



# CALSPRO PRESS

THE OFFICIAL QUARTERLY NEWS & OPINION MAGAZINE OF THE  
CALIFORNIA ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS

Volume 3 / Issue 2 / Summer 2010



LEGISLATION

## ■ Senate Bill 984:

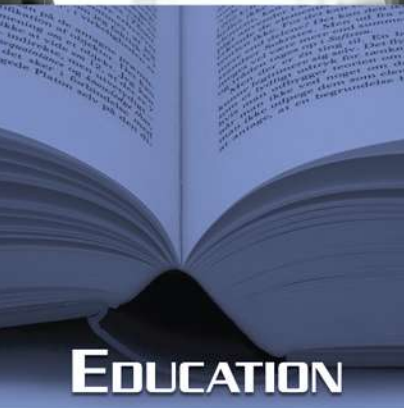
Legislation That Could Threaten the Way You Do Business.



MEMBERSHIP

## ■ Outreach To Non-Members:

Strength in Numbers is Important to All of Us.



EDUCATION

## ■ Friday Night Insight:

L.A.'s Presiding Judge, Charles W. McCoy Shares His Perspective.



CONFERENCE

## ■ 42<sup>nd</sup> Conference - October 8-10, 2010:

Join Us at the Hilton Palm Springs.



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**Go to [www.calspro.org](http://www.calspro.org) for a complete list of Local Area Governors**

## CALENDAR Of Events...

### 2010 CCPS Workshops and Exams

June 12 – *Ventura Area (to incl. Santa Barbara & L.A. Counties)*

July 31 – *San Diego*

August 21 – *TBD*

October 10 – *Palm Springs (Conference)*

October 30 – *Oakland*

### June 25, 2010

Friday Night Insight  
– Proposed Topic:  
“What the Future Holds”  
*Northern California, TBD*

### June 26, 2010

Board of Directors Meeting  
*San Jose, Doubletree Hotel*

### October 8-10, 2010

42<sup>nd</sup> Annual Conference  
*Palm Springs, Hilton Hotel*

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# PRESIDENT'S MESSAGE

**STEVE JANNEY**

**2009-2010 CALSPRO PRESIDENT**

I recently attended the 2010 Employment Law Conference presented by the law firm Atkinson, Andelson, Loya, Rudd and Romo. Over 800 attendees listened as speakers discussed a variety of topics as they applied to business owners in California. I left shaking my head, as it seemed that for every law requiring something be done, there were 2 that demanded the opposite.

In one seminar I watched videos that play on late night TV and the Internet encouraging employees to call attorney firms that specialize in "employment issues." Google "wrongful employment California" to see some rather chilling examples.

As business owners we have a variety of laws we are required to be aware of and follow. Ignorance of the law is no excuse as an employer in California. Issues include hours worked ("hours worked means the time during which an employee is subject to the control of the employer"), travel time (a big part of our profession), wage statements (pretty big penalty if any information is missing) and the ever present employee vs. independent contractor issue.

Where does a CALSPRO member get accurate information and application regarding these issues? You can retain an attorney at \$300.00 an hour. You can guess or rely on 2<sup>nd</sup> or 3<sup>rd</sup> hand information. You can just hope you don't get caught.

Or you can take advantage of the discounted membership CALSPRO offers

its members in the Employers Group. Ryan Seals, Manager of Corporate Networks and partnerships, describes what the Employers Group offers CALSPRO members.

"Employers Group serves our members in a variety of ways. First and foremost, we help business owners get through their day by providing day-to-day operational HR support through our live helpline, live HR library, and online access to BNA's *HR Essentials*. A majority of our members also take advantage of our professional development training courses, whether on-site, online, or in a public workshop format. Additionally, we help our members cut costs through our Strategic Employer Services, including Leave of Absence Management, Affirmative Action planning, handbook reviews, and Unemployment Insurance support."

Don't fall into the trap of thinking you are not big enough to require HR assistance. Many of the employment laws are applicable if you have 1 or more employees. Seals continues this warning, saying "In California, what you don't know can and will hurt you. State regulatory agencies have stepped up enforcement, levying huge fines and penalties, in an effort to decrease California's budget deficit and increase ROI for their departments. In today's highly litigious environment, a simple oversight can cost millions of dollars in fines and endless legal problems. Employers Group has often been called a shield by our members, helping them navigate through the complex maze of

employment regulations they might not even know apply to their company."

Membership in the Employers Group is a cost effective way to be up-to-date on California employment requirements. Do not think you cannot afford the support Employers Group offers our membership. One misstep can lead to significant liability, fines and penalties for business owners. When asked to describe the value Employers Group offers CALSPRO members, Ryan said "For less than a cost of a Blu-ray DVD, you can get a 60-day, full-access trial membership into EG and begin saving money immediately. If you can reduce your time spent with legal counsel by just 3-4 hours *per year*, you will have more than paid for your annual membership. This doesn't begin to address cost savings on training, consulting and compensation and benefits surveys. Dues start at \$875 for a one-year membership and include unlimited support and access; CALSPRO members will receive a 25% discount after their trial membership as well."

