



CALSPRO PRESS

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

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LEGISLATION

■ Halftime

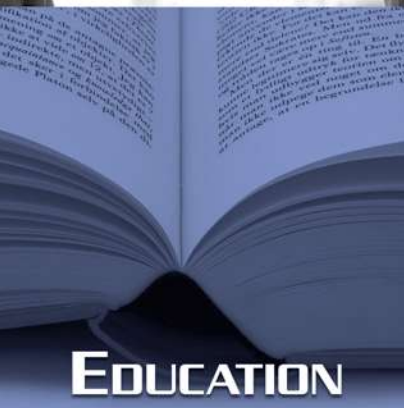
All told, the Legislature passed approximately 900 bills.



MEMBERSHIP

■ Member Benefit

Have you ever thought of our dispute resolution committee as a member benefit?



EDUCATION

■ A Glimpse into Due Process

"Due Process" originated from the Magna Carta.



CONFERENCE

■ 45th Annual Conference

Weighing options on eService.



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THANK YOU

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PRESIDENT'S MESSAGE

MICHAEL KERN

2013 CALSPRO PRESIDENT

This year has been very rewarding to be your President. The Board and I have been very busy this past year facing challenges old and new while exploring different avenues to bring even more value to the membership. Our website has been improved; our Continuing Education program has been taken to a new level, bringing our CCPS ranks to unprecedented heights; we have addressed bills that would have negatively impacted our livelihood; we have engaged in the conversation of eService regarding the future of our Profession, which was the highlight of this year's Conference.

The Website Committee blazed the trail for the recent launch of CALSPRO's new job quote feature on the association website. The Board of Directors approved the data migration and development of this additional feature last December. This benefit was developed in an effort to drive more business to our members and increase the value of membership in our association. The added benefit includes a Search Engine Optimization (SEO) component in an effort to provide additional website marketing benefit to our members.

The Continuing Education Committee upped the stakes this year, based on a strong commitment made last year to substantially increase the number of CCPS designees each year over the next few

years. The committee continued offering CCPS workshops and testing throughout the state, drawing on the vast knowledge and experience of the workshop presenters. I truly feel our program ranks among the very best process server training programs in the nation, so if you have not seen the program in the past year or two, take a look and see what it has become. Although California does not yet require testing or certification, as some other states do, it is never too soon to engage in the process.

Legislatively, CALSPRO has carried the torch since we first became an association 45 years ago keeping a watchful eye on any potential adverse legislation, opposing it or helping to better frame it as needed; and also promoting legislation favorable to our profession. This year, a major focus was on opposing SB588, a photocopy related Bill that would have eradicated a code put in place in 1986. Legislative Committee Chairman Steve Janney, worked very closely with our Legislative Advocate, Mike Belote, myself and a team assembled for their Photocopy Profession expertise consisting of Dan Jakles, Robert Porambo, Larry Kirlin and Fred Welch, team leader, travelled to Sacramento in September to meet with lobbyists regarding this bill, which resulted in a draft of a new bill, which will be sent to us for review to determine if there are any further changes we would like to see before it is presented to the legislature. Had CALSPRO

not intervened to stop this bill, it would have been catastrophic to many of our members.

Several years ago we made the decision to be a more inclusive association that would appeal to a variety of groups within the Legal Support arena. We turned to our membership committee to look at creating different campaigns to get the word out and attract a wider base of members. This year, the committee, chaired by Larry Kirlin, once again offered a renewal discount to upgraded memberships, and additional Individual memberships added to a Company Membership. They also utilized email and Constant Contact blasts resulting in a renewal process that went smoother than ever.

Conference this year focused on eService, and how technology is reshaping our profession. We had a dynamic group of experts to educate and engage us in this conversation. The speakers provided us with insight on a variety of issues regarding eService by answering questions and concerns as well as, how it will impact our profession. Committees came out of conference with an action plan going forward this next year. CALSPRO plans to continue to be at the forefront of the eService conversation. As your President,

Continued on page 12



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CAPITOL REPORT

MICHAEL D. BELOTE, ESQ.

CALIFORNIA ADVOCATES, INC.



HALFTIME

Without going too far into legislative minutiae, we are now at the mid-point of the 2013-2014 legislative session in California. The legislature works in two-year sessions; bills may be introduced and passed in either year, and in some cases bills carry over from the first year to the second. These are known as “two-year bills”, and as discussed below, one of the two-year bills is of interest to CALSPro.

