M. – 1:00 P.M.
Legal Technology Training – Citations (Part 1 of 2)
By Bethany Enszt, M.S. (Details on LPI's website)

DECEMBER 12, 2023 | 12:00 P.M. – 1:00 P.M.
Legal Technology Training – Citations (Part 2 of 2)
By Bethany Enszt, M.S. (Details on LPI's website)

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BACK TO BASICS: SERVICE OF PROCESS, PROOFS OF SERVICE, AND DEFENDING THE LAWSUIT

(PART 3 OF LPI'S "BACK TO BASICS" LEGAL PROCEDURES SERIES)

BY LYNNE PRESCOTT, CCLS, LPI EXECUTIVE ADVISOR

In the last segment of the "Back to Basics" series, we discussed how the civil litigation process begins, i.e., the plaintiff files an action (complaint or petition) in the court against a defendant/respondent, and the court issues a summons ordering that the defendant/respondent file a response or answer.

In this segment, we will explore the defense side of the process as well as service of process and proofs of service.

Before we do, it should be noted that in a civil case, the plaintiff generally has the burden of proof. This means that the plaintiff must prove the allegations they are making against the defendant. The burden of proof in civil cases is usually preponderance of the evidence. This refers to the weight of the evidence, not the amount. The plaintiff must convince the judge or jury that there is a greater than 50% chance that the claim is true.

While the burden of proof lies with the plaintiff, the defendant must defend themselves against the accusations brought against them. If they can't do that, they risk losing the case.

After being served with the summons and complaint, the defendant must respond within 30 days of being served. While there are several ways a defendant may respond to a complaint, we will be focusing on (1) answer, (2) general denial, and (3) demurrer.

The Answer

An answer to a complaint is the defendant's formal written reply to the complaint. The answer may be a typed pleading that responds to each paragraph of the complaint. The answer to a verified complaint must also be verified, meaning that a signed statement verifying the contents of

the pleading must be attached to the answer.

Following each responsive paragraph will be an affirmative defense (new allegations of fact constituting defenses which would prevent the Plaintiff from obtaining the relief sought). And just as the complaint contains a "prayer" asking the court for certain things, so does the answer. Usually, the prayer in an answer will state something along the lines of "WHEREFORE, these answering Defendants pray that Plaintiffs take nothing by reason of the complaint on file herein and that these answering Defendants be awarded costs of suit and such other and further relief as may be appropriate."

General Denial

This is a form response (Judicial Council Form PLD-050) that MUST be used in an action where the demand does not exceed \$1,000. It MAY also be used if the complaint is not verified, OR the complaint is verified but the amount in demand does not exceed \$25,000 (limited civil case).

In the General Denial, the defendant states that he/she generally denies each and every allegation of plaintiff's complaint, then states facts as separate affirmative defenses.

Demurrer

A demurrer is a pleading response to a complaint where the defendant objects to the complaint on one or more of the following grounds: 1) the court has no jurisdiction; 2) the person filing the complaint has no legal capacity to sue; 3) there is another action pending on the same causes of action by the same parties; 4) the complaint is defective or there is a misjoinder of parties; 5) the complaint does not state facts sufficient

to constitute a cause of action; 6) the complaint is uncertain, ambiguous, and unintelligible. (There are separate grounds for contract matters.)

A demurrer is treated as a motion to be heard before the court and therefore requires a hearing date. The demurrer "package" typically includes:

- Notice of Hearing
- Demurrer
- Memorandum of Points and Authorities
- Declarations, Exhibits, Appendices
- Proposed Order
- Proof(s) of Service
- Filing Fees

Before filing a demurrer, the demurring party must "meet and confer" with the plaintiff or plaintiff's attorney at least five (5) days before the demurrer is due to be filed with the court.

Service of Process

As a general rule, anything that gets filed with the court must also be served on all parties. The reverse, however, is not always true. For example, discovery documents do not get filed with the court, but they must be served on all parties in an action. In order for service to be effective and valid, the person performing the serve must be 18 years of age or older and not a party to the action.

There are specific requirements when it comes to the service of process for most court documents. Personal service is generally required when serving a summons and complaint, subpoenas, unlawful detainer actions, and family law actions.

