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BY ANN MARIE MURPHY AND CELINE CUTTER
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Dedicated to LSI Past President, Joan M. Moore, PLS, CCLS

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Moving Onward and Upward in Unity

BY MARY J. BEAUDROW, CCLS



MARY J. BEAUDROW, CCLS

is President of Legal Secretaries, Incorporated and a member of Mt. Diablo Legal Professionals Association. Mary has worked in the legal field since 1977, and has worked for the law firm of Morrison & Foerster LLP since 2002, where she is currently a Senior Docket Coordinator. Mary is a former member and Past President of San Francisco Legal Professionals Association.

Happy New Year! My warmest of wishes to everyone for a year filled with health, happiness, and success to all of you.

Riverside Legal Professionals Association did a wonderful job of hosting LSI's November 2015 Quarterly Conference at the Riverside Marriott in Riverside with the theme, "LSI Superheroes." The superhero of the weekend was Conference Chair Shaylene Cortez, CCLS, who did an outstanding job. Riverside LPA is a small association, so when Shaylene made the call for assistance in hosting the conference, several local associations answered. As your LSI President, I was extremely proud to see this collaborative effort being brought forth.

During the last year and one-half, the Executive Committee and the chairmen have worked very hard to move Legal Secretaries, Incorporated forward in unity. The Continuing Education Council has presented several online classes. The Legal Specialization Sections continued to provide six seminars at each of the conferences, along with quarterly newsletters, and as of this date, they have presented two webinars. The Marketing Committee has been very busy with redesigning all of LSI's marketing materials, which includes new Membership and President's pins, along with new Membership Packets. They are now working on designing a Governor's pin, which they hope to present to the Board of Governors at the February 2016 Quarterly Conference.

At the February 2016 Quarterly Conference, the slate of officers for the 2016-2017 fiscal year will be presented, which reminds me of when I saw my name on the slate for the office of LSI Treasurer in 2008. Now, I move forward as I am halfway through my second year as your LSI President. Being a member of the Executive Committee has been an amazing experience both personally and professionally. My time as your Presi-



dent has been a rewarding and challenging experience; however, in May, I will be ready to hand the gavel to our next LSI President.

In continuing with the Local Association Promotion Program, on Sunday morning the following five associations were selected to receive a free scrip ticket for the February 2016 Quarterly Conference: Los Angeles LSA; Rio Honda District LPA; San Francisco LPA; San Gabriel Valley LSA; and Santa Maria LPA. My vision for this program was to provide an opportunity for someone to attend their first conference or for some associations to enable them to have their Governor attend the conference.

At the February 2016 Quarterly Conference, LSI will be accepting bids to host the following upcoming conferences: November 2017, February 2018, and the 2018 May Annual Conference. The bids will be voted on at the Post-Annual Board of Governors meeting at the 2016 May Annual Conference in Santa Rosa. Don't let another opportunity to show off your city pass you by. Work with your local association members and hold a conference in your own back yard.

I hope many of you will join us at the February 2016 Quarterly Conference at the Tenaya Lodge at Yosemite in Fish Camp for the weekend of February 26-28, 2016. It is a beautiful location for a conference and to bring the family to enjoy the sites of Yosemite.

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ANNE MARIE MURPHY is a principal at Cotchett, Pitre & McCarthy, LLP where she specializes in consumer class actions, commercial and elder abuse litigation. She received her B.A. from Vassar and her J.D. from Georgetown. Ms. Murphy regularly litigates cases in both Federal and State Court and serves on the Board of Directors of CAOC. She is a Commissioner on the California Commission on Access to Justice (as the CAOC appointee), and the 2014 Chair of the CAOC Women's Caucus. She is a member of Consumer Attorneys of California, the American Association for Justice, the San Mateo County Bar Association, the San Mateo Trial Lawyers Association, and is a life-time member of California Women Lawyers. Ms. Murphy has provided frequent commentary on consumer rights issues and has appeared on local as well as national news.



CELINE CUTTER is a third year law student at the University of California Berkeley School of Law, and works as a law clerk at Cotchett, Pitre & McCarthy, LLP. Celine is interested in consumer protection issues, and co-wrote an amicus brief about the problem of payday lending in a case before the California Supreme Court. Before attending law school, Celine was a Teach For America corps member in Miami, where she taught high school English and French.

In Summary: December 1, 2015 Changes to the FRCP

BY: ANNE MARIE MURPHY AND CELINE CUTTER, SAN MATEO COUNTY LSA

As of December 1, 2015 major changes to the *Federal Rules of Civil Procedure* went into effect. Watch out for scheduling changes designed to expedite case management in the early stages of litigation. The following is an overview of the key changes that will impact legal secretaries and the attorneys they support:



90 DAYS FOR SERVICE OF SUMMONS

Rule 4(m) has been amended to reduce the time for serving the defendant from 120 to 90 days after the complaint has been filed. As in the old rule, if service is not completed by the deadline, the case may be dismissed without prejudice. This change means that plaintiffs will need to have a service plan ready when they file. The amended rule also includes a new form of summons.

EARLY RFPDS

New language in Rule 26(d)(2) permits requests for production of documents (under Rule 34) to be sent to a party 21 days after the summons and complaint are served on that party – before the parties meet for the 26(f) conference. These early RFPDs will be considered served at the first Rule 26(f) conference. Note that only Rule 34 RFPDs may be sent early, other forms of discovery must be sent after the 26(f) conference.

RESPONDING TO RFPDS

If a party sends RFPDs before the 26(f) conference, the recipient has 30 days after the conference to respond. For RFPDs sent after the conference, the deadline to respond

remains the same – 30 days after being served.

Rule 34 has also added some new requirements. Responding parties who object must state the specific grounds for objecting, and whether they are withholding any documents on the basis of the objection. If a party states that it will produce copies of a document, it must also give a deadline for when it will produce those copies – but as a default under the revised Rule, the production is supposed to happen on the date the written response is due. The intent of the changed language is to clamp down on endless rolling productions.

SCHEDULING ORDERS

Rule 16(b) now requires judges to issue scheduling orders within the earlier of 90 days after any defendant has been served, or within 60 days after any defendant has appeared. However, the court may find good cause to extend the time to issue the scheduling order.

Scheduling orders may now also include new material: instructions on preservation of electronically stored

Continued on page 11

Congratulations to LSI's Newest California Certified Legal Secretaries

**THE FOLLOWING INDIVIDUALS ARE TO BE RECOGNIZED AND COMMENDED
FOR PASSING THE CCLS EXAMINATION ON OCTOBER 17, 2015:**

Dora Akillian, CCLS	Non-LSI Member
Ashley Ann Barnes, CCLS	Non-LSI Member
Amber Burns, CCLS	Non-LSI Member

Erin Gama, CCLS	Stanislaus Co. LPA
Renata Marquez King, CCLS	Los Angeles LSA

Passing the CCLS examination is a tremendous achievement and these new CCLSs deserve kudos for rising to the challenge and proving that hard work, dedication, and commitment can lead to fantastic results!

When you see any of these ladies, please offer your congratulations on their achievement. We invite you all to join us at LSI's Annual Conference in May 2015 as we honor these new California Certified Legal Secretaries at the CCLS Luncheon and Saturday Banquet.

CCLS QUIZ:

LAW OFFICE ADMINISTRATION – ALPHABETIC FILING

FOR EACH SET OF NAMES BELOW, DETERMINE THEIR CORRECT ORDER BASED ON GREGG'S RULES FOR ALPHABETIC FILING.

- | | |
|---|---|
| 1. (a) Mr. Howard B. Neat
(b) Major Howard R. Neat
(c) Mrs. Howard B. Neat | 6. (a) A Touch of Class Interiors
(b) The Touch of Class Bistro
(c) The Touch-of-Class Bar & Grill |
| 2. (a) Yosemite Valley Lithographics
(Yosemite, Valley, Lithographics)
(b) Yosemite-Merced Linoleum
(Yosemitemerced, Linoleum)
(c) Yosemite Sam (Sam, Yosemite) | 7. (a) U. S. Trucking
(b) US Train Depot
(c) UNESCO |
| 3. (a) OSHA
(b) Ontario Restaurant Supply
(c) O'Shaughnessy's Towing | 8. (a) U. S. Coastal Mining Corporation
(b) US Coal Mining Corporation
(c) U.S. Coal Mining Company |
| 4. (a) XIII O'Clock Bar
(b) Third Street Grill
(c) 9th Street Bistro | 9. (a) Javier Torres
(b) Javier de la Torre
(c) Javier dela Torres |
| 5. (a) Genevieve St. Clair
(b) Peter Staggin
(c) Suzanne St. Marie | 10. (a) Howard Hanson
(b) Hanson's Hardware
(c) Howard Hanson's Hardware |

CCLS QUIZ ANSWERS ON PAGE 31



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LSI Second Quarterly Conference




