

PRESIDENT'S MESSAGE

ANNUAL CONFERENCE: AN OPPORTUNITY DURING CHANGING TIMES by Jeff Talcott



The annual conference, which this year is in National Harbor, Maryland, April 14-17, is an outstanding opportunity to learn and enhance your ability to effectively manage your law firms. Start by taking a look at the online materials at the ALA

website. Although the early bird registration has left the nest, it is not too late to sign up for this outstanding value and opportunity. Featuring three days of quality educational sessions, tremendous networking opportunities and the industry's leading Exposition, the ALA Annual Conference is THE education and networking event for legal management professionals from around the globe.

I recommend you take full advantage of this exciting educational opportunity by having a plan. Before you select your sessions, establish what you want to get out of the conference. You might consider approaching this in several ways: from the "generalist" approach of gaining a broad overview of legal management topics, or by focusing on one or two firm relevant topics, or looking to your own personal improvement.

If you are considering the Certified Legal Manager (CLM) exam, you can structure your session agenda so that you can obtain all of the education requirements to apply. The ALA Bookstore will be available to assist you with this goal as well.

There will be more than 75 educational sessions, designed around five core management areas: Communication & Organizational Management, Financial Management and Legal Industry/Business Management and Operations Management. There will be multiple tracts running concurrently to allow you the flexibility of tailoring an education that meets the specific needs of you and your firm.

As the conference begins, so should your networking. Be sure to share your ideas and learn new ones with other ALA members. There are numerous opportunities to make new connections with members and business partners.

Networking connections provide a valuable resource that will enable you to solve problems and gain insight from people who understand the exact issues you face each day. Look to participate in some of the numerous idea exchanges based on firm size and practice areas throughout the conference. These are excellent opportunities for you to discuss, with your peers, the challenges you face and to also

assist them with theirs. Many friendships begin at an ALA conference, simply by sharing. If needed, take a step out of your comfort zone and seize the day.

The exhibit hall is also a breeding ground for new friendships and effective working relationships between members and business partners. Our partners are not there to react to the members' needs or simply sell products. They are there to work hand-in-hand with the members and address problems and satisfy needs.

"For me, one of the highlights of attending any ALA conference is the opportunity to spend time in the exhibit hall," said former ALA President Susan French. "Not only does it provide me with an opportunity to stay abreast of trends in the industry, it also enables me to develop relationships with business partners whose products and services I may not need at the time, but could in the future."

Evaluating products and services at the exposition can save countless hours of research, conference calls and appointments. Consider these tips to get the most out of the exhibit hall:

- Set objectives and report to firm leadership on new innovative ideas and products that are worth investigating further. It is our responsibility to educate our firms on the products and services available.
- Ask our business partners their advice on how their products and services will increase efficiencies and profits during these changing times.
- Consider consolidating tasks. Explore service providers who can help with seasonal and peak workloads.
- Review products that might be needed in the future, even if you do not have an immediate need.
- Take advantage of product demonstrations that will assist in staying current with industry trends.
- Make direct comparisons of competitor's products and services while having immediate access to your peers for their input.

ISSUE XXIII

Mar/Apr 2013

- Consider the visit to the expo a quest for two things: relationships and solutions.

When you return, be sure to share your conference materials with your partners. Take time to create a report summarizing the results of your attendance and ask for feedback. This is an excellent opportunity to discuss the resources that are available to you. You may be able to ensure your attendance at future conferences by demonstrating what you learn and showing the application as it pertains to your firm and practice areas. Give them this tangible measure of return on their investment to validate the time you spend away from the office.

I hope to see you there!

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*"A person who won't read has no advantage over one who can't read."
- Mark Twain*



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Most recently, we launched a new organization, **First Legal – National**; staffed with a dedicated team of professionals who are specialists in providing Out-of-State (also referred to as State-to-State) attorney service solutions specific to National Court Filing and Service of Process. In

addition, we provide a complete turnkey solution for researching, processing, filing and serving Subpoenas in Foreign Jurisdictions. We research and prepare subpoenas in accordance with local and foreign rules and procedures so our clients are assured of compliance - and we do so at a fraction of the cost of using your in-house resources. We also work closely with our larger national insurance and corporate counsel clients to design industry specific cost-containment solutions specific to legal services.

