NCPA

North Carolina Paralegal Association, Inc. Winter 2004

Forum

noun [C]; fór-əm
an occasion or a place for talking about a matter of public interest

Items to Focus on in the Upcoming Year

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- Regulation Task Force Update

The NCPA is an
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of Legal Assistants, Inc.

The NCPA Forum

Editorial Staff
Brenda Mareski, CP
Senior Editor

Teresa Nichols Smith
Advertising Editor/
Patron & Sustaining Chair

Tricia Creech, CLA
Articles/Association News Editor

Contact Information:
The North Carolina Paralegal Association, Inc.
Mary F. Haggerty, CLA, Coordinator
PO Box 36264, Charlotte, NC 28236-6264
704.535.3363/800.479.1905
fax 704.372.9881
www.ncparalegal.org

Subscriptions Email: bmareski@carolina.rr.com
Articles email: trc@cshlaw.com
Advertising email: tns@cshlaw.com

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Editorial Policy: Opinions expressed in articles and features herein are those of the author, and do not necessarily reflect the views of NCPA. The Editor strongly encourages the submission of materials for publication. The Editor reserves the right to edit material and accept or reject materials submitted.

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Send both your old and new address information to:

The North Carolina Paralegal Association, Inc.
Mary F. Haggerty, CLA, Coordinator
PO Box 36264, Charlotte, NC 28236-6264
704.535.3363/800.479.1905
fax 704.372.9881
www.ncparalegal.org

President's Message

Belinda Ann Thomas, CLAS

This is truly an exciting time for the North Carolina Paralegal Association and the paralegal profession. The Supreme Court has now approved the North Carolina State Bar's voluntary certification program, the Plan for Certification of Paralegals. On that note, I encourage each of you to become more involved in the educational programs offered by NCPA and the colleges in the state.

As part of the new Plan for Certification, those paralegals who are certified by the North Carolina State Bar will be required to have continuing education. Ethics will be a requirement for continued certification. NCPA will strive to offer as many hours of credit as possible to help each of you meet the requirements necessary to keep your certification. Our goal is to help each of you be as successful as possible. Do not hesitate to contact me, any officer or your district director for assistance, or with your education or certification questions. I promise that if we do not know the answers we will connect you with someone who does.

For our student members, please feel free to email me or call when you have a project or need information. I enjoy getting to know you. Several of you have allowed me to assist with your interviews and other assignments which has been a wonderful way to get acquainted.

The North Carolina Paralegal Association's 25th Anniversary will be in 2005. Teresa Stacey and Anita Watts Wing have been working diligently to put together a dynamic educational program. They have made extra efforts to include as many concurrent sessions as possible to increase the credit hours for our members. In addition, they are planning fun activities for the celebration of our anniversary. The Annual Meeting and Seminar is scheduled for March 10-12, 2005, at the Holiday Inn Sunspree Resort in Wrightsville Beach, North Carolina. PLEASE make plans to attend.

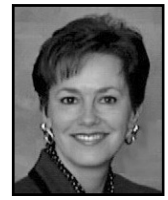
Finally, the Declarations for Candidacy are contained in this issue, and will also be mailed to you in December. I ask that you seriously consider running for an office or director position. We are an association made up of paralegals who are volunteering their time to enhance our profession. Serving as an officer, director or committee chair is a way to do that. NCPA runs as a well oiled machine. The past presidents have done a tremendous job in putting together orientation manuals and job descriptions. Any position in NCPA is one that can be done successfully because of the detailed information to help do so.

Please contact me if you are interested in a particular committee. I keep a volunteer file which I will pass on to the next president with your name and your particular interest. I hope you will consider declaring for a position in this wonderful association!

Oh, by the way. Have a wonderful holiday season!

Editor's Court

Brenda Mareski, CP, Senior Editor



The holidays are upon us already. Every year I resolve to begin planning, shopping, decorating, cooking (and eating) earlier, and every year I end up leaving things until it's nearly too late. There are so many things to do, and not enough hours in the day to get them all done. However there are some things that need to take priority in our lives – most importantly our families and friends, and those in need. Even though the holiday 'tangibles' may get short shrift in your schedule, be sure to leave time to send your holiday greeting cards; bake a gingerbread for that elderly shut-in neighbor; buy an extra bag of dog or cat food for the Humane Society; take a tag from an "angel tree" to make sure some child has a happy and warm holiday; SING; ring a bell for the Salvation Army; thank God for all the things that make your life worthwhile. Every hour we give to others is returned to us tenfold. So even though the month is hectic, take time to enjoy it – and help others enjoy it, too.