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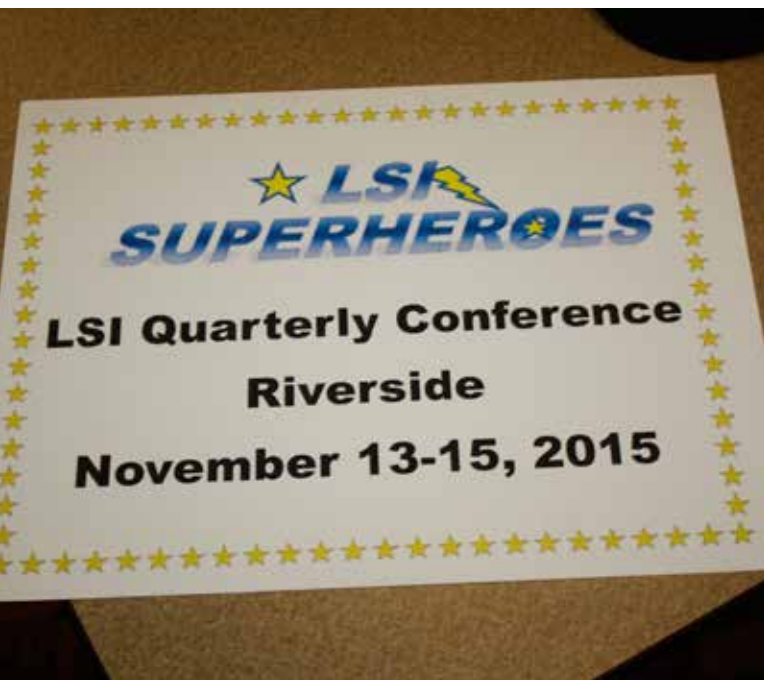
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STEPHANIE HARRISON has been employed as a Legal Assistant for Marvin J. Brown since 1984 and has been a member of the Merced County LPA since its induction. She has been a very active member of MCLPA, holding almost all positions on the board and otherwise, and was a past LSI Family Law Section leader.

Bear It All In Yosemite

BY STEPHANIE HARRISON, LSI THIRD QUARTERLY CONFERENCE CHAIR

Ahhhh there is nothing like breathing in fresh mountain air - welcome to Yosemite! Merced County LPA is excited to welcome you to the beautiful Tenaya Lodge for the LSI. Third Quarterly Conference (February 26-28, 2016). Tenaya Lodge is a gem, built in 1990 and located just two miles from the south entrance of Yosemite National Park. The Lodge offers AAA Four-Diamond Yosemite accommodations, including Lodge and Cottage rooms. The hotel has recently been renovated; a wonderful addition to the lodge is the *Ascent Spa*, which is located on the subterranean floor.



We hope you also are able to make this a family vacation, and visit beautiful Yosemite National Park and its nearly 1,200 square miles of splendor. The Park which recently celebrated its 125th Anniversary, is home to one of the tallest waterfalls in the world, and one of the largest granite monoliths in the world. The majestic redwoods on the opposite side of the south entrance are a must see.

Plan on this conference being casual, but of course dress appropriately and warm - there may even be some snow! Prior to your departure, check the road conditions to see if chains are required.

For the reception Friday night, bring your appetite. Because the Lodge is in a fairly remote location, we have planned on a little heartier-than-usual menu. The Lodge has 5 different food venues, ranging from casual to candlelit - all serving fresh, local, sustainable fare. In addition to the restaurants, the Lodge has a gift shop with snacks and items relating to Yosemite for purchase. You might think about stopping in Oakhurst on your way to the Lodge to pick up a few munchies and drinks. The drive from Oakhurst to the Lodge in Fish Camp is about 20 minutes (12 miles) and the road is a little winding, but worth the views.

There are refrigerators in each room. The Lodge features a very nice bar/lounge with indoor and outdoor seating (with a huge fire pit outside!-can you say s'mores?). The Lodge was awarded the 2015 Trip Advisor Certificate of Excellence Award as well as the Sunset Travel Award.

Just recently, the Yosemite Area Regional Transporta-

tion System has included service from the Fresno Yosemite International Airport. No need to rent a car, enjoy the ride on YARTS. Their schedule should accommodate just about everyone flying in and out of Fresno Yosemite International Airport. See their website for a schedule (<http://yarts.com/>). The airport is approximately 1 hour from the Lodge. If you choose to drive from the North, you would take Highway 99 to Highway 140 East once in Merced, then to 49 South (sharp right turn as you enter Mariposa), travel through Oakhurst, then left on 41 about 12 miles. From the South you would take 41 North from 99 out of Fresno, also through Oakhurst; or 145 from 99 out of Madera to 41N.

Conference registration will be just past the Hotel registration. All meeting rooms are on the first floor and within a short distance of each other; the same is true of the luncheon rooms.

There will be an abundance of opportunity drawing prizes available and of course an array of vendors-please check them out so they do not feel lonely. Our vendors always have awesome giveaways and door prizes. The Lodge has an ice rink just outside if you are feeling adventurous. Don Lee will, of course, be the host with the most at his hospitality suite Friday and Saturday so be sure to visit! It's Chinese New Year time of the year during conference, and it is the YEAR OF THE MONKEY-but no monkeying around in his room!

Continued on page 11



SANDRA T. JIMENEZ, CCLS retired in December 2014, after a successful 30-year career in the legal field. She has been a member of Imperial County Legal Professionals Association since 1984, where she held many positions and received many awards. Sandra is currently the LSI Executive Advisor and is honored to have been awarded the prestigious Legal Professional of the Year 2012 award by the Imperial County Bar Association in June 2012 and is a life member of Legal Secretaries, Incorporated.

The Last Hoorah !

BY SANDRA T. JIMENEZ, CCLS, LSI EXECUTIVE ADVISOR

As we all know, *The Legal Secretary* magazine, is OUR magazine, and every association, chair, and Executive Committee member must do their part to contribute articles to the magazine for publication. As Executive Advisor, I did not want to write an article on Inter-Association or Ways and Means, because everyone knows basically everything there is to know about those committees; however, instead I want to share insight into my experience of all my years volunteering with LSI, and it all starts with deciding to run for office - Nominations and Elections.

As I reminisce over all the years of volunteering as a member, chair and officer of LSI and also my years volunteering for my local association, I think of the achievements, successes and my own personal growth as a legal professional – and all because I was “urged” and “pushed” to say yes. I can now say that I made the right decision to roll up my sleeves and participate. LSI afforded me the greatest opportunity to learn, to grow, to gain confidence in myself, and above all provided me with many great memories.

Coming from a family of 16, I knew that a college education was out and I would not be attending a university. I had to be job ready out of high school, and I was. My typing speed was 80 wpm and shorthand 100 wpm upon graduation. My goal was to start at the bottom of a large corporation and work my way up. One could say that I did reach my goal as LSI is a non-profit corporation. I didn't end up making a six figure salary; however, the knowledge gained through working in the legal field and my volunteer work with LSI, was very rewarding and the experience will remain with me forever.

I bumped into the legal field through a temp agency in Sacramento. I worked for a corporate and tax law firm near the Capitol. Upon moving to El Centro, I checked in with the Employment Department and was sent to a law firm which practiced probate and bankruptcy. I worked for that law firm for over 8 years. The day I left that firm, another attorney heard I was leaving and offered me a job. He specialized in real estate, collections, and contracts -- the best job I ever had and the best boss that I ever had. I worked

with him for 20 years. After he took a judgeship position, I went to work for another law firm which specialized in employment law and I worked for them until the firm downsized.

During the time that I worked in the legal field and mainly due to my membership in a professional association, I obtained my legal assistant certificate and became a California Certified Legal Secretary. I am honored to have received various awards including LSI President's Award, ICLPA Member of the Year, and Imperial County Bar Association Professional of the Year Award; and because I am now a Past President, have been awarded lifetime membership in LSI – how great is that!

Multi-tasking is never easy, especially being an officer of a state-wide corporation, work, and family responsibilities – however, it can be done. All the Past Presidents did it! I am fortunate to have assisted LSI in various capacities: Day in Court, Professional Liaison, Transactional Law Section Leader, CCLS Chair, Member of the CCLS Certifying Board, LSI Treasurer, Executive Secretary, Vice President, President and finally Executive Advisor/LSI Past President which brings me to my last Hoorah. Why the last Hoorah? Because I did it – I committed to ten years of participating in LSI as an officer, improving an organization that was good, not just for me, but for all members. Do you agree that now, finally reaching the status of an LSI Past President, is cause for celebration? Absolutely!

LSI

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THE LAST HOORAH!

Continued from page 10

The last conference that I will be required to attend as an Executive Committee member will be May 2016 Annual Conference – **my last Hoorah**. Another dedicated member will step up to join in and participate assisting in maintaining and running our corporation. If you want to make a difference, run for office. Delegates will be electing a new Treasurer at the May 2016 Annual Conference --- will it be you? If you have any questions about duties and responsibilities, contact me or any Executive Committee member.

I have enjoyed my career in the legal field, as I learned so much. I am now retired; however, I would do it again in an instant. I have enjoyed participating at the local level and the state level for the last 25+ years. I am ready to go on with the next chapter in my life.