All told, the legislature passed approximately 900 bills before beginning the fall recess on September 13. Governor Brown had 30 days to sign or veto the bills sent to him, which he finished just prior to the October 13 deadline. He vetoed approximately 100, meaning that around 800 new laws were entered into the California codes. About one-third of all bills introduced were passed.

CALSPro was interested in a little over two dozen of the 2013 bills. All of the bills followed by the association are available for viewing on the website. In terms of bills signed by Governor Brown, members might note the following:

- **AB 567 (Wagner): Enforcement of Judgments.** Makes very minor changes in the process for changing the amounts of exemptions from the Enforcement of Judgments Law. Chapter 15, Statutes of 2013.

- **AB 658 (Calderon, Ian): Personal Information.** Applies provisions of the existing Confidentiality of Medical Information Act to providers of hardware and software to consumers for tracking medical information. Chapter 296, Statutes of 2013.

- **AB 849 (Garcia): Address Confidentiality.** Makes minor changes in the process for victims of domestic violence, sexual assault, or stalking to sign up for the Secretary of State's program for address confidentiality. Chapter 676, Statutes of 2013.

- **AB 1167 (Dickinson): Electronic Records.** Clarifies the law with respect to handling of writs by levying officers if the writ of execution is issued by the court as an electronic record. Chapter 156, Statutes of 2013.

- **SB 138 (Hernandez): Medical Information.** States the intent of the legislature to incorporate federal HIPAA standards into state law, and redefines various terms relating to medical records. Chapter 444, Statutes of 2013.

- **SB 378 (Block): Records of Conviction.** Makes an electronically digitized version of an official record of conviction admissible under hearsay exceptions. Chapter 150, Statutes of 2013.

- **SB 551 (Gaines): Renewal of Judgments.** Requires judgment creditors to remove the names of judgment debtors from renewals of judgments if the judgment was discharged in bankruptcy or satisfied. Chapter 176, Statutes of 2013.

- **SB 612 (Leno): Residential Tenancies.** Adds human trafficking to existing laws which permit a tenant to terminate a tenancy if the tenant is a victim of domestic violence, sexual assault, or stalking. Chapter 130, Statutes of 2013.

As noted above, in some cases bills introduced this year will carry over into next year for possible consideration by the legislature. SB 391 (DeSaulnier) is one such example of a “two-year bill.” Previously reported to the CALSPro membership, this bill proposes to establish a \$75 surcharge for recording real estate-related documents, in order to fund the development of affordable housing. In general, housing advocates support the bill, while various real estate groups are opposed. The bill has passed the Senate, and will be alive in the Assembly for possible enactment in 2014.

Then, for your reading pleasure, another 2000-2500 new bills will be introduced after the legislature returns to Sacramento in January. Of various issues of interest to CALSPro, we expect privacy to be a major focus of the legislature next year. 🐾



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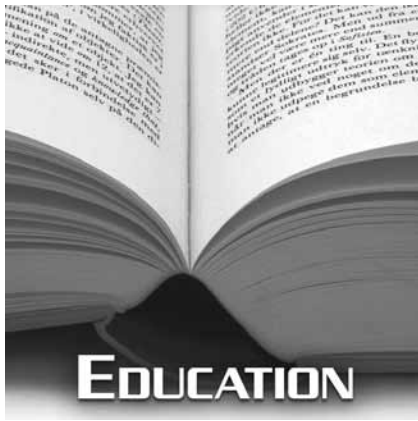
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CONTINUING EDUCATION REPORT

by Clifford Jacobs

Education Committee Chairman

A GLIMPSE INTO DUE PROCESS

Many of us have heard that the concept of due process originated from the Magna Carta or "Great Charter" issued on June 15th, 1215 in England. However, most of us have never actually read the text that outlined the basis for our current interpretation of due process. The history is quite interesting but would take volumes to properly present, so instead I will limit this article to a few facts and then simply present the relevant clause that is credited for establishing the basic concept of due process, and its corresponding sections of our constitution. You can delve much deeper into the history if you are so intrigued.

The Magna Carta was the first document ever that was forced upon a King of England by a group of his subjects (powerful Barons) in an attempt to protect their privileges while limiting the King's powers. King John (a.k.a. John Lackland, December 1166 – October 1216) did in fact put his seal on the document (known as the "Articles of the Barons") which was presented by these Barons on June 15, 1215, and in exchange, the Barons renewed their oaths of fealty (their pledge of allegiance to the King). On July 15, 1215 the royal Chancery created a formal document to record the agreement. This was the original Magna Carta, which became the law of the land. It stood in opposition to some of the King's power, which until that time was the unchallenged mere will of the King. One of the clauses which reduced the power of the King was the security clause which allowed a group

of 25 Barons to override the King at any time by use of force in a process known as "distrain". Perhaps this was the first of many checks and balances that are a common occurrence in governments today. A detailed reading of the Magna Carta will unveil many concepts that have become doctrine in most democratic nations.