Happy Holidays!

Chairman's Message

Theresa (Terry) Irvin, CLA

It's about Professionalism.

This is my second to last report to you as your Chairman of the Board. In March, my term as Chairman of the Board and Immediate Past President will come to an end. I have been involved with NCPA in some capacity since 1990 and, given the opportunity, I hope to continue that involvement into the future, albeit on a somewhat scaled back basis. NCPA has helped me grow as a paralegal, enhanced my skill set, challenged my limits, given me several dear friends and assisted in my professional development.

It is through my contacts made with NCPA that I landed my current position with Bank of America and it was through my local association that I found my very first paralegal job. It is through NCPA seminars that I developed the willingness to pursue the CLA credential. It is through NCPA that I am able to list "proficient in Microsoft Word" and other job skills on my resume. NCPA has kept me informed of current issues and I have had the privilege of hearing several different points of view

continued on next page

Chairman's Message conti...

on subjects at the Board/ EC meetings that have given me a broader perspective. It is through NCPA that I have a statewide network of colleagues that are available to assist with questions in areas of law not familiar to me. It is through NCPA that the attorneys for which I work respect my career and treat me as a professional.

When I made the decision to run for President in November of 2000, I understood that given the organization's history of elections, I would need to make a commitment of at least four years. It seemed very large at the time, but how quickly time passes and I have learned so much. It was about professionalism that I ran and made this commitment. It was also in part about giving a little back to what had enriched me.

Nominations for elections are due now for new officers and directors. I seriously ask each General Member to consider what it is NCPA can provide to them in the way of running for an office. Serving as a Director, Officer or Committee Chair is work and responsibility, however, the rewards are numerous and the support is vast. Running for an office is about professionalism. How much do you value your career? Take it to the next level and find out how it can be rewarding. Make it about professionalism.

North Carolina paralegals are about to receive another channel for professionalism with the proposed certification plan by the North Carolina State Bar. NCPA is very proud of the members of the Regulation Task Force who played a substantial part in this certification. Our organization is truly indebted to Gayle D. Green, CLA, Linda Lee Marion, CLA, Richard H. Reich and Sharon (Sherri) Wall, CLAS for their outstanding dedication, commitment, perseverance and professionalism. These four individuals have committed the last seven years towards this effort and they should be commended by each of you for advancing the professional standards in our state. They are truly the quintessence of professionalism.

NCPA recently held its 20th Mid Year Seminar and CLA/CP Review Course. Twenty-four individuals attended the CLA/CP Review course and over forty attended the Mid-Year Seminar. All in attendance continued to take steps towards advancing their career and profession. The day before the Mid-Year Seminar, we held a long range planning (LRP) and business meeting of the Executive Committee and Board of Directors. Several wonderful ideas were brought forth at the LRP meeting and good discussion was had about the future direction of NCPA.

In between the LRP meeting and the business meeting several officers, directors and committee chairs attended District VII's Meet and Greet Luncheon. We had the pleasure of meeting some of the founding members of the Asheville Area Paralegal Association (AAPA). AAPA is a relatively newly formed organization consisting of professionals in Asheville and the surrounding area who meet to promote education, networking and professional development. It was wonderful witnessing their excitement and sharing ideas. Two even asked for their lunch to go as they were needed back at the office and could only stay a short time. They felt it was important to come and meet everyone and they made the effort to work the lunch into their busy schedule.

It's about Professionalism. How are you fostering your professional development?

Report

Education Report

Melissa Stockley Jones, CLA
First Vice President

Regardless of the fact that two hurricanes rolled through the mountains this fall, NCPA's 20th Mid-Year Seminar and CLA/CP Review Course was a huge success. First and foremost, I would like to thank the Mid-Year Co-Chairs, Kaye Summers, CLA and Betsy Crittenden, CLA, and the CLA/CP Review Course Chair, Sarah Hutchins, CLA, for their time and hard work. While I had to miss these events due to a trial (which, by the way, we won!), I heard both events were well attended. I would especially like to thank Teresa Stacey for standing in as "me" and working with the hotel to make sure the Mid-Year Seminar and CLA/CP Review Course ran smoothly.