My company has enrolled in the Employers Group program and have already had several positive experiences. They are easy to work with, accurate in their information and have guided us well as we navigate the employment laws of California.

Ryan can be contacted at (213) 765-3908 or via e-mail at [rseals@EmployersGroup.com](mailto:rseals@EmployersGroup.com). I encourage you to contact Ryan today and take advantage of this excellent opportunity presented to all CALSPRO members. ☺

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# CAPITOL REPORT

**MICHAEL D. BELOTE, ESQ.**  
CALIFORNIA ADVOCATES, INC.



## Two Bills Show Value of CALSPro

**L**egislators unfamiliar with the legal system, and there are more and more of them these days, sometimes ask why process servers or attorney service firms would need to lobby the legislature. The answer, of course, is easy: virtually everything CALSPro members do is authorized, defined, required and regulated by the Code of Civil Procedure. When we explain that millions of pieces of civil process are served every year in California, all based upon rules established in state statutes, even uninformed legislators understand.

One would assume that non-CALSPro attorney services would not require an explanation about the value of membership. But if an explanation is still required, two bills pending in the California Legislature during 2010 should be more than sufficient. The first would have dramatically changed the landscape for electronic service of writs and potentially other process, while the second would enact absolutely breathtaking increases in process server liability.

Object lesson number one is AB 2394 (Brownley). Sponsored by the Los Angeles County Sheriff, the bill initially proposed that sheriffs be authorized to serve EWO's and indeed all writs by electronic means. Further, based upon the bill's definition of "document" (defined to include not only writs, but subpoenas, court orders, and "other judicial process electronically created as an original document or as a copy of a paper document") arguably any type of process could have been included,

potentially including even summons' and complaints.

The details of AB 2394 were almost mind-numbing in their technical complexity. One question, for example, is how the provisions of the bill might conform to, or conflict with, language already in the statutes under the Uniform Electronic Transactions Act (UETA). Another question is the degree to which the courts are prepared to interact with sheriffs who wish to submit documents electronically. In reality, it appeared that AB 2394 was introduced very much as a comprehensive, "this is what we would like in a perfect world" scenario.

CALSPro was an integral element of hours of discussion over AB 2394. We raised significant due process concerns about serving writs, EWOs, and potentially other process by fax or e-mail. Representatives of the Assembly Judiciary Committee shared our concerns about a world where banks would be e-mailed a writ, have a spam filter intercept the transmission, not execute the levy, have the money drained from the account in the interim, and the chaos which would result.

A great many more issues were raised than could ever be described in a column of this length. Ultimately, AB 2394 was amended to delete any authority for sheriffs to serve any writ, EWO, or other document electronically. With respect to EWOs, the bill does permit serving the document by first-class mail rather than certified mail as under current law, with a requirement that the EWO be

served personally if sheriff does not receive an employer's return within 15 days. The balance of the bill authorizes sheriffs to take advantage of modern technology in the receipt, storage, and transmission of documents from and to the courts, subject to the court's technological resources.

If AB 2394 is critical to the future of the attorney service industry, SB 984 poses an immediate threat to RPS registrations and liability. Remarkably, the bill would require servers to announce, prior to service, their full names, the name of the intended recipient of the process, and the fact that they are at the residence to serve legal process. Service times would be limited to 7:00 am until 8:00 pm. Serves made outside of the appointed hours, or without the required announcements, would result in RPS revocation and a fine of \$25,000.

If this is not enough, a \$10,000 fine is proposed for services made to the wrong address. If the address was provided by a third party, the other party could be responsible to pay the \$10,000 fine.

In case any of this sounds like an April Fool's joke, CALSPro members are invited to access the actual contents of SB 984 through the CALSPro Web site. And just in case there are any servers or attorney services still doubting the importance of CALSPro, this bill should once and forever end the debate.

This column will provide an update on SB 984 as information becomes available. ☞



# NAPPS CONFERENCE WRAP-UP

*by K. Paul Wysong  
San Diego Process of Service*

**T**he 2010 NAPPS Conference held in Orlando this year was very quiet compared to years past. There was not much drama, some business to handle; by-law amendments to vote on, reports by Officers and Committee Chairs. There were of course networking cocktail parties, lunches with guest speakers, a visit from Minnie, Mickey and Goofy and well attended educational sessions.

Seemingly: a typical Conference. Not quite. There was still the election of the 2010/2011 Board of Directors to deal with.

The themes heard throughout the day as candidates spoke to the membership about why they wanted to be on the Board were; to help unify the Association, to return Professionalism to the forefront in all Board activities, and to bring transparency to the Association Business. The results were enlightening.

When the votes were tallied the new NAPPS President was Jeff Bannister from South Carolina. Jeff began his term by beginning the healing process and imploring those who have served the Association so well for so long to continue in their efforts in Committee

work even if they are not currently on the Board. He is a polarizing individual and a leader with a vision for the direction of our Association.