Meanwhile, I look forward to seeing everyone at Fish Camp and Santa Rosa to celebrate **my last LSI Hoorah**.

LS

BEAR IT ALL IN YOSEMITE

Continued from page 9

Our Association is lucky enough to have our Saturday morning break sponsored by several local attorneys, a few local businesses, and the Merced County Bar Association; so enjoy the fresh breakfast items as well as coffee and tea.

Susie Fagalde has been busy securing speakers and topics for the LSS seminars Friday night, Saturday morning and Saturday afternoon - be sure to sign up early. There will also be a few other workshops to be set out in the Official Notice.

Thanks to Don Lee we will have very special guests for the Saturday night banquet in conjunction with our National Park setting, so bring your cameras.

As a side note, the luncheon selections, as well as Banquet and Sunday brunch selections will be set out on the

registration form, for your convenience. Please note you have a choice of soup or salad at Banquet. The Lodge boasts mouthwatering menus, and it was difficult to narrow the selections.

Sign up early for the conference as well as your room, I have a feeling the rooms will fill up quickly. We have terrific room rates, starting at \$125/night. If you plan on coming to the Lodge earlier than Friday or leaving a day or two after the conference, phone in your reservation directly with the Group Code "30W4XK" so you can obtain the same room rate for those extra nights, if available.

Come join us and *Bear it all in Yosemite* while having a relaxing, educational, informative, and unforgettable weekend.

LS

CHANGES TO RFCP

Continued from page 4

information, and agreements about disclosure of privileged or protected information. The scheduling order might also require parties to have a conference with the court before filing any discovery motions.

Note that parties may participate in scheduling conferences via any form of simultaneous communication, including phone calls.

DISCOVERY IN GENERAL

Rule 26 has gone through important changes, most notably the description of the scope of what is discoverable has undergone wordsmithing. More emphasis will now be placed on whether the discovery that is requested is proportional to the needs of the case. From a litigation support staff perspective what that means is that you will likely see more running of vendor cost estimates for electronic (ESI) discovery and more meet and confer efforts

between counsel that is focused on the nuts and bolts costs associated with running search terms and producing data. There will also be more motion practice – especially over the next few years as the Courts grapple with interpreting the import of the changed wording of the rules – especially Rule 26 (discovery).

FOR MORE INFORMATION

If you are unsure about a rule, check the online version at: <https://www.law.cornell.edu/rules/rfcp>. This website also includes the Advisory Committee Notes, which accompany each rule and explain the significance of the amendments.

LS



JANE BENSON-KEAST, M.P.A. is a Nationally Certified Personal Trainer and Health Coach. She was a Legal Secretary and Law Office Administrator for over 20 years and is currently Executive Assistant to CAO/General Counsel, the Buck Institute for Research on Aging (Marin County). Contact Jane at jbkeast@comcast.net.

WELLNESS HEALTH & FITNESS

As a Legal Professional - What's in it for YOU?

BY JANE BENSON-KEAST, M.P.A., MARIN COUNTY LPA

Wellness, health and fitness are positive vital components of our lives, not only for individuals, but for corporations as well. Individuals at any age can realize the benefits of participating in regular exercise and by taking part in personalized wellness programs designed to delay, control or even completely avoid chronic illnesses. Employers have realized that the rapidly rising cost of providing healthcare coverage to their employees can be reduced dramatically and even controlled by encouraging employee participation in corporate wellness programs. As a legal professional, what's in it for you?



The benefits of regular exercise are many, including increased energy, improved health, sense of well being and confidence, and improved appearance. Research shows that consistent exercise in conjunction with high-level nutrient dense (natural, organic, non-processed) foods can dramatically enhance your life by delaying the aging process by 10, 20 or even 30 years (please note: physical age vs. chronological age are not the same). The benefits of physical activity and nutrient dense foods go a long way in controlling weight, reducing health risks of type 2 diabetes, high blood pressure, cardiovascular disease, some cancers and, of course, prolonging the quality of your life. For those who don't exercise, it's never too late to start reaping the benefits of a healthy lifestyle. I have seen people at all stages of life completely turn their lives around by simple lifestyle changes to the degree that it simply amazes me.

What is wellness? Wellness has aptly been referred to as an "alternative to doctors, drugs and disease."¹ It is a combination of your total health and fitness levels through the healthy lifestyle choices you make daily. Wellness is mental, emotional, physical and social well-being. Wellness means living longer while enjoying a high quality of life. As a legal professional, wellness translates into more energy, greater effectiveness and productivity at work and,

as mentioned, personal fulfillment. Wellness is holistic - it's a dynamic, positive approach to your work and personal life.

My experience is that the health-related areas in which the legal professional often has the greatest influence over their own lives is in nutrition and physical exercise. It's about personal responsibility.

Making it Personal - A Journey into Wellness, Health and Fitness

Throughout my legal career, I have been a weekend athlete. Among other things, to offset work stress and long hours, on weekends I regularly took to wilderness challenge events such as hiking, mountain biking, backpacking - and led these events as well with various populations (from the physically fit to chemically dependent, disabled and even wheelchair groups). Out of these experiences, I observed significant behavioral changes, not only in myself, but also with the individuals I worked with as they successfully met wilderness challenges with a sense of adventure and courage. I decided to return to graduate school to earn a master's degree in health and secondly, recreational therapy.

While graduate school was an incredible experience, over time I not only gained a great deal of weight but also earned a diagnosis of Diabetes 2 (*adult-onset*). This in spite of my interspersed jogging and aerobic classes. Diabetes is at epidemic proportions in this country and there is no question this disease is a combination of our population's diet of processed food and sedentary lifestyles. My diagnosis was the result of my increasing overweight condition, the foods I was consuming and, from what is known today as "inactivity physiology." A major component of inactivity physiology is prolonged computer sitting.

Graduation was the beginning of another learning experience. After earning my M.P.A. in Health Care, I joined Weight Watchers, worked the program and became a staff member. In Weight Watchers I learned - **to lose weight you have to eat!** Consuming small nutrient dense meals consistently throughout the day keeps the metabolism active - this metabolic process in itself burns Kcals! (Kcal is the symbol of kilocalorie. One kilocalorie is equal to 1000 calories.)

The next component of wellness is exercise! Exercise and nutrition are integrated issues. While you ARE what you eat - moving throughout your work day is critical - not only for overall health but also to preventing chronic diseases such as high blood pressure, diabetes, heart disease, cancer, clinically relevant HDL ("good") cholesterol, as well as other medical concerns including an overall higher risk of death.

Now, there's more here. Are you aware that prolonged sitting - even if you exercise regularly - is bad for your health? Research shows that regardless of how much we workout and otherwise exercise, the effects of prolonged sitting will profoundly cancel out the benefits of exercise. When we sit, the enzymes that are responsible for burning fat just shut down. Too much sitting has very potent effects on the body contributing to the most common diseases. In fact, sitting is killing us.

What can YOU, as a legal professional, do to proactively avoid the negative health effects of prolonged sitting? In addition to your regular exercise program, Len Kravitz, Ph.D. (Professor, University of New Mexico)² offers these suggestions.

- Stand up and walk around the office every 30 minutes - set a timer (computer) to remind you.
- Stand up and get some water. (Note: Ice cold water burns more Kcals - perhaps also keep a pint at your desk.)
- Always stand and/or walk around the room while talking on the telephone (e.g., with clients, court clerks, your attorney).
- Consider getting a sit-stand workstation for the com-

puter (most of these work desks can be raised and lowered to enable a user who becomes fatigued to lower the station and sit on a physioball instead of standing).

- Take a 5-minute walk break during your coffee break.
- Don't e-mail office colleagues; walk to their desks and actually talk to them instead.

When you are healthy and fit, your direct contribution to the law firm you work for can increase proportionately to your level of health and fitness. Many corporations have opted to introduce wellness programs so that they can realize the benefits of a fit and healthy workforce. However, many fail to accomplish their long-term goals because the wellness programs are introduced with much fanfare and ceremony but with little, if any, follow up to keep employees focused on improving and sustaining an overall higher level of physical and mental wellbeing.

On the other hand, organizations that offer all-encompassing employee-wellness programs in combinations of employee education (e.g., nutrition), easy access to organized exercise programs, free weight management programs, reductions in employee share of healthcare premiums (or other economic incentives) in return for participation in wellness programs and continuously reinforce health and fitness in every employee-communications medium - actually change the organizational culture.

When employee health and wellness becomes a shared goal amongst the employer and employee alike - positive culture change occurs. While there is an initial and sometimes significant capital expenditure associated with implementing corporate wellness programs, a simple cost-benefit-analysis will illustrate the long-term benefits to the organization, both financial and in terms of employee satisfaction.

Commit today to make healthy lifestyle choices - eat healthy nutrient-dense foods and build exercise into your day - every day. Not only you, personally, but your law firm as well will benefit from a healthier you. As someone who has implemented worksite wellness programs in law firms, the return on investment (ROI) can be measurable and even dramatic.

Get Moving & Be Well !

