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NOV. 2020



"SO THAT THE
WORLD MAY KNOW"

By LPI President, Lynne Prescott, CCLS
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THE LEGAL PROFESSIONAL MAGAZINE

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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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LYNNE PRESCOTT, CCLS, is LPI's President, 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 Rich, Fuidge, Bordsen & Galyean in Marysville, CA. 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.

PRESIDENT'S MESSAGE

BY LYNNE PRESCOTT, CCLS

"So That the World May Know"

In ancient times, there was a practice observed by various civilizations of erecting sacred stones or what were called "standing stones" to honor their gods, declare covenants, to mark an important event, or honor an important person. The idea was to leave an indelible, tangible remembrance that would endure "so that the world may know." We know that many of these stones are still standing today, and that we still honor and remember events and people with "standing stones" — monuments, memorial walls, buildings, and even burial headstones — all enduring reminders "so that the world may know."

This got me to thinking about the significance of a person who was remembered in this way, someone who was, in effect, a "standing stone." The impact that person made was so great that they were deemed worthy of honor and an enduring testament "so that the world would know." I was really struck by that, and I was struck by how many "standing stones" I have encountered myself — people who have made an indelible, tangible impact on my life; the "standing stones" whom I can identify and say without hesitation left a lasting mark on my journey in this world. These incredible individuals have not only served as standing stones for me, they, and every LSI past president, every chairman, every local association officer, and every hard-working member, stands as a monument to the legal profession "so that the world may know" the contributions we have made and the important work we do here.

We, all of us, continue to have important work to do. I am committed to being a standing stone. I am committed to preserving our past, as well as forging our future "so that the

world may know" — why we are here, who we are, and the value we bring. I want to be someone you and future generations can look back on and say, "she made a difference." Great leaders don't set out to be a leader. They set out to make a difference. It's never about the role — it's always about the goal.



My goal is to elevate LPI — our purpose, our people, and our profession. In fact, I have chosen the theme "Elevate" for my presidency. I want us to be constantly reminded that the work we do matters, that the value we bring is essential, and that we are all partners in the same profession, working to make a difference. Therefore, we are going to do what we do best — and that is to educate and develop legal professionals. To give them a place they know they can always come back to. A place where they know there will always be someone to encourage them and point them in the right direction.

To do that, we have to elevate our purpose. We have to continue to increase our visibility and cement ourselves as a known and trusted commodity — the "go-to" resource in California. We are making great progress, but we have more work to do and more levels to reach. It's time to elevate LPI to new heights.

We also have to elevate our people. For 86 years, we have provided a forum for legal professionals to develop, network, and educate themselves. We have increased your

Continued on page 3 ➔

← Continued from page 2

value through certification, broadened your confidence and leadership skills, and helped expand your opportunities for advancement. And now it's time to take new roads and help you ascend to new altitudes.

When we elevate our purpose and elevate our people, we elevate the profession. We ensure that our industry is one that endeavors to be honorable, and that we act with "loyalty, integrity,

competence and diplomacy, in accordance with the highest standards of professional conduct."

Thank you for your confidence and belief in me. Thank you for entrusting me and the officers and chairs of this corporation with its life and its future. I am excited about this journey and the amazing professionals who have agreed to walk alongside me for the next two years. Their energy and enthusiasm, as

well as their commitment to elevating our purpose, our people, and our profession, leaves no doubt in my mind that we are forging a path for LPI that will ensure our legacy and our future. They, too, will be standing stones — testaments to the work we do "so that the world may know."

Dates to Remember | 2020-2021

NOVEMBER 5, 2020 | 12:00 P.M. – 1:00 P.M.

LSS Webinar - Subpoena Series (1 of 4)

– California Business Record Subpoenas

NOVEMBER 7, 2020

LSS Day of Education Webinar

9:00 a.m. – 10:00 a.m.

- Law Office Administration – Employment Law During COVID-19 & Beyond

10:30 a.m. – 11:30 a.m.

- Family Law – Child Custody/Visitation and Support Issues during COVID-19

12:30 p.m. – 1:30 p.m.

- Civil Litigation – Evictions and COVID-19

NOVEMBER 10, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Ex Parte Applications in California Superior Court

NOVEMBER 11, 2020 | 7:00 P.M. – 8:00 P.M.

LPI Webinar – Ex Parte Applications in California Superior Court

NOVEMBER 12, 2020 | 12:00 P.M. – 1:00 P.M.

LSS Webinar - Subpoena Series (2 of 4)

– Deposition Appearance Subpoenas for California

NOVEMBER 18, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Excel Basics

NOVEMBER 19, 2020 | 12:00 P.M. – 1:00 P.M.

LSS Webinar - Subpoena Series (3 of 4)

– Federal Court Subpoenas

NOVEMBER 21, 2020 | 9:00 A.M. – 4:00 P.M.

LPI 2nd Quarterly Hybrid Conference

– Stockton Hilton, Stockton, CA, Hosted by LPI

NOVEMBER 30, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Requesting a Default Judgment in California Superior Court

DECEMBER 1, 2020

Last day to submit articles for February 2021 issue of The Legal Professional

DECEMBER 1, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Microsoft Word Style Basics

DECEMBER 3, 2020 | 12:00 P.M. – 1:00 P.M.

LSS Webinar - Subpoena Series (4 of 4)

– Foreign Subpoenas

DECEMBER 11, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Federal and State Court Calendaring

DECEMBER 16, 2020 | 12:00 P.M. – 1:00 P.M.

LPI Webinar – Microsoft Word Style Basics

NEW LPI PRESIDENT'S

SWEARING IN CEREMONY



LPI SECOND QUARTERLY CONFERENCE HYBRID MEETING - NOVEMBER 21, 2020

BY THE LPI EXECUTIVE COMMITTEE, LYNNE, ROD, DONNA, BETTINA, HEATHER, AND JENNIFER

What did you think of the Annual Conference Hybrid Meeting? Wasn't it great to be able to see everyone's faces again, even if it was on the big screen? COVID-19 has brought many unexpected things our way, including some silver linings. One of those silver linings is being able to safely present our conferences in a platform that allows a limited number of in-person attendees as well as an unlimited number of virtual attendees.



LPI is looking forward to seeing you all again on November 21, 2020, when we present the Second Quarterly Conference Hybrid Meeting at the Stockton Hilton in Stockton, California. The theme for this conference is "Elevate." As you know, President Lynne has chosen this as the theme for her presidency, and we will be kicking off the year by elevating our purpose, our people, and our profession.

The meeting will begin at 9:00 a.m., where we will "Elevate the Purpose" of our organization by addressing business conducted over the past quarter. The Executive Committee Resume will be distributed to all Governors and posted on the LPI website on the Friday evening before Conference so that any discussion on the resume can be handled during the morning session of the business meeting. Any recommendations or motions will also be handled during the morning business session.

We will hold three luncheons from Noon to 1:15 PM - - The Governors' Luncheon, Presidents' Luncheon, and Open Luncheon - - giving us the opportunity to "Elevate our People" through networking. Those participating virtually will be moved to their designated Zoom "luncheon breakout room," while in-person attendees will be directed on where to go for their luncheon, thereby keeping everyone together for their specific luncheons.

An optional box lunch is available for purchase, which includes a sandwich, pasta/potato salad, dessert, and a beverage. In an effort to support local business, our lunch is being prepared by Toot Sweets Bakery Café in Stockton.



The Open Luncheon will be moderated by Vice President Rod Cardinale, Jr., and Treasurer Bettina Jacobson, and is open to all attendees. The Governors' Luncheon will be moderated by Executive Secretary Donna Day and Parliamentarian Jennifer L. Page, CCLS,

and is for local association Governors only. The Presidents' Luncheon will be moderated by President Lynne Prescott, CCLS, and Executive Advisor Heather Edwards, and is for local association Presidents only.

The afternoon session will begin at approximately 1:30 p.m., and will address any unfinished business before commencing with our educational program. The Continuing Education Council will help us "Elevate our Profession" by presenting a free, one-hour educational workshop for all attendees, offering CCLS and MCLE credit.

We hope you will join us for this special "Elevate" event and continue to support your local associations and LPI with your attendance. "See" you there!

– The LPI Executive Committee
Lynne, Rod, Donna, Bettina, Heather,
and Jennifer



CCLS QUIZ

Legal Terminology

MATCH THE WORD WITH THE CORRECT DEFINITION

A. jurisdiction	G. et seq.	M. bylaws	S. dictum
B. ipso facto	H. tort	N. sua sponte	T. appurtenance
C. incorporator	I. stare decisis	O. subpoena	U. escheat
D. court days	J. supra	P. declaration	V. infra
E. trial de novo	K. demurrer	Q. certiorari	
F. usury	L. lis pendens	R. ab initio	

- | | |
|---|--|
| ___ 1. Regulations, ordinances, rules, or laws adopted by a corporation for its government. | ___ 10. A statement, remark, or observation in a judicial opinion which is not necessary for the decision of the case. |
| ___ 2. To be informed of; make certain regarding. | ___ 11. A writ or order to compel the attendance of a person to testify. |
| ___ 3. Before; above. | ___ 12. A statement of facts made by a party who has knowledge of the facts recounted. |
| ___ 4. From the beginning; to start anew. | ___ 13. Be the very fact. |
| ___ 5. Each person signing the Articles of Incorporation | ___ 14. A legal wrong or injury. |
| ___ 6. The right to exercise power or authority over a given matter. | ___ 15. Excessive interest rate. |
| ___ 7. Something that belongs to or is attached to something else. | ___ 16. The days in which the court is actually open for business. |
| ___ 8. From the beginning. | |
| ___ 9. Notice warning the public that a lawsuit is pending in court which affects possession or title of real property. | |

CCLS QUIZ ANSWERS ON PAGE 19



LEGAL SPECIALIZATION SECTIONS

JOIN NOW!