Also, congratulations to the newly elected members from California: David Nill, Secretary; and Steve Janney the new Treasurer. Our own Tony Klein was awarded the highest NAPPS honor; the 2010 "Mac" MacDonald Award. Congratulations Tony!

All in all this year's Conference was one of the most productive in years. The 2011 Conference is scheduled for Austin, Texas, see you there! 🐾



**Tony Klein proudly displays his 2010 "Mac" MacDonald award.**



**The 2010 NAPPS Board of Directors, including CALSPRO members David Nill, Secretary (3rd from left, standing) and Steve Janney, Treasurer (middle seated)**



# ASSAULT UPDATE: IT CAN BE A BIT SCARY OUT THERE....

by Mark Schwartz  
2009-2010 Assault Advisor

**H**ello fellow CALSPro members. I wanted to take a few moments and give you updates on a couple of incidents reported within the last 18 months or so by two of our members.

## INCIDENT #1

In December 2008, Stephanie Sayler, one of our current Board Members, e-mailed me to say:

*One of my field copiers, who is also a registered process server, was assaulted by a doctor this morning. He threatened him and told him that he would physically throw him out of his office. Luckily, my employee was just finishing up the chart (got the whole thing copied) prior to the doctor entering the room and getting in his face and tried pulling the chart out of his hands. We're happy about that, because if the doctor was that upset, he may just have something to hide and we are definitely wanting to help his accuser. We had a subpoena for the records.*

*My employee is one of the most polite, cool-headed guys around and he kept asking the doctor why he was upset and how was he offended, and the doctor (foreign) wouldn't elaborate.*

*The doctor then phoned my office and yelled at the employee that answered the phone. He kept yelling.... "You sent someone to my office to copy records!" Our response: "okay." He then yelled at her and said "Stop saying okay."*

*We are going to file "assault" charges with Monterey P.D. - Is there anything else you need to document this for your stats? We are also filing a report with the Medical Society (this*

*employee's Dad is a doctor and recommended we do this).*

Here was my response:

*Glad your guy is okay and thanks for the heads up. Yes, please do send me the report # and any other pertinent info. (like the report to the AMA) when you can and please keep me posted as to how it progresses. Attached are the PC sections re: assault in case you need a quick reference (but knowing you, you already looked at 'em!).*

Stephanie then e-mailed back:

*Okay ... law enforcement leaves much to be desired. PC 240 defines assault, and the PD is claiming that since the doctor didn't actually throw a punch or throw an item, then the swing and miss theory states it isn't assault. The doctor verbally told the server he was going to throw him out of his office, and he got right in the server's face spitting mad and yelling - chest out sort of thing. The doctor then phoned our office once the server left the building and yelled at my employee over the phone. So ... the PD won't file a report.*

*The AMA is a bit more receptive. We are getting the server's side of the story typed into the AMA's online complaint form and we'll try to print it, scan it and e-mail it to you.*

I asked Stephanie to give me an update for this article:

Regarding the complaint filed with the medical board, she informed me that no response was ever received.

Continued on page 6

## CALSPro COMMITTEES

Hoping to tap into somebody else's expertise? Join a CALSPro Committee. The current chairs of the CALSPro Committees are as follows:

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213/483-4900  
mkern@kernlegal.com

### ARBITRATION & GRIEVANCE

Jack Biggerstaff - Chairman  
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### ASSAULT ADVISOR

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### BYLAWS

Brett Peters - Chairman  
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### CONFERENCE (2010, Palm Springs)

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### NEWSLETTER

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408/295-3300  
wendy@sterlingmadison.com

### TECHNOLOGY

Robert DeFilippis - Chairman  
800/938-8815  
support@onelegal.com



Regarding the follow up with the Monterey Police Department, here is what she wrote:

*When [the server] went to the Monterey PD at the time of the incident, the police department would not allow him to pursue the matter. They told him that because it didn't reach the level of battery, it wasn't worth their time, basically. They told him that the assault charge would go nowhere and wouldn't assist him. The usual type of support that we get from local law enforcement. I don't think I realized at the time that [he] was unsuccessful when he went to the PD or perhaps I could've stepped in and forced them to accept our assault complaint against this doctor. Bottom line: I should've pursued this further and did not. At the same time, I can empathize with their situation: minimal public funds mean that the police are working within a tight budget – even I would vote that the man hours go to investigating hard crimes rather than a doctor that just verbally "lost it." We aren't operating in the same environment that we were five or ten years ago. But, this doctor should have had some local record showing that he's volatile – at least his violent outburst is lodged with the medical board.*

*Subsequent record requests at this doctor's office go like this:*

- We serve the subpoena for records with the required \$15 check
- Their office politely accepts
- Their office copies the records and mails them to us. They never allow us to come to their facility and copy, but they do comply with the subpoena.