In the Magna Carta King John promised that: "No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land." It is easy to see how due process was established here.

A due process clause is contained in both the Fifth and Fourteenth Amendments to the U. S. Constitution. Dealing with the administration of justice, the clauses safeguard us from unlawful denial of life, liberty or property; very similar to the protections called for by the Barons during King John's reign. For comparison sake I have included them here.

The Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be

subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, *nor be deprived of life, liberty, or property, without due process of law*; nor shall private property be taken for public use, without just compensation.

The Fourteenth Amendment (Section 1 of 5):

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; *nor shall any State deprive any person of life, liberty, or property, without due process of law*; nor deny to any person within its jurisdiction the equal protection of the laws.

Our Supreme Court's interpretation provides four types of due process protections; procedural, substantive, prohibiting vague laws, and as a means for the incorporation of the Bill of Rights. I encourage each of you to explore due process further to garner an even deeper appreciation and understanding of this noble livelihood in which we partake. 📖

Remaining Relevant in the Digital Age

– Part Two

by Mark Schwartz
Chairman, eService Committee



Our theme for the 45th Annual Conference was “eService – What’s Now? What’s Next?” A catchy theme name indeed... Catchy, perhaps, yet hidden behind that clever moniker lurks something sinister, at least one could certainly make that argument. One could also make the argument that there’s something provocative there, too. After all, this is California. We do ground breaking here as a matter of course. Disruption is our middle name. So, which is it, sinister or provocative?

It was at this Conference that we tried to answer those questions. As you know, we’ve focused heavily this year on eService. How it is affecting us now. How it could affect us in the future. Where do we fit in the process (sorry, it’s just a natural pun)? **What can we do to remain relevant as technology hurls (flings, throws and chucks are other verbs that come to mind) us towards the precipice of electronic service of process?** Many of us have spent countless hours on the phone, in meetings, in front of our computers and more, and what we’ve found is that today, there are really more questions than

answers. That hasn’t stopped us however, from at least trying to better understand what those questions might be or, as they sometimes ask in the development world: What are the known unknowns? What are the unknown unknowns?

So, at our Conference in Tahoe, we set out, as an Association, to continue the discussion, answer some of those questions and devise a plan of attack. Saturday, October 5th, was the kick off. As chairman of the eService Committee I was the host and moderator, so I started things off. Here is some of what I said:

...We are at a crossroads and it’s up to all of us to figure out which way to turn. That’s why we are here. That’s why the Conference Committee took the courageous step to devote so much time to this topic over the weekend. So WE can have the discussion. So WE can begin to formulate a plan. Today we’re going to hear from Jeff Karotkin, who has been telling us for many, many, years, that this day was coming. We’ll also hear from Ray Maranda, President of the Quebec Bailiff’s Association. Jeff’s going to give a bit of background about eFiling and eService,

including the players, the courts and more. Perhaps he’ll even scare you a bit. Ray’s going to enlighten us about both his and his Association’s experiences. What’s happening today in Quebec and how they got there. He’ll give us a bit of advice too. Lastly, he’ll provide a glimpse into the Quebec’s Bailiff’s Assoc. application. Then, after lunch, I’ll talk briefly about existing code sections and rules. Some are eService related, and some aren’t, but perhaps could be. Then, the real fun starts! The part I’m most excited about: A bit of back and forth with our panel, and you, during the town hall portion of this event. I’m guessing we may leave the room today with perhaps more questions than answers but that’s okay, because we’re here to “begin to formulate a plan” [from the December 2012 motion]. Tomorrow, we meet again, after things have sunk in a bit. Hopefully after you’ve had a chance to yak with others over cocktails or craps. It will be a casual meeting and everyone is welcome. My ultimate goal this weekend is to be able to come away from this Conference with some direction. That

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direction, I hope, will either be, or become, marching orders for Steve [Janney] and the Legislative Committee.