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Last but not least, we are proud to introduce our new website, **First Connect**, for online ordering and further solutions-based protocols, such as searching and compiling all orders related to a specific client matter. Visit our new site at <http://firstconnect.firstlegalnetwork.com> and request an online demo.

For more information, contact your local San Diego Account Executive, **Vanessa Luna**, and learn how we can better serve you. Call or email anytime: Office 619.231.9111, Cell 858.220.8263, vanessa@firstlegalnetwork.com.

SD ALA Membership Renewal - The 2012-2013 ALA San Diego Membership Handbook is available in the "Members Area" of the SD ALA website at www.alasandiego.org. 2013-2014 is upon us, so if you haven't already, please renew your membership! Contact Anna Rushworth at rushworth@hlaaslaw.com if you have any questions.

THE LOUDEST DUCK

MOVING BEYOND DIVERSITY WHILE EMBRACING DIFFERENCES TO ACHIEVE SUCCESS AT WORK

by Steven M. Morris

"The loudest duck gets shot" is a lesson taught by Chinese Grandmas. Often, being outspoken in Asian cultures is discouraged. Whereas, boys in the United States are sometimes taught, "The squeaky wheel gets the grease." This implies that those who complain the loudest, receive the most attention. *The Loudest Duck* is a thought-provoking, clear, and informative book. Reading it will heighten your diversity awareness and provide practical tips for immediate implementation into your management practices.

Author, Laura Liswood, successfully debunks the push for numbers and tracking systems as a false organizational sense of accomplishment in the pursuit of creating a diverse work environment. Although necessary, this diversity 1.0 thinking is akin to Noah's ark where the gathering was the emphasis. She outlines a diversity 2.0 mindset where leaders gain tools for an insightful approach to workplace diversity. A business model of Noah's ark places emphasis on integrating groups by benefiting from "the stripes, the spots, and the horns rather than waiting for company-wide conformity."

Creating diverse environments is about change. Liswood provides meaningful insights into why change occurs and how it is achieved starting with key leaders. Her change metaphor is a standing ovation which starts with a few who jump up to yell "bravo." Next, a larger group stands believing a worthwhile performance occurred. An even larger group follows with a mindset that the performance was good based on others' reactions. In the end, those remaining seated stand because they can't see the stage. The ripple effect of diversity change starts with a few, but eventually benefits all within an organization.

Ways to raise awareness of natural and learned perceptions regarding minority groups are illustrated with specific examples. It is an eye-opening read to discover how easy it is to "evaluate people unconsciously." The first chapter's key point is that by understanding the part that the unconscious plays in the diversity dynamic, you begin to overcome those elements that erode fairness in an organization. When achieved, "we capitalize on differences and find ways to succeed because of diversity rather than in the face of it."

Every power structure has elephants and mice. Typically, the elephant in the room doesn't know much about the mice, but mice know everything about the elephants in order to survive in their environment. This dynamic between the dominant and nondominant groups in the workplace is a fascinating concept discussed in Chapter 2. The best leaders need the skill sets

possessed by both the elephant and the mouse. Point of view is an important piece of this parable. Having an awareness that "my point of view or my set of experiences and opportunities are not the same as yours" gets you half way to succeeding in this post-diversity environment. It also illustrates why diversity is both so valuable and so challenging.

The third chapter focuses on unconscious world view beliefs. How this thinking shapes us is explored insightfully in sections on our parents, our experiences, our peers, religion and culture, and myths. These channels shape our perspective of others and ourselves. Collectively, the author calls them "Grandma." All professionals haul Grandma with them to the workplace every day.

Interesting parallels are provided of employees who as "a Wheel, a Nail, a Duck, and a Nice" interact around a conference room. The author writes, "We hire for difference and then we fire because they aren't the same." Diversity conscious leaders can incorporate many of this chapter's concepts to bring out employee engagement, ideas and contributions for the betterment of the company. This chapter ends by explaining that "well-meaning diversity efforts will remain just that if organizations fail to understand that what's easy for some is truly hard for others."

