



THE DOCKET

News of the National Conference of Appellate Court Clerks

Top Ten Reasons to Attend the 2008 Annual Conference

By Irene Bizzoso (PA)

Attending our Annual Conference for the interesting educational and social programs are good incentives all by themselves but just in case you need more, here are the top ten reasons to attend this year's conference in Pittsburgh, PA:

FELLOWSHIP: It's been a year since you've seen your friends and colleagues. What better way to catch up than spending the week in a city that has been said to have the "most beautiful, panoramic vista in the country," and attending a fabulous educational program put together by Rory Perry and his very capable Committee members? Besides, don't you want to see what Les & Deena show up wearing at the hospitality suite?



HISTORIC PITTSBURGH RENAISSANCE HOTEL: 2008 Annual Meeting Sunday, August 3rd through Friday August 8th. Accommodations are being offered at the historic Pittsburgh Renaissance Hotel in the heart of the cultural district at a rate of \$109.00. The NCACC meeting web page will be updated soon.



PITTSBURGH INTERNATIONAL AIRPORT: Voted "Best Airport" in the US by J.D. Power and Associates and *Conde Nast Travelor* for world-class shopping, customer service, and comfort.

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Awards Committee Suggestions Form
Nomination Form for officers and Executive Committee

THE DOCKET

News of the National Conference of Appellate Court Clerks

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Please submit items of professional or personal news to your regional reporter. Articles, letters and other submissions may be sent or faxed to the editorial office.

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HELP KEEP US INFORMED!!

To Remit NCACC Membership Dues:
National Center of State Courts
300 Newport Avenue
Williamsburg, VA 23185



From The President

Steve Lancaster (IN)



It has been a very busy and very successful three months for the NCACC. In looking back, I am once again overwhelmed by and thankful for the dedication of our members and the amount of time they devote to the NCACC. What a great group of people!!

I will not attempt to cover all the issues resolved and being addressed by your officers and executive committee, but I do want to give you a short summary of what has been decided, what is being worked, and the events I have attended.

Susan Clary, Marilyn May, and I met in Williamsburg, Virginia, on October 11 and 12 with representatives from the National Center for State Courts to develop an annual budget for the NCACC. We spent most of one day becoming familiar with how the NCSC takes care of our accounting, brainstorming our conference's sources of income and expense, and deciding how to organize our budget. The second day was the fun day!!, matching income and expenses to arrive at a balanced budget. We then presented our draft budget to the executive committee in November and after a few changes it was approved for 2008. I have attached a copy of the budget to this article for your information and review. I consider the budget a work in progress and encourage you to contact me or other members of the executive committee with your questions and concerns. After a quick glance you may wonder how a supposed balanced budget has income that exceeds expenses by \$35,950. This represents the budgeted income for the education fund of \$39,600 minus the budgeted expenses for the education fund of \$3,650. This tracks with the overall policy of limiting expenditures from the education fund to the cost of the Opperman speaker and the expenses associated with raising education fund monies (For example the cost of having pins made to later sell at a profit for the fund.).

The executive committee met in Sacramento, California, on November 3. Deena Fawcett made the arrangements for the meeting and I cannot thank her enough for a great weekend. In addition to the food and the camaraderie, the wine was terrific!! Mark your calendar now for the 2009 Conference in Sacramento, it is a great location with lots to do for the entire family.

It was a long executive committee meeting, but much was accomplished. A big thanks to all the committees for their written or oral reports and for all the work they perform. I want to mention two major topics that were discussed. A lot of time was devoted to discussing who should have access to the list serve and the definition of a retired member. I have asked Mike Ritchie and the Strategic Planning Committee and Holly Sparrow and the Membership Committee to work together in reviewing the current categories of membership and their definitions and then recommend to the executive committee if changes need to be made and what they should be. After the Executive Committee meeting in New Orleans, Chris Crowe drafted and Colette Bruggman reviewed and proofed a Request for Proposal to conduct an education fund raising campaign for the NCACC. The draft was circulated prior to our meeting in Sacramento and further discussed at the meeting. Based on our discussion, some changes were made and on December 28 Colette had it posted on the Association of Fundraising Professionals website (afpnet) and the Giving Institute website. She has already received several inquiries about it. Our plan is to interview those who submit proposals on April 11 in Indianapolis, the day before the Spring Executive Committee meeting. Yes, it is an exciting time!