Well, that sums up what we were about that weekend. Jeff did scare us a bit (perhaps a lot). Ray gave us some information about what his Association did; it was groundbreaking and very courageous I think. I put together what I hoped was a provocative fifteen or so minutes of areas we could perhaps “attack.” The panel (which consisted of Andy Estin, Steve Janney, Jeff Karotkin, Michael Kern, Tony Klein Ray Maranda and David Nill) and the audience had some great back and forth. **And, the next morning, we brought it home.** The new board and officers, along with the members in attendance, all joined together for what I called a whiteboard session. We brainstormed, we argued, we asked tough questions, and it all began to gel. We decided to tackle three things first:

1. Our Best Practices and Core Values. What are they now? What has to be revised? Without some guiding principles, we decided, we couldn’t really move forward.
2. What technology options are there in terms of some sort of eService portal (like the Quebec Bailiff’s Association has)? Do we want or need one? If so, should we build our own? Should we leverage an existing platform?
3. We have to lead this effort or someone else will. How do we become the recognized central authority (think mandatory certification/licensing of all CA servers, for example) in CA?

From these three initiatives, if you will, three sub-committees were formed, all under the umbrella of the eService committee. Jeff Karotkin agreed to chair the Best Practices/Core Values sub-committee. The additional members of that committee

are Tom Bowman, Tony Klein, David Nill and Stephanie Sayler. Ken Hastings agreed to chair the eService Portal sub-committee. Joining him are Davis Best, Jenny Blevins, Wendy Bowman, Hope Peck and myself. Steve Janney, as Legislative Chair, will head up the Certification/Licensing sub-committee. The other members of that sub-committee are Tom Alkema, Chad Barger, Wendy Bowman, Cliff Jacobs, Larry Kirlin, Tony Klein, Hope Peck and Maya Solis.

We also agreed that these sub-committees would have to get active very quickly, and report back to the Board on their progress, very soon. We wanted to keep things moving forward, and more importantly, we realized that time was our enemy. So, we set up a two-hour conference call, to be held Friday, November 8th. I’m writing this article the weekend after that meeting and I’m happy to report that everyone continues to do their part, as evidenced by the reports and discussion that took place. We still have a lot of work to do but as Wendy and I agreed when we spoke just after the meeting, it’s wonderful that we are having this dialogue!

What’s next, you ask? Well, at the December 7th Board meeting in Santa Clara we’re going to make some decisions as the sub-committees have been tasked with coming to that meeting with recommendations on which the Board can vote. And, that’s where you come in, my fellow member. Do you have something to say about all of this? Do you want to participate? Do you want to hear what’s going on? If you answered “yes” to any of these questions then you need to be at that meeting. We hope to see you there because we’re at a crossroads and together we can figure out which way we should turn! The board meeting will be held at the Santa Clara Marriott beginning at 10:00 am. Please RSVP to Jenny Blevins at jennifer@caladmanagement.com.



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45th CALSPro Conference at South Lake Tahoe

by Stephanie Sayler, 2013 Conference Chairperson

Thank you to all who attended, presented, sponsored, and exhibited. The exceptional dedication of our Committees and Board of Directors once again contributed to an educational program for our members. I hope that all who attended and participated feel that they now have a more informed outlook on trends that affect our industry.

Since Conference focused on the introduction of eService, a new trend in our industry, many committees were formulated to investigate the influences of this trend and to possibly outline a plan for CALSPro. The committees were

formed with the purpose of creating options for the Board of Directors and for the members of CALSPro to consider. Weighing these options, establishing the cost/benefit associated with them, and to try to systematically devise a plan of action/reaction is a huge undertaking. Attending the 2013 CALSPro Conference was very successful in achieving its goal of keeping members informed and organizing committees to research issues and help our businesses stay prepared.

So, instead of encouraging you to attend our annual conference, I am now encouraging you to attend a very

important CALSPro Board Meeting that will be held on December 7, 2013, at 10:00 a.m. at the Santa Clara Marriott Hotel. Voicing your opinions will assist the Board in formulating an approach to eService for our association.

Enough said about business..... Please peruse some of the photos on the website from the 2013 CALSPro Conference in Lake Tahoe. Thankfully, CALSPro members not only know how to succeed in business, we also know how to have fun! 🍷



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Photos From the Conference – October 4 – 6 in Lake Tahoe



Chad Barger recognizing Mike Kern as 2012-2013 President



Congratulations to Brett Peters who was the Recipient of the 2013 Bert Rosenthal Memorial Award. Trophy presented by Steve Janney



Congratulations to Mark Schwartz, Recipient of a President's Appreciation Award



Congratulations to Cliff Jacobs, Recipient of a President's Appreciation Award



Congratulations to Wendy Bowman named 2013 Member of the Year



2012 Bert Rosenthal Memorial Award recipient Mike Belote, accepting trophy from Steve Janney



MEMBERSHIP UPDATE

by Larry Kirlin

Membership Committee Chairman

Member Benefit: Dispute Resolution

Have you ever thought of our dispute resolution committee as a member benefit? It is not something I normally associate with our other benefits, but it certainly qualifies. Over the years I have been involved with the dispute committee. I've been able to see firsthand how well it can work to resolve issues between members.