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(Endnotes)

- 1 Donald B. Ardell, PhD., *High Level Wellness: An Alternative to Doctors, Drugs and Disease* (1977)
- 2 Len Kravatz, PhD., *Too Much Sitting is Hazardous to Your Health*, IDEA Health Fitness Journal, October 2009



STEVEN A. LEFF has been practicing law for more than 30 years. Mr. Leff specializes in family law, with particular emphasis on divorce, child custody, property division, spousal and child support. He also has significant expertise in handling modification orders, court order enforcement, and litigating domestic violence cases. Mr. Leff earned his law degree from Southwestern Law School, where he was selected for participation in the Law Review. Prior to starting his own practice, he was an agent with the United States Customs Service (now U.S. Customs and Border Protection) and served as counsel for the Airline Pilots Association, International. Because of his knowledge of the law, Mr. Leff has been a guest on numerous television and radio programs.

The Ramifications of Restricted Stock Units in a Dissolution of Marriage Action

BY STEVEN A. LEFF, ESQ., SAN MATEO COUNTY LPA

The Silicon Valley has produced a plethora of startup companies, some successful, some not so successful, and a few mega successful. The latter includes notables such as Facebook and Twitter. Before going public these companies have offered their employees, as additional compensation and incentives, Restrictive Stock Units (RSUs). In the event the company becomes publically traded, these RSUs can and often do, become quite valuable. For instance Facebook, at least in the years preceding its going public, granted its employees, many in mid-level positions, RSUs in the tens of thousands, and even in the hundreds of thousands. At last observation Facebook was trading at about \$90 per share. Those RSUs, now stocks, available to sell by the employee near the end of 2012, could total millions of dollars.



This sudden wealth, or at least expectation of wealth has come with some unforeseen problems, both socially and economically, including many issues related to an employee's dissolution of marriage. Questions include:

1. How are the shares, or monies, if the shares are sold, distributed between community and separate property interests?
2. Once distributed, or in anticipation of the distribution, is the separate property of one party considered additional income for purposes of child or spousal support determination?
3. Does the sale of the RSUs, now publically traded stock, and monies derived from such sale, reinvested into stock of other companies, perhaps multiple times, cause a stay in computing additional income for support purposes?

These questions and considerations are causing family law attorneys and judges to advocate positions and make decisions which can cause a major shift in the party's wealth.

The cases relating to the characterization of stock options, which RSUs at their core are *In Re Marriage of Hug* (1984) 154 CA 3rd 780; *In Re Marriage of Nelson* (1986) 177 CA

3rd 150; *In Re Marriage of Harrison* (1986) 179 CA3rd 1216; and *In Re Marriage of Walker* (1989) 216 CA3rd 644.

In *Hug* the time line formula was adopted. This formula specifies that the community interest in stock option (RSUs) is determined by dividing a numerator which is the period between the spouse's commencement of employment and the parties' date of separation, by a denominator which is the period between the spouse's date of employment and the date when each option is exercisable.

For example, if the spouse was hired by, let's say Facebook, Inc., on January 1, 2010, and his date of separation was January 1, 2011; and his RSUs vested on January 1, 2012; The formula would be 12 months/24 months which equals 50 percent. Therefore the employee's wife would be entitled to one-half of the community interest in the RSUs which in turn has a one-half interest. Thus wife would be entitled to 25% of all of her spouse's Facebook RSUs, or stocks, once it has gone public.

The other cases cited stand for much the same rule and apply the same time line formulas with slight variations. However, the court, as in *Hug*, has also given the trial court broad discretion in order to achieve an equitable result according to the facts of each particular case.

THE RAMIFICATIONS OF RESTRICTED STOCK...

Once determining the community interest in these potentially valuable RSUs, one would reasonably assume that any further calculations are unnecessary. That person would be wrong. There could also be issues of spousal support, of if minor children are involved, child support, pertaining to the RSUs. For instance, in our analysis of the characterization of RSUs as discussed above, using the Facebook example, let's say there were 100,000 RSUs involved. That would give the community a 50,000 share interest. It would also leave the employee spouse with 50,000 shares of Facebook stock as his or her separate interest. Now at \$100 per share that separate interest equates to \$5,000,000.00 before taxes. The other spouse could then claim additional spousal and child support based on the case of *In Re Marriage of Osler and Smith* (1990) 223 Cal App 3d 33. This might equal additional total support of as much as 10 to 50 percent of the employee spouse's separate interest in the stock, causing the employee spouse to pay an additional one time support payment to his spouse of between \$500,000.00 and \$2,500,000.00. A very significant sum.

But what if the employee spouse merely retains his stock in a brokerage account without selling any of his separate shares? What if he sells some or all, but reinvests the

proceeds by purchasing different stocks, but still maintains the new shares in a brokerage account without withdrawing them for personal use? Some trial courts have ruled that unless and until the stocks, either the originals, or the subsequently purchased shares, are withdrawn from the brokerage account and the employee spouse uses the resultant funds, the amounts in the accounts are not subject to a *Osler and Smith* determination.

To further complicate the situation, let's say that the initial stocks or their derivatives are sold for a profit above the base profit of the original stock at the time that a determination of the character of the stock was made. Is the employee spouse subject to a *Osler and Smith* calculation for additional support using the price of the stock at the time of characterization; at the time the RSUs first vested; or at its current value?

The courts have not conclusively ruled on these issues and it may be some time before an appellate court does. You can be assured that due to the ever expanding tech industry and the grants of RSUs bestowed on their employees, this issue will be litigated both often and with great passion by family law attorneys for many years to come.

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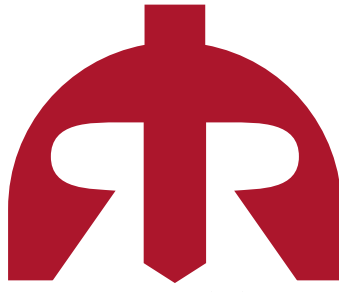
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ROBERT MANSOUR grew up in Southern California and attended Loyola High School and Occidental College. He received his law degree from Southwestern University School of Law in Los Angeles and has been practicing law since 1993. He worked as a litigator for over 13 years with a large firm in Glendale, California. In 2004, Robert was recognized by the firm as Trial Attorney of the Year.

In 2008, Robert decided to open his own practice focusing on estate planning, wills, living trusts, and personal injury. He is a member of the Santa Clarita Valley Bar Association and was president from 2009 through 2010, when he was named Lawyer of the Year by the organization. Although most of his clients are from the Santa Clarita area, Robert has clients all over the Los Angeles and Orange County area.

Do You Have A Legal Toolbox?

BY ROBERT MANSOUR, RIO HONDO DISTRICT LPA

People generally don't have any idea what is involved with an estate plan. They don't really get what it is. It sounds very mysterious, and many people think it's only for rich people. However, an estate plan is for people of all income levels. A good estate plan answers two important questions:

1. What happens to my estate when I pass away?
2. Who has the legal authority to act on my behalf if I cannot do so?

An estate plan is nothing more than a legal "toolbox." Most toolboxes have several "main" tools – a hammer, wrench, screwdrivers, nails, etc. If something breaks in your home, how can you fix it if you don't have a toolbox? If you don't have a legal toolbox, then how can your loved ones help you when things go wrong? A solid "legal plan" also has some main tools - basic legal documents that most clients should have in case something occurs.

In most cases, the four major "tools" in the Estate Planning "Toolbox" are:

1) A Living Trust – an enforceable legal document that outlines who is entitled to manage your affairs if you can no longer handle them (these people are your "successor trustees"). The trust governs everything in the name of the trust or payable to the trust. Also, everything in the name of the trust avoids the court system. A living trust keeps matters private for the family versus a will which can end up in court which is a public forum. Also, a living trust can be used for your benefit in the event of your incapacity versus a will which only goes into effect after you pass away. A single person, married couple, or any number of people, can create a living trust.

2) A Will – Some people wonder, "Why would I need a will if I have a living trust?" You see, there are different "kinds" of wills just like there are different kinds of trusts. The type of will used in conjunction with a living trust is

known as a "pour over" will. Most estate plans use this tool as a backup to the trust. If court involvement is necessary regarding one or more of your assets (i.e., the asset was not in your living trust), the will directs the judge to place your asset(s) into your living trust. The assets "pour over" into your trust. The person in charge of your will is called your "executor."

3) A Durable Power of Attorney – This legal document allows someone known as your "agent" to act on your behalf in most other circumstances. While the "successor trustee" handles assets in the name of the trust, your named agent under durable power of attorney can act on your behalf when dealing with issues not directly trust-related. In life, there are many matters that need to be handled that don't directly involve the living trust. By calling it a "durable" power of attorney, it means the document is effective even if you are incapacitated - which is basically when you'd want it to be effective after all.

4) An Advance Health Care Directive – This document allows someone also known as your "agent" to make health care decisions on your behalf. A solid health care directive addresses more than simply "end of life" issues such as the proverbial "pulling of the plug." Your agent can be your advocate when necessary and direct your health care in your best interests. Also, you want health care documents



Continued on page 22

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Classes will take place online utilizing video lectures, discussion boards, email, whiteboard sessions, chat rooms, and quizzes. Login information will be provided upon enrollment in the class.