On Thursday, November 15th I was fortunate to represent the NCACC at the 12th Annual William H. Rehnquist Award for Judicial Excellence reception and dinner held at the Supreme Court of the United States. This award was created by the National Center for State Courts (NCSC) in 1996 and is presented annually to a state court judge who, in the opinion of the selection committee, possesses the qualities of judicial excellence exemplified by Chief Justice Rehnquist. This year's award winner was the Honorable Christine M. Durham, Chief Justice of the Supreme Court of Utah. The dinner was excellent and was an opportunity to share with others what the NCACC is all about. The current presidents of the National Association for Court Management (NACM), the National Council of Juvenile and Family Court Judges, and

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the American Judges Association and Linda Caviness from the NCSC sat at the dinner with Pauline and me.

From November 29 thru December 1, I represented the NCACC at the 2007 Conference of State Court Administrators (COSCA) Midyear Meeting in Sanibel, Florida. I attended their general business meeting and their education program. I found it interesting that their general meeting followed the same format as ours and that a large part of their education program involved the access to public records and creative methods for funding the judicial branch, both topics we have been discussing.

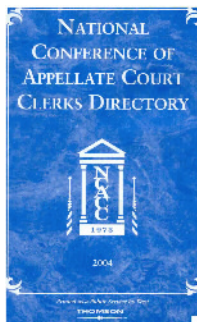
What a busy and rewarding three months! I look forward with great anticipation to the next four months.

It is time to make your arrangements to attend the annual conference in August in Pittsburgh. Irene Bizzoso is our host and Rory Perry the Education Program Chair. I know they have a great week planned for us.

Request for Directory Updates

Dear Members,

It is that time a year again. Time to review the National Conference of Appellate Court Clerks Directory and make any necessary changes or corrections. The deadline is March 20, 2008. You can send me any changes by emailing them to kmcneely@la3circuit.org or mailing them to Kelly McNeely, P.O. Box 16577, Lake Charles, LA. 70616. You can also update your photograph the same way. Hoping everyone a Happy New Year.



NCACC BUDGET

Approved November 2007

INCOME

Operating

dues	\$18,000
donations	500
interest	<u>3,600</u>
<i>Total</i>	\$22,100

Education Fund

donations	\$35,000
interest	2,400
sales	
raffle/auction	2,000
pins/sales	<u>200</u>
<i>Total</i>	\$39,600

Annual Meeting

in-kind donations	\$250
registration fees	28,000
social/other	
golf	1,500
tennis	0
banquet guests	2,000
vendors	4,000
sponsors	50,000
sales (t-shirts)	900
miscellaneous	<u>0</u>
<i>Total</i>	\$86,650

Total budgeted income:
\$148,350

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Join The National Conference of Appellate Court Clerks

By Holly Sparrow (GA)



The Membership Committee would like to extend a special invitation to all chief deputy clerks of the appellate courts to join our organization. Also, please let our committee know of new employees who are qualified for NCACC membership, those members who are retiring, or any other changes in membership status.

Please contact Holly Sparrow, Membership Committee Chair, at sparrowh@gaappeals.us to report persons interested in joining the organization and any changes concerning the status of current members.

Welcome, New Members!

By Holly Sparrow (GA)

Pat Bartholomew, Clerk, Utah Supreme Court

Sandra Grosko, Case Management Counsel, Supreme Court of Ohio

Kristina Frost, Clerk, Supreme Court of Ohio

Maria Elena Perez Ortis, Clerk, Court of Appeals of the Commonwealth of Puerto Rico

NOMINATIONS FOR OFFICERS

By Terry Lord (MO)

Elsewhere in this issue, you will find the nomination form for officers and Executive Committee members for 2008-2009. The form contains a plea for participation. I repeat that plea here.

The NCACC is very much a member-driven organization. The nomination of officers and Executive Committee members needs to be member-driven as well. Please take a little bit of time to think about who you would like to see help lead the NCACC in the next year. If you feel you are ready to serve, don't hesitate to nominate yourself or to ask someone to nominate you.

If you have any questions about what service as an officer or an executive committee member entails, feel free to contact me or one of the committee members listed below. I will send out a reminder on the listserve in early February.