To learn more about how our members utilize this benefit, I interviewed the current chairman of the dispute resolution committee, Jeremiah Jones. He told me that his committee handles about

a dozen cases per year. Approximately 95% of the disputes involve non-payment. The other 5% involve issues with ethics, communication or quality of service.

During our interview Jeremiah explained that many members use the "Notice of Pending Complaint" form to quickly resolve disputes before they are brought before his committee. The form is used as a 10-day notice of intent to file a formal complaint. Jeremiah doesn't have an accurate count of how often this form is used because many times the dispute is resolved at this level.

For more information about our dispute resolution program visit <http://calspro.org/dispute-resolution-forms/>.

Keep in mind that our dispute resolution program is exclusively used for disputes between members. Non-members do not have access to the committee, nor can they be subject to it. This is another great reason for members to do business with other members. Nothing like a little peer pressure to keep the wheels turning smoothly. 🚗

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CALSPRO Advertising Committee Report

by Robert Porambo

Advertising Committee Chairman

Strike while the iron's hot. With our newly completed job posting feature, there's never been a better time to increase your exposure with an enhanced member listing and/or a banner listing. Simply go to the CALSPRO website and click under membership (<http://calspro.org/advertise/>) for the easy to complete application to get started.

We also have a brand new supporting vendor, 1800flowers. CALSPRO members now get a 15% discount on any orders placed through www.1800flowers.com or 888.755.7474. The code word is CALSPRO. In addition to flowers, you can order candy, gift baskets, wines and other goodies. With

the holidays right around the corner this is a great way to order gifts at our discounted rate. If you're interested in setting up an account contact Christine A. Brooks at 516.237.4986 or cbrooks@1800flowers.com.

I am committed to bringing additional added values to your membership in the upcoming year so stay tuned for future savings!! Thank you and happy holidays to you and yours.

Robert Porambo

rporambo@knoxservices.com

CALSPRO Board of Directors

Meeting and Legislative Committee Meeting

Saturday, December 7, 2013
10:00 a.m.

Santa Clara Marriott
2700 Mission College
Boulevard, Santa Clara
California 95054

Please make sure your calendars are marked for the following 2014 CALSPRO meetings:

March 29, 2014 – Board of Directors Meeting and Legislative Committee Meeting – Southern California

June 21, 2014 – Board of Directors Meeting and Rosenthal Committee Meeting – Sacramento

October 17, 2014 – Board of Directors Meeting with Conference Southern California

October 17-19, 2014 – 46th CALSPRO Conference – Southern California

December 6, 2014 – Board of Directors Meeting and Legislative Committee Meeting – San Jose

PRESIDENT'S MESSAGE *continued from page 1*

it will be one of my goals this year to keep you, the member, better informed of changes effecting our profession. In addition, the Conference Committee, chaired by Stephanie Sayler, has once again combined their efforts to put together another amazing conference that included golf, a Friday night Bowl A Rama, a silent auction, cocktail hour, awards banquet and great speakers to lead our educational events. It was a great learning experience and also great fun. I would also like to congratulate the new board of directors and committee chairs for making the commitment and taking the time to serve this great association.

In closing, 2014 is coming upon us quickly. It is time to renew your membership. It is a time to remember the importance of your membership and the value it provides to all of us, a very wise investment in legislative advocacy and education for the protection of our legal profession and for our continued success. I look forward to working as your President this next year. I believe CALSPRO will continue to move in the right direction and plan on another great year. I wish you all happy holidays and a healthy & prosperous 2014. 🐉