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SEAN MCNEALIS received his B.S. in Civil Engineering from the University of California at Davis and his J.D. from the University of San Francisco School of Law, where he focused on intellectual property law. He is licensed to practice in California and lives and works in the Bay Area.

Stuck with a New Technology Problem? The Answer Is Almost Certainly Out There, & Here's How to Find It

BY: SEAN MCNEALIS, ESQ., SAN FRANCISCO LPA

Many people are painfully aware that technology¹ is great when it works, yet infuriatingly frustrating when it does not. Many also have a horror story about technology failing (likely when it was needed most). A printer skipping lines of text in an important document, PowerPoint presentations not starting, email access being denied because of some inexplicable error. Being the most tech-savvy member of my family, I am the one they turn to when these problems need solving. But here is my secret: I never actually know what to do, nor do I figure it out on my own. I search the Internet for someone who has had the same problem, and I just do what they did. The purpose of this article is to share with the reader some of the tips, notes, and concepts I have gleaned from many hours spent trying to find answers online.

This article was inspired by *What Great Legal Secretaries Know About Technology*,² which appeared in the May 2012 issue of *The Legal Secretary* magazine. While much of the advice the author, Ms. Rothwell, included in that article would be equally at home here, the purpose of this article is to expand on one particular note she makes about the Internet. As she put it, by using the correct search terms, “you will be amazed at how often you can find exactly what you are looking for.” I would take that a step further and say that one can find the answer to nearly any technology problem on the Internet. And, while it is true that using refined search terms is important, as discussed below, there are other lessons I have learned, which I think will guide the reader to useful information online.

SEARCHING

Internet search engines³ use complex algorithms to determine both what the user is asking and what search results to display. These algorithms take hundreds of factors into account, and have fundamentally changed the way one acquires information. When I was in college, my

parents often reminded me that when they did research, they went to the library and used something called a card catalog. A mysterious, paper-based search engine that returned not the information itself, but just where to find it in the stacks. Mercifully, the Internet and search engines saved me from burning all those calories walking from stack to stack.

Iterate Search Terms. Instead of searching a card catalog by author, title, or subject, one simply types keywords into a search engine like Google. While keywords do play an important part in ensuring the search returns the information needed, in my experience at least, a search engine like Google is sophisticated enough to point users in the right direction, even when they are not using the best or most accurate search terms. This is especially helpful when it comes to problems with newer technologies, whose parlance has not yet become mainstream. For example, I recently tried to connect an older external monitor to a newer laptop, but whenever the connection was made, the monitor screen would flicker constantly. So I typed “screen flicker” into Google’s search engine, and the first search



result returned was titled: “Correct monitor flicker (refresh rate) – Windows Help.” Thus, without actually reading a single search result, I knew that the problem was with the refresh rate, which gave me a more accurate search term. Knowing this, I could refine my next search to something like “change refresh rate.” Even if the first search result is not so helpful, I have found that after skimming⁴ through a few results, I usually get a better sense of the parlance people are using to talk about a particular issue online. In this way, one can, and should, make searching an iterative process by using additional information from one search to quickly improve the next.

Lastly, regarding search terms, it is helpful to include the specific hardware or software with which one is having problems. Although product and service providers try to remedy problems with older software and hardware through patches and updates, many issues persist and sometimes remain unique to a certain model or software release. Similarly, newer software and hardware can have problems older versions did not. Additionally, how one actually implements fixes they find online fluctuates between versions as well. For example, turning on track changes might be done differently in Word 2007 than in Word 2013. Thus, in the prior example about refresh rates, since the laptop I was using was running Windows 10, it would have been more helpful to search “change refresh rate windows 10.”

Move beyond the official resources. When I searched for how to change the refresh rate in Windows 10, unsurprisingly the first search result was from Microsoft. But, do not be afraid to move beyond official resources from the manufacturer. Unfortunately, in my experience, they can often be less useful and sometimes even outdated.⁵ Instead, I find the most useful information comes from forums and blog posts. Blog posts are simply short articles, which can cover a nearly limitless number of topics. Like articles in a magazine, tech-centric blog posts, for example, appear on tech-centric websites. Forums are simply a place where a user can post a question or comment, and then other users can post questions or comments in response to the original poster (sometimes called the “OP”). The original post and these replies form what is called a thread. Many websites, in addition to their main content (like blog posts and news stories), host forums with thousands of threads. Conveniently, a search engine like Google actually includes that content in its search results. Meaning that if someone is having problems with, say, their Lenovo U430p laptop, they do not need to go to Lenovo’s website and search Lenovo’s forums directly.

While reading blogs is relatively straightforward, first time visitors to a forum might find some things confusing. For example, along with OP for original post, the short-hand “mods” refers to moderators who regularly visit the

forum to help keep the reply posts on-topic, and to remove any offensive posts. These mods may also close threads that cover a topic that has already been discussed in a different, earlier thread. Some mods (and users) will also post a link to those earlier threads. Nevertheless, an OP may never receive a satisfactory answer and the forum may eventually go way off-topic. So, when reviewing forums, which can have hundreds of reply posts, take a look but do not read every reply. If the thread seems like it is not going to be helpful, cut the losses and move on to another resource.

Along with blog posts and forums, instructional videos on YouTube are another place to find solutions. These are especially helpful when the other resources one has found have been written in a way that presumes the reader already has some technical knowledge of the issue. With a good instructional video, one can just follow the steps shown. Conveniently, Google gives users the option to filter its search engine results to return videos only.

The dreaded customer support call (and why it is not so bad). Lastly, when one cannot find the answer on their own, it is time to turn to customer support. Most people tend to avoid calling customer support, either because they expect to be on hold for hours or they expect to get transferred to multiple departments, none of which can seem to provide the answer they are seeking. Fortunately, users now almost always have the option to send an email or to instant message (usually called “chat”) customer support, instead. In my experience, messaging has much shorter wait times than calling. Of course, with email, one has to wait for a response. But, unlike being on hold on the phone, waiting for an email frees one up to do other things. Further, I have found that most emails receive a response in as little as twenty-four hours. However, because it is hard to convey tone in an email or instant message, I have personally noticed that sometimes the customer support representative and I just are not on the same page when it comes to them understanding my problem. When that happens, I am not afraid to pick up the phone (though I am prepared to be put on hold).

Lastly, and this probably goes without saying, do try to be kind to the person on the other end. I have had customer support bend over backwards to help me when I have been exceedingly nice. (For example, I have received personal callbacks, free shipping, bonus services, and free merchandise.) Counter-intuitively, the less upset the caller seems about something, the more it appears customer support wants to offer them something extra to make up for trouble the problem has caused.

IMPLEMENTING

Backup data. When it is time to start trying fixes, it is important to make sure one does not create additional

TECHNOLOGY PROBLEM...

problems. While, in my opinion, it is actually quite difficult to damage hardware or software beyond repair, sometimes the fixes will require one to make changes that could potentially cause further issues. This is most often the case when installing, updating, or removing software. Fortunately, there are ways users can protect themselves, the most important being to always back up data.⁶ This is very simple, especially with the advent of cloud storage services like Dropbox.⁷ Microsoft's Windows 10 has a suite of backup utilities built right in, including a cloud storage service like Dropbox called OneDrive.⁸ Of course, users can find a lot of information online, from forums, blogs, and official guides, on how to use these utilities.⁹

Bookmark tabs. After installing, updating, or deleting a software, computers often require a restart. Bookmarking the open webpages or, better yet, having a second computer available for searching (a smartphone can make a good substitute) is useful. It is very annoying to restart, lose all one's tabs, and then find out the problem is not fixed. Often I will have come across several potential solutions, in multiple open tabs, and I want to be ready to try the next one right away, rather than search through my browser history to find it.

Avoid malicious software. Because computer viruses are the same type of file as useful software like Microsoft Word and Adobe Reader, one will almost always get a warning before installing new software. Of course, when the software comes from major providers like Microsoft or Adobe, one can very well assume it is safe. However, there is a lot of trustworthy, useful software on the Internet, available for free. Much of it comes from providers most people have never heard of before. Often though, one can download this software from a reliable third party like Download.com, which is run by CNET and hosts thousands of programs;¹⁰ doing so ensures that the software is safe.

KNOW WHEN ENOUGH IS ENOUGH

Not every problem has a solution, or at least not one that can be found in a reasonable amount of time. For example, I have a Wi-Fi extender that drops the connection to my laptop and Xbox (but not my iPhone, oddly) daily, necessitating me coming down and restarting it. I have spent hours trying to fix it because, like walking to the stacks to pick

up books, I cannot be bothered to spend the energy. Nevertheless, I gave up on fixing the extender, because it just was not worth the time. I used every tip I mentioned above, and more, to try to solve the problem, but came up empty handed. I share this here not to discourage the reader, but to let them know that, yes, technology is great, and I would much rather have an intermittent wireless connection than no wireless connection at all. But technology can also be fickle and frustrating, yet sometimes that is a tradeoff one has to make in order to benefit from all the advantages it brings. Hopefully this article helps readers continue to leverage technology, rather than be frustrated by it.