Sometimes a registered process server will be used, sometimes electronic service, and other times service will be by mail or other means. Some firms

Continued on page 21 ➔

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have their own in-house office services personnel who double as couriers and process servers for personal/hand-delivery. Each of these types of service affect calendaring and response times in different ways. For example, discovery documents received by your office via U.S. Mail will have five days added to the response date; whereas the same discovery documents served by hand-delivery will not add any time to the response date.

Proofs of Service

Proofs of service must be completed for any document that is filed with the court and/or served on the parties in a case. The Proof of Service can be a Judicial Council form, or a pleading generated by your office. This document is signed under penalty of perjury attesting to the truth of the information, the method of service used, and the date and place where service was performed.

Pursuant to California Code of Civil Procedure section 1013(d), an UNSIGNED copy of the Proof of Service

is served with the copy of the document being served. Once the document has been served, the original Proof of Service can be signed. Documents being filed with the court must be accompanied by a signed Proof of Service; therefore, complete the service first, then sign the Proof of Service, attach it to the document, and file it with the court.

It is important to remember that the date on the Proof of Service is the operative date when calculating deadlines for calendaring. If the document being served is signed on January 12, 2023, but the Proof of Service is dated January 13, 2023, then the date on the Proof of Service should be used for docketing purposes.

Part 4 of the "Back to Basics" series will cover Discovery and Depositions - - stay tuned!

(For more in-depth procedural information, we suggest LPI's multi-week courses or the Law Office Procedures Manual.)



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.



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CCLS QUIZ

1. In your role as a paralegal, you are reviewing documents produced in the *Burns v. Value Auto* case. You discover an extra page with a yellow post-it on it that reads "Please mark 'CONFIDENTIAL' and file in the Value Auto file. A quick glance of the page tells you that the extra page is a letter from the president of Value Auto to his attorney – opposing counsel. What is your best course of action?
 - a) Read the document thoroughly and point out any information that your attorney can use as evidence in the litigation.
 - b) Throw it in the trash.
 - c) Take it to your attorney for him to review and determine what should be done with it.
 - d) Do not read the document, fold it, put it in a sealed envelope and return it to opposing counsel.
2. Your next-door neighbor, who is a good friend of yours, is thinking of buying a house to use as a rental for some extra income. Your neighbor knows that you work for a real estate attorney and asks for your help with preparing a rental agreement. What is your best course of action?
 - a) Find a rental agreement in your case files, to use as a template, make appropriate changes to fit your neighbor's needs and give that to them to use for their rental.
 - b) Direct your neighbor to a publicly available website where they can find rental agreements and let them decide which one to use.
 - c) Prepare a blank rental agreement with the appropriate provisions for your neighbor to use.
 - d) Go to a website that has different types of rental agreements and print off the one that you think the neighbor should use.

Reasoning & Ethics

3. On his way out the door for a deposition out of town, your attorney hands you a document that must be filed that day, but the signature needs to be notarized. He instructs you to notarize it and he will sign the journal later. What is your best course of action?
 - a) Go ahead and put the acknowledgment on the document and file as instructed.
 - b) Print out a new signature page for another attorney in the office to sign so you can notarize the document and file it that day.
 - c) File the document without the acknowledgment because by the time the court kicks the filing, the attorney will be back from his trip.
 - d) Wait until he returns to the office, finalize the acknowledgment, and file the document.
4. A few years ago, you worked on a very interesting, high-profile murder case. You have recently been contacted by a reporter wanting to interview you about the case for an article. What is your best course of action?
 - a) Schedule a time in the office for the interview so you have files available, so you don't give false information.
 - b) Schedule a time outside the office so no one else is aware that you are giving the interview.
 - c) Tell the reporter you have no comment, take their name and number, and pass it on to your attorney without relaying any information to the reporter.
 - d) Give the reporter the name and contact information for the attorney who oversaw the case.
5. California Rules of Professional Conduct allow for an attorney or firm to employ a disbarred attorney, under direct supervision of the employing attorney, to _____.
 - a) perform legal work of a preparatory nature such as drafting pleadings, briefs and other similar documents
 - b) receive, disburse, or otherwise handle client's funds.
 - c) represent clients at depositions and mediations only, but not court hearings.
 - d) render legal consultation or advice to the client.
6. If your employer has paid all the expenses related to your notary commission, and you subsequently obtain employment elsewhere, you should _____.
 - a) Surrender your journal and seal to the employer who paid for it.
 - b) Send your journal to Secretary of State.
 - c) Take your journal and seal with you to the new employer and keep using your commission.
 - d) Discard the journal and stamp.
7. _____ provides that the attorney may not be called on to give testimony concerning confidential information disclosed to the attorney by the client during representation.
 - a) Attorney work product
 - b) Code of Ethics
 - c) Attorney-client privilege
 - d) Rules of Confidentiality
8. Under the _____ rule, any notes, working papers, memoranda, or similar materials prepared by an attorney in anticipation of litigation are protected from discovery.
 - a) Attorney work product
 - b) Code of Ethics
 - c) Attorney-client privilege
 - d) Rules of Confidentiality
9. A(n) _____ is situation where the loyalty to a client prohibits undertaking representation directly adverse to that client.
 - a) Duty to defend
 - b) Conflict of interest
 - c) Informed consent
 - d) Fiduciary duty
10. There are exceptions to the rule of confidentiality. Which of the following is not an authorized exception?
 - a) To prevent death or physical injury.
 - b) To mitigate loss caused by client's past crime or fraud.
 - c) To obtain legal advice concerning the attorney's ethical responsibilities.
 - d) To assist in representation of a client at a new firm.