NCPA President Belinda Thomas, CLAS, opened the 20th Mid-Year Seminar with welcome remarks, which were followed by a general session with Debra Pawl, Esq. and Gabe Szabo of Closure Medical Corporation. Ms. Pawl and Mr. Szabo presented "Bringing a Product to Market." Concurrent sessions included "Preparation of the Trial Brief and Trial Notebook in an Equitable Distribution Trial," presented by Howard Gum, Esq. and Donna Cooper of Gum, Hiller & McCroskey, P.A. in Asheville; "The Bankruptcy Solution," presented by Peggy Palms, Esq. of Peggy Palms & Associates, P.L.L.C. in Boone; "Special Needs Trusts," presented by J. Gregory Wallace, Esq. of Monroe, Wyne & Wallace, P.A. in Raleigh; "Service of Process / Rule 45," presented by James A. Clark, Esq. of Pulley, Watson, King & Lischer, P.A. in Durham; "The American with Disabilities Act: A General Overview," presented by Rachel K. Esposito, Esq. of Cranfill, Sumner & Hartzog, L.L.P. in Raleigh; and "Diary of a Dirt Lawyer," presented by Rebecca Johnston Reinhardt, Esq. of Roberts & Stevens, P.A. in Asheville. The Seminar concluded with a general session presented by Michelle L. Frazier, Esq., Director of Governmental Affairs with the North Carolina Bar Association in Cary, who spoke about the 2004 Legislative Updates.

NCPA is grateful for the support of our exhibitors, contributors and sponsors. NCPA's seminars would not be successful without their generosity. We would like to thank all of our exhibitors, contributors and sponsors for their ongoing support of NCPA.

Annual Seminar Co-Chairs Teresa Stacey and Anita Watts Wing are (and have been since June) hard at work preparing for NCPA's 25th Annual Seminar and Meeting to be held March 10 – 12, 2005. Please plan to join us in celebrating our Silver Anniversary at the Holiday Inn SunSpree in Wrightsville Beach, North Carolina. This year our Friday night banquet will be a "dress-up" event with Gray Wilson, our North Carolina Bar President, as our speaker. In addition, Debra J. Monke, CLAS, NALA President 2004-2005, has accepted our invitation to come and speak at the CLA/CLAS breakfast this year. There will be topics for all, so come on down to the coast and enjoy meeting and learning with your fellow paralegals in North Carolina.

Watch your mail for registration brochures coming soon. Hope to see you all in March!

Report

NALA Liaison

Mary Parrish Coley, CLA

Congratulations to the following paralegals who passed the CLA exam in July 2004: Maxine E. Ellis, CLA of Raleigh; Leigh M. Goodin, CLA of Winston-Salem; Caroline G. Gunter, CLA of Raleigh; Rachel E. Gwyn, CLA of Durham; Vincent N. Hamner, CLA of Durham; Tara Maxey, CLA of Kernersville; Elizabeth M. Taylor, CLA of Raleigh; and Michele A. Tuttle, CLA of Winston-Salem. Additionally, congratulations to Patricia F. Clapper, CLAS of Chapel Hill, who passed the Civil Litigation Specialty Exam; Suzanne M. Haswell, CLAS of Morrisville, who passed the Corporate & Business Law Specialty Exam; and Melissa C. Saunders, CLAS of Durham, who passed the Intellectual Property Specialty Exam.

I'm very pleased to announce that Debra J. Monke, CLAS, President of NALA has agreed to attend NCPA's 25th Annual Meeting and Seminar being held on March 10-12, 2005, in Wrightsville Beach. Debra will speak at the CLA breakfast on that Saturday morning.

Upcoming NALA dates and deadlines:	
December 3-4	**CLA Exam**
January 15, 2005	**Deadline for filing for the March 18-19, 2005 CLA Exams**
March 18-29, 2005	**CLA Exam**
July 13-16, 2005	**30th Annual Convention of NALA, Kansas City, Missouri**

For further information on NALA or the CLA/CLAS exams, please contact me at mcoley@bbandt.com or (704) 954-1706.