(Endnotes)

- 1 "Technology" is an extremely broad term, but today it usually refers just to electronics. Readers will likely appreciate this article's advice as it pertains to electronics such as computers, computer monitors, human interface devices (such as mice, trackpads, touchscreens, and keyboards), and printers.
- 2 Jodi Lea Rothwell, *What Great Legal Secretaries Know about Technology*, THE LEGAL SECRETARY MAGAZINE, May 2012, at 10.
- 3 Google's search engine is probably the most ubiquitous. But others, like Yahoo, Bing, and DuckDuckGo are available. While I stick to one search engine (Google) when I am trying to solve a problem, if I am not making progress giving another a try is not out of the question, but it is rare that I feel doing so is necessary.
- 4 I highly recommend skimming, as opposed to reading, most information that comes up in a search. Ms. Rothwell also noted in her article that "[g]etting information off the internet is like taking a drink from a fire hydrant." Rothwell, *supra* note ii, at 11 (quoting Mitchell Kapor, founder of Lotus Development Corporation).
- 5 In a similar vein, I never use the help feature on programs like Excel or Word. Partly because their search algorithms are not as sophisticated as ones available with a search engine like Google.
- 6 Digital storage is, in some ways, more fragile than physical storage. Fortunately, it is much easier to back up, and yet worryingly few people do so. In fact, a World Backup Day (March 31) has been christened in an effort to increase awareness about the necessity (and ease) of backing up digital data. WORLD BACKUP DAY, <http://www.worldbackupday.com/en/> (last visited Nov. 20, 2015).
- 7 Cloud storage, a term that is increasingly mainstream, just means the data is stored on a hard drive separate from the one inside a computer. It is another way of saying the data is stored remotely, as opposed to locally.
- 8 Chris Hoffman, *How to Use All of Windows 10's Backup and Recovery Tools*, HOW-TO GEEK (July 5, 2015), <http://www.howtogeek.com/220986/how-to-use-all-of-windows-10%E2%80%99s-backup-and-recovery-tools/>.
- 9 *Eg., id.*
- 10 CNET, DOWNLOAD.COM, <http://download.cnet.com> (last visited Nov. 20, 2015).

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DO YOU HAVE A LEGAL TOOLBOX?

Continued from page 17

that authorize the release of your medical records to your named agents in case they need to obtain those records. Legal documents provided to you by the hospital rarely authorize the release of your records.

There are several other minor "tools" in the estate planning toolbox. To learn more, please call my office at (661) 414-7100 for help with your estate planning needs or visit my website at www.MansourLaw.com for much more information.

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Provide your legal secretarial employment information beginning with your most recent (or current) employment in order to confirm that you have at least two years' experience. Attach a supplemental page if you have not been in your current position for two years.

Position: _____ Dates of Employment: _____

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Supervisor's Email: _____

Summary of Duties: _____

I certify that I have completed this application truthfully. I understand that a false statement may result in the rejection of this application or revocation of my certification. I understand and agree that the contents of the examination are confidential and not to be discussed with anyone, and that my employment record will be verified by a member of the California Certified Legal Secretary Certifying Board.

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*Fees subject to change without notice.

Rev. September 2015



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SANTA ROSA, CALIFORNIA

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[LSI Conference 2016 Reservation Link](#)

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Registration Chairman: Alison Gardner, CCLS, 415-419-2012, agardner@freitaslaw.com
Conference Co-Chair: Kristi L. Edwards, CCLS, 415-491-5000, kledwards@justice.com
Conference Co-Chair: Christine Flores, CBA, 510-388-7918, cflores@orrick.com

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NO REFUNDS AFTER May 5, 2016



LYNNE PRESCOTT, CCLS, has been a legal secretary for over 30 years. She is a member of Sacramento LSA, and served as its president from 2013-2015. Lynne is employed as a legal secretary at the law offices of Messing Adam & Jasmine LLP in Sacramento, focusing on labor and employment law and public sector labor law. She earned her CCLS certification in October 2013, and was elected to the position of LSI Treasurer in May 2014.

What's In It for Me?

BY LYNNE PRESCOTT, CCLS, SACRAMENTO LSA

I recently had the opportunity to chat with a member I had not seen in quite a while, and as we talked about our local association, the value of membership, how to reach more members of the legal community, meeting our members' needs, etc., she made the following statement:

"People are always looking at the bottom line. They want to know what's in it for them."

*What's in it
for me?*

So, I started thinking about that. What's my bottom line when it comes to my local association and LSI?

IS IT MONEY?

Am I getting enough of a return for the \$40 I pay in dues every year? Is it worth it to pay \$25 every time I attend my association's dinner meetings, on top of the yearly dues? Is my membership in the LSI Legal Specialization Sections a good investment?

IS IT TIME?

Do I believe it's worth my time to attend monthly meetings? Is it a good investment of my time to read the monthly bulletin, the LSI quarterly magazine, or the Legal Specialization Section newsletters? Do I consider it worthwhile for me to be involved with and volunteer to serve my local association and LSI? Do I really want to take the time to read the e-mails and updates I get from my association and LSI relating to resources, employment opportunities, court news, meetings, educational workshops, etc.?

IS IT MY JOB?

Does my membership really help me in my job? Do I feel supported and respected by my bosses and my peers because of my membership? Does my employer believe that membership in my association and LSI makes me a valuable asset?

IS IT THE NETWORKING?

Does being a member of my association and LSI increase my access to resources? Is it important to me to have professional connections outside of my workplace? Do I find value in the networking opportunities available to me through membership?

IS IT THE EDUCATION?

How much value do I place on continuing education? Do I believe my association and LSI provides me with quality legal education? Does that education directly benefit me as a legal support professional? Do I believe that these educational programs and publications provide me with information and training that would be difficult to find and/or afford elsewhere?

What's in it for me, being a member? I think you get the idea.

So, let me ask you -- What's in it for you? What's your bottom line? I'd truly love to know.

LS



LEGAL SPECIALIZATION SECTIONS SEMINARS

February Quarterly Conference – February 26-28, 2016
Tenaya Lodge - Fish Camp

The deadline to register without a late fee is
Friday, February 19, 2016.

SECTION MEMBER: Free with Advanced Reservations \$5 at the Door/After Deadline -- Handout Only: \$5	NON-SECTION MEMBER: \$15 with Advanced Reservation \$20 at the Door/After Deadline -- Handout Only: \$15
Friday, February 26, 2016 – 7:30 p.m. to 9:00 p.m.	
<u>Probate/Estate Planning</u> Conservatorships 101 Kimberly G. Flores, Esq. Berliner Cohen LLP <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER	<u>Civil Litigation</u> Legal Research and Writing Techniques Applicable to Law and Motion Nanette M. Beaumont, Esq. Jamison & Chappel <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER
Saturday, February 27, 2016 – 10:30 a.m. to 12:00 p.m.	
<u>Transactional Law</u> California Leases Eric Tetrault, Esq. Berliner Cohen LLP <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER	<u>Family Law</u> Final Judgment - Now What? L. Carmen Ramirez, Esq. Kelsey Souders & Ramirez, LLP <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER
Saturday, February 27, 2016 – 4:00 p.m. to 5:30 p.m.	
<u>Criminal Law</u> An Overview of Criminal Gang Law/Child Abduction Law Nicole Silveira, Deputy District Attorney Merced County District Attorney's office <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER	<u>Law Office Administration</u> Court Appointed Special Advocates What are they? Caroline Fruth Director of Casa of Mariposa County <input type="checkbox"/> I WILL ATTEND OR <input type="checkbox"/> HANDOUT ONLY <input type="checkbox"/> SECTION MEMBER - <input type="checkbox"/> NON-SECTION MEMBER

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The Legal Specialization Sections are a program of Legal Secretaries, Incorporated, an approved provider, and certify that these seminars have been approved for minimum MCLE/CLE credit of 1.5 hours each, by the State Bar of California. California Certified Legal Secretary credit offered is 1.5 hours.

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QUESTIONS AND CONCERNS CONTACT:

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CYNTHIA THOMAS is the founder of PLMC & Associates, a management consulting firm for small and midsize law firms, and is a member of the editorial board of Law Practice magazine. She was also a firm administrator for law firms in Los Angeles and San Francisco.

The Changing Role of Legal Support Staff

BY: CYNTHIA THOMAS, SAN DIEGO LSA

Recent advancements in technology used by law firms have blurred the lines between legal assistants/paralegals and legal secretaries. What were once two separate and distinct positions now overlap, and both jobs have changed significantly.

Traditionally, the terms legal assistant and legal secretary were used interchangeably, with both referring to a nonlawyer legal support staff member who, after education and training, performed substantive legal tasks. Legal assistants generally have an advanced understanding of the law and legal proceedings, and routinely perform tasks such as researching cases, preparing discovery, interviewing people involved in cases, preparing case summaries and general case management. These tasks are generally performed independently and are billed to the client. A legal secretary, on the other hand, performs clerical and administrative tasks under the supervision of an attorney or a paralegal. Historically, the legal secretary's tasks commonly include word processing, dictation, handling incoming and outgoing mail, court filings and answering an attorney's telephone. These tasks are not billed to the client. While serving very different functions and having distinct job requirements and responsibilities, legal assistants/paralegals and legal secretaries work very closely together and often rely on each other to play instrumental roles in providing support to attorneys and to the practice of law.