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ANSWERS FROM QUIZ ON PAGE 24

CCLS QUIZ

ANSWER KEY

- | | |
|--|--|
| 1. D (Pocket Guide to Legal Ethics, page 111) | 6. C (Notary Public Handbook) |
| 2. B (Pocket Guide to Legal Ethics, page 77-78) | 7. C (Pocket Guide to Legal Ethics – Glossary) |
| 3. B (Notary Public Handbook) | 8. A (Pocket Guide to Legal Ethics – Glossary) |
| 4. C (Pocket Guide to Legal Ethics, page 115) | 9. B (Pocket Guide to Legal Ethics – Glossary) |
| 5. A (California Rules of Professional Conduct, 5.1) | 10. D (Pocket Guide to Legal Ethics – Chapter 5) |

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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):*

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SHOULD YOU PREPARE TO RETIRE ON 80% OF YOUR INCOME?

EXAMINING A LONG-HELD RETIREMENT ASSUMPTION.

BY: KARI MIDDLETON – SUBMITTED BY DESERT PALM LPA

A classic retirement preparation rule states that you should retire on 80% of the income you earned in your last year of work. Is this old axiom still true, or does it need reconsidering?

Some new research suggests that retirees may not need that much annual income to keep up their standard of living.

The 80% rule is really just a guideline. It refers to 80% of a retiree's final yearly gross income, rather than his or her net pay. The difference between gross income and wages after withholdings and taxes is significant to say the least.¹

The major financial challenge for the new retiree is how to replace his or her paycheck, not his or her gross income.

So concluded Texas Tech University professor Michael Finke, who analyzed the 80% rule and published his conclusions in *Research*, a magazine for financial services industry professionals. Finke noted four factors that the 80% rule does not recognize. One, retirees no longer need to direct part of their incomes into retirement accounts. Two, they no longer involuntarily contribute to Social Security and Medicare, as they did while working. Three, most retirees do not have a daily commute, nor the daily expenses that accompany it. Four, people often retire into a lower income tax bracket.¹

Given all these factors, Finke concluded that the typical retiree could probably sustain their lifestyle with no more than 77% of an end salary, or 60% of his or her average annual lifetime income.¹

Retirees need to determine the expenses that will diminish in retirement. That determination, rather than a simple rule of thumb, will help them realize the level of income they need.

Imagine two 60-year-old workers, both earning identical salaries at the same firm. One currently directs 25% of her pay into a workplace retirement strategy. The other directs just 5% of her pay into that strategy. The worker deferring 25% of her salary into retirement savings needs to replace a lower percentage of their pay in retirement than the worker deferring only 5% of hers. Relatively speaking, the more avid retirement saver is already used to living on less.

This is a hypothetical example used for illustrative purposes only. It is not representative of any specific investment or combination of investments.

New retirees may not necessarily find themselves living on less. The retirement experience differs for everyone, and so does retiree personal spending. A recent Employee Benefit Research Institute survey found that over a third of retirees report spending more than they had originally expected. Only 9% reported that they were spending less than they had expected.²

A timeline of typical retiree spending resembles a "smile." A 2013 study from investment research firm Morningstar noted that a retiree household's inflation-adjusted spending usually dips at the start of retirement, bottoms out in the middle of the retirement experience, and then increases toward the very end.³

A retirement budget is a very good idea. There will be some out-of-budget costs, of course, ranging from the pleasant to the unpleasant. Those financial exceptions aside, abiding by a monthly budget (with or without the use of free online tools) may help you to rein in any questionable spending.