Report

Membership

Darlene M. Patz, CP, Second Vice President

The current membership breakdown is as follows (New members reported from July 26, 2004 through October 15, 2004.):

General members:	358
Associate members:	45
Student members:	76
Affiliate members:	4
Sustaining members	1
Total	**484**

NCPA sends a warm welcome to our newest (G)eneral, (A)ssociate, and (S)tudent members who are as follows:

Michaella Barbour, Sneads Ferry (S)
Shannon Conley, Creedmoor (G)
Glynis Edmonds, Nashville (G)
Jessica Fann, Garner (G)
Selene Hendricks, Kannapolis (S)
Candice Herrick, Kannapolis (S)
Ann Marshall, Mt. Airy (G)
Janet Neely, Charlotte (A)
Mellissa Pate, Benson (A)
Melissa Rutledge, Greensboro (G)
Gretchen Stephensen, Charlotte (G)
Adrian Stevens, Greensboro (S)
Melody Suggs, Wilmington (G)
Diane Tally-Skundrich, Winston-Salem (G)
Jason Ward, Forest City (A)
Susan Whitt, Cary (S);

NCPA is proud to recognize the following Sustaining member: Document Technologies, Inc. — America's fastest growing document outsourcing company

NCPA also recognizes the following Affiliate members: Alamance County Paralegal Association, Cumberland County Paralegal Association, Greensboro Paralegal Association and Pitt County Paralegal Association, Inc.

MEMBERSHIP

NCPA invites paralegals, paralegal students, attorneys, educators, paralegal associations and those related to the legal profession to become members. There are seven membership categories: General, Associate, Student, Patron, Sustaining, Affiliate and Paralegal Educational Program. Each membership category has its own requirements.

Learn more about the benefits of membership at http://www.ncparalegal.org/membershipterms.htm, where you will also find applications for General, Associate and Student membership.

If you would like to speak with an NCPA representative, please contact the following individuals:

MEMBERSHIP TYPE	CONTACT	TELEPHONE	EMAIL
General / Associate / Student Membership	Darlene Patz, CP, Second Vice President	803.325.6152	darlene.patz@celaneseacetate.com
Patron / Sustaining Membership	Teresa Nichols Smith Patron / Sustaining Chair	910.509.9827	tns@cshlaw.com
Affiliate Membership	Teresa A. Stacey Affiliate Director	336.227.8851	tas@vernonlaw.com
Paralegal Educational Program Membership Relations Chair	Erin N. Burris, CLA, Student/Schools	919.472.1201	erin.burris@sonyericsson.com

NCPA 2004 SURVEY RESULTS
Compiled by Therese A. Morin and Annette T. Younger, Survey Committee Co-Chairs

Following are the results from the 2004 survey. We received 102 responses to the survey and would like to thank those who took time out of their busy schedules to participate. The survey results may also be compiled by region, county or city. If anyone is interested in receiving the results for a specific area, or have other questions regarding the survey results, please email Therese A. Morin (tam@vernonlaw.com) or Annette T. Younger (aty@vernonlaw.com) with your request.

1. What is your title? (# of responses: 100)

10	10.0%	Certified Legal Assistant
2	2.0%	Certified Paralegal
10	10.0%	Legal Assistant
65	65.0%	Paralegal
2	2.0%	Sr. Legal Assistant
5	5.0%	Sr. Paralegal
2	2.0%	Paralegal Manager
4	4.0%	Other
Other:		Assistant VP/Paralegal
		Legislative Liaison
		Office manager
		Receptionist/administrative assistant
		Senior corporate paralegal

2. Age: (# of responses: 102)

0	0.0%	Under 21
3	2.9%	21 - 25
10	9.8%	26 - 30
39	38.2%	31 - 40
50	49.0%	Over 40

3. Sex: (# of responses: 102)

98	96.1%	Female
4	3.9%	Male

4. General education (excluding paralegal experience): (# of responses: 102)

7	6.9%	High School
13	12.7%	Some College
26	25.5%	Associate Degree
47	46.1%	Bachelors Degree
9	8.8%	Graduate Degree
0	0.0%	Doctorate