WHAT'S HAPPENING TO LEGAL SECRETARIES?

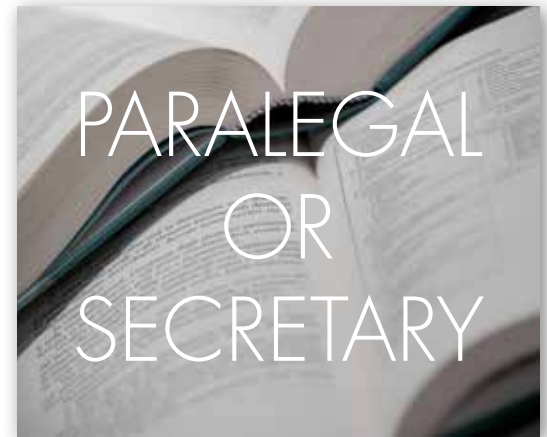
Times are changing. Goodbye typewriter; hello laptops, smartphones and tablets. The increased use of these electronic devices in law firms allows attorneys to work independently anywhere, any time. These devices, along with voice recognition software, are just a few of the technological advancements that have vastly affected legal secretaries' duties. More attorneys type their own correspondence and use email rather than having a secretary type a letter and

send it by U.S. mail. Younger tech-savvy associates need no encouragement to adopt the new technology and, as new generations enter the workplace, it will become the norm. A decrease in traditional clerical duties is also causing a major change in the role of legal secretaries.

Some law firms, wanting to cut costs and increase efficiency, are eliminating legal support staff positions, including secretaries. Those remaining secretaries, who once supported one or two attorneys, are now often supporting five or more, especially when assigned to younger lawyers. In addition, some law firms have retitled "legal secretaries" as "legal assistants," not only so they can bill certain tasks of the secretary (such as drafting correspondence or organizing documents) to clients, but also to entice a new generation of entry-level college-degree workers who view a secretarial job as temporary or transitional.

LEGAL ASSISTANTS/PARALEGALS?

Legal secretaries, however, are not the only legal support staff affected by computer technology. The role of the legal assistant/paralegal is changing as well. Legal assistants are now required to perform legal research - another activity that the firm can bill the client for doing. This requires that a legal assistant know precisely where to go for any necessary information. Twenty years ago, this would often require going into the law firm's law library and searching through books, spending countless (billable) hours reading and Shepardizing cases. Today most firms have discarded their books in favor of online services such as Westlaw and Lexis for legal research, not to mention the use of the Internet. This allows a legal assistant to perform the research in



THE CHANGING ROLE OF LEGAL SUPPORT STAFF

less than half the time, and with this faster technology the answer is often expected within minutes.

Another major change in the role of legal assistants involves the handling of discovery. Paralegals play a critical role in assisting attorneys with discovery. They help manage the discovery process, especially when large volumes of documents are involved. These documents are no longer housed in banker boxes with spreadsheets. Instead, through the use of computer technology, digital scanners and document management software, discovery documents are stored in electronic format. This use of document management software is another major technological change affecting legal support staff.

Therefore, the traditional role of a legal assistant has transformed into a more tech-savvy one, and paralegals are now training and working with IT personnel to assist in managing the discovery process. Thus, successful litigation legal assistants must now be familiar with document management software, and state and federal e-discovery rules, and they must be able to coordinate with outside litigation support vendors. As a result, the evolution of document management technology has created a new legal support staff member who merges the skills of a paralegal and a computer specialist into a legal technology specialist.

LEGAL TECHNOLOGY SPECIALISTS

A legal technology specialist provides technical support for large e-discovery projects, document production and document reviews. This position did not exist 15 years ago. If a specialized database was needed, the firm's IT technician or department would assist a legal assistant in creating one. However, a legal technology specialist not only requires advanced knowledge of document management software programs and database manipulation, but also a thorough understanding of federal and state rules of civil procedure. Not to mention attention to detail, multitasking, analytical skills and great customer service skills. And let's not forget someone who works well with attorneys, legal assistants and legal secretaries.

MOVING FORWARD

So what is the future role of legal secretaries and legal assistants? As technology continues to develop, legal and litigation support staff will continue to grow and remain to fill a vital function within law firms. For current legal secretaries and legal assistants to remain gainfully employed in the legal field today, they must first embrace technology as a survival tool and be willing to become proficient at the emerging software. Second, legal secretaries and legal assistants must adapt to change, demonstrate flexibility, be receptive to new projects and responsibilities, be will-

ing to take on challenges to gain experience, and exhibit a desire for continuous learning and professional development. Third, to accommodate new technology and workflows, they will need to adjust their communications with lawyers so that more information can be shared regarding current projects and clients. Finally, they must be willing to work together and in teams.

Therefore, law firms need to begin to reclassify and create new job descriptions, duties and titles to better reflect the support staff's actual responsibilities. In addition, they must reorganize and restructure their organization to deliver the best client services. One possible new support structure is the development of client service teams. A client service team is based upon all members working collectively as a group. The team is comprised of partners, associates, paralegals and legal secretaries dedicated to performing the necessary tasks to provide quality services to clients and to ensure that the firm is running in a highly efficient and cost-effective manner. In a client service team concept, three roles dominate: (1) the client service coordinator, (2) the production coordinator, and (3) the production assistant. However, a team concept is only effective and successful if training programs assist all team members to retool and shift their thinking and approach to work in a more technologically advanced law firm world.

ORIGINALLY PUBLISHED ON the American Bar Association website http://www.americanbar.org/publications/law_practice_magazine/2014/january-february/the-changing-role-of-legal-support-staff.html

LS

ANSWER KEY TO P. 5 QUIZ

1. (a), (c), (b)
2. (c), (a), (b)
3. (b), (a), (c)
4. (c), (a), (b)
5. (b), (a), (c)
6. (a), (b), (c)
7. (a), (c), (b)
8. (a), (c), (b)
9. (b), (c), (a)
10. (a), (b), (c)



OVERVIEW OF CALIFORNIA STATE COURT DISCOVERY

LSI will be offering an online class on an Overview of California State Court Discovery. This class will be a six-week, work-at-your-own-pace online session commencing March 14 and ending April 25, 2016. During the classes, the following topics will be covered:

Interrogatories
Demand for Production of Documents
Requests for Admissions
Depositions

Demand for Physical Examinations
Deposition Subpoenas
Discovery Timelines and Service
Verifications

CLASS SESSION OPENS MONDAY, MARCH 14, 2016

Classes will take place online utilizing video lectures, discussion boards, email, whiteboard sessions, chat rooms, and quizzes. Login information will be provided upon enrollment in the class.

The content of this class is designed for legal secretaries and those studying for the California Certified Legal Secretary examination.

The cost of the class is \$30 for LSI members/\$50 for non-LSI members. Each individual must register separately. Upon completion of the class, students will receive a certificate of completion from LSI.

OVERVIEW OF CALIFORNIA STATE COURT DISCOVERY CLASS REGISTRATION

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\$30 LSI Member ☐ \$50 Non-LSI Member ☐

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Email registration form NO LATER THAN March 7, 2016, to Shaylene Cortez, CCLS, LSI Legal Secretarial Training/Seminar Chair, training@lsi.org or mail to LSI (see website for mailing address). Checks should be made payable to LSI (Note: checks must clear before access will be released). Registration will also be offered online at www.lsi.org with PayPal. For further information or inquiries, email training@lsi.org. No refunds after March 15, 2016.

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MIKE WAKSHULL, MS, CQE, is a court qualified forensic document examiner for civil and criminal cases. He partners with attorneys who need to authenticate written or electronic documents to ensure their case is meritorious. His cases are from 12 states. Mike applies his background in science, math, and computer software to his examination of questioned documents. Mike has authored two books on the topic of forensic document examination: *Line by Line – Forensic Document Examination for Legal Professionals* and *The End of the Zodiac Mystery – How Forensic Science Helped Solve one of the Most Infamous Serial Killer Cases of the Century*. Contact Michael Wakshull at Q9 Consulting for a free consultation. Phone: 951-252-4929; email: mikew@quality9.com.

How to Improve Your Outcome in Questioned Document Cases

BY MIKE WAKSHULL, SAN FERNANDO VALLEY LSA

As in all professions, document examiners have a range of expertise and experience. As important as it is for your client to make a clear assessment of your abilities to serve them successfully, it is up to you to determine in advance, with a high degree of accuracy, whether the document examiner you plan to hire will perform the most accurate assessments and be ready to back up those assessments with a scientifically-repeatable methodology in court.

You can improve the chances of proving your questioned document case (provided your client's claim is meritorious) by selecting an expert forensic document examiner who follows a generally-accepted practice for forensic document examiners. It is surprisingly common that not all experts do.