The LSS is a program of Legal Professionals, Inc. (LPI)*, dedicated to providing continuing legal education for legal professionals.

*Membership in the Legal Specialization Sections is separate from membership in LPI and requires a separate application and fee process.

Visit <https://www.legalprofessionalsinc.org/> for pricing & membership.

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AND LSS LIVE
WEBINARS ARE
INCLUDED FOR **FREE!**



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- CCLS HOURS
- MONTHLY & QUARTERLY WEBINARS
- QUARTERLY NEWSLETTER

SECTIONS

- Civil Litigation
- Criminal & Family Law
- Federal Law
- Specialty Law
- Probate & Estate Planning
- Law Office Administration

NEWS FLASH

From: CCLS Certifying Board
To: LPI Members
Re: Changeover to The Red Book as Resource for the ACE Portion of the CCLS Exam
Date: September 8, 2020

As you may know, the Ability to Communicate Effectively (ACE) portion of the California Certified Legal Secretary (CCLS) Exam has relied on The Gregg Reference Manual (Gregg) as its resource and teaching guide for several years.

However, in recent years, a new resource for the ACE portion of the CCLS Exam has been discussed by the CCLS Certifying Board, CCLS Chair, and LPI's Executive Committee. This new resource is The Red Book, A Manual on Legal Style (4th ed.), by Bryan a Garner (Red Book).

Red Book covers the items taught by Gregg, but is geared more to those of us who work in the legal field. In addition, Red Book covers several types of correspondence and pleadings that we use in our everyday work life.

For those taking the CCLS exam in March 2021, the ACE portion of the exam will be based on Gregg. Going forward, and beginning with the September 2021 CCLS Exam, the ACE portion of the exam will be based on the Red Book. This includes anyone retaking the ACE portion of the exam in September 2021.

Red Book is available from Amazon and West Academic in bound, spiral-bound, and electronic versions.

And please don't forget to enter the drawing for the CCLS Exam Fee Waiver, by simply sending an email with the name of your organization to the email address below. Deadline to enter is November 1, 2020. Winners will be announced at the November 2020 Quarterly Conference.

If you have any questions, please do not hesitate to reach out to Vivian Shreve, CCLS, Chair of the CCLS Certifying Board, at ccls.cbchair@legalprofessionalsinc.org.

THE UNEXPECTED DISCOVERY

BY KRISTI L. EDWARDS, CCLS – SUBMITTED BY MARIN COUNTY LPA

I left work Thursday at 5 p.m., and hurried home to have a quick dinner with my husband. My bags were already packed, and with a kiss and a hug, I was out the door. With a full tank of gas and directional guidance at the ready, I started my journey, grateful there was no rain that evening. I'll admit, the first part was a slog through commute traffic, but once through that bottleneck, it was an easy trip and I had no trouble locating the destination I had been instructed to find.

It was delicious to step out of my car after a three-hour drive into the cool, night air and stretch my legs. The sky above the hotel was beautiful, mottled with clouds concealing what had recently been a full moon. The hotel staff was welcoming and I easily found the room that someone else had chosen for me. It was clean and well-appointed, with a comfy bed; just what I needed after a long day.

I opened the door the next morning to a mysterious foggy morning. As the fog gradually lifted, I walked around the complex, discovering what I could not see the night before. A schedule of meetings and events had been prepared for me and other attendees, which I dutifully followed throughout the weekend, greeting familiar friends and meeting new ones along the way. I received a gift bag of assorted items from the local area. Meals, thoughtfully chosen (just for me!), were delicious, well-prepared, and graciously served.

As the weekend unfolded, the careful preparation of my hosts became more obvious. For a long time, someone (or probably more accurately several people) had been planning my experience, which included business, education, and entertainment. Soon, I had the layout down and was comfortable in the setting. The schedule of events ended on Sunday morning, but my journey did not. A piece of information placed in my room told me

of a museum a few blocks away. Never in my life would I have thought to travel to this location to see a museum I had never heard of, but there it was - - a subtle message that I should go and check it out.

The museum was fascinating. I found myself walking among giant airplanes and under booster engines that had lifted rockets into outer space. A knowledgeable docent provided details whenever I asked. He directed me to a World War II military transport plane that had participated in D-Day and the invasion of Holland. He could have been the plane my father boarded during his service in the Army Air Corps. I boarded the plane and sat in a seat a soldier had occupied many years ago. What an unexpected treasure to find on Veteran's Day weekend!

The drive home through Sunday traffic was much quicker and very pleasant with views of productive California farmland, paint-brush clouds, and brilliant autumn colors in the trees lining the highway - a fabulous fall day.

If left to my own devices, I would never have planned this trip, but I was called, I was instructed, to participate in this conference, in this location, that someone else had carefully chosen and prepared - and while I was there I met with people in my profession, shared experiences, and discovered new parts of this wonderful state of California. I returned home refreshed, eager to greet my family, and ready to return to work.

What I have just described is an LPI conference - that is, the experience of conference without describing the business meetings, educational workshops, and networking that we always write about. I've written before about this 'hidden' benefit of going to conference - the escape to someplace different and the discovery part.

This is not the first time I have traveled to a part of California that was not on my bucket list of vacation spots. It is one of many times that I have been pleasantly surprised by an unexpected discovery, a local treasure. I've discovered great neighborhood restaurants, walked across the Sundial Bridge, mucked up my shoes at the mud volcanoes near the Salton Sea, toured the Queen Mary, stopped to take pictures of strange native plants, viewed museums and art exhibits, enjoyed a children's theatre production of Les Mis, visited Yosemite Valley. Every trip has been worth it so many times over.

—
PLEASE GIVE YOURSELF
THIS GIFT. PLAN TO ATTEND
AN LPI CONFERENCE.
GO FOR THE EDUCATION
AND THE NETWORKING,
BUT ALLOW TIME FOR
DISCOVERY OF THE UNEXPECTED.
YOU DESERVE IT!
—

p.s. This article was written a few years ago, but not published at the time. It is a fond remembrance of a time, not too long ago, when we may have taken such opportunities for granted. I long for those times and hope that, in the not too distant future, we can all return to sharing the adventures of travel, discovery, and LPI Conferences.



**KRISTI L.
EDWARDS, CCLS,**

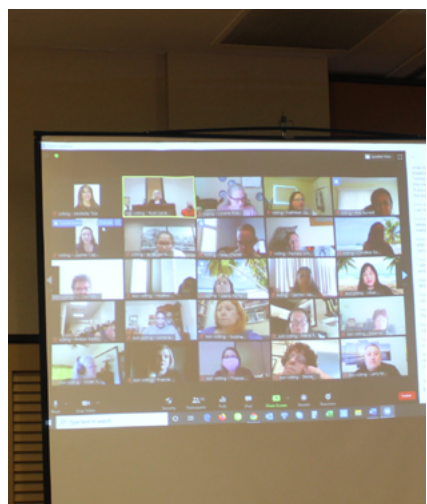
is an active and honorary member of Marin County LPA who is a legal assistant and office manager at Froneberger & Leviloff in San Rafael, an estate law firm specializing in estate planning, estate administration, and probate litigation.

AUGUST 22, 2020 | STOCKTON, CA

HYBRID ANNUAL CONFERENCE



LPI's first Hybrid Annual Conference was a success! Several recommendations were adopted (including changing the name of the corporation to Legal Professionals, Incorporated and the name of the magazine to The Legal Professional) and awards for the Bulletin Contest, Scholarships, Membership Gain and Chapter Achievement Contest were given out. LSI President, Heather Edwards, gave out her special awards as follows: the LPI Above and Beyond T.E.A.M. Award went to the Publications Revision Committee; the LPI Rising Star Award went to Gwendolyn Edwards, CCLS (Liaison to the Law Practice Management & Technology Section of the California Lawyers Association); and the President's Award went to Kristi Edwards, CCLS (LSI Parliamentarian).



THANK YOU



LPI IS EXTREMELY GRATEFUL TO THE FOLLOWING PEOPLE FOR GOING ABOVE AND BEYOND TO MAKE OUR VERY FIRST HYBRID ANNUAL CONFERENCE SUCH A SUCCESS. WE COULD NOT HAVE DONE THIS WITHOUT YOU!