Being an administrator for 17 years, I thought I understood how to effectively provide critical feedback. Liswood explains *positive allusion* (tendency for most men) and *negative allusion* (tendency for most women) in a manner that has improved my feedback delivery.

Diversity is a particular challenge to the mentoring process and is explored through the pitfalls of negative stereotypes, mirroring, getting close, risk, and resentment by others. Mentors can be instrumental in explaining an organiza-



tion's unwritten rules as they matter in companies just as they do in family dynamics. Everyone benefits if told about these customs and expectations in advance. Liswood's discussion of subtle inequities is another eye-opening section full of examples that growth-oriented leaders will want to understand and bring to their conscious awareness. Although usually unintended, people read into these subtle inequities a great deal. Feelings of inclusion or exclusion readily occur. Over time, they significantly disadvantage some groups.

Abraham Maslow said, "To the man who only has a hammer in the toolkit, every problem looks like a nail." A focus on establishing and building appropriate tools to create cognitively rich environments with fairness and a level playing field helps diminish diversity traps. Liswood makes the point that "everybody in a culturally varied work environment brings a limited set of tools – and not the same set." This "Tools in Your Toolbox" chapter offers numerous illustrations from both the manager and the employee perspectives.

Diversity forces us to work harder to understand that many different approaches can bring better outcomes. "Diverse organizations require sophisticated leadership, conscious awareness of diversity issues, new behavioral patterns, and effective tools for reaping the benefits of true diversity." If you enjoy books that increase self-awareness and offer immediate implementation tips, *The Loudest Duck* is a must-read.



MEET THE BUSINESS PARTNERS – TEAM PROFILE FOR:



Exclusively Legal specializes in temporary and direct hire attorney placement and legal staffing for law firms, corporate legal departments, and large-scale document review projects. The Exclusively Legal team is an industry leader as a result of each team member's experience working as a legal professional in law firms and corporate law departments, as well as, legal academia. Collectively, the EL Team represents over 30 years of legal and staffing experiences providing value added and personable service to the legal community for the last 25 years.

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As an innovative and visionary leader, **Linda Barcenal** brings 15 years of legal experience and insight to her role as Managing Director of Exclusively Legal. Linda's unique blend of law firm and corporate legal management experience enables her to add value by offering in depth legal staffing to her clients and career guidance to candidates. As Legal Operations Manager of a global publicly traded biomedical corporation, Linda was responsible for compliance projects; board of director matters; department budget; and hiring and managing paralegals, support staff, vendors and law firms, while participating in the recruiting process of attorneys. Along with her training in legal processes ranging from litigation to corporate transactions and compliance, she leveraged her training in process improvement (Lean and Six Sigma) and project management to create effective teams and accomplish complex legal projects, including implementing a global eDiscovery readiness program. Linda thrives on partnering with General Counsel, legal administrators and staff in building effective teams to meet her clients' business objectives and goals. Linda holds her B.A. in English

Literature and ABA approved Paralegal Certificate from the University of San Diego and attended Cornell University for Plant-Based Nutrition. In her spare time, Linda advocates wellness and hosts meditation classes at wellness centers and yoga studios. She also works with Last Chance at Life to rescue animals, particularly unadoptable ones.

Abigail Parente, Recruiting Manager, has been an impact player at Exclusively Legal since 2004 and has been influential in the San Diego legal community for over 10 years. Her passion and tenure in recruiting has deemed her consistently the top recruiter among hundreds at the Eastridge Group, the parent company of Exclusively Legal. Abigail started her legal career as a paralegal graduate and Paralegal Program Assistant of the University of San Diego where she advised many legal professionals early in their career. She also lends great credibility with her experience supporting litigation at large law firms. In addition, Abigail was a successful attorney recruiter for Qualcomm. Her impressive list of current involvements also includes her participation as a Paralegal Program Instructor and Advisory Board Member at The UCSD Extension Paralegal Program. With Abigail's deep-rooted relationships, and keen knowledge of market demands, she positions herself as a true value to Exclusively Legal's clients in San Diego. She holds her B.A. from the University of Scranton with a paralegal certificate and a Master of Arts degree in Leadership Studies from the University of San Diego. In her spare time Abigail gives back to her community by serving as a lecturer. In addition to her voluntary outreach, Abigail has a soft spot for her beloved puppy, pilates, and Notre Dame football.