5. Law-related educational background: (# of responses: 102)

6	5.9%	Bachelors degree paralegal program
35	34.3%	Associates degree paralegal program
9	8.8%	Paralegal classes (not in formal program)
10	9.8%	Non-degree undergraduate level paralegal program
23	22.5%	Non-degree graduate level paralegal program
18	17.6%	On-the-job training
1	1.0%	No formal training

Is the paralegal program an ABA-approved program? (# of responses: 78)

59	75.6%	Yes
19	24.4%	No

6. Do you have a Paralegal Certificate/Degree? (# of responses: 100)

53	53.0%	Yes
40	40.0%	No
7	7.0%	No, but am working toward it

7. Are you a Certified Legal Assistant? (# of responses: 102)

25	24.5%	Yes
71	69.6%	No
6	5.9%	No, but am working toward it

8. Is being a paralegal your career? (# of responses: 100)

99	99.0%	Yes
1	1.0%	No

9. Total year(s) of experience as a paralegal or legal assistant: (# of responses: 102)

3	2.9%	Less than 1 year
3	2.9%	1 - 3 years
19	18.6%	4 - 7 years
13	12.7%	8 - 9 years
26	25.5%	10 - 14 years
17	16.7%	15 - 20 years
21	20.6%	Over 20 years

10. Number of year(s) in current position: (# of responses: 102)

11	10.8%	Less than 1 year
19	18.6%	1 - 3 years
34	33.3%	4 - 7 years
4	3.9%	8 - 9 years
16	15.7%	10 - 14 years
7	6.9%	15 - 20 years
11	10.8%	Over 20 years

11. Cities: (# of responses: 102)

Asheboro	1	0.98%
Asheville	7	6.86%
Burlington	1	0.98%
Cary	1	0.98%
Chapel Hill	1	0.98%
Charlotte	27	26.47%
Concord	2	1.96%
Durham	4	3.92%
Fayetteville	2	1.96%
Franklin	1	0.98%
Gastonia	1	0.98%
Greensboro	14	13.73%
Henderson	1	0.98%
Hickory	1	0.98%
High Point	4	3.92%
Mooresville	1	0.98%
Raleigh	14	13.73%
RTP	4	3.92%
Salisbury	3	2.94%
Smithfield	1	0.98%
Statesville	1	0.98%
Wentworth	1	0.98%
Wilmington	3	2.94%
Wilson	2	1.96%
Winston-Salem	4	3.92%

Counties: (# of responses: 102)

Alamance	1	0.98%
Buncombe	7	6.86%
Cabarrus	2	1.96%
Catawba	1	0.98%
Cumberland	2	1.96%
Durham	8	7.84%
Forsyth	4	3.92%
Gaston	1	0.98%
Guilford	18	17.65%
Iredell	2	1.96%
Johnston	1	0.98%
Macon	1	0.98%
Mecklenburg	27	26.47%
New Hanover	3	2.94%
Orange	1	0.98%
Randolph	1	0.98%
Rockingham	1	0.98%
Rowan	3	2.94%
Vance	1	0.98%
Wake	15	14.71%
Wilson	2	1.96%

Regions: (# of responses: 102)

Eastern	24	23.53%
Middle	39	38.24%
Western	39	38.24%

12. Current position found through: (# of responses: 101)

16	15.8%	Newspaper
22	21.8%	Employment agency
1	1.0%	NCPA job bank
6	5.9%	Internet
37	36.6%	Referral
19	18.8%	Other
Other:		Cold call
		Friend
		Internship from paralegal school
		Letter mailed to an AV law firm
		Networking
		Position created for me
		State job listings
		Unsolicited resume

13. Work environment: (# of responses: 101 responses)

70	69.3%	Private Firm
6	5.9%	Government (Federal/State)
22	21.8%	Corporation
0	0.0%	Freelance/Independent
1	1.0%	Hospital
2	2.0%	Other
Other:		Nonprofit
		Started own business

14. Are you: (# of responses: 102)

100	98.0%	Full time
2	2.0%	Part time

15. Size of office:

Number of attorneys in office: (# of responses: 100)