The members of the Nominating Committee are:

Terry Lord (MO), Chair
Joseph Lane (CA)
Penny Miller (ND)
Keith Richardson (IA)
Mike Yerly (CA)

Kenneth de Blanc (LA)
Trish Harrington (VA)
Amy Reitz (OH)
Heather Smith (IN)
Christine Crow (LA), Executive Committee Liaison

Implementing Audio Digital Recording in the Tennessee Appellate Courts

by Mike Catalano (TN)

In his play “Twelfth Night,” William Shakespeare states “Be not afraid of greatness: some men are born great, some achieve greatness and some have greatness thrust upon them.” To borrow that quote in the technology context, “be not afraid of technology: some are born with technology, some plan for technology, and some have technology thrust upon them.” I recently experienced the latter when the 1960s cassette recording system in our courtroom broke down. After a call to the local business (we’ll call Acme, Inc.) with which we had a service contract, it became apparent that “Houston, we’ve got a problem.” The court marshal who has been operating the old cassette system since I was in high school called me into the courtroom to discuss the problem with the tech person from Acme. What seems to be the problem I said. Well, I was told, “one of the belts has broken, and they don’t make them anymore.” Does this sound familiar or what!

It was at that point that the tech person suddenly turned into a sales rep for the same company. I can’t blame them. If horse and buggies are on the way out, you need to stop selling horse whips and start selling car horns. So, we started down the path to purchasing a brand-new audio digital recording system. Oh, isn’t it so nice when you plan for technology. Suddenly, we were in a panic to get a new system in place as soon as possible because a number of the judges and their law clerks actually listen to the oral argument tapes. Fortunately, Acme bought us some time by finding a belt to work scavenged from an old “dead” recorder. But, I was warned, there are only a handful of these recording systems around.

Now the fun began. As everyone reading this article knows, buying a digital recording system for a court is nothing like buying a digital recording system for home use. A consensus must be attained in order to act, and in my case, Tennessee has three separate appellate courts with 29 appellate judges. Fortunately, I have forged the trust of the members of the Supreme Court along with the presiding judges of the intermediate appellate courts which went a long way

in moving the process along. What developed was a system that established an appellate court intranet for sharing not only oral argument recordings but also various other documents among the appellate court judges. One of the many challenges in implementing the system was the fact that in Tennessee, there are three separate appellate courts with Supreme Court buildings in three separate cities. This required a phased-in approach with the installation of the necessary connections between the network server in the state capital, Nashville, and the two outlying cities of Knoxville and Jackson.

Perhaps the most interesting challenge was thrusting a new technology on the appellate court judges and some of my staff. No matter how keenly aware one is of the fact that implementing new technology will present issues for older generations, there is still resistance to change. A few of the appellate court judges in my state do not have computers and do not want computers. Special arrangements had to be made to burn CD discs for them and have either their law clerks or administrative assistants set up a laptop computer to play the oral arguments when the judges request it. Also, some of the older members of my staff who were more than willing and interested in learning to operate the new system still had problems early in the implementation process. One court session was halted when the computer froze due to the fact that the staff member had clicked the play button a dozen times. So, to satisfy the court in the future, we now have a backup portable digital recorder in the event that the main computer fails.

As I said at the beginning of the article, some have technology thrust upon them. In this case, I can’t say that we’ve risen to greatness, but the new audio digital recording system has been a success. Since February of last year when we began phasing in the system, we recorded over 600 arguments by the end of 2007. Likewise, there were more than 1500 downloads of arguments during that same period. Moreover, we now have all the arguments on the

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The Awards Committee Wants Your Suggestions

By Laura Roy (MO)

The 2007-2008 Awards Committee wants your nominations for the J.O. Sentell Award and the Morgan Thomas Award. These awards will be presented at the 2008 NCACC Annual Conference to be held in Pittsburgh, Pennsylvania.

The J.O. Sentell Award is given to a member of the NCACC who has contributed substantially to the objectives of the conference, including improving skill and knowledge through conferences, seminars or other educational programs; promoting and improving the contribution of appellate court clerk offices within the area of effective court administration; and collecting and dissemination of information and ideas concerning the operation and improvement of the offices of appellate court clerks.

The Morgan Thomas Award is for recognition of an individual who is not a member of the NCACC and who has made distinguished contributions to enhancing professionalism and supporting the goals of the NCACC as a body and of its members individually.