*I don't know if their "compliance" and "politeness" are due to something they perhaps received from the medical board directly, or if the doctor was under some tremendous amount of stress and had a meltdown back in '08 or what.*

## INCIDENT #2

Last November (2009), a process server contracting for Knox Services was shot in the leg. Here is the original e-mail I received from Robert Porambo, Knox's Director of Legal Services, on November 12, 2009:

*One of my process servers was shot in the leg on 11-10-09 while attempting service on an individual. He was very lucky that the bullet went clean through his thigh and the doctor said he will make a full recovery. The police have arrested the individual and bail has been set. I have never had this happen before (fortunately) and wanted first to advise CALSPro and second, see if there is anything I need to do on my end. Let me know.*

Here was my reply:

*Glad your server will make a full recovery. Whew! Scary stuff. Anyway, I counsel everyone to be their own advocate, stay in contact with the arresting officer, DA etc. Take a look at PC 241 and 243 too. It also is probably worthwhile for you or your server to contact an attorney for advice and in preparation for a civil action. Please do send me the report so I can place it in our archives and would appreciate you keeping me posted. I have cc'd the CALSPro leadership in this e-mail so they are aware as well. Thanks and please let me know if there is anything else I can assist you (or your server) with.*

I had not heard from Robert in awhile, so in preparation for this article, I asked him for an update. Here is what he wrote:

*Here's the link (article reprinted below instead) to a newspaper article on the incident. I am waiting to see the status of the criminal case. My server is still out of work from complications.*

By SARAH GORDON  
sgordon@nctimes.com  
Posted: November 11, 2009 10:00 am

ESCONDIDO—A 50-year-old process server was shot in the leg while serving papers at a West Escondido home Tuesday night, and a 65-year-old man was arrested, an Escondido police lieutenant said.

Burk Neal Ashford was being held at the Vista jail on suspicion of assault with a deadly weapon and illegally and negligently discharging a firearm, jail records show. His bail was \$75,000.

The process server and his partner went to Ashford's house in the 1400 block of Red

Bark Road to serve papers some time before 10 p.m., Lt. Mike Loarie said. Some kind of altercation ensued, and Ashford took out a .22-caliber revolver and fired two rounds, hitting one of the men in the leg, Loarie said.

The shooting victim and his partner ran to their car, Loarie said. They drove to Del Dios Highway and Date Lane and called 911.

The victim was taken to Palomar Medical Center with a wound to the left thigh, Escondido Fire paramedics said. He was expected to survive. Police had not released his name Wednesday.

Ashford called police just before 10 p.m. to report the shooting, Loarie said.

I want to thank Stephanie and Robert for reporting these incidents and providing the recent updates, and I ask that you all send "good vibes" and prayers to Robert's server to aid in his recovery. The CALSPro leadership thought it important to remind you all to be careful out there and so our hope was that by providing recaps of these incidents, you would pass on some of the insight gleaned to your colleagues, peers and most importantly, any process servers or photocopiers. I also feel it important to add that these incidents are very rare in the overall scheme of our business. Friend and customers often ask me "isn't that a dangerous job?" and I tell them that it really isn't. Most servers never get assaulted and if they do, it's usually very infrequent. It's important to keep in mind, though, that if you are involved in an incident, be sure to keep good records, be your own advocate and pass on what you learned to the rest of us (like Stephanie & Robert did here).

**I'd also like to remind all of you process servers out there that what you do is the most important job in the legal field. Without you, cases do not get to trial and witnesses do not provide records or appear at depositions. You are on the front lines everyday and I THANK YOU!**

Questions or comments, please e-mail me at [mschwartz@onelegal.com](mailto:mschwartz@onelegal.com).





# MEMBERSHIP UPDATE: REACH OUT TO NON-MEMBERS

by Larry Kirlin, *Membership Committee Chair*

In my last report I mentioned that the more members we have, the louder our voice will be heard by the legislature. I suggested that each member pass along this message to non-members whenever possible. Today I want to be more specific about which non-members we want to join.

This year our goal is to increase associates (out of state members), vendors, photocopy companies and, of course, individual members.

Are you doing business with a non-member in any of these categories? Think of the biggest checks you write each month. Are any of them going to a non-member? If so, I'm sure they value your business and may be willing to join our association as a personal favor. I for one am thinking about my copy machine vendor and

some of my independent servers. The annual membership fee for vendors is \$350 and \$200 an individual server. Very reasonable considering the benefits of membership.

Speaking of membership benefits, I recently attended the CCPS course in Fresno and walked away feeling like the information presented in the course will pay dividends far beyond the face value of my membership dues. Furthermore, I now know first hand what you have to learn to become a CCPS. I will definitely have a preference for CCPS when hiring new servers.