JENNIFER LEWIS | Stockton Hilton

ALEX MUNRO | Stockton Hilton

STOCKTON HILTON STAFF

GARY HANSEN | G Force Productions

ROD CARDINALE, JR. | LPI Vice President

KIM ORENO | LPI Administrator

JAN KUYKENDALL, CCLS | Hybrid Annual Conference Co-Chair, Stockton-San Joaquin County LPA

COLLEEN YOUNG | Hybrid Annual Conference Co-Chair, Stockton-San Joaquin County LPA

RON ACKLAND | LPI Annual Conference Registrar, Beverly Hills Century City LSA

KRISTINA RUBIANES | LPI Annual Conference Assistant Registrar, Stockton-San Joaquin County LPA

JOSEPH RUBIANES | LPI Annual Conference Page, Son of Kristina Rubianes, Stockton-San Joaquin County LPA

STOCKTON-SAN JOAQUIN COUNTY LPA CONFERENCE COMMITTEE





Congrats!

TO ANNUAL CONFERENCE CONTEST WINNERS!

BULLETIN CONTEST WINNERS

CLASS A (0-30 MEMBERS)

1st Place - San Gabriel Valley LSA
(Corinne Patera, Bulletin Editor)

CLASS B (31-65 MEMBERS)

1st Place - Alameda County LSA
(Winnie Owen, Bulletin Editor)

CLASS C (65-150+ MEMBERS)

1st Place - San Diego LSA
(Toni Reo, Bulletin Editor)

SCHOLARSHIP WINNERS

PLAN A (HIGH SCHOOL STUDENT)

1st Place – Caitlin Hernandez
(Sponsoring Association – Humboldt County LPA)

2nd Place – Abigail Van Diepen
(Sponsoring Association – Stanislaus County LPA)

PLAN B (COLLEGE STUDENT)

1st Place – Marissa Sommer
(Sponsoring Association – Orange County LSA)

2nd Place – Frances Guerrero Garcia
(Sponsoring Association – Santa Clara County LPA)

PLAN C (CAREER CHANGE)

1st Place – Mary (Reggie) Holt
(Sponsoring Association – Santa Clara County LPA)

2nd Place – Kimberly Gomoll
(Sponsoring Association – Santa Clara County LPA)

MEMBERSHIP GAIN CONTEST

GROUP A (0 to 15 members):

Desert Palm LPA with a 36% increase

GROUP B (16 to 30 members):

Alameda County LSA with a 15% increase

GROUP C (31 TO 45 MEMBERS):

San Fernando Valley LSA with a 14% increase

GROUP D (46 TO 65 MEMBERS):

No Winner

GROUP E (66 TO 150 MEMBERS):

San Francisco LPA with a 7% increase

GROUP F (OVER 151 MEMBERS):

No Winner

CHAPTER ACHIEVEMENT AWARDS

GROUP A (0 - 10,000 POINTS):

No Winner

GROUP B (10,001 - 20,000 POINTS):

Mt. Diablo LPA with 18,350 points

GROUP C (20,001 - 30,000 POINTS):

Orange County LSA with 29,550 points

GROUP D (30,001 - 40,000 POINTS):

Santa Clara County LPA with 36,850 points

GROUP E (40,001 - 50,000 POINTS):

No Winner

GROUP F (50,001 POINTS AND UP):

San Diego LSA with 79,250 points



MESSAGE FROM THE EDITOR

SUBMITTED BY BARBARA BARREGAR, EDITOR OF *THE LEGAL PROFESSIONAL*

**I'm so excited for the new name and new look
of LPI's quarterly magazine, *The Legal Professional*,
and would love to hear your thoughts!**

Our designer, Lori McElroy from Redroman Creative, has done a phenomenal job with bringing our ideas to life. She also pitched us some of her ideas and I think everything came out beautifully.

Since we're in the mode of making changes, I'd like to try out NOT request quarterly assignments from each local association and open it up to anyone and everyone submitting articles when they can or want to. Mind you, I will be monitoring who is sending in articles and who is not so I will be nudging those associations not sending in an article to do so. Always remember, you get Chapter Achievement Points for your local association for submitting articles!

**BOLD
SIMPLE
MEMORABLE**



TRIAL GRAPHICS | PRESENTATIONS | MARKETING

REDROMAN creative

LORI MCELROY
Creative Director

redromancreative@gmail.com | www.redromancreative.com | 619.772.3335



LEGAL
SPECIALIZATION
SECTIONS

Day of Education

Saturday
November 7, 2020

9:00 am - 10:00 am

LAW OFFICE ADMINISTRATION

Employment Law During COVID-19 & Beyond

Presented by: Susan E. Bishop, Esq.
of Berliner Cohen LLP

10:30 am - 11:30 am

FAMILY LAW

Child Custody/Visitation and Support Issues during COVID-19

Presented by: Andrea M. Leavy, Esq.
of Goss & Goss, APC

12:30 pm - 1:30 pm

CIVIL LITIGATION

Evictions and Covid-19

Presented by: Ashlee Gonzales, Esq.
of Brewer Offord & Pedersen LLP



The deadline to register is November 2, 2020.

REGISTER AT WWW.LEGALPROFESSIONALSINC.ORG/EVENTS/ OR
CLICK HERE



The Legal Specialization Sections is a program of Legal Professionals, Inc., an approved provider, and certifies that this seminar has been approved for minimum continuing education credit in the amount of 1.0 hours by the State Bar of California.

WHEN YOU ARE A SUCCESSOR TRUSTEE AND THE ORIGINAL TRUSTEE DIES UNEXPECTEDLY

BY REBECCA BIRMINGHAM – SUBMITTED BY LONG BEACH LPA

If you have been named a Successor Trustee, the one who takes over when the Settlor dies, congratulations. It means that person trusts you very much. It also means you have also taken on a serious duty, and there are consequences for being negligent. So let's examine what it takes to administer a trust.

Did you ever watch the program CSI? For those of you who don't watch television, CSI was a police show that introduced forensic science to America through its stories. The detectives used fingerprints, clues and careful analysis to get to the truth and find the murderer. You must use your set of skills to do Trust Administration, especially if the person died unexpectedly and you don't know where anything is.

A Successor Trustee's first job is to take someone else's trust paperwork and carry out their wishes. From the moment you find out about the death, all the way to distribution, taxes and final accounting. If you live in the same house, or are the only beneficiary, maybe that's not so hard.

If you live on the East Coast, and the Settlor is on the West coast, now it starts getting more complicated. Once, I had a client come in who was named a Successor Trustee by an old co-worker from Boeing when they both lived in Lakewood, California. The Settlor had recently died in Mexico, and the Successor Trustee now lived in Texas. His Trust Administration experience involved flying to Long Beach to empty out a storage shed and try to get clues about what his old acquaintance had! Pro Tip: Keep your Trustees in your own plan updated.

When I plan an estate, I try to guide the client to choose someone who won't have to cross time zones to come clean out an apartment. But it all starts with the paperwork. As an estate planner, I often review "plans" done by other attorneys, some are fabulous, some, well, are lacking. People have Suzie Orman Trusts, Nolo Trusts and expensive trusts in beautiful binders. You can't always judge a book by its cover. I have seen pretty plans fail and four page trusts avoid probate, but you do want to have it looked at by an experienced estate planner.

Some Settlers (the name we give the one who "set" up the trust) tell you in advance where they keep their trust papers, some do not. If you must start from scratch you are on what we call the "Easter egg hunt." Oh, and back to CSI, do you have a key to their place? Did your friend or loved one pass away in a hospital? Did they have a pet? Sometimes there are urgent things that must be done, such as going to the home to secure it or make sure the fridge is empty. Pro tip: If you are not within driving distance of the Settlor, get some names and phone numbers of neighbors and close friends.

Once you locate the paperwork, which may be incomplete, not original, in a fancy binder full of fluff or even (cringe) hand written, now you have a fiduciary duty to follow it to a "T" if it is legal at all. A good, solid estate plan should have the following components:

- A "pour-over" Will –
- The Trust Itself
- A Durable Power of Attorney for Finance & Property Management
- A Durable Power of Attorney for Healthcare

- A Certification of Trust and
- A Declaration of Trust Ownership of Personal Property

Take custody of the paperwork and start gathering statements of any account you can find. Hang on to these in a folder as your Baseline. Ideally, you should have statements as close to the date of death as possible. Pro Tip: Many accounts are now online only, so the old days of just "waiting for a couple of cycles of mail" are gone. It is, however, a good idea to change the mailing address to yours.

As Successor Trustee, you are responsible for "marshaling the assets" and for anything that happens to them while you are in charge. You are now in the financial shoes of the person who just passed, do what you can to secure their assets.

Sometimes this means having locks changed, or other very practical things, each situation is different. If you are lucky enough to have all the documents, a lawyer will help you with preparing a proper Trust Notification to beneficiaries. The best practice is to send the notice, with a complete copy of the trust, as soon as possible. This starts a statute of limitations to contest the trust of 120 days. If you don't send the trust notice, the statute for beneficiaries to contest the trust is three years! Imagine how awful it would be to distribute everything, only to find out the trust is being set aside by a court. Pro Tip: Don't be in a big hurry. Unless the timing of an action is spelled out in the Trust Document, most things are "in a reasonable time."