Past recipients of both awards were listed in the October 2007 Docket. Please complete and return the Awards Committee Suggestion Form by February 14, 2007 and mail or fax to:

Laura Roy, Clerk
Missouri Court of Appeals Eastern District
One Post Office Square
815 Olive Street
St. Louis, Missouri 63101

Fax ► 314-539-4324

Or E-Mail ► Laura.Roy@courts.mo.gov

Awards Committee 2007-2008

Ashley Ahearn (MA)

Tee Barnes (GA)

Kenneth deBlanc (LA)

Ed Hosken (DC)

Kathleen Kempley (AZ)

Joseph A. Lane (CA)

Keith Richardson (IA)

Bill Suter (DC)

Laura Roy (MO)

(Audio Digital Recording, continued from page 6)

intranet for archival purposes instead of “erasing” the cassette tapes when the court released the opinion. Two last notes: (1) we opted for audio and not video digital recording due to the complexities of setting up cameras in the courtrooms; and (2) we opted to make the digital recordings available only on an internal intranet instead of the internet. Both can be done at some future date if we so choose with the system that we purchased. But, when you have technology thrust upon you, don’t push your luck!

Facts, Fiction, & Foolishness

By Leslie Steen (AR)



We have noted in this column before that some of us have been around a long time, and, of course during this time, we have begun to show signs of maturing and the accompanying maladies of our age. We understand there are several grandparents among our ranks now, and this column is dedicated to those who have reached this milestone.

She was in the bathroom putting on her makeup under the watchful eyes of her young granddaughter, as she had done many times before. After she applied her lipstick and started to leave, the little one said, "But Gramma, you forgot to kiss the toilet paper goodbye."

A young grandson called to wish his grandfather a happy birthday and asked him how old he was, and the grandfather told him, "62." After a long silence the little boy asked, "Did you start at 1?"

After putting her grandchildren to bed, a grandmother changed into her old slacks and a droopy blouse and started to wash her hair. As she heard the children getting more and more rambunctious, her patience grew thin. Finally, she threw a towel around her head and stormed into the room and put them back into bed with stern warnings. As she left the room, she heard a three-year-old say with a trembling voice, "Who was that?"

A grandmother was telling her little granddaughter what her own childhood was like. "We used to skate outside on a pond. I had a swing made from a tire and we hung it from a tree in the front yard. We rode our pony and we picked wild raspberries in the woods." The little girl was wide eyed taking all this in. At last she said, "I sure wish I had known you sooner."

A little girl was pounding away diligently on her grandfather's word processor. She told him she was writing a story. "What's it about?" he asked. "I don't know," she replied, "I can't read."

A second grader came home from school and said to her grandmother, "Grandma, guess what? We learned how to make babies in school today." The grandmother, more than a little concerned, tried to keep her cool. "That's interesting," she said. "How do you make babies?" "It's simple," replied the little girl. "You just change the 'y' to 'i' and add 'es'."

When we entered our vacation cabin, we would leave the lights off until we were inside to keep from attracting pesky insects. Still a few fireflies followed us in. Noticing them before his grandfather, the youngster whispered, "It's no use, Grandpa. The mosquitoes are coming after us with flashlights."

I didn't know my granddaughter had learned her colors yet, so I decided to test her. I would point out something and ask her what color it was. She would tell me and she was always correct. It was fun for me, so I continued. At last she headed for the door, saying sagely, "Grandma, I think you should try to figure out some of these yourself."

A nursery school teacher was delivering a station wagon full of kids home one day when a fire truck zoomed past. Sitting in the front seat of the truck was a Dalmatian dog. The children started discussing the dog's duties. "They use him to keep crowds back," said one child. "No," another one said, "He is just for good luck." A third child brought the argument to a close. "They use the dogs to find the fire hydrants."

Congratulations to all our grandparents. We are sure all of you have stories you could add to this list.

LOCATION, LOCATION, LOCATION: Pittsburgh's convenient location places it less than 500 miles from most major U.S. cities, and a two-hour flight or less from more than 50 percent of the U.S. cities, and a two-hour flight or less from more than 50 percent of the U.S. and Canadian population.

COMPACT, SAFE, WALKABLE DOWNTOWN: A unique mix of culture, shopping, and outstanding restaurants are nestled within 12 square blocks and a short walk or "T" subway ride from downtown hotels and Station Square.

UNIQUE SPACES: Be sure to save some time for the gilded splendor of Heinz Hall or the elegance of Carnegie Music Hall. Be entertained in the company of sports legends at the Senator John Heinz Pittsburgh Regional History Center, visit the Carnegie Science Center, and enjoy the funky gallery space of The Andy Warhol Museum.



THEATER, NIGHTLIFE, AND DINING: Pittsburgh's Cultural District is an easy walk from the Pittsburgh Renaissance Hotel providing plenty of post-conference entertainment.