In summary, we need your help identifying new members. If you have someone in mind but aren't the type to give a sales pitch, pass the lead on to me or someone else on the leadership team and we will take it from there." 🐦

## 42<sup>nd</sup> Conference - October 8-10



### California Association of Legal Support Professionals

**October 8-10, 2010**

Hilton Palm Springs, Palm Springs, California  
[www.palmsprings.hilton.com](http://www.palmsprings.hilton.com)



**Guest Room Rates: \$139 single/double occupancy**  
**Please call 800-522-6900 for hotel reservations.**

### TENTATIVE SCHEDULE (Subject to Change)

#### Friday, October 8, 2010

|                   |   |
|-------------------|---|
| AM/Afternoon      | 14 <sup>th</sup> Annual Jack C. Janney Memorial Golf Tournament |
| 6:00 pm – 8:00 pm | Registration Open   |
| 7:00 pm – 8:30 pm | Welcome Cocktail Reception                                      |

|                      |  |
|----------------------|--|
| 9:00 am – 5:00 pm    | Annual Business Meeting and Education Sessions |
| 12:00 noon – 1:30 pm | Luncheon                                       |
| 6:30 pm – 7:30 pm    | Reception                                      |
| 7:30 pm – 10:30 pm   | Annual Awards and Installation Banquet         |

#### Saturday, October 9, 2010

|                   |                            |
|-------------------|----------------------------|
| 8:00 am – 5:00 pm | Registration Open          |
| 8:00 am – 5:00 pm | Exhibits Open              |
| 8:00 am – 8:45 am | Board of Directors Meeting |
| 8:00 am – 8:45 am | New Member Orientation     |

#### Sunday, October 10, 2010

|                   |                    |
|-------------------|--------------------|
| 8:00 am – 2:00 pm | Registration Open  |
| 8:00 am – 2:00 pm | Exhibits Open      |
| 8:00 am – 2:00 pm | Education Sessions |

# FRIDAY NIGHT INSIGHT – SUMMARY REPORT

by Cliff Jacobs, *Education Committee Chair*

**T**he first Friday Night Insight of 2010 provided a rare opportunity to interact with the Presiding Judge of Los Angeles County, The honorable Charles W. McCoy. Offering unique and insightful glimpses into the infrastructure of the Los Angeles County Court System, the largest Trial Court System in the United States, and interweaving his perspective of the statewide funding issues; his honor provided a clear view of the realities of what the future holds, and what we can expect.

**March 12, 2010**  
**Hon. Charles W. McCoy, Speaker**  
**Manhattan Beach Marriott**

His Honor was very likeable, non-assuming, grounded and down to earth. He spoke to the group of about 70 as if we were members of his team, and old friends. Several of his regular "hang-outs" inside the court house were revealed to us, and he described how we could find him there and chat. We were also invited to visit with him at any time.

The information provided was a real eye opener for many of us; especially coming from the perspective of the Presiding Judge. *There was one very strong message that His Honor made crystal clear:*

**In order for the legal system to survive into the future, the main focus must be in KEEPING THE COURTROOMS OPEN; and he asked that we support him in that goal.**

Regarding where the money would come from, Presiding Judge McCoy emphasized that he is currently at the opposite end of the spectrum with the Chief Justice of CA, and an overwhelming majority of the PJ's (54 of 58) statewide regarding using money from the construction fund that was generated by the passing of SB 1407; but that he wholeheartedly believes that they

will see the light and realize that it does not make sense to be closing courtrooms and building new court houses at the same time. He likened the issue to that of running the cycle of emotions when dealing with an adverse situation, and that what starts out as stalwart opposition will ultimately end with the realization that the money to keep the court system functioning must at least in part come from the **SB 1407 funds** (which was to raise 300,000.00 per year to service 5 billion in Bonds which would be earmarked to renovate or build 41 Court Houses), *and also from dipping into CCMS funds.* (CCMS has already cost \$500 million, and is expected to top out over \$1.2 billion). His Honor spoke confidently, and was quite convincing to me. He also emphasized that it is **the setting of trial dates** that keeps justice moving swiftly, but with the reduction of staff, there will be a disproportionate shift in the length of cases from about 2 years or less to upwards of at least 4 years, possibly much longer, thereby eliminating any pressing need to mediate, arbitrate or settle a case to avoid the cost, time and labor of having it go to trial. It could be devastating to the Mediation/Arbitration community.

Here are some bullet points from the presentation.

- Of the statewide 420 plus million dollar court funding shortfall, 130 million will be cut from LA Courts.
- The average court staff job is \$60,000/yr., divided by 130 million equals roughly 2000 jobs lost.
- **Q.** What is more important: keeping 180 courtrooms open, or building 5 new court houses?
- LA's antiquated computer system runs on DOS and uses Cobalt Language; but is it more important to replace that system which still works, or keep the courtrooms open?

- Trade Unions are making a case that courthouse construction would generate 105,000 jobs while Employee Unions such as SEIU and AFSCME assert that keeping the court rooms open and staff intact would save/retain 150,000 jobs

## HARD FACTS

- 329 court staff to be given lay-off notices 3-16-10, and will be gone April 1<sup>st</sup>, 2010; and 17 courtrooms will be closed.
- An additional 500 court staff will be gone by September, plus 150 or so more due to attrition by the end of the fiscal year; making the loss close to 1,000 court employees of about 5,400 (nearly 20%).
- There will be 50 courtroom closures by September. They will be mostly civil courtrooms.
- Of the 43 Family Law Courts, 13 will close; and roughly 1/3 of the Juvenile Courts will close.
- Within 2 years, one half of the Civil Courts could close.
- All in all, over 2100 layoffs, 180 courtroom closures, and 9 courthouses could be shuttered by 2013.