The newest addition to Exclusively Legal, **Dara Lundquist**, serves as an Associate Recruiter for the team. Her past roles as a Recruiter and Paralegal Program Assistant at the University of San Diego allowed her to establish relationships in the legal community and set her up with a solid network of the industry's emerging talent pool. While at USD, Dara worked closely with many local law firms to place paralegal students in various internship opportunities, carefully matching each firm's needs with students' interests, skill sets, and experience levels. She also acted as the employment liaison between local firms looking for entry level paralegal graduates, providing firms with the resumes of carefully selected alumni that matched their needs. Dara's legal career began in 2009 when she attended the University of San Diego's Paralegal Program, focusing on business litigation. After graduation, she worked in-house for a local medical-legal workers' compensation consulting firm. Having worked in recruiting after graduating with her B.A. from San Diego State University in 2007, she feels that she has come full-circle in her position as an Associate Recruiter with Exclusively Legal – melding her education, real-world experience, and passion for recruiting into a role that allows her to thrive. Dara views recruiting as a giant puzzle and loves to work at putting all the client and candidate pieces together to create the perfect fit. In her spare time, Dara is involved in community outreach and youth mentorship. On weeknights, she loves to curl up on the couch with a good book on her Kindle or watch *How I Met Your Mother* on Netflix.

The Exclusively Legal team puts their clients first, eliminating the weight of screening and administrative burdens, while delivering unmatched customer service and truly providing excellent legal staffing service to the legal community.



Have you joined **SDALA** on LinkedIn yet? If not, check it out! Start a Discussion or chime in on a current discussion. Connect with your peers, Business Partners, and ALA Head Quarters. Contact [Amy Spintman](#) for more information.

ALA ANNUAL CONFERENCE APRIL 14 - 17, 2013

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EDUCATION - Join your colleagues at the next Membership Meeting, attend a Brown Bag Round Table Discussion or, from the comfort of your office, listen in on a Chapter-hosted webinar. Contact [Monica Menzer](#), Education Chair, for information.

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ANTITRUST GUIDE

FOR MEMBERS OF THE ASSOCIATION OF LEGAL ADMINISTRATORS



Professional associations such as the Association of Legal Administrators (ALA), although well recognized as valuable tools of American business, are subject to severe scrutiny by both federal and state governments.

The single most significant law affecting professional associations is the Sherman Antitrust Act, which makes unlawful "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce..."

A professional association by the very nature of the fact that it is made up of competitors is a combination, thus satisfying one of the elements in proving an antitrust violation. Section 5 of the Federal Trade Commission Act is also applicable to professional associations; it makes unlawful the same types of conduct that are prohibited by the Sherman Act. Furthermore, almost all states have enacted antitrust laws similar to the Sherman Act.

There is no organization too small or too localized to escape the possibility of a civil or criminal antitrust suit. The federal government has brought civil or criminal actions against such small organizations as Maine Lobstermen, a Virginia audio-visual association, Bakersfield Plumbing Contractors, the Utah Pharmaceuticals Association, and local barbers associations.

The government has brought approximately five civil and ten criminal cases a year against professional associations. It is thus imperative that every professional association member, regardless of the size of the association or the size of those comprising the membership, refrain from indulging in any activity which may be the basis of a federal or state antitrust action.

There are four main areas of antitrust concern for professional associations: price fixing, membership, standardization and certification, and industry self-regulation. The area of greatest concern, for it is the area where individual members are most likely to violate the law and the area where the government appears most concerned, is price fixing. The government may infer a violation of the Sherman Act by the mere fact that all or most of the members of the professional association are doing the same thing with respect to prices. It is not required that there be an actual agreement, written or unwritten, to increase prices. Rather, price fixing is a very broad term which includes any concerted effort or action which has an effect on prices or on competition.