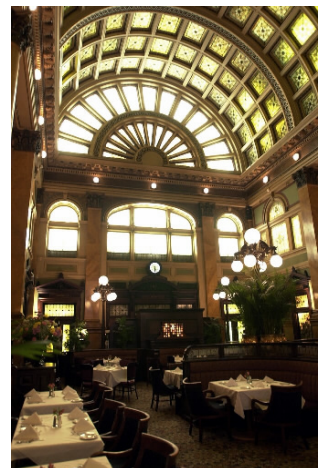
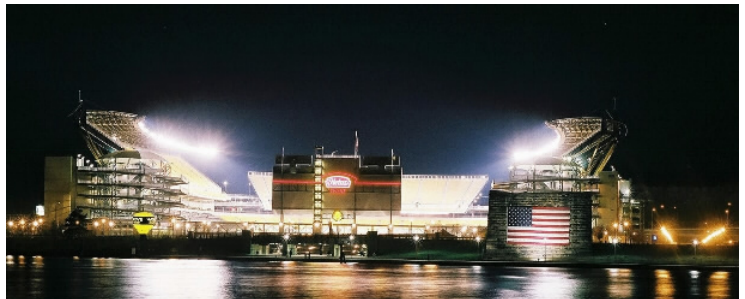
NEW BALLPARKS: PNC Park and Heinz Field, the new homes of the Pittsburgh Pirates and Pittsburgh Steelers, provide an intimate atmosphere and breathtaking view of the city skyline.

GREENEST CITY IN AMERICA: Pittsburgh has the largest number of environmentally friendly, "green" buildings in the United States. Downtown Pittsburgh is surrounded by riverfront walking trails, and water activities include fishing, boating, and kayaking our famous three rivers. Extend your conference stay and enjoy more than 100 public golf courses in the area, as well as skiing, mountain biking, white water rafting, and more, all within a short drive of downtown Pittsburgh.

NO SALES TAX ON APPAREL: No sales tax on clothing, shoes, and necessities mean big savings for avid shoppers. Shopping and dining are the top activities



for domestic and international visitors



EXPENSES**Operating**

board meetings	
travel	\$1,000
hotel	440
food	168
breakfast	2,400
travel-general	0
travel-president	3,000
past presidents' breakfast	200
website	0
newsletter	
supplies/printing	3,000
postage	1,400
telephone	0
listserv	0
postage	400
office supplies	100
licenses & fees	25
liability insurance	950
NCSC fees	8,000
presidents' gifts	617
tax preparation fee	<u>400</u>
<i>Total</i>	\$22,100

Education Fund

fundraising expenses	\$ 0
(consultant)	
Dwight Opperman speaker	3,000
office supplies	100
raffle/auction license	250
pins, hats, etc.	300
miscellaneous	<u>0</u>
<i>Total</i>	\$3,650

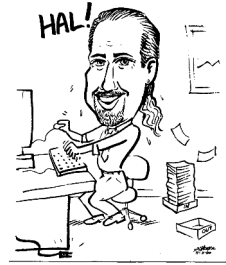
Annual Meeting

program	
honoraria	\$1,000
travel	2,000
meals	336
hotel	880
AV	3,000
materials	100
facilities/room fees	1,500
banquet	
room	0
food/beverages	6,000
speaker	0
breakfast/snacks	7,500
vendor lunch	2,500
hospitality	750
critique breakfast	1,000
registration	
office supplies	750
postage	400
tote bags	600
t-shirts	600
fun run	100
golf	1,500
tennis	0
Morgan-Thomas slide show	250
bank fees	100
CLE fees	800
cancellation insurance	1,000
sponsored social events	50,000
awards	750
scholarships	3,000
miscellaneous	<u>234</u>
<i>Total</i>	\$86,650

Total budgeted expenses: \$112,400

How Write You Are

by Hal Odom Jr.



Spell Check alert. “DWI Case Ecaluation & Pre-Trial Preperation” blared an email from a local legal association (not the SBA!). The strange misspelling of *evaluation* is novel, but can be explained by the fact that “c” is next to “v” on the standard keyboard. The other, a convolution of *preparation*, is a bad old mistake, reminiscent of *seperation*, the former trap for those practicing domestic law. The legislature abolished *legal separation* in 1990, and has yet to mandate pretrial *preparation*.

The normal use of Spell Check would have snared both of these errors, and indeed they were corrected in a subsequent email.