The closest thing to a bright side in this budget shortfall crisis is that the PJ has already formulated a Staff Sharing Plan for paired Judges; where one Judge has a full calendar and staff, and the other, an empty court room because the staff was let go. The latter will be borrowing the court reporter and clerk to handle Law in Motion matters, and discovery matters. Also, there will be ample Judges available to do legal research because their courtrooms have no staff. 🐾

# **CCPS Holders**

***We regret that several names were inadvertently left off of the 2010 CCPS Holders List published in the 2010 CALSPro Membership Directory. Here is the complete list:***

**Diane Azevedo ( 🏆 )**  
**Chad G. Barger ( 🏆 )**  
**Dean Bell ( 🏆 )**  
**Roy George Black ( 🏆 )**  
**Bruce Body ( 🏆 )**  
**Wendy Bowman ( 🏆 )**  
**Thomas J. Bowman, Jr. ( 🏆 )**  
**Garret Lee Brown ( 🏆 )**  
**Jason Burke ( 🏆 )**  
**Peter Campbell ( 🏆 )**  
**Alcarlo Castanar ( 🏆 )**  
**Edward A. Dietz ( 🏆 )**  
**Mark Dingman Mark Dingman ( 🏆 )**  
**Andrew R. Estin ( 🏆 )**  
**Gary Hansen ( 🏆 )**

**Tim Henderson ( 🏆 )**  
**Paul G. Hughes ( 🏆 )**  
**Cliff Jacobs ( 🏆 )**  
**Steven Janney ( 🏆 )**  
**Jeremiah Jones ( 🏆 )**  
**Jeffery H. Karotkin ( 🏆 )**  
**Michael Kern ( 🏆 )**  
**Sheri J. Kern ( 🏆 )**  
**Alice H. Kurzon ( 🏆 )**  
**Craig Lawson ( 🏆 )**  
**Charles Lincoln ( 🏆 )**  
**Russell Livingston ( 🏆 )**  
**Keith McMaster ( 🏆 )**  
**David Nill ( 🏆 )**  
**D. Peck ( 🏆 )**

**Hope Peck ( 🏆 )**  
**Cochise Pendleton ( 🏆 )**  
**Mark Rogers ( 🏆 )**  
**Stephanie Sayler ( 🏆 )**  
**Jeffrey L. Schuitema ( 🏆 )**  
**Mark L. Schwartz ( 🏆 )**  
**Gary C. Swanberg, Jr. ( 🏆 )**  
**William Talley ( 🏆 )**  
**Chris Trindade ( 🏆 )**  
**Mark Valenti ( 🏆 )**  
**Steven Vann ( 🏆 )**  
**Sam Virk ( 🏆 )**  
**Kraig William Vorsatz ( 🏆 )**  
**K. Paul Wysong ( 🏆 )**

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# TECHNOLOGY COMMITTEE REPORT

by Robert DeFilippis, 2009-2010 Technology Committee Chair

## ORANGE COUNTY eFILING – WHAT DOES IT MEAN?

Last newsletter, I wrote a piece about what the future of electronic filing in California could look like and its potential impact. Specifically I wrote:

*"At One Legal, we've come to view eFiling as a way to transition our physical filing business to an electronic model, allowing us to do more with less. Recognizing that not all businesses will be able to offer electronic filing, the New Year is a perfect time to begin thinking and planning about this inevitability and figuring out what role court filing has in your future."*

For some CALSPro members, the future got here sooner than planned because on Thursday March 25<sup>th</sup>, the Orange County Court sent a blast email to all its complex eFiling customers that said in part:

**Subject:** Notice of Important Changes to eFiling process for the Superior Court, Orange County - Action Required

*Please be advised that the Superior Court, Orange County, has contracted with an electronic filing service provider (EFSP), One Legal, to provide an eFiling system for the court.*

**Beginning April 26, 2010, to eFile with the court, litigants must submit their documents using the EFSP.** To obtain more information, including registration with One Legal, visit: [www.onelegal.com/OrangeCounty](http://www.onelegal.com/OrangeCounty).

*All papers, including the complaint or other first paper, in complex civil actions must be electronically filed; (Local Rules – Superior Court of California, County of Orange, rule 308). The new eFiling system will also be available for all other unlimited civil cases.*

Given this development, I felt it appropriate to take a few minutes to explain how we got here and then, provide some insight as to what this could mean to you as a CALSPro member. First some history relating to Orange County. On Aug 1<sup>st</sup> 2009, the court issued a Request for Proposal (RFP) entitled, CIVIL E-FILING PROJECT: ELECTRONIC FILING SERVICE PROVIDER. The RFP envisioned that the court would enter into an initial 3 year contract (with 2 one-year extensions) with an EFSP who could help the court build, market

and sell an electronic filing portal for all civil case types. One Legal submitted a proposal and over the course of the next several months, progressed down the path that the court laid out in the RFP. We reached the finalist position and after a series of follow-up meetings and discussions, the court, on Nov 13<sup>th</sup> 2009, sent out *Notice of Intent to Award Contract to One Legal*. Further meetings and discussions ensued resulting in a contract being executed between the parties on Jan 21<sup>st</sup> 2010.