Continued on page 17 ➔

← Continued from page 16

Once the Death Certificates arrive, an Affidavit Death of Trustee must be recorded with the County Recorder. It puts any real property owned by the trust in your name as a Trustee. Some people stop there if they are the beneficiary. This would be a mistake. There is a difference between holding property as a trustee and owning it outright. There are also time limits for transferring the property to avoid reassessment in the case of parent to child or child to parent transfer. Remember to think things through and not rush when dealing with real estate especially. Here is an example of how you can cause an expensive mistake by going too fast. A Successor trustee was the eldest of five children. The Surviving Spouse (last to die of a couple)

wanted all five of her children to inherit the house. The Eldest immediately did the Affidavit Death of Trustee, which was good. Unfortunately, she then transferred the house into all five names. She followed the letter of the trust, right?

Six months after that, the siblings finally figured out who would keep the house and who would be bought out. There was a reassessment on the "bought out" siblings portion. Why? Because there is no sibling to sibling exemption, only parent to child. She would have been much better off to leave the house in a trust until all the horse trading was done. Which is why, as an estate planner who also assists in Trust Administration, I hope I shall have a job for a long time. More later.



**REBECCA "REBA"
BIRMINGHAM**

is an attorney at Long Beach Law, Inc., APLC in the area of estate planning, civil defense and has been doing same-sex adoption for twenty years, primarily focusing on Step-Parent (or 2nd Parent) adoptions. She is President of the Long Beach Bar Association for 2020.

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MEET MARNI BEACH

LEGAL SUPPORT SOLUTIONS

Marni is the owner of Legal Support Solutions and specializes in technical training for legal professionals. Earlier this year, she led a two-part webinar series for LPI on "Making Remote Work, Work" and presented two of LPI's workshops for our recent Day of Education. You may have also sat in on the seminar she gave as part of the Legal Specialization Sections workshops last year.

Marni started her career as a civil litigation legal secretary over 25 years ago. Over the years she discovered a passion for technology, particularly in sharing knowledge and teaching others in her field to effectively and efficiently use legal software. She found that there was often a communication gap between two vital groups in any law firm - Information Technology (IT), and

attorneys and legal support staff. She started her own business, Legal Support Solutions, to provide an essential bridge between these two groups.

No matter the topic, Marni always delivers upbeat, user friendly technology training, easily adapting to both attorney and legal support staff environments of any size and level of experience. With a professional yet relaxed teaching style, a sincere love to teach, a vast technical knowledge-base and a sense of humor, she is a popular speaker and instructor and can be seen hosting training webinars for local associations and law firms throughout the Northern California area.

We are proud to welcome Marni to the LPI family as one of our Continuing Education Council partners.



For more information on Marni's services or to inquire about legal technical training for your firm, reach out to Marni at:

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MEET SCOTT HERMAN

WEBEDITOR DESIGN SERVICES

Scott Herman is the webmaster genius behind LPI's website and is the self-titled "chief cook and bottle washer" of WebEditor Design Services. Scott started designing websites back in 1995, when he opened an Internet café called Common Grounds. It was the first Internet café in western New York. His café offered access to the Internet when not everyone had it in the palm of their hands. He also had a training room in the back of the café where he ran classes for individuals and companies on Internet, desktop applications, and website design.

Almost as soon as he opened the doors, people started asking him to design their websites. Scott holds a degree in Marketing, with a background in

computer-aided drafting and design, so website creation just came naturally. While running the café, it became very clear that the future of the business was in website design. It was much more profitable than pouring money down the drain... literally. So, in August 2001 the café closed, and all efforts were focused on website design.

Scott began working with us in 2008, and has designed over 1,000 websites for clients all over the world. Most of the sites are for small to mid-sized companies or organizations. He has been a huge source of support, education, and an invaluable resource to LPI and to the local associations who use his services. We are very proud to have Scott as part of the "LPI family."



To talk to Scott about creating or updating your website, please reach out to him at:

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MEET VANESSA BUFFINGTON

NEXTGEN LEGAL



Many of you know Vanessa Buffington as the instructor voice behind LPI's Beginning Legal Secretary Training Course and State Discovery Course. She also teaches a variety of legal training webinars for LPI as part of the Continuing Education Council's cadre of classes.

A native San Franciscan, Vanessa began her career in the legal field as a temp-receptionist. After quickly learning the ropes of the legal field, she became a legal secretary with an ability and a talent for mentoring other legal secretaries, paralegals, and law office staff. She then decided to go back to school and obtain her paralegal degree. Currently Vanessa owns her own

small business, offering legal services on a contract basis to various firms throughout the Bay Area since March of 2014. She has extensive experience in both transactional and litigation matters on the plaintiff and defense side, in the public and private sectors. Her experience encompasses multiple areas of law such as employment, insurance defense, construction defect, education, personal injury, medical malpractice, investigations, business, disparity studies, labor relations and negotiations.

Vanessa joined the LSI/LPI family in 2018 and has been instrumental in expanding our reach and increasing LPI's educational offerings.

To contact Vanessa about individual legal training for you or your firm, reach out to her at:

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ANSWERS FROM QUIZ ON PAGE 6

CCLS QUIZ

ANSWER KEY

1. M	6. A	11. O	16. D	21. U
2. Q	7. T	12. P	17. K	22. V
3. J	8. R	13. B	18. G	
4. E	9. L	14. H	19. I	
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USDC – NORTHERN DISTRICT REMINDERS DURING COVID

BY AMY VAN NEST - SUBMITTED BY SAN FRANCISCO LPA

We are all feeling it with Covid-19. The legal profession is dealing with a new challenge it has never dealt with before. There have been so many changes due to this pandemic. As we all know, the Judges have extremely congested calendars that are getting more backlogged by the day. Just following some simple procedures, we can ease some of the clerk's backlog.

The United States District Court, Northern District of California consists of the San Francisco Courthouse, the Eureka Courthouse, the Oakland Courthouse, and the San Jose Courthouse.

If your attorney has an appearance before a Judge during COVID 19 for a public hearing, make sure he/she is signed up for ZOOM. Hearings will be heard via ZOOM. If you are a case participant, you will join as an attendee, then you will be brought into the proceeding by the Court staff:

An example for District Judge Edward M. Chen:

[https://cand-uscourts.zoomgov.com/j/1619911861?](https://cand-uscourts.zoomgov.com/j/1619911861?Pwd=TjVma1lnMIJINHR3ZE9QMkFjNkFndz09)
[Pwd=TjVma1lnMIJINHR3ZE9QMkFjNkFndz09](#)
Webinar 912881

You should always check the Judge's webpage for the requirements for joining a Non-Public Hearing (Settlement Conferences, etc.).

Also, you should view the Judge's upcoming proceedings on his/her weekly Court Calendar schedule for Criminal Law & Motion, Civil Law & Motion, Initial CMC, Further CMC/ Status, Pretrial Conference and Trials. Dates may change and be kicked out for a further date.

You should review the Standing Orders for all the Judges of the Northern District of California. For example, Judge Chen currently has:

1. Standing Orders;
2. Guidelines re: Calculation of Trial Time;
3. Guidelines for Trial in Civil Cases – Jury & Bench;
4. Civil Pretrial Instructions;
5. Standing Order for Civil Discovery; and
6. Standing Order for Civil Cases.

Following these orders are important. They advise you on the contents of a joint case management statement.

The Guidelines re: Calculation of Trial Timeline is useful since it will advise you of important deadlines like:

1. Trial;
2. Pretrial Conference;
3. Objections;
4. Joint Pretrial Conference Statement / Trial Briefs;
5. Meet & Confer;
6. Last Date to Hear Dispositive Motions;
7. Last Day to File Dispositive Motions;
8. Expert Discovery Closed;
9. Rebuttal Expert Disclosure;
10. Expert Disclosure; and
11. Non-Expert Discovery Closed.

The Guidelines for Trial advises on:

1. Pretrial Arraignments;
2. Scheduling;
3. Jury Selection;
4. Time Limits;
5. Opening Statements;
6. Witnesses;
7. Use of Depositions to Impeach or Short Read-Ins;
8. Deposition Designations;

9. Exhibits;
10. Objections;
11. Settlements and Continuances

The Standing Orders advises on:

1. Conformity to Rules;
2. Communication with the Court;
3. Scheduling Days;
4. Changes to the Court Calendar;
5. Chambers Copies;
6. Case Management Conference Statements;
7. Motions;
8. Discovery and Discovery Motions;
9. Motions for Summary Judgment
10. Complaints in Federal Securities Fraud Cases;
11. Proposed Orders;
12. Grounds for Recusal; and
13. Service of Standing Orders.

Most of your basic questions can be answered by a quick review of the Judge's orders. By not calling or emailing the Clerk, resolving your question by reviewing the orders can save the Clerk's time and help speed the Court's process.



AMY VAN NEST

is an active member of San Francisco LPA and a legal assistant at Freeman Mathis & Gary, LLP.

