

# BOARD OF CERTIFIED REPORTERS

## Meeting Agenda - Tuesday, October 11, 2016

Arizona Supreme Court - 1501 West Washington Street

Phoenix, Arizona 85007 - 1:00 P.M. - Conference Room 109

General Inquiries Call: (602) 452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

**For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).**

**CALL TO ORDER..... G. Allen Sonntag, Chair**

**1) REVIEW AND APPROVAL OF MINUTES ..... G. Allen Sonntag, Chair**

*1-A: Review and approval of the regular session minutes for the meeting of August 9, 2016.*

*1-B: Review and approval of the executive session minutes for the meeting of August 9, 2016.*

*1-C: Review and approval of the regular session minutes for the meeting of September 13, 2016.*

**2) PENDING COMPLAINTS.....Division Staff**

*2-A: Review, discussion and possible action regarding the Division Director dismissals of the following complaints:*

*Complaint Number 15-C001*

*Complaint Number 15-C002*

*2-B: Review, discussion and possible action regarding complaint number 15-C005, involving Legalink, Inc.*

*2-C: Review, discussion and possible action regarding complaint number 16-C001, involving certificate holder Howard Dropkin.*

*2-D: Review, discussion and possible action regarding complaint number 16-C002, involving certificate holder Howard Dropkin.*

*2-E: Update regarding the status of pending complaints.*

**3) RENEWAL CERTIFICATION APPLICATIONS.....*Division Staff***

*3-A: Review, discussion and possible action regarding pending application for renewal of certification for Pamela Giffin.*

**4) ADMINISTRATIVE ISSUES.....*Division Staff***

*4-A: Review, discussion, and possible action regarding the establishment of the 2017 Board meeting schedule.*

**CALL TO THE PUBLIC ..... *G. Allen Sonntag, Chair***

**ADJOURNMENT ..... *G. Allen Sonntag, Chair***

**BOARD OF CERTIFIED REPORTERS**  
**Agenda Summary - Tuesday, October 11, 2016**

**1) REVIEW AND APPROVAL OF MINUTES**

*1-A: Review and approval of regular session minutes for the meeting of August 9, 2016.*

Attached for the Board's review are the regular session minutes from the board meeting of August 9, 2016.

**BOARD OF CERTIFIED REPORTERS**  
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**1) REVIEW AND APPROVAL OF MINUTES**

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*1-B: Review and approval of executive session minutes for the meeting of August 9, 2016.*

Attached for the Board's review are the executive session minutes from the board meeting of August 9, 2016.

**BOARD OF CERTIFIED REPORTERS**  
**Agenda Summary - Tuesday, October 11, 2016**

**1) REVIEW AND APPROVAL OF MINUTES**

*1-C: Review and approval of regular session minutes for the meeting of September 13, 2016.*

Attached for the Board's review are the regular session minutes from the board meeting of September 13, 2016.

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2) **PENDING COMPLAINTS**

*2-A: Review, discussion and possible action regarding the Division Director dismissals of complaint numbers 15-C001 and 15-C002.*

Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints dismissed by the Division Director are CONFIDENTIAL and not a matter of public record. If the Board wishes to address specific details regarding this matter, it is recommended the Board enter Executive Session to discuss matters confidential.

Complaint Numbers 15-C001 and 15-C002:

On October 2, 2015, Division Director Wilson dismissed complaint numbers 15-C001 and 15-C002 without prejudice upon determining the complaints fall outside the jurisdiction of the Board. Notice of the dismissal was forwarded to the complainant. The complainant requested Board review of the dismissal. The information presented in the request does not change the recommendation.

It is recommended the Board affirm the dismissals.

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### 2) PENDING COMPLAINTS

*2-B: Review, discussion and possible action regarding complaint number 15-C005, involving Legalink, Inc.*

Legalink, Inc., was an asset of Merrill Corporation's Merrill Legal Solutions. Legalink, Inc. registered as a court reporting firm in Arizona, on September 17, 2014, Registration # R1094, valid to January 31, 2020.

On June 1, 2015, DTI Global acquired Merrill Corporation's Merrill Legal Solutions division which included Legalink, Inc.

Legalink, Inc., a DTI Company, registered as a court reporting firm in Arizona, Registration # R1135, on August 24, 2015, valid to January 31, 2021.

On August 12, 2015, the Division received a written complaint against Legalink, Inc., Merrill Corporation, and Legalink, Inc., DTI Global, containing the following allegations:

1. Complainant alleges Merrill Corporation and DTI Global are the same entity and conducting business in Arizona without registration.
2. Complainant alleges Legalink, Inc. a DTI Company provided an Affiliate Pricing Sheet showing a contract but filed a Continuing Contract Disclosure indicating there was no contract.

On August 13, 2015, the Division forwarded the complaint to Legalink, Inc. Merrill Corporation. Records indicate that the correspondence was received on August 17, 2015. On or about September 23, 2015, the Division issued a follow-up letter informing that the Division had no record of a response to the complaint.