Accordingly, professional association members should refrain from any discussion which may provide the basis for an inference that the members agreed to take action relating to prices, production, allocation of markets, or any other matter having a market effect. The following topics, while not the only ones, are some of the main ones which should not be discussed at regular meetings or member gatherings:

1. Do not discuss current or future billing rates, fees, disbursement charges or other items that could be construed as "price." Further, be very careful of discussions of past billing rates, fees or prices.
2. Do not discuss what is a fair profit, billing rate or wage level.
3. Do not discuss an increase or decrease in price, fees or wages, or disbursement charges. In this regard, remember that interest charges are considered an item of price.
4. Do not discuss standardizing or stabilizing prices, fees or wages, or disbursement charges.
5. Do not discuss current billing or fee procedures.
6. Do not discuss the imposition of credit terms or the amount thereof.
7. Do not complain to a competitor that his billing rates, fees or wages constitute unfair trade practices. In this context, another law firm (or even a corporate legal department) may be considered a competitor.
8. Do not discuss refusing to deal with anyone because of his pricing or fees.

Do not conduct surveys (under the auspices of ALA or informally) relating to fees, wages or other economic matters without prior review by antitrust legal counsel. Any survey should have the following characteristics: a) participation is voluntary and open to non-members, b) data should be of past transactions, c) data should be collected by an independent third party, such as an accounting firm, d) confidentiality of each participant's data should be preserved, and e) data should be presented only in a composite form to conceal data of any single participant. If these criteria are met, an association can collect and disseminate data on a wide range of matters, including such things as past salaries, vacation policies, types of office equipment used, etc.

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However, care must be taken to ensure that the purpose of any survey is to permit each firm to assess its own performance. If a survey is used for the purpose of or has the effect of raising or stabilizing fees, wages, disbursements, credit policies and the like, it will create serious antitrust problems.

Within this same legal framework applicable to surveys, an association can make presentations or circulate articles regarding such educational matters as establishing sound office procedures, etc., provided it is clear that the matters are educational, and not a basis for law firm uniformity or agreement.

Inasmuch as association antitrust violations can subject all association members to criminal and civil liability, members should be aware of the legal risks in regard to membership policy and industry self-regulation. Fair and objective membership requirement policies should be established. Membership policies should avoid:

1. Restrictions on dealing with non-members.
2. Exclusions from membership, especially if there is a business advantage in being a member.
3. Limitations on access to association information, unless the limitation is based upon protection of trade secrets.

The Association of Legal Administrators has a code of ethics, which sets forth parameters of ethical conduct. However, to ensure that the Code of Ethics does not create any antitrust problems, ALA must continue to ensure that its Code does not have arbitrary enforcement procedures or penalties.

The penalties for violating federal or state antitrust laws are severe. The maximum criminal penalty for violating the Sherman Act was increased in 2004 from \$350,000 to \$1,000,000 for an individual and from \$10,000,000 to \$100,000,000 for a corporation. Pursuant to the Sentencing Reform Act, alternative maximum fines could be increased to twice the pecuniary gain of an offender or twice the loss to another person.

Individuals and corporate officers who are found guilty of bid rigging, price fixing or market allocation will virtually always be sentenced to jail pursuant to the Sentencing Guidelines; community service cannot be used to avoid imprisonment. The minimum recommended sentence is four months; the maximum is three years.

Additionally, there are civil penalties such as injunctions or cease and desist orders which could result in government supervision of association members, restricting the association's activities or disbanding the association.

Civil suits may be brought by consumers or competitors. Civil antitrust actions result in treble damage awards and attorneys' fees. Thus, if association members are held liable to a competitor for antitrust violations which resulted in \$500,000 worth of lost business, the verdict may exceed \$1,500,000.

The government's attitude toward professional associations requires professional association members, as well as professional associations themselves, to at all times conduct their business openly and avoid any semblance of activity which might lead to the belief that the association members had agreed, even informally, to something that could have an effect on prices, fees or competition. Thus, it is important that members contact the association headquarters or legal counsel for guidance if they have even the slightest qualms about the propriety of a proposed activity or discussion.