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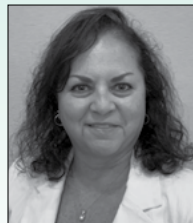
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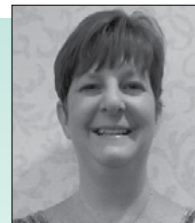


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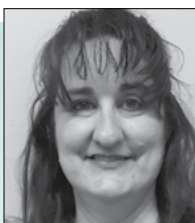
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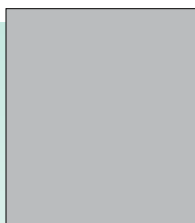
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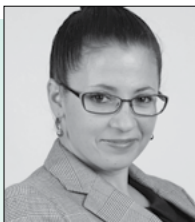
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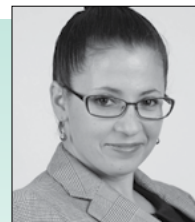
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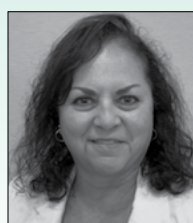
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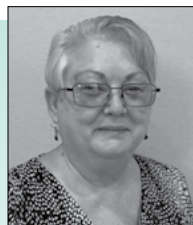
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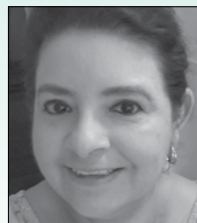
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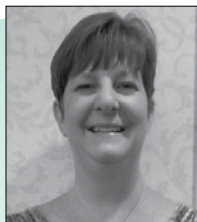


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CONSERVATORSHIP ACCOUNTINGS:

MARKET AND CARRY VALUES, AN INVENTORY AND APPRAISAL AND BOND PRIMER, AND USING THE JUDICIAL COUNCIL ACCOUNTING SCHEDULE FORMS (PART 2)

BY PATRICIA A. WENTHE – SUBMITTED BY MT. DIABLO LPA

Originally Published in the State Bar of California Law Journal, Trusts and Estates Quarterly, Volume 23, Issue 1 – 2017

Synopsis: This article is a successor to *Conservatorship Accountings: How to Get Started - What to Tell Your Clients Before It is Too Late!* Published in the *Trusts and Estates Quarterly's* Volume 22, Issue 3 - 2016. It provides an overview of the most-often misplaced and misunderstood transactions in conservatorship accountings, including establishment and changes to the market and carry values. An overview of preparing the Inventory and Appraisal and its significance to market and carry values, plus a review of the other numerous types I&As, the conservator's bond and the procedures, technical preparation issues, and mandatory use requirements for the Judicial Council accounting schedule forms.

I. MARKET VALUE vs. CARRY VALUE

Values of the assets and changes to the values are important components of conservatorship administration and proper accountings. Due to the fluctuations in market and carry values, and changes occurring at different time periods, attention by the conservator and the attorney to this aspect of administration is tantamount.

The *market value* of the overall assets, plus income, are used for calculation of the conservator's bond and sometimes the conservator's compensation if based on a percentage. The market value also provides an indication of the level of financial support that is available for the conservatee's care.

The *carry values* balance the accountings. Care must be taken to know when, why and how the market and carry values change, and which of these changes effect or cause other necessary actions required to be timely performed by the conservator, attorney, probate referee, and/or the court.

A. Market Values and Carry Values - Identical

The market values of the assets in the conservatorship are set forth on the Inventory and Appraisal ("I&A") and appraised as of the date of the conservator's appointment. The property on hand at beginning schedule in the first accounting mirrors the I&A market values and which values establish the carry values. This is the only time when the market and carry values will be the same.

Later discovered assets or additional assets received are the exception to this valuation date, discussed below.

B. Market Values – First Change

The market values of all assets held in the conservatorship will experience an initial change in the first accounting, on the property on hand at end schedule. The ending date of the first accounting is a year since the conservator's appointment. Few assets have the same market value after a year has passed. Assets with consistent or non-changing values usually include the conservatee's household furniture, furnishings and clothing used on a day-to-day basis (non-collectibles or antiques). Otherwise, market values of real property, securities, cash, valuable jewelry made with precious metals, and

other personal property, will experience changes.

C. Carry Values – Cash Assets First Change

The carry values of all *cash assets* will reflect the same changes as its market value as of the date of the end of the first accounting period. The carry values are used to balance the accounting. The cash carry values will change however all transactions effecting the cash balance (the income or receipts and disbursements or distributions to and from the cash on hand) are included on the numerous "balancing" schedules. The balance of the cash at the end of the first accounting period will not cause the accounting to be out of balance.

D. Carry Values – Non-Cash Assets Remain Unchanged, with Exceptions

In contrast, the carry values for the non-cash assets do not change as of the date of the end of the first accounting period, with a few exceptions: sales of a portion of securities on hand, reinvested dividends, reinvested short term and long term capital gains, and payments on a Promissory Note are usually the types of transactions that cause a change to an asset's carry value. To track these changes, the change in form of assets and change in carry value schedules are prepared that itemizes all transactions to show why, when and how the carry value actually changed. The change in carry value schedule is not a requirement, but more an extension of the change in form of assets schedule that is required under Probate Code section 1063(b).

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Note that without the change in carry value schedule, it is more difficult to understand when, why and how the carry values at the end of the accounting period were established, which are used to balance the accounting. To determine how the resulting carry value was established, the numerous other schedules must be evaluated and can be quite confusing, and sometimes

impossible to conclude, especially in lengthy accountings that experience an abundance of changes to securities.

Inclusion of a change in carry value schedule makes for quick work for the court and all other reviewers to readily identify how and why these values changed and is important and relevant to determining if the accounting is

properly balancing. The itemizations shown on a change in carry value schedule can be confirmed (and found) by reviewing the other relevant schedules (receipts, gains, losses, changes in form of assets) where the types of transactions are located that caused a change to any carry value. Below is an example of an item that would be included on a change in carry value schedule:

Invesco Equally Weighted S&P 500 FD CL Y (VADDX)			
1/1/2015	219.162	shares on hand	10,268.12
5/14/2015	19.763	shares purchased	1,000.00
12/14/2015	1.798	shares reinvested (<i>lt cap gain</i>)	82.36
12/14/2015	4.041	shares reinvested	185.10
12/14/2015	1.411	shares reinvested (<i>st cap gain</i>)	64.63
12/31/2015	246.175	shares on hand (<i>new carry value</i>)	\$11,600.21

In this example, the accounting period commenced on January 1, 2015, and ended on December 31, 2015. Each of the relevant changes to this particular security are set forth in one place. The reader can easily discern not only why there are 246.175 shares of this particular security on hand as of December 31, 2015, but how the new or adjusted carry value was calculated. Each of the transaction amounts (purchases, dividend reinvestments) reflect the actual cost, are added to the already established value from the date the accounting began, and the result is the new carry value that is used on the property on hand at end schedule. The market value for the 246.175 shares as of December 31, 2015, will not be the

same as the carry value. The market value as of December 31, 2015, is obtained from the brokerage statement.

E. Market and Carry Value Schedules

The Probate Code provides that all accountings must include detailed schedules. Subsection (f) describes the requirement of a schedule which includes an itemized list of property on hand shown at each item's *carry value*.

Probate Code section 1063(a) requires that all accountings include additional schedules that show the *market values* of the assets at the beginning of the accounting period and again at the end.

These code sections seem to infer that separate carry value and market value schedules should be included. And some accountings are prepared in that manner. However, showing the market and carry values for each asset on a single (or combined) schedule at each interval provides for efficiency of preparation of the accounting (less schedules are being prepared) and again, for the court and all other reviewers to easily see each asset at its market and carry value, in one place, for each of the respective valuation dates.

Below is an example of a combined schedule showing both market and carry values:

Description		Market Value	Carry Value
CASH ASSETS:			
Cash in:	Corestone Money Market Acct. No. xxx0594	\$16,262.63	\$16,262.63
NON-CASH ASSETS:			
Securities held in Corestone Brokerage Acct. No. xxx0594:			
219.162	shares Invesco Equally Weighted S7P 500 Fd Cl	\$10,800.30	\$10,268.12
8,787.320	shares Franklin CA Tax-Free Income Fd	\$66,256.39	\$63,379.23

Continued on page 26 →

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In this example, the schedule is a portion of the property on hand at the end of the accounting period. Accordingly, the market and carry values are different for the non-cash assets.

II. INVENTORY AND APPRAISAL - ESTABLISHMENT OF THE MARKET AND CARRY VALUES

A. Locating and Valuing the Conservatee's Assets

The conservator's I&A is due within ninety (90) days of appointment and includes all assets that the conservatee owns. The I&A does not include any financial accounts that have been transferred from the conservatee to the conservator since this activity occurs after the date of appointment. The closing and opening of accounts and other changes in assets that occurred following the conservator's appointment will be included in the first accounting.

The I&A must also include the conservatee's out-of-state property and periodic income (social security, pension, etc.) on exemplary attachments.

Identification of the conservatee's assets should not be taken lightly and the initial investigation is often intense and frustrating. It takes time to establish a meaningful list of assets and income. Reviewing the conservatee's incoming mail is one of the best resources for identifying assets (and debts) and should be immediately collected and managed. A change of address for the conservatee's mail should also be an immediate task by the conservator (with certified Letters in hand) at the branch of the U.S. Postal Service used for delivery of the conservatee's mail. A thorough search of the conservatee's residence is essential to locate important documents, along with all financial statements, invoices, bills, etc.