The contract envisioned a number of project phases over time with the first phase scheduled to go live on April 26<sup>th</sup> 2010. The scope of the first phase was for Unlimited Civil filings, including complex. Some of you may be aware that the Orange County Court had mandated eFiling of complex filings several years ago and offered the service at no charge. Further electronic service was never offered by the court. With the EFSP contract in place, the court desired to move quickly towards transitioning its complex eFiling application over to One Legal.

There are several important differences between the court's eFiling system and the One Legal eFiling system that you should be aware of:

1. The One Legal system will be integrated into the California Case Management System (CCMS). The court's complex eFiling application is not – it is a standalone system that required the clerks to do all the manual data entry.
2. CCMS requirements regarding data and data entry are significant. The court's system was basically a web form you filled out. CCMS is a different animal altogether that requires the filing party to enter all the party information, including counsel names, roles and contact information.
3. The One Legal system supports electronic service of subsequent documents. The court's system offers no eService functionality.
4. Because of the CCMS data requirements and eService functionality, One Legal does not see how it is feasible (or

*Continued on page 11*

practical) for anyone, other than the law firm to submit filings into the court. With the court's system, most anyone was able to submit documents for filing.

5. One Legal will charge approximately \$10.00 for an electronic filing transaction and the same for an electronic service transaction. The court didn't charge anything for complex eFilings.
6. One Legal will also support electronic filing and service to all unlimited civil case types, both initial and subsequent filings

for approximately the same cost as complex filings. Use of the system for these filings is optional and not mandated. The court's system does not currently support these filing types.

Hopefully, it is clear to those who offer filing services to the Orange County Court that the court desires to build a direct relationship with law firms through their EFSP, One Legal. I know this probably doesn't sit well with all CALSPro members so I'm just telling it like it is. It is our hope and vision that eFiling via CCMS will be proven to be a viable option so that a court can support multiple service providers in the near future. 🐾

## NOTEWORTHY

Feb 22 2010

### MEMBERS ONLY –

#### NAPPS UPDATES WEB SITE SO JOBS CAN BE POSTED

NAPPS recently launched a member's only section that includes the ability to post a job to a fellow NAPPS member. The feature to post is only available to members (not the public). As I understand things, posted jobs that are within a 50 mile radius of one of your NAPPS listings will be sent to your e-mail for a response. Should you not be interested in getting jobs or e-mails, you need to tell the Administrative office that you want to opt out of the job posting feature. Another step forward for NAPPS. 🐾

a statewide rule if adopted as proposed. The proposal places a mandate on parties to exchange documents via email and places limits on file sizes (4MG) and format (PDF). If the committee passes the rule during the Bar's Annual Convention in June, it would then go to the Bar Board of Governors for its review and be submitted to the Supreme Court before the end of the year.

The rule requires that all service e-mails have a subject line that starts with the words "SERVICE OF COURT DOCUMENT" and then the relevant case number. It also requires a lawyer participating in the case to file a main e-mail address and up to two secondary addresses for service. It was estimated that the number of pieces of paper filed and served in Florida is somewhere north of 100 million papers a year. One thing to note is that the rule doesn't seek to do away with the current 5-day allowance for notice provided by snail mail.

The attorney presented the proposal was quoted as saying: "It's going to become the standard. We're not going to mail things anymore. The day this goes into effect, we're going to e-mail things." 🐾

Feb 18 2010

#### BUDGET COMMITTEE APPROVES CCMS AUDIT

Over AOC protests, a legislative committee approved going forward with a financial audit of CCMS. The audit is scheduled to begin April or so this year and take approximately 6 months to complete. During this time, the AOC doesn't believe there will be an impact to the handful of courts scheduled to come online with the eFiling component of CCMS, however, depending on how the audit comes out, there could be a significant impact to the statewide CCMS rollout schedule. 🐾

Feb 09 2010

#### FLORIDA BAR ADOPTS STATEWIDE RULE PROPOSAL MANDATING EMAIL SERVICE OF DOCUMENTS

Service of documents between attorneys will be accomplished by e-mail instead of regular mail under a rule change accepted in concept by a Florida Bar rules committee. On Jan 21<sup>st</sup> 2010, a Ft. Lauderdale attorney proposed an amendment to the Rules of Judicial Administration Committee which means it will become

Feb 02 2010

#### NEW YORK CITY WANTS TO TRACK PROCESS SERVERS VIA GPS

In a recently proposed piece of legislation, the City of New York is attempting to take steps to deal with the backlash generated by the fraudulent activity uncovered last year. The proposed change to the administrative code of New York states in part:

*§20-408 A process server licensed pursuant to this subchapter shall carry and operate at all times during the commission of his or her licensed activities an electronic device that uses a global positioning system, wi-fi device or other such technology as the Commissioner by rule shall prescribe to electronically establish and record the time, date, and location of service. All records created by such electronic device shall be maintained in an electronic database by the process server, or if such process server is acting exclusively as an employee of a process service agency, by the process service agency, for seven (7) years from the date such record is created.*