A little help here. From a published opinion: “This was a case where there was competing direct evidence, along with some circumstantial evidence presented by the plaintiffs (which did not *aide* their case), and the jury was forced to make a credibility call.”

A quick refresher: the verb meaning to *help* or *assist* is *aid*. It does not have an *e* at the end. The noun meaning a *person who renders help* is an *aide*; and the noun for a useful tool or implement is an *aid*. The supreme court meant that the circumstantial evidence did not *aid* the plaintiffs’ case.

Another contradiction. Some time ago this column assembled a short list of words that have opposite meanings, like *cleave* (to cling together or to split apart) and *enjoin* (in legal usage, to order someone *not* to do something, but in general usage, to order them *affirmatively* to do it).

Now another entry joins this elite group: *ravel*. The *American Heritage® Dictionary*, 4 ed. (Houghton Mifflin, ©2006) defines this as “(1) to become separated into its component threads; unravel or fray; (2) to become tangled or confused.” So it can mean either to tangle up or to get untangled. Writers should probably avoid this word.

Fortunately, its more common relative *unravel* means only to fall apart, either literally or figuratively. “[M]any of those plaintiffs experienced problems with the repaired items, such as rust and *unraveling* carpets [.]” *Boudreaux v. State*, 2004-0985 (La. App. 1 Cir. 6/10/05), 906 So. 2d 695. “Even if one accepts as true Coleman’s assertion that his delay in reporting was critical in causing the death of his arm muscles, his causation argument begins to *unravel*.” *Coleman v. Deno*, 2001-1517 (La. 1/25/02), 813 So. 2d 303 (dissenting opinion).

Use *unravel* with no danger of ambiguity. Just make sure your legal reasoning does not unravel.

The Principal Concern. By popular request, here is a reprise of some earlier comments about that granddaddy of all homophones, *principle* and *principal*. In a capital case, the supreme court recently stated, “The *principle* reasons such evidence [polygraph testing] is inadmissible are its lack of probative value, insufficient scientific reliability, and its potential for an unduly prejudicial effect on lay jurors.” In a 2006 case, the same court summarized a lower court’s findings as follows: “[T]he State failed to show how any *principals* of state law cited in the district court’s reasons for judgment in any way conflicted with the general maritime law.” An appellate court recently declared, “The strict construction *principal* applies only if the ambiguous policy is susceptible of two or more reasonable interpretations.”

Plainly, some clarification is still needed!

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The solid rule is that the noun for a *concept*, *rule* or *source* is a **principle**. This word is always a noun. Organization is a leading *principle* of legal writing. Try to remember that a **principle** is a **rule** – both end in *le*. (The mnemonic device is not particularly intuitive, but it's the best I am aware of.)

The other word, *principal*, is usually an adjective that means *most important* or *first in order*. Clarity and persuasion are the *principal* aims for legal writing. Try to recall that the adjective *principal* is spelled with an *a*, the first letter of *adjective*.

Confusingly, however, *principal* is also a noun. Here are its principal meanings:

(1) All persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime, are *principals*. La. R.S. 14:24. Although the definition encompasses everybody involved, *principal* is usually applied only to a lookout, getaway driver, or participant who did not directly commit the criminal act. This kind of principal is also distinguished from an accessory after the fact.

(2) A person who confers authority on another person, called a mandatary, to transact one or more affairs for the first person, is a *principal*. La. C.C. art. 2989. Outside the purist Civilian enclave of LSU Law Center, the mandatary is normally called an *agent*, but *principal* is good anywhere.

(3) The *key person* in an organization is a *principal*. One statute defines this person as “any officer, director, owner, sole proprietor, partner, member, joint venturer, manager, or other person with similar managerial or supervisory responsibilities.” La. R.S. 9:3594.2 (6). Likewise, the chief administrator of a school is the *principal*; he or she makes all the decisions, at least in theory. An old mnemonic goes, “The principal is your *pal*.”

(4) Money deposited in a bank is called *principal*, as distinguished from *interest*. Similarly, a trust corpus is sometimes called the *principal*, as in La. R.S. 9:1847.

Spell Check will not catch the misuse of properly spelled words, so legal writers are urged to learn the principles that separate these homophones.

ABOUT THE AUTHOR

Hal Odom Jr. is a senior research attorney at the Louisiana Second Circuit Court of Appeal in Shreveport. He is co-editor of the Shreveport Bar Association's monthly publication, *The Bar Review*, in which this column first appeared, and is on the editorial board of the Louisiana State Bar Association *Journal*.