33	33.0%	5 or less
25	25.0%	6 - 10
6	6.0%	11 - 20
17	17.0%	21 - 49
19	19.0%	50 +

Number of full-time paralegals: (# of responses: 102)

56	54.9%	5 or less
20	19.6%	6 - 10
11	10.8%	11 - 20
7	6.9%	21 - 49
8	7.8%	50 +

Number of full-time Support Staff: (# of responses: 101)

44	43.6%	5 or less
14	13.9%	6 - 10
10	9.9%	11 - 20
19	18.8%	21 - 49
14	13.9%	50 +

16. In which area of law do you primarily work? (# of responses: 102)

5	4.9%	Banking/Finance/Taxes
7	6.9%	Bankruptcy
32	31.4%	Civil Law
4	3.9%	Commercial Lending
1	1.0%	Consumer Law
17	16.7%	Corporate Law
3	2.9%	Criminal Law
5	4.9%	Defense Litigation
0	0.0%	Elder Law
4	3.9%	Employment Law
7	6.9%	Estate/Probate
3	2.9%	Environmental Law
10	9.8%	Family Law
4	3.9%	Health Care Law
1	1.0%	Insurance Law
9	8.8%	Intellectual Property Law
5	4.9%	Legislation/Governmental
3	2.9%	Medical Malpractice
10	9.8%	Personal Injury/Disability
1	1.0%	Product Liability
13	12.7%	Real Estate - Residential
13	12.7%	Real Estate - Commercial
6	5.9%	Workers' Compensation
6	5.9%	Other:______________
Other:		Administrative Law
		Contract
		Securities
		Social Security
		Social Security Disability
		UCC filing & searches

17. Are you provided with secretarial support? (# of responses: 102)

50 49.0% Yes
52 51.0% No
If yes, do you: (# of responses: 49)
11 22.4% Have a secretary assigned to you?
31 63.3% Receive assistance from the attorney's secretary?
7 14.3% Receive assistance from a secretarial pool?

18. Office space: (# of responses: 101)
5 5.0% Open area
23 22.8% Cubicle in open area
2 2.0% Partitioned space only
8 7.9% Share office with another
31 30.7% Private office w/window
32 31.7% Private office - no window
0 0.0% Work from home

19. Gross Salary Range: (# of responses: 102)
0 0.0% Less than $12,000
0 0.0% $12,000 - $14,999
0 0.0% $15,000 - $16,999
0 0.0% $17,000 - $19,999
1 1.0% $20,000 - $22,499
2 2.0% $22,500 - $24,999
11 10.8% $25,000 - $29,999
13 12.7% $30,000 - $34,999
19 18.6% $35,000 - $39,999
29 28.4% $40,000 - $49,999
27 26.5% $50,000 +
Approximate average salary: $40,796

20. Average number of hours worked per week: (# of responses: 102)
3 2.9% 1 - 34
58 56.9% 35 - 40
41 40.2% 41 - 50
0 0.0% 51 - 60
0 0.0% 61 +

21. Are you compensated for overtime? (# of responses: 102)
59 57.8% Always
15 14.7% Sometimes
28 27.5% Never
If so, compensation is in the form of: (# of responses: 74)
39 52.7% Money
12 16.2% Time off
23 31.1% Combination of both
0 0.0% Other

22. Do you receive a bonus? (# of responses: 101)
71 70.3% Yes
30 29.7% No
If yes, bonus based on: (# of responses: 70)
27 38.6% Firm/company success
8 11.4% Percentage of salary
16 22.9% Merit
15 21.4% Holiday
9 12.9% Billable hours
7 10.0% Years of service
4 5.7% Other:______________
Other: Fixed amount
General Assembly
Personal goals
Same amount to all staff
If yes, amount of bonus: (# of responses: 69)
9 13.0% Less than $500
29 42.0% $500 - $1,000
7 10.1% $1,000 - $1,500
14 20.3% $1,500 - $3,000
7 10.1% $3,000 - $5,000
3 4.3% Over $5,000