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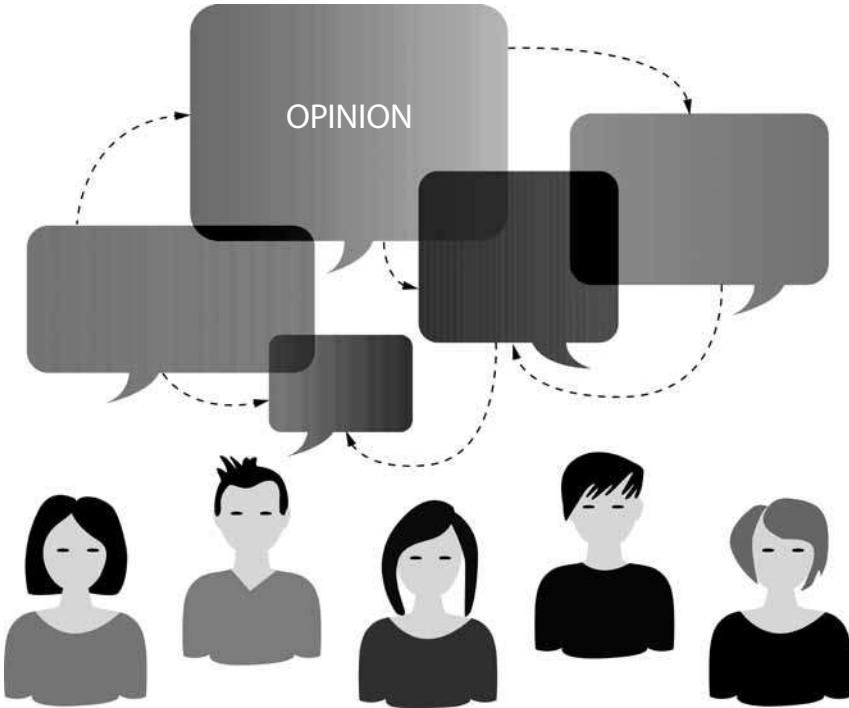
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Process Serving in the Digital Age

by Stephanie Saylor

GOAL

I believe that CALSPro should be prepared to support legislation for eService promoting its use as a Service by Other Means (after personal /substituted service has failed) for primary service of process. This perhaps would harness the way in which eService can be used in our industry. This is an inexpensive endeavor that suits our industry well and does not make enemies of other interested groups (exception: publication/newspapers). We can embrace technology and profit from its use. We, the registered process server, attempt the paper on the ground, prepare the proper documentation of our diligent effort to the court, prepare the court order for service by other means (after due diligence), and perform the eService in compliance with the court order. eService only comes into play for primary service of process if all other efforts for personal/substituted service fail, and if the email address can be validated.

TARGET MARKET

Why go after a market of companies welcoming service of primary process by eService? In my opinion, due to the "open market" nature of service of process in California, we (private process servers) cannot corner this market by promoting eService legislation on a voluntary basis. Anything we pass can be adopted and utilized by law firms, non-party individuals over the age of 18, sheriffs, etc. We are not more powerful than those other groups

and eliminating a right they currently exercise would be difficult. Should we enact legislation (eService/Disinterested Third Party) for voluntary and consensual primary service of process that does not remove the rights of the sheriff, private investigator, attorney and individual?

ELEVATING OUR PROFESSION

We need to proceed with caution. Each time we create a hurdle for becoming a professional registered process server (whether it be through testing, bonding, etc), we are also creating hardship. The financial hardship and increased difficulty in staying licensed need to have a payoff to be acceptable. I feel that these costs are a burden that we are all comfortable carrying, as long as they make sense, benefit many, and provide a positive outcome for our businesses.

CONCERN

My concern is that we are "partially successful" in our efforts. If this partial success is the ultimate outcome, we've destroyed our industry as we know it, without creating a new one.

- Perhaps we push through legislation on eService for primary service of process (without diligence) that we like, but lose the ability to restrict the players.
- Perhaps we force our professional, registered process servers to take an exam, get a more expensive bond,

require continued education, etc., with no benefits tied to this elevated professionalism.

Note: I borrowed the following list from a fellow CALSPro member. Under current law, the following persons may serve a lawsuit in California:

1. Anyone 18 and older who is not a party to the action.
2. Any sheriff, marshal, or government employee who is acting within the course and scope of his or her employment.
3. An attorney or his or her employees, when serving process related to cases for which the attorney is providing legal services.
4. Any person who is specially appointed by a court to serve its process.
5. A licensed private investigator or his or her employees.
6. A registered process server.

NON-CALSPro ENTITIES

If other entities decide to promote eService for primary service of process, then they will also have to take on the challenge of introducing legislation. It is my hope that CALSPro is the entity to respond to this legislation or that promotes eService as a service by other means option when personal service fails (under CCP 413.30; FRCivP 4(n)).



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