The Division forwarded the complaint to Legalink, Inc. a DTI Company, on November 23, 2015. Records indicate that the correspondence was received on December 4, 2015.

On January 6, 2016, the Division sent email correspondence to Betsy Adams, for Legalink, Inc., informing that the Division had no record of a response to the complaint and set a response deadline date of no later than end of business January 12, 2016. Ms. Adams immediately replied to the email indicating that Legalink, Inc. had not received correspondence from the Division and, after verifying that the Division had the correct address on file, Ms. Adams requested that the Division resend the complaint to her via email adding, "I am forwarding this onto our legal division immediately so they can prepare the needed information as you have requested." The Division sent the complaint on the said date, per Ms. Adams' request.

On January 20, 2016, the Division sent a follow-up email to Ms. Adams informing her that Legalink, Inc.'s written response to the complaint exceeded the 30-day requirement set out in ACJA and that her response to this matter was required immediately.

On or about March 25, 2016, the Division sent a formal letter to Legalink, Inc., c/o Ms. Adams, followed by an email informing her that the Division had no record of a response from Legalink, Inc. To date, the Division has no record of receiving any response to the complaint from Ms. Adams or anyone representing Legalink, Inc., a DTI Company.

On or about March 25, 2016, the Division sent a formal letter to Merrill Corporation, followed by an email to the contact listed on the Division's records, informing that the Division had no record of a response from Merrill Corporation. The email returned as undeliverable. To date, the Division has no record of receiving any correspondence from anyone representing Merrill Corporation.

Legalink, Inc., Merrill Corporation and Legalink, Inc., a DTI Company, failed to provide a response to the complaint as required by ACJA. The lack of cooperation resulted in the Division's inability to complete the investigation. Accordingly, the following additional allegations were included in the complaint:

1. Merrill Corporation, failed to respond to the complaint, in violation of ACJA §§ 7-201(F)(4) and 7-201(H)(3)(c)(1).
2. Legalink, Inc., a DTI Company, failed to respond to the complaint, in violation of ACJA §§ 7-201(F)(4) and 7-201(H)(3)(c)(1).

The Investigation Summary was forwarded to Probable Cause Evaluator, Mike Baumstark. On May 25, 2016, Probable Cause Evaluator Baumstark entered a finding probable cause may or may not exist as to Allegations 3 and 4, as detailed in the Investigation Summary and Allegation Analysis Report.

Probable Cause Evaluator Baumstark entered a finding probable cause exists as to Allegations 1 and 2, as detailed in the Investigation Summary and Allegation Analysis Report. This matter was scheduled to be on the June 14, 2016 agenda. Then, on June 13, 2016, the day before the scheduled June 14, 2016 Board meeting, Jeff Jacobs, attorney for Legalink, Inc., contacted the Division indicating that he just received notice that the Board was scheduled to meet to consider action relating to the complaint. He stated that he understood that Legalink, Inc. had responded to the complaint several months ago and he was in the process of tracking down that documentation. Mr. Jacobs requested that the Board postpone its consideration of the complaint until he could track down the response to the complaint.

On June 13, 2016, the Division requested from Mr. Jacobs and Legalink, Inc., evidence that a response to the complaint was submitted to the Division.

On June 28, 2016, the Division sent Legalink, Inc., c/o Mr. Jacobs, a letter notifying him that, to date, the Division had no record of a response to the complaint nor of any evidence verifying that Legalink, Inc., previously submitted a response to the Division. In addition to the referenced letter, the Division sent Mr. Jacobs an email and attached a copy of the forthcoming letter.

Since June 13, 2016, the Division has not had any communication from Mr. Jacobs or any representative from Legalink, Inc., and the Division does not have any record of a response to the complaint.

**Recommendation:**

It is recommended the Board accept the May 25, 2016 finding of the Probable Cause Evaluator and enter a finding that a determination cannot be made concerning whether probable cause exists as to Allegations 3 and 4, as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-C005.

It is recommended the Board accept the May 25, 2016 finding of the Probable Cause Evaluator and enter a finding that Legalink, a DTI Company, has committed the alleged acts of misconduct as described in Allegation 2 as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-C005.

It is recommended the Board accept the May 25, 2016 finding of the Probable Cause Evaluator and enter a finding that Legalink, Merrill Company, has committed the alleged acts of misconduct as described in Allegation 1 as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 15-C005.

It is recommended the Board enter a finding grounds for formal disciplinary action exists concerning Legalink, a DTI Company, pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (c) for act(s) of misconduct involving ACJA §§ 7-201(F)(4) and (H)(3) and (6) and ACJA § 7-206 (J) and (N) for failing to respond to the complaint or provide information after a request.

It is recommended the Board enter a finding grounds for formal disciplinary action exists concerning Legalink, Merrill Company pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) and (c) for act(s) of misconduct involving ACJA §§ 7-201(F)(4) and (H)(3) and (6) and ACJA § 7-206 (J) and (N) for failing to respond to the complaint or provide information after a request.