There are now significant different data base sources (some by subscription)

that can be useful to locate and value real property holdings, including real property located out-of-state, or assets that have escheated. <<http://www.DataTree.com>> by First American Title Company is an inexpensive subscription to locate real property throughout the U.S. and includes, among other information and documents, vesting deeds, legal descriptions, financial documents, and sale transaction reports. This site does not provide values, but values can be obtained free of charge from <<http://www.Zillow.com>> for residential real property; it does not include commercial real property.

To check on whether any of the conservatee's assets have escheated, visit the California State Controller's website at <<http://www.sco.ca.gov>> and follow the "unclaimed property" tabs. Uncashed checks issued by third parties and other property that has not had any activity for three (3) years will escheat, including dormant financial accounts, dividend checks, escrow checks, refunds, royalties, securities, etc. This website should be initially and then periodically checked to ensure all assets and income belonging to the conservatee is located and being collected.

The valuation date for the assets included on the initial I&A is the date of the general conservator or temporary conservator's appointment, whichever is the earliest of these dates. The I&A not only provides values for assets, it also includes a detailed description, where the asset is located, the type of asset it is (bank account, security, vehicle, real property, etc.), whether title is held with others, and an indication of whether accounts are interest bearing. The initial I&A provides the basis for the market and carry values used for the conservator's first accounting and are mirrored on the property on hand at beginning schedule.

B. The Judicial Council I&A Form - In General

The Judicial Council ("JC") I&A forms are mandatory use for conservatorships and consist of the two-page cover sheet and attachment pages labeled DE-160, GC-140 and DE-161, GC-041, respectively. Attachment No. 1 itemizes cash assets and Attachment No. 2 itemizes non-cash assets.

The first page of the I&A form (GC-140) must be completed to include:

1. The case caption;
2. The date of appointment (which is the same date that the assets will be valued);
3. A description of the type of I&A that is being filed (partial, final, supplemental, corrected, reappraisal for sale, or property tax certificate, are all of the choices);
4. A summary section to show the totals of Attachments 1 and 2;
5. Declarations by the conservator; and
6. Statements pertaining to the sufficiency of the conservator's bond.

Note that a conservatorship would never file a "property tax certificate" form of I&A as this pertains to submission of confirmation to the court that all applicable notices of the death of a real property owner have been complied with as required under Revenue and Taxation Code section 480.

The second page of I&A from GC-140 will be completed and signed by the court-appointed Probate Referee. The Probate Referee will also include the details of the costs of his or her services, in the space provided on the form.

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C. Types of Inventory and Appraisals and When they Should be Used

Each of the other types or forms of I&A can apply during administration, and should be used when appropriate:

Partial: An itemization of only a portion of the assets. A partial can be used in large and/or highly mixed-asset conservatorships, when it may be prudent to assist with organizing the numerous assets on separate, or partial, inventories. For example, a partial No. 1 may consist of real estate holdings; a partial No. 2 cash assets; a partial No. 3 securities, and so forth. When there are partial inventories, they can be simultaneously filed and processed and together, constitute all of the assets in the conservatorship.

A partial I&A can also be used when only a portion of the assets have been identified and it appears others will later come under the conservator's control or possession, or insufficient details to properly describe an asset on the I&A is pending. If a partial I&A has been filed and is later determined to actually include all of the assets in the conservatorship, this fact must be described in the petition for settlement of the first accounting.

Final: The most-often used form which includes all known assets in a single I&A.

Supplemental: An itemization of later-discovered assets that have never been included on any other inventories. These types of assets generally include inheritances, additional or new assets located, or assets otherwise acquired by the conservatee. These assets are valued as of the date of discovery or date of receipt into the conservator's possession. This alternate valuation date being used should be indicated on the I&A. All processes apply for a supplemental I&A: Cash valued

by the conservator; non-cash valued by the Probate Referee; filing with the court and notice. Supplemental assets should not be confused with assets that are acquired in the investment and management of the conservatorship estate. These are included in the accountings.

Corrected: Corrected I&As are used to revise assets shown on an existing partial, final or supplemental I&A where an error was discovered after it was filed to a description or value. Local Rules must be consulted to determine whether the entire I&A must be submitted that includes the correction and all other assets shown on the I&A being corrected or just the item requiring the correction. The same procedures for valuing, filing and notice of the corrected I&A must be followed.

Reappraisal for Sale: This form of I&A is used when real property is being sold more than one year after the original appraisal date and court confirmation of the sale is sought. Local Rules should also be reviewed for any additional requirements and the conservator's bond amount may also be effected.

D. Cash Assets – Attachment No. 1

Cash assets, including cash equivalents (i.e., cash on hand, certain checks, money orders, bank accounts, cash in a safe deposit box, cash in brokerage accounts, etc.) are valued by the conservator and are listed on Attachment 1. See Probate Code sections 8901 and 21 for a complete description of what constitutes a cash item.

Cash in brokerage accounts, including money market accounts, held and managed within a brokerage account, are often incorrectly listed on Attachment 2. Most brokerage accounts hold a small amount of cash in different forms and care must be taken to list such portion of cash on Attachment 1.

All accounts holding cash must be reconciled to the date of appointment and the amount inserted on Attachment 1. For transactions occurring on the date of appointment, which are usually those made by the conservatee, reconciliation should be after those transactions have cleared. In other words, if a check or deposit is being processed by the bank on the date of appointment, reconcile the value of the account after the check or amount of deposit is subtracted or added. If the particular transaction was performed by the conservator, reconcile the account including the conservator's transaction. The latter is rare since the conservator does not have his or her requisite authority or documentation to perform transactions on the conservatee's accounts until they have been appointed, bond filed, and letters of conservatorship issued.

E. Social Security, Pension, and Other Periodic Income

Most conservatees are already receiving periodic income from Social Security, pension, CalSTrs, or other sources from their working years. The details of this income must be included in the inventory (and which income is part of the bond calculation), but care must be taken on how it is shown so that difficulties are not created for accounting purposes.

The accounting starts with the assets valued on the I&A(s). If the conservatee's periodic income is included on Attachment 1 for example, this will create a balancing issue for the accounting. The conservatee's periodic income is an example of an intended receipt so that the court can determine whether the bond calculation is correct. The receipts schedule in the accounting will list all income actually received on the date of deposit into a conservatorship account. Consequently, if this income is shown as a cash item

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on Attachment 1, it will cause the accounting to be out of balance.

To solve this accounting issue, periodic income should be shown on an exemplary attachment to the I&A so that these amounts do not become part of the overall valuation of assets as of the date of appointment. Simply use one of the Attachment forms, indicate that it is an exemplary or informational attachment (and not an Attachment 1 or 2), and then list the source and amount of the periodic income, on a monthly basis. A final calculation for the total amount of all periodic income on an annual basis can also be included, which provides a reference when calculating the conservator's bond. Bond requirements are described below in Section IV.

F. Non-Cash Assets – Attachment No. 2

All non-cash assets (securities, real property, personal tangible property including vehicles, valuable household items, jewelry, antiques, collectibles, etc., promissory notes, foreign currency, mineral/oil interests and royalties, to name a few) are separately listed and itemized on Attachment 2. The Probate Referee is charged with valuing all non-cash assets; the value column is therefore left blank.

G. Attachment Nos. 1 and 2 - Descriptions and Other Asset Details

There are numerous resources available to obtain the details that should be included to properly describe each asset listed on the I&A Attachments, including CEB's California Conservatorship Practice Guides, the California Probate Referees Association (<<http://www.probatereferees.net>>), and Local Rules.

Bank accounts are the most common assets in a conservatorship and should include the name and address of the bank, the type of account, the title

(including form of ownership and others on title, such as joint tenancy, community property, etc.), the last four digits of the account number (to ensure privacy and protection, the entire bank account number should never be listed), and whether the account is interest bearing. For example:

Item 1: Wells Fargo Bank, PO Box 1234, Portland, Oregon, checking account no. xxx7899, held in the name of the conservatee and Mary Potter as joint tenants (interest bearing); one-half of the balance: \$2,150.75

Brokerage accounts are also common assets in a conservatorship, but the account holdings are shown in a completely different manner than bank accounts (which are shown in a single sum). Each security, including stocks of all types, bonds, funds of all types, etc. that are managed and held in the brokerage account must be separately listed or itemized, as follows: Item 1: 100 shares Pacific Gas & Electric common stock, CUSIP 697X2. Again, the value column is left blank.

It is appropriate and helpful to the Probate Referee to provide them with additional information, copies of brokerage statements, appraisals obtained from others, any other documentation pertaining to values, and any other asset details to assist them with proper and correct valuations. If assets were sold before valuation, the sale details should be provided.

Specialty items such as a coin collection, jewelry (made with precious metals or stones), firearms, are best valued by reputable appraisers who specialize in buying and selling those types of items such as an armory for firearms and coin and jewelry retailers.