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MEMBERSHIP REPORT NOV 2012 - MAR 2013

By Monica Menzer

New Members

Deanna Ridenour
Fredrickson, Mazeika & Grant, LLP
5720 Oberlin Drive
San Diego, CA 92121-1723
858-642-2002 x364
858-642-2001 Fax
dridenour@fmlegal.com

Heather B. Mardian
Human Resource Manager
Neil, Dymott, Frank, McFall & Trexler APLC
1010 Second Avenue, Suite 2500
San Diego, CA 92101
Direct: (619) 238-2276
Fax: (619) 238-1562
hlanz@neil-dymott.com

Kathy Culver
Legal Administrator / Controller
Tosdal, Smith, Steiner & Wax, APC
401 West "A," Suite 320
San Diego, California 92101
619.239.7200
kculver@tosdalsmith.com

Sarah Toblin
Director of Operations & Marketing
Galuppo & Blechschmidt, APLC
2792 Gateway Road, Suite 102
Carlsbad, CA 92009
Main: (760) 431-4575
Fax: (760) 431-4579
stoblin@galuppolaw.com
www.galuppolaw.com

Prospective Members

(Associate member)
Anissa Grover
Administrative Assistant
Law Office of Jon D. Rigney, APC
2333 Camino Del Rio, S., Suite 300
San Diego, Ca 92108
Main: (619) 236-0533
Fax: (619) 236-0599
anissagrover@gmail.com

Samantha L. Brzozowski
Legal Assistant & Certified Paralegal
The Coopersmith Law Firm
555 West Beech Street, Suite 230
San Diego, CA 92101
Main: (619) 238-7360 ext. 100
Fax: (619) 785-3357
www.stevecoopersmithlaw.com

New Members Cont.

Jennifer Beckey
Regional Office Manager
DLA Piper
401 B Street, Suite 1700
San Diego, CA 92101
Direct: (619) 765-6613
Fax: (619) 764-6613
jennifer.beckey@DLA Piper.com

Heather Frasch
Firm Administrator
Shinnick & Ryan LLP
1810 State Street
San Diego, CA 92101
Main: 619-239-5900
hfrasch@ssllplaw.com

Lani Zerr
Accounting Manager
Hecht Solberg Robinson
Goldberg & Bagley, LLP
600 W. Broadway, 8th Flr.
San Diego, CA 92101
Main: (619) 239-3444
Fax: (619) 232-6828
lzerr@hechtsolberg.com

Kristyn Carroll
Office Manager
Manning & Kass
550 West C Street, #1900
San Diego, CA 92101
Main: (619) 515-0269
Fax: (619) 515-0268
ksc@manningllp.com

Member Changes

New Employer & Position:

Liliana Fuss
Director of Finance & Administration
San Diego County Bar Association
1333 Seventh Avenue
San Diego, CA 92101
619-231-0781 x 4124
619-338-0042 Fax
lfuss@sdcb.org

No longer with Firm:
Virginia Cushman, formerly w/Foley Lardner

Change in Firm Affiliation:
Marina Field (formerly w/Wingert Grebing)
New email: marina.l.field@gmail.com

M
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BOARD & MEMBERSHIP MEETINGS

APRIL LEADERSHIP DINNER . . . APRIL 9, 2013

ALA ANNUAL CONFERENCE . . . APRIL 14 - 17, 2013

MAY BOARD MEETING . . . MAY 14, 2013

MAY MEMBERSHIP MEETING (PHOTOS) . . . MAY 21, 2013

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VOLUNTEER!

Kick off the new term right and volunteer to serve on a Chapter committee! As we prepare for the 2013-2014 Chapter term, let us know where you would like to get involved. Please complete the [Volunteer Info Sheet](#) and return to Leslie Kaiser at lkaiser@maxhamfirm.com.

THE MANDATE



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Chapter Audit Chair	Rita Hee	619/232-3122
Chapter Awards/LRF/Prof. Association Liaison	Jeff Talcott	858/202-2789
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info@alasaniego.org



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