



Transcribing testimony into action

The Governor attempts to save money by watering down the Court Reporters Board

BY EARLY LANGLEY

In the budget-riddled summer of 2009, before Governor Arnold Schwarzenegger tried to abolish and/or combine almost every board of the Department of Consumer Affairs (DCA), I testified on behalf of the California Court Reporters Association before the Senate subcommittee to save our Court Reporters Board (CRB).

The CRB and why lawyers should care

The CRB, like the State Bar, licenses and disciplines Certified Shorthand Reporters (CSRs) in the State of California. Out of 7600 licensees paying \$100 per year in dues, all of the board's operating expenses are paid to the DCA – its pro rata share of \$150,000 – producing a totally self-funded arm of the DCA. In addition, and of equal importance, is that our dues support those who cannot afford access to justice: the indigent litigant. Three-hundred thousand dollars per year of our license fees are used for the Transcript Reimbursement Fund (TRF) administered according to law by the CRB.¹

Why should plaintiff's lawyers care about the Court Reporters Board? It is the Transcript Reimbursement Fund that enables them to better represent poor plaintiffs in cases that do not generate fees. Having worked with plaintiff's attorneys for many years, I have seen how much they have positively contributed to the community through their pro bono work.

Additionally, if our governing agency is abolished, this will have a serious impact on court reporters in California.

To say that this is a model for a governmental department is an understatement. To envision that the Governor might actually succeed in abolishing the CRB would be a regrettable decision with untold consequences.

I have been a reporter for the prominent reporting firm of Aiken & Welch Court Reporters in Oakland for over 20 years. Before that, I was an official reporter for the Honorable E. Patricia Heron in the Contra Costa County Superior Court. I am a Registered Merit Reporter, a Phi Beta Kappa graduate of the University of California at Berkeley, and now, most recently, a board member of the distinguished California Court Reporters Association (CCRA). I participated in CCRA's California Action Team Training, which put testifying and lobbying squarely at its forefront. I testified and lobbied at mock meetings with administrators and senators. Without that training, I could never have learned the basics of testifying. Even then I froze.

A change for the worse?

However, nothing prepared me for how fired up I was going to get over an impending change in governmental policy that would dismantle an effective, self-funded department that could leave court reporters unlicensed; and, affect the lives of the poor when funds for them were already drastically reduced.

Advocating for the poor and powerless

In order to generate support from the legal community, I contacted many plaintiffs' firms and legal-aid attorneys from a list of Transcript Reimbursement Fund users. Additionally, I also contacted the law firms that donated funds to the Transcript Reimbursement Fund. These law firms financially support the TRF program as a matter of firm policy – they believe that everyone should have access to our courts, whether the person is indigent, elderly or disabled. With letters, e-mails and telephone calls to these people, we were able to get documented support from the legal community. E-mails and letters poured into the office of Senate Subcommittee Chairperson, Senator Gloria Negrete McLeod.

Coming to the Capitol

Sacramento is a long drive from the Bay Area when you worry every inch of the way. As I gripped the steering wheel on the day of testifying, I wondered: Are my legal aid attorneys who depend on the TRF going to show up? Will there be any media coverage? Will I need to change my testimony to address the TRF being put under the Judicial Council or the State Bar – which were two alternate recommendations – or leave it out? Will I get 60 seconds, 90 seconds, or five minutes to share my experiences? Am I going to have to cover the entire speech I'd been asked to give on behalf of the CCRA? Or would the testimony of Carlos



Martinez, the CCRA's legislative liaison, suffice?

After arriving at the Capitol building, we all waited patiently out in the halls until it was our turn to speak. Three hours went by. During our wait, I used my time wisely. I watched the proceedings on the television and heard everyone else's testimony; I talked to our lobbyist Jim Cassie; and I spoke extensively with Jessica Fry, an attorney working for the Fair Housing Law Project, a program of the Law Foundation of Silicon Valley.

Testifying

Finally, it was our turn. Before a crowded Senate subcommittee room, we filed in to our seats. We were sitting directly in front of the subcommittee members. We listened carefully to Senator McLeod's warnings: Don't repeat anything that's been said.

On no – there goes 75 percent of my talk! Since our legislative liaison had covered the financial points of keeping the TRF, I focused on my experiences.

As I approached the microphone, I focused in on Senator McLeod's eyes. I looked in the faces of the Committee members and looked them in the eyes. I wanted their full attention. I held their gazes and never once looked away.

I decided to testify about an experience that had recently occurred at the Aiken & Welch Oakland office. An attorney shared with me a personal experience he had with a court reporter, and this became the subject of my testimony. The attorney and an associate, along with the court reporter that was going to transcribe the deposition, drove out to the middle of nowhere to attend a deposition. It was only after a tearful lunch that attorneys learned that the CRB had just revoked the court reporter's license because her dues were delinquent.

It seems that my testimony had an impact on the members of the Committee. Senator McLeod smiled at me, im-

pressed for two reasons: the CRB administered swift disciplinary action, and I had gotten to the point in less than 45 seconds.

However, it was the testimony of attorney Jessica Fry, whose low-income clients, victims of discrimination who depend upon the TRF, that captured the attention of Senators Gloria Negrete McLeod and Ellen Corbett. Jessica Fry's testimony triggered a rally among the Committee members, who until just recently, had no clue what the TRF is and how the court reporters fund the program. The Committee members saw the benefit that the TRF provides not only to the clients, but also to the lawyers advocating on behalf of those clients.

It was clear that the Committee wanted to keep the TRF and went so far as to make a substitute motion to see that the CRB remain where it is and keep the TRF under the CRB.

The final vote

It was still a long wait in the halls before the final vote. I was in shock when the CRB lobbyist e-mailed me the Committee's decision: "The Committee just voted 6-2 to reject the Governor's proposal to abolish the CRB."

I was overwhelmed, excited, and relieved! After all those e-mails, phone calls, sleepless nights, worrying about how it would all play out, it was over.

What the future holds

Looking back, I reflect now with concern about the future attacks on the legal profession. However, with the help of the California Court Reporters Association, trial lawyers and plaintiffs, we will stand up for what we believe is right. People should not be denied access to justice because they cannot afford to pay a court reporter for taking testimony and preparing transcripts. In order for plaintiffs to prevail, there is no substitute in the litigation process for the human Certified Shorthand Reporter.

However, there are some people that would have you believe that there is a substitute. Imagine this: You are in a deposition or in trial and no reporter is present. Instead, you get a CD to review and interpret for the next day's testimony. There may be six to seven hours' worth of testimony to review overnight in order for you to prepare for the next day's witnesses. Of course, you are tired from the day of proceedings and are facing another all-nighter. You open the CD and start. Can't find what you're looking for in a hurry? Having problems locating exhibits? There's no keyword indexing. There's no word search capability. There's no condensed transcript. Day after day after day. How would this affect your practice, your time, your clients' interest, and, ultimately, the integrity of the record?

Moreover, the threat of identity theft constantly looms over us. Your work product, your client's personal information, and medical and financial records, if not handled properly, can be exposed to your adversary and/or to the public. While you might think this is farfetched, it can happen. It is well within the realm of someone's thinking and within the realm of unintended consequences.

Bottom line: it would be poor public policy to rid our judicial system of what

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Endnote:

¹ For details on this program, see <http://www.courtreporters-board.ca.gov/licensees/trfguide.shtml>