Any retirement income strategy should be personalized. Your own strategy should be based on an accurate, detailed assessment of your income needs and your available income resources. That information will help you discern just how much income you will need when retired.



KARI MIDDLETON is a registered representative

with LPL Financial. She works with small businesses, business owners, professionals, nonprofit organizations and high-net-worth individuals on all aspects of financial planning, which include estate and retirement plans, investment advice and business succession strategies.

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CITATIONS

¹ - <http://www.michaelfinke.com/research.html> [2022]

² - <https://www.ebri.org/retirement/retirement-confidence-survey> [2022]

³ - <https://www.thestreet.com/retirement/want-to-be-rich-in-retirement-plan-better-save-more> [2/23/22]



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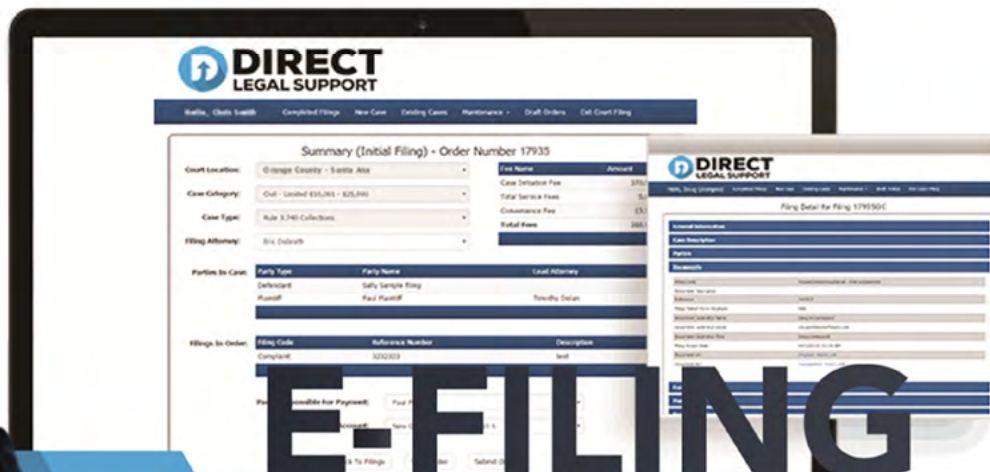
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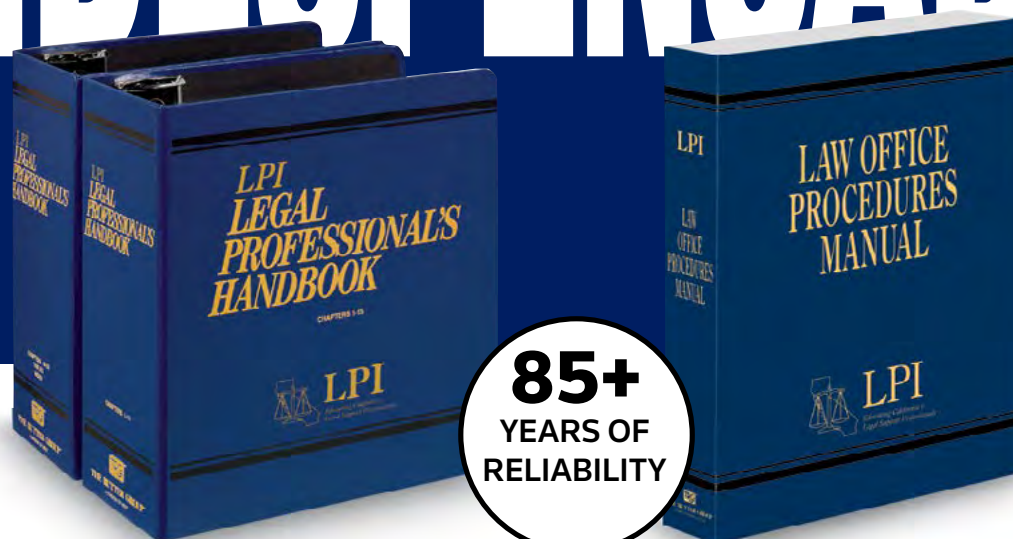
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