In *Frye v. U.S.*, 293 F.2d 1013 (D.C. CA 1923), the D.C. Court of Appeals adopted the test for "general acceptance." As relevant in California, the Kelly rule, *People v. Kelly* (1976) 17 Cal.3d, provides that the expert testimony must be based on a technique that is "sufficiently established to have gained general acceptance in the particular field to which it belongs."

Following are three examples of cases in which the opposing document examiner failed to follow generally-accepted practices for handwriting identification of a questioned signature.

In this case, the opposing document examiner eliminated the decedent as the writer of a holographic will (handwritten and not witnessed) based on observed differences between two known signatures and the questioned signature. The examiner failed to state that there were also differences between the two known signatures, which were stipulated to have been written contemporaneously (in this case during the same sitting) by the decedent.

No one writes their signature exactly the same way each time. Therefore, accepted methodology requires determin-

ing both similar and dissimilar traits between the questioned writing and the known writings. The variability in the handwriting of the author of the known writings must be analyzed.

An individual can only be eliminated as the writer of a questioned document when the range of variability of the known writer has been determined. Established authorities state that a sufficient number of samples of a person's writing (exemplars) are required to show this variability.

The exact number of exemplars cannot be determined until the document examiner starts working the case. Exemplars written prior to the date of the questioned writing are best. I prefer to start with at least 15 exemplars.

Examining more exemplars increases the validity of the results. Generally, more exemplars are needed to opine that a person did not execute a writing than to opine that a person did execute a writing.

Only after a careful review of the findings can it be determined with a degree of accuracy the extent to which the questioned writing has the same traits as and falls within the known variability of the known writing.

The opposing examiner in this case made no effort to determine the variability of the decedent's known handwriting. She made no attempt to examine the original will that was available in the court's records room.

I examined the original holographic will and displayed the scanned copy as an exhibit.



QUESTIONED DOCUMENT CASES

Continued from page 33

In another case, the opposing examiner collected 43 exemplars of the decedent's signature. This was proper, generally-accepted practice.

However, for the report, the examiner selected seven of the 43 exemplars. These seven exemplars supported the retaining attorney's contention the decedent had not signed the will.

After we exchanged evidence, I discovered that most of the remaining exemplars he had collected supported the hypothesis the decedent did sign the will. Using his evidence at trial, I showed that he had cherry-picked the exemplars for the report. This is called confirmation bias.

In a federal criminal case, the opposing document examiner presented a report that was not in conformance with Rule 26 of Federal Rules of Evidence.

As a result, my retaining attorney said I did not need to drive to Los Angeles to testify at trial—that my report would stand on its own. He was correct. The judge threw out the other examiner's report.

It is important for an attorney to ask an expert to describe the methodology he or she will use to research the case. After describing the methodology, the prospective document examiner should be able to cite authorities that support the claim that the methodology is accepted in the practice of forensic document examination.

A proper research methodology removes the expert's bias from the analysis. The expert must be able to support their opinion with a scientific basis. The job of the expert is to research the evidence and report what the evidence uncovers. The expert is not an advocate for either side in a dispute.

Ask your prospective expert how he or she plans to follow generally-accepted practices during the examination. Learn whether the document examiner is able to support the methodology used.

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Quarterly Assignments

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**):
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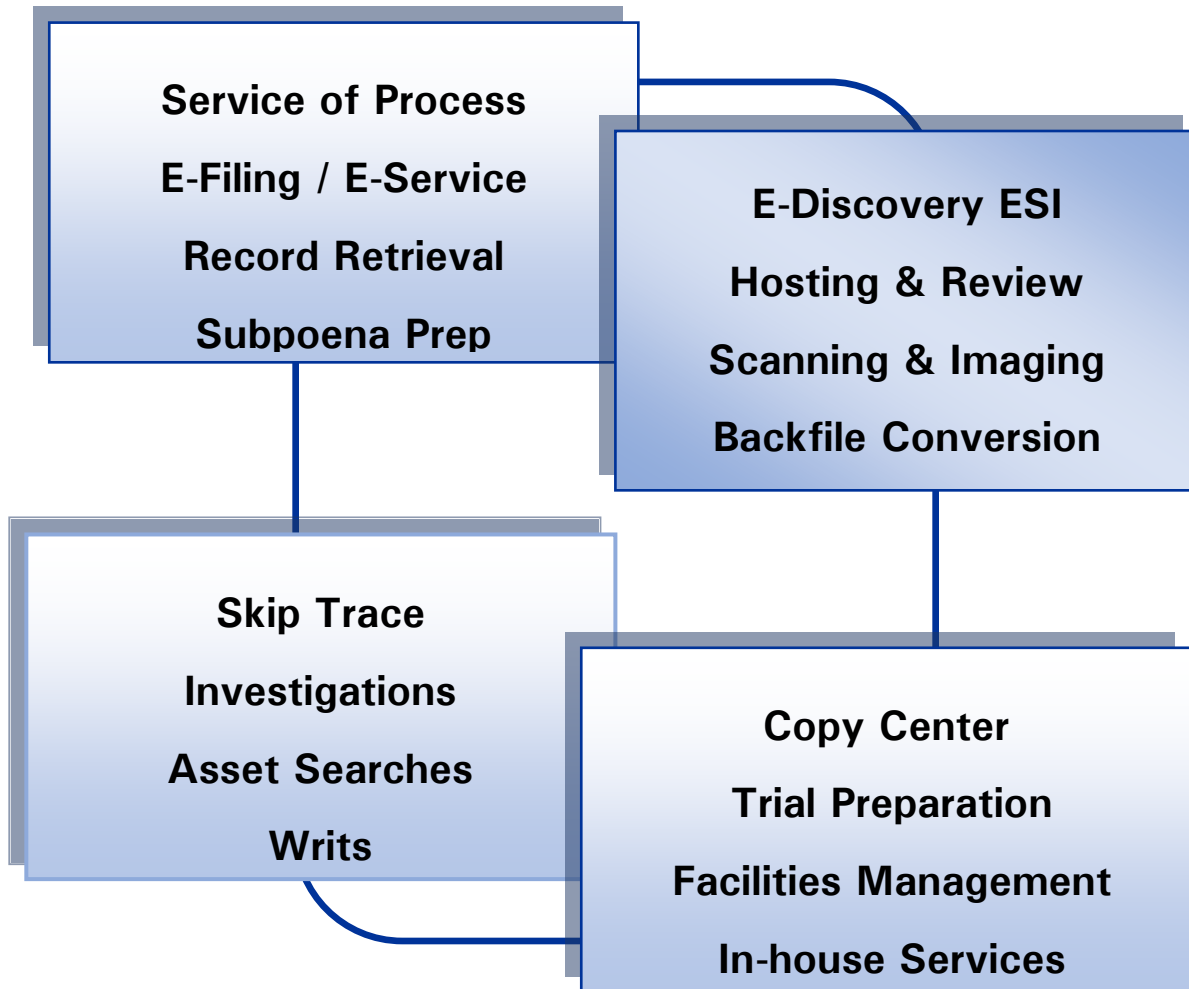
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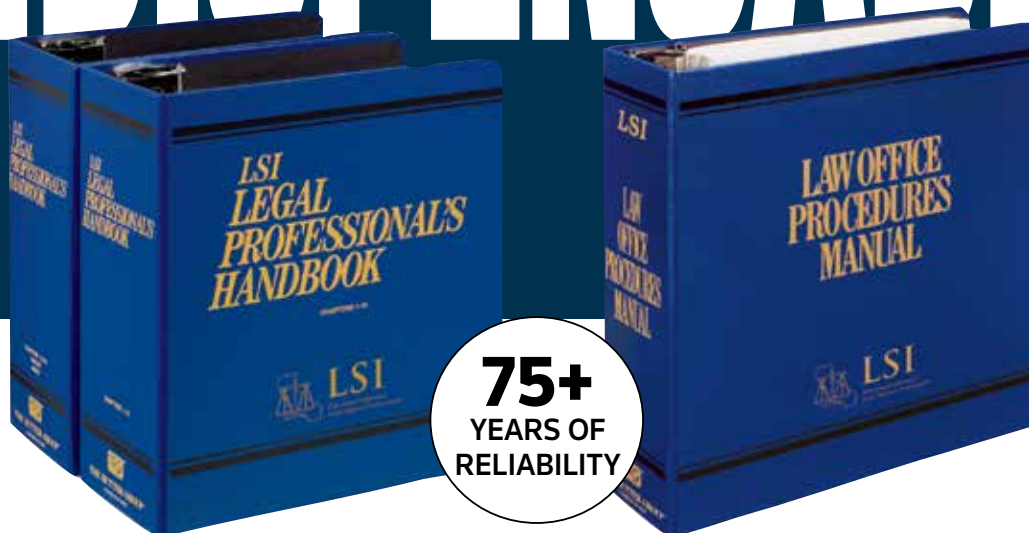
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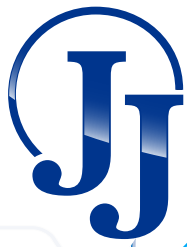
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