It is also common to find stocks held in certificate form, outside of a brokerage account or held with a transfer agent. The conservator should immediately

take possession and proper steps for safe keeping of any original stock certificates that are located. The Attachment 2 description should include this fact (held in certificate form), along with the number of shares and other details. Thereafter, all original certificates should be deposited into a brokerage account. This alleviates the safeguarding of original certificates as well as ease of management and reporting.

H. Out-of-State Assets

The California courts do not have jurisdiction over the conservatee's assets located in another state. The conservator's I&A must however list these assets on an exemplary attachment. This ensures that no assets that belong to the conservatee have been overlooked, are known to exist in the event they may be needed in the future to support the conservatee, and to ensure that these other assets are tracked and properly transferred on death.

Generally, the values of out-of-state assets can be estimated by the conservator if they feel confident and have sufficient resources to do so, or professionally valued. Out-of-state assets are generally not appropriate to include in the overall value of the conservatee's holdings, for bond purposes or for calculation of any compensation. However, if the conservatee owns rental or commercial real property located in another state, and the net income is deposited into accounts under the control of the conservator, this income should be included in the exemplary attachment for periodic income, so that it is part of the conservator's bond, compensation, etc. The conservator in this situation is not only receiving rental income, but managing it, and therefore it is appropriate to include.

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I. Trust Assets

Many conservatees have revocable trust estate plans and some or all of their assets have been funded into their trusts. However, there may be situations and extenuating circumstances warranting appointment of a conservator. Appointment of a conservator of the person or estate vacates the office of the conservatee trustee.⁷

The conservatee's trust assets are not subject to the conservator's control and are not inventoried in the conservatorship estate. The existence of the conservatee's trust assets are however included in any general plan requirements and details of the existence of these assets should be described in the petition for settlement of the conservator's accountings. Often the assets held outside of trust (those in the conservatorship) are insufficient for all of the conservatee's needs and the trust will transfer funds to the conservatorship to bridge this gap in support.

When trust assets are periodically delivered to the conservator, usually cash, the deposit must be shown on an additional property received schedule (and not the receipts schedule) in the accounting. Money generated by an asset held in the conservatorship is shown on the receipts schedule (i.e., bank interest, dividends, capital gains). Cash received from a trust originates from an asset held outside of the conservatorship and is therefore new or additional property coming into the conservatorship estate.

It would not be prudent to transfer title of trust assets into the conservator's name for management because this could cause the conservatorship estate to be subject to formal probate administration on the conservatee's death and/or make an inadvertent change to the conservatee's estate plan. A thorough analysis of conservatorship assets and trust assets should occur

to ensure that any transfer of trust assets into the conservatorship does not end up counterproductive. If the conservatorship estate is worth more than \$150,000 at the time of the conservatee's death, formal probate administration may be necessary. See Probate Code Section 13050 for a complete list of which assets would and would not be subject to administration.

J. Other Assets and Descriptions

There are numerous other types of assets than are described here and the length of those descriptions and the appropriate manner to describe them in an I&A is not the purpose of this article. The best sources for those further details and descriptions are set forth above.

III. MISUNDERSTOOD TRANSACTIONS IN THE ACCOUNTING

A. The Most Misunderstood Receipts – Sales of Assets on Hand

1. Real Property Sales

A sale transaction has occurred during the period of the first accounting—the sale of the conservatee's home was court-approved and the title company is wiring the net proceeds to the conservatorship account—a significant change in the form of assets. The conservator now has over a half million dollars in cash instead of a home on 69th Street.

Does the attorney or conservator need to do anything other than collect the cash?

Hopefully, before this sale closed and the net proceeds were received, the conservator's bond was timely increased. Otherwise, bond will be severely insufficient which can be confusing because the value of the conservatee's California home was included on the I&A and assigned a market value. But, the value of the California real estate is generally not

included in the conservator's initial bond amount because the conservator lacks the power to sell it without a specific order expanding the conservator's general powers.

The sale activities are generally as follows: The home is sold and the net sale proceeds are deposited into the conservatorship bank account. The conservator correctly lists the deposit on his check register and this transaction is later included in the financial details submitted to the accounting preparer. The accounting preparer must be careful not list this deposit on the receipts schedule because it is not a true "receipt" and in doing so, the accounting would never balance. Instead, the net sale proceeds is simply a change in the form of the asset – a conversion of a real property holding to cash.

The sale transaction is shown on the gain or loss schedule determined by the difference of the gross sale proceeds vs. the carry value. If the gross sale proceeds are higher than the carry value, the gain schedule is used. If the gross sale proceeds are lower than the carry value, the loss schedule is used. Additionally, each receipt or disbursement shown on the closing statement (commonly referred to as "closing costs") must be listed in the accounting on the appropriate receipt and/or disbursement schedules. Receipts from sales of real property are usually a small prepayment of secured property taxes. Disbursements from sales of real property are all of the costs (again the "closing costs") involved to sell the property and close escrow and include realtor commissions, mortgage payoffs, notary fees, recording fees, etc.

Now, the property on hand at end schedule will no longer include the real property and instead, the cash on hand will have substantially increased.

2. Stock Sales

Similarly, when shares of stock are sold, the carry value is checked, plus the cost of reinvested dividends, to determine if the net sale proceeds is higher or lower, which determines if the sale generated a gain or a loss. This is another instance when the change in carry value schedule is useful: the accounting preparer would have been tracking the reinvested dividend transactions (which change a stock's carry value). When it is later sold, the value of those reinvested dividends must be included in order to determine whether the sale proceeds is higher or lower than the carry value (or the adjusted carry value) from the value of the shares shown on the property on hand at beginning schedule (plus the reinvestments).

The cash received from the sale will be shown in the brokerage account transactions as a receipt, but these funds will not be shown in the accounting on the receipts schedule. Again, the gain or loss schedule includes the transaction, the change in form of assets schedule and the change in carry value

schedule include the transaction and the property on hand at end reflects the reduction of the number of shares on hand and the cash on hand will have increased.

IV. BOND

A. Basic Bond Calculation

The conservator's bond requirements are set forth in Cal. Rules of Court, rule 7.207. In summary, the total of all I&As, plus an estimate of annual income, plus an estimate of other annual gross payments, less the value of real estate when the conservator lacks the independent power to sell, equals the initial base figure. To that base figure, add 10% of the total value up to \$500,000; 12% of the total value above \$500,000 up to and including \$1,000,000; and 2% of the value above \$1,000,000.

When the conservator does have the independent power to sell real property, the value of the real property is included, but encumbrances are backed out.

B. When the Bond Must be Increased

As mentioned above, the conservator's bond must be timely increased when a significant change in asset is going to occur or has occurred. This usually happens when the conservator initially did not have the power to sell real property, later acquires such power, and close of escrow will occur in a few weeks.

Other times when the bond must be immediately increased is when new assets, such as inherited assets, are received into the conservatorship, when the assets experience an upswing in value, income increases, and/or when the accountings are in process. As soon as it is determined that the value of the property has increased over the value used for the conservator's current bond, an *ex parte* application to increase the bond is required to be submitted by the conservator or the attorney.⁸ Listed below is a sample summary calculation to determine how a bond is insufficient and the amount it must be increased:

Market Value of assets as of 7/31/16:	\$1,000,000.00
Annual estimated receipts/income:	78,300.00
Annual other income (if any):	6,200.00
SUBTOTAL:	\$1,084,500.00
Plus 10% of first \$500,000	50,000.00
Plus 12% of \$500,000 to \$1M	60,000.00
Plus 2% of remaining \$84,500	1,690.00
TOTAL NEEDED TO BE BONDED:	\$1,196,190.00
Less current bond:	-\$1,000,000.00
Difference/insufficiency:	\$196,190.00

It is not recommended to wait until the accounting has been submitted to increase the conservator's bond due to the amount of time in between filing and hearing and the Rule of Court requirement that to immediately apply for an order increasing the amount of the bond when it is insufficient.

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C. When the Bond Can be Decreased

The opposite also occurs as time passes to the assets and income, but decreasing the bond amount is generally only achievable when an accounting has been filed. The bond decrease will be a request included in the petition for settlement. Otherwise, sufficient financial documentary proof and receipts on distributions made must be submitted to the court in order to obtain an order decreasing the conservator's bond or exoneration. Overly sufficient bonds should be reviewed to determine if a significant change or reduction is warranted since the bond premium is based on the bond amount and the conservatorship is paying this cost. Small changes may not warrant the cost and expense to request a reduction especially if an accounting is due in a short period of time and the request is best set forth in that petition for settlement.

At all times when an order is obtained pertaining to changes in the conservator's bond, a file-endorsed copy must be immediately submitted to the bond company, who will then provide an additional bond for increases, revisions to their internal records for decreases, or exoneration. Bond changes are effective on the date the court order is processed. Additional bonds must be executed by the conservator and then filed with the court.