It is further recommended the Board revoke the registrations of Legalink, a DTI Company and Legalink, Merrill Corporation.

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### 2) PENDING COMPLAINTS

2-C: *Review, discussion and possible action regarding complaint number 16-C001, involving certificate holder Howard Dropkin.*

Howard Dropkin of “Dropkin & Associates” claims he and his business fell upon hard times in the mid 2000’s because of the downturn in the economy as well as an illness. The complainant, a sub-contractor court reporter is upset because she has not been paid for outstanding invoices since 2013.

Starting in 2011, Complainant claims Dropkin began paying her sporadically which she assumed was due to clients slowly paying Dropkin. It wasn’t until 2013 that Complainant began noticing a pattern of non-payments and when she added up the invoices concluded Dropkin owed her over \$29,000.

Complainant agreed to the payment plan, however, soon afterwards Dropkin again began missing some payments and, with the payments he did provide, shortchanged some of the agreed upon amounts. In 2015, Dropkin filed for bankruptcy.

Complainant’s complaint alleges that Dropkin breeched his ethical oath as a court reporter by not fulfilling his promises of compensation.

Complainant appears to contend that after adding up all the unpaid invoices over the last few years, that Dropkin intentionally misappropriated the monies owed her and as such violated the integrity and truthfulness clause in the ACJA.

Division staff recognizes that although Dropkin may have been responsible for his debits, there was no evidence of intentional misconduct nor any indications of incompetency or lack of integrity as a professional court reporter.

Division staff recommends that the Board accept the findings of the Probable Cause Evaluator and dismiss complaint number 16-C001.

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### 2) PENDING COMPLAINTS

*2-D: Review, discussion and possible action regarding complaint number 16-C002, involving certificate holder Howard Dropkin.*

Howard Dropkin of “Dropkin & Associates” claims he and his business fell upon hard times in the mid 2000’s because of the downturn in the economy as well as an illness. The Complainant is upset because she has not been paid for outstanding invoices since 2013.

Starting in 2013, Complainant as well as several other unnamed reporters, approached Dropkin to complain about the missed payments and Dropkin acknowledged his financial obligations to them and set up a temporary payment plan which everyone agreed to. Dropkin honored the plan up through 2014 but then began to miss periodic payments. In 2015, Dropkin filed bankruptcy.

Complainant’s complaint alleges that Dropkin breached his ethical oath as a court reporter by not fulfilling his promises of compensation.

Complainant appears to contend, after adding up all the unpaid invoices over the last few years, that Dropkin intentionally misappropriated the monies owed her and as such violated the integrity and truthfulness clause in the ACJA.

Division staff further recognizes that although Dropkin may have been responsible for his debits, there was no evidence of intentional misconduct nor any indications of incompetency or lack of integrity as a professional court reporter.

Division staff recommends that the Board accept the findings of the Probable cause Evaluator and dismiss complaint number 16-C002.

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### 2) PENDING COMPLAINTS

*2-E: Update regarding the status of pending complaints.*

As of October 5, 2016, there are currently seven open complaints, three of which have been presented on this agenda with dispositive recommendations under agenda items 2-A through 2-D.

**CERTIFIED REPORTER COMPLAINTS**  
**COURTOOLS MEASURE 4**  
**AGE OF PENDING CASELOAD**  
Shaded Areas Represent Cases within Time Standard of 22 Months

Age (Months)	Number Cases	Percent	Cumulative Percent
0-4	1	14%	14%
5-9	3	43%	57%
10-14	1	14%	71%
15-19	2	29%	100%
20-22			
23-35			
36-50			
Over 50			
<b>Total</b>	<b>7</b>	<b>100%</b>	<b>100%</b>

# BOARD OF CERTIFIED REPORTERS

## Agenda Summary - Tuesday, October 11, 2016

### 3) RENEWAL CERTIFICATION APPLICATIONS

*3-A: Review, discussion, and possible action regarding pending application for renewal of certification for Pamela Giffin.*

At the September 13, 2016 Board meeting, the renewal application for Pamela Giffin was mistakenly presented as "Pam Griffith." In order to ensure Ms. Giffin's certification is appropriately approved, staff is again presenting her application for renewal to the Board. Ms. Giffin's renewal application is complete, no information has been presented during the background review which is contrary to certification being granted and Ms. Giffin has demonstrated she meets the minimum eligibility requirements for renewal. Therefore, staff recommends Ms. Giffin's renewal certification be granted.

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**4) ADMINISTRATIVE ISSUES**

*4-A: Review, discussion, and possible action regarding the establishment of the 2017 Board meeting schedule.*

The Board of Certified Reporters is asked to consider and approve the 2017 meeting calendar.

Therefore, it is recommended the 2017 meeting calendar be set as follows:

February 7, 2017  
April 11, 2017  
June 6, 2017  
August 8, 2017  
October 10, 2017  
December 5, 2017