Continued on page 12

There is a further requirement that all process serving records be kept in electronic format for a period of seven (7) years. This is clearly a move to regulate and control and audit process servers and part of me isn't surprised by this heavy handed proposal by city government. The fact is though that this is the direction forward leaning process servers are headed anyway so perhaps this is best left to the profession to sort out. I'm sure the issue isn't going to go away that easily so in the meantime you can plan on one thing – that the cost of doing business in the City of New York is not going to get any cheaper. 🐼

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Feb 01 2010

**SPEAKING OF GPS – NEW IPHONE APP  
FOR PROCESS SERVERS**

We don't do much in the way of product reviews here at the Tech Committee but I wanted to give a plug to this company given the timeliness of their offering. 🐼

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Jan 28 2010

**NEW YORK STATE COURT  
CHARTS HUGE GROWTH IN eFILING BUSINESS**

When the New York State Courts Electronic Filing System was introduced in 1999, only one case was e-filed all year. Ten years later, eFiling by New York's legal community has increased exponentially. Since 2002, the number of attorneys registered to e-file their cases has grown from 300 to over 13,000 currently registered. As of the end of 2009, over 200,000 cases and over 500,000 documents have been e-filed with the system. Because of this progress, Chapter 416 of the Laws of 2009 became effective Sept. 1, 2009 allowing electronic filing a permanent place in New York's legal system. The legislation makes three important changes to New York's e-filing program. First, under the new legislation, e-filing is no longer an "experiment," subject to a series of sunsets and requiring renewed legislative authority every two or three years. Second, legislative approval is no longer required to expand the program; rather, the court system is authorized to promulgate rules permitting voluntary participation in e-filing in additional counties and in more classes of cases. Finally, the legislation provides for the establishment of a program of mandatory e-filing in certain jurisdictions in specific types of cases. 🐼

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Jan 19 2010

**HIGHEST DAILY TOTAL FOR eFILING RECORDED – HARRIS  
COUNTY, TX**

On Friday, January 15, 2010, TexasOnline reported its highest eFiling rate so far – 746 filings in one day (which is a lot) for Harris County District Courts (Houston). 🐼

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Jan 26 2010

**REMINDER: CLARK COUNTY (LAS VEGAS), NV  
MANDATES eFILING FEB 01 2010**

This notice was posted on the courts blog site:

**Mandatory E-Filing Begins Feb. 1, 2010**

*Pursuant to Administrative Order 09-12, electronic filing will be mandatory in the Eighth Judicial District Court on February 1, 2010 for all Civil and Domestic case filings. Criminal filings will continue to be accepted over the counter at this time and may also be electronically filed. Our current E-File vendor is Wiznet. Their Web site address is [www.wiznet.com](http://www.wiznet.com); their customer service telephone number is (800) 297-5377.*

*The court will provide a limited number of workstations for filing in the Courthouse for use by pro se litigants. If you have any questions about the Court's requirements or processes, you can contact the Eighth Judicial District Court's Wiznet desk at 702-671-0514 (Civil/Criminal) and (702) 455-5941 or (702) 455-2357 (Family). 🐼*

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Jan 14 2010

**SF COURTS EXPLORES EXPANDED MANDATED eFILING**

The San Francisco Bar Association recently held an event with the several San Francisco Superior Court judges to present a proposal regarding the expansion of their current eFiling program. In essence, the court believes it is in everyone's best interest to move beyond asbestos cases and include complex cases as well as general civil cases. In concept this sounds reasonable but the court takes it two steps further; first by indicating they desire to mandate the use of the system and then stating they are fine with keeping it a closed system basically providing a monopoly to Lexis. There is a further rub that under current rules, the court has no authority to mandate eFiling beyond complex cases but the judges didn't seem to be too concerned about that. One Legal attended the hearing along with Case Home Page and attempted to argue the benefits of creating a competitive marketplace; unfortunately the audience didn't appear too interested in seriously entertaining such a thing. Most telling perhaps is that Lexis was not represented in the meeting which tells this author that it's pretty much a done deal. I'd like to hear from anyone whose business could be impacted as to what they think about this development. 🐼

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Jan 08 2010

**NEW eFILING PLAYER ENTERS MARKET**

A new company called Green Filing ([www.greenfiling.com](http://www.greenfiling.com)) has entered the electronic filing service provider (EFSP) market in the Utah courts. As previously reported here, Utah has implemented an open standard across all its courts that have pretty decent functionality. The court was 'courting' EFSP's last year in hopes someone would step forward and do the necessary integration. It seems one taker is Green Filing LLC, a newly created entity cofounded by an ex-Doxpop executive and an ex Maricopa County eFiling project manager. Pricing is via a monthly subscription (\$39.95/month) and includes unlimited filing and service. It's not clear if that is per firm or per user; hopefully it is per user. Best of luck to Eric and George, they are both very nice guys. 🐼

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