V. JUDICIAL COUNCIL FORM SCHEDULES

Working as a paralegal in support of attorneys in the probate practice area for over 20 years and preparing fiduciary accountings for about 15 of those years has resulted in a significant understanding of the fundamental principles of the applicable statutes, procedures, issues and concepts in accounting preparation. After

eight years of preparing fiduciary accountings, the JC schedule forms became effective (on January 1, 2008), including mandatory use in certain cases. The JC form use came about after due research and "accounting software" trials and preparation of numerous accountings. The conclusion was that Microsoft Excel® was the most functional software for preparation of the accounting schedules. Its easily coded mathematical tasks and spreadsheet formatting made for quick composition of even the largest accountings.

In contrast, the JC form schedules (with all due respect to the Committee) are cumbersome and confusing to use even for the seasoned preparer. The receipt and disbursement schedules are comprised of numerous different and separate schedules which serve to categorize the transactions. There are six (6) separate receipts schedules and eleven (11) separate disbursements schedules (plus one general receipt and one general disbursement schedule for use by only very small conservatorship estates or one with extremely minimal receipt and disbursement transactions).

Each of these separate form schedules separate the transaction activities into categories in which the appropriate transactions are to be listed. Excel's receipt and disbursement schedules, on the other hand, are all-inclusive. In other words, the Excel schedule provides for a continual, single schedule, with each of the transactions set forth in the separate categories. Each transaction is then listed chronologically within each category, followed by category subtotals and an overall schedule value. The schedule values are then shown or repeated on the Summary of Account schedule.

When preparing the JC form receipt or disbursement schedules, the number

of itemized transactions that can be shown on each page is approximately 10-15. Then, a second, third, or fourth page for the same category must be used until all transactions have been listed. Each page has a subtotal and a box next to the subtotal. The box next to the subtotal is only checked when you have reached the last page of the transactions for the category. Otherwise, the box is not checked.

The next step is to add the subtotal for each schedule page that has the unchecked boxes (by using a calculator). Then, check the box on the last page of the category and insert the total of all pages (for this category only). Each transaction in this last schedule page for this category must be added to the other subtotal pages (by hand) since the box allocated at the bottom of this page must be the total of all pages for the category. In other words, there is no box or space for the subtotal of the last page. The only box or space available must be the total for this particular category or from all the pages in this particular category.

The same procedure is repeated for as many categories you have until all of the transactions have been listed. Once this input has been accomplished, the preparer must be careful to then calculate (by hand) only the last pages of each category (the ones with the boxes checked) to arrive at the total sum for the total of all receipts or total of all disbursements. These schedule total values are inserted on the Summary of Account schedule.

The Excel format allows you to automatically connect the total of each schedule in the workbook to the Summary of Account schedule. As changes are made to any of the schedules, the Summary of Account schedule is automatically updated.

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The transactions on each JC form schedule for a simplified accounting are listed chronologically, without respect to category. However, if a transaction is missed on page 3 of 6, it cannot be easily inserted. There is no available space on the form nor do the transactions that have already been listed automatically move down to allow space for an insertion. Instead, starting on page 6, each transaction must be separately moved down (cut and pasted or retyped), followed by page 5, page 4, and so forth until a space has been made and the transaction belonging on page 3 can be inserted. This, seemingly simple, input of one transaction changes the subtotals on all schedule pages involved and each must be re-printed and the total on the last page total recalculated and revised.

The “good news” is that mandatory use of the JC form schedules is in smaller/limited cases and certain other cases (court-established or modified trusts) subject to court supervision where its accountings are under court order to be prepared in compliance with Probate Code 2620 (or in the same manner and frequency as a conservatorship).

NOTE: All cases submitting accountings under Probate Code section 2620 when JC schedule forms are not mandatory must, however, submit the Summary of Account JC schedule form, GC400SUM.

The Summary of Account JC form schedule has its own issues: the schedule letters set forth on GC400SUM cannot be changed. In other words, the pattern on the JC Summary of Account form must be adapted to the Excel accounting schedule letter labels or designations. You are not be permitted to use schedule “F” for the property on hand at end schedule even if this is the

appropriate designation in the Excel accounting because GC400SUM provides that the property on hand at end schedule can only be a schedule “E.”¹⁰

The pre-allocated schedule lettering causes an additional property received schedule to be designated as a schedule F, G, or some other letter. But the physical schedule should be inserted after the property on hand at beginning schedule for review purposes. The schedule line-up for the end product is then property on hand at beginning schedule followed by schedule f, a, b, c, d, g, e, h, etc. (out of alphabetical order). When letter schedule tabs are used, the finished product appears to be incorrect.

The JC form Summary of Account includes the total of each of the applicable balancing schedules. However, there are further or additional required schedules (non-balancing schedules) that may be appropriate, but the JC form Summary of Account does not allow for the listing of any other schedules. For example, an accounting may have a schedule of liabilities, changes in form of assets, changes in carry values, assets outside of the estate, and/or property on hand at end of the prior account.

An Excel-prepared summary of account is useful here to list these other schedules. Oftentimes it is helpful to submit both the JC form Summary of Account and a companion or “informational” summary of account attached after the JC form. And, taking this step is useful for the accounting preparer and all reviewers to easily discern that all appropriate other schedules have been provided.



PATRICIA A. WENTHE

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FOOTNOTES:

- ¹ The first accounting period commences on the date of the conservator’s appointment and ends one year thereafter.
- ² Probate Code section 1062.
- ³ Probate Code section 2610, subd. (a).
- ⁴ See note 3, *ante*.
- ⁵ Probate Code section 2613.
- ⁶ Probate Code section 10309.
- ⁷ Probate Code section 15643, subd. (e).
- ⁸ Cal. Rules of Court, rule 7.501, subd. (b).
- ⁹ Cal. Rules of Court, rule 7.575.
- ¹⁰ See the note at the bottom of the Summary of Account JC form (GC400SUM), which indicates that schedule labels cannot be relabeled or redesignated.



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NOVEMBER 5, 2020

12:00 PM TO 1:00 PM

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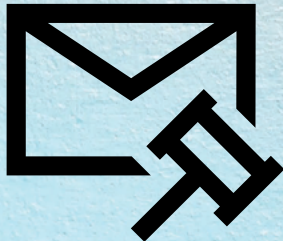


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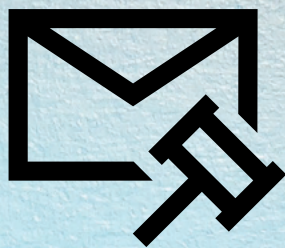


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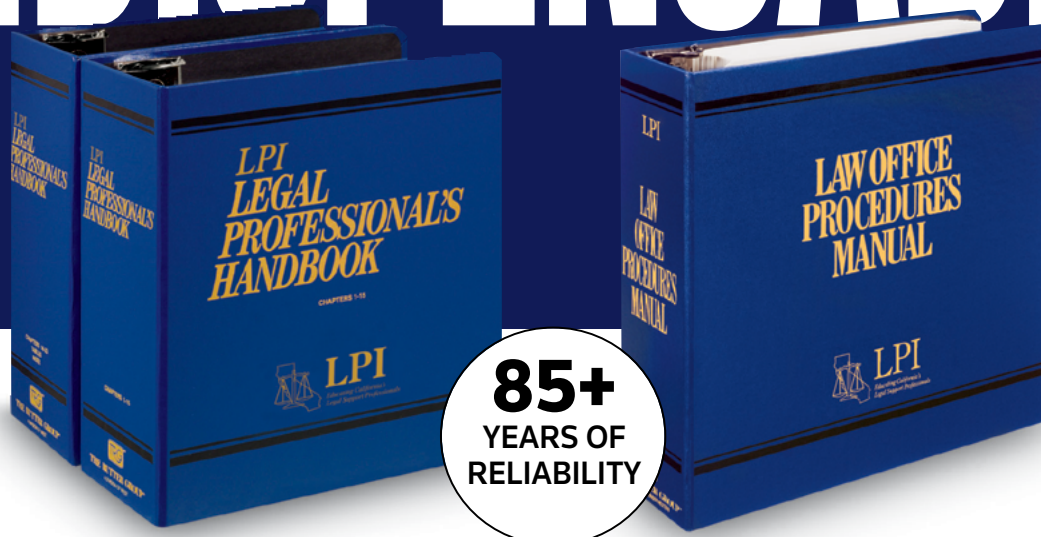


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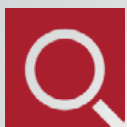
 **Records**

 **Depositions**

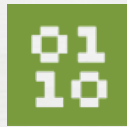
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# JANNEY portal



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## [ Portal features and functionality include ]

- Electronic Filing and Electronic Service capable
- A "Route Pick-Up" delivery option for our Retainer Clients with a daily pick-up.
- User-friendly web interface tested by legal professionals and court approved.
- Securely create accounts and add users 24/7 using a completely paper-less process.
- Easily place orders and maintain a complete record of your cases & documents.
- View and share status communication updates with colleagues and clients.

*Let us add you to the growing list of clients who are using the portal to make their jobs easier.*

**"I am LOVING the new system! Seriously...very user friendly."**

- Alison (Orange County Client)

**"Just wanted you to know that I've now used the new portal for two filings and am VERY happy with it. Super easy to use."**

- Darla (Los Angeles Client)

**"I really like being able to see all cases in one location. It is really easy to use."**

- Miguel (Orange County Client)



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