23. Have you received a raise in the past year? (# of responses: 102)
83 81.4% Yes
19 18.6% No
If yes, what was the percentage increase? (# of responses: 101)
Minimum: 2.00%
Maximum: 30.00%
Average:5.33%
If yes, amount of raise: (# of responses: 75)
4 5.3% Less than $500
101 3.3% $500 - $1,000
27 36.0% $1,000 - $1,500
21 28.0% $1,500 - $3,000
8 10.7% $3,000 - $5,000
5 6.7% Over $5,000

24. How many attorneys or individuals are you assigned to? (# of responses: 101)
33 32.7% 1
45 44.6% 2 - 5
11 10.9% 6 - 10
6 5.9% 11 +
6 5.9% not directly assigned to any attorney(s) or individual(s)

25. Are you in a supervisory position? (# of responses: 102)
5 4.9% Over other paralegals
8 7.8% Over other staff
2 2.0% In law office management
87 85.3% Not in supervisory position

26. What benefits are paid in whole or in part by your employer? (# of responses: 102)
96 94.1% Medical Insurance
52 51.0% Dental Insurance
82 80.4% Life Insurance
40 39.2% Maternity leave
60 58.8% Short-term disability
60 58.8% Long-term disability
49 48.0% Parking
54 52.9% Pension/profit sharing
71 69.6% 401(k) or IRA
66 64.7% Association membership
7 6.9% Child care
7 6.9% Other: ______________
Other: CLE fees
Gym
Medical reimbursement plan
Pro-rated benefits due to part-time status
SEP
Stock options
Tuition

27. Which of the following are provided by your employer? (# of responses: 99)
80 80.8% Seminars
14 14.1% Career path programs
17 17.2% Retreats
31 31.3% In-house CLE
65 65.7% Personal days
36 36.4% Flex Time
20 20.2% Part-time employment
42 42.4% Flexible spending plan(s)
18 18.2% Orientation plan

28. How many vacation days per year do you receive? (# of responses: 102)
0 0.0% 1 - 5
25 24.5% 6 - 10
39 38.2% 11 - 15
25 24.5% 16 - 20
13 12.7% Greater than 20 days
Are they accruable? (# of responses: 102)
39 38.2% Yes
63 61.8% No
If yes, maximum number of days accruable: (# of responses: 31)
Minimum: 2
Maximum: 60
Average: 20

29. How many personal/sick days per year do you receive? (# of responses: 83)
26 31.3% 1 - 5
32 38.6% 6 - 10
12 14.5% 11 - 15
7 8.4% 16 - 20
6 7.2% Greater than 20 days
Are they accruable? (# of responses: 82)
27 32.9% Yes
55 67.1% No
If yes, maximum number of days accruable: (# of responses: 19)
Minimum: 3
Maximum: 80
Average: 22

30. For what expenses are you reimbursed, in whole or in part, relating to association meetings, seminars, and/or CLA matters? (# of responses: 99)
88 88.9% Registrations
77 77.8% Lodging
76 76.8% Mileage
68 68.7% Meals
39 39.4% CLA testing
8 8.1% Does not reimburse
If you checked 'e' above, for what costs associated with CLA testing are you reimbursed (# of responses: 38)
36 94.7% Registration
25 65.8% Mileage
23 60.5% Lodging
29 76.3% Study materials
28 73.7% Review course

31. When attending seminars, are you required to take vacation/sick day(s)? (# of responses: 97)
4 4.1% Yes
93 95.9% No

32. In providing reimbursement for seminars, does your employer: (# of responses: 92)
17 18.5% Have a set budget only
8 8.7% Have a range to work with
61 66.3% Decide on a case-by-case basis
6 6.5% Does not provide

33. Which of the following duties do you perform? (# of responses: 101)
97 96.0% Documentation preparation, drafting and/or review
95 94.1% Drafting correspondence
68 67.3% Client conferences/Witness Interviews
44 43.6% Deposition preparation, scheduling, and/or attendance
72 71.3% Legal, medical or general research
24 23.8% Title searches/Legal descriptions
49 48.5% Preparation for trial, including exhibits and/or attendance at court hearings and/or conferences
77 76.2% Word processing
85 84.2% File maintenance
27 26.7% Preparation of billing
13 12.9% Library maintenance
14 13.9% Tracking legislation
16 15.8% Prepare closing packages
14 13.9% Travel arrangements
27 26.7% Secretarial support
18 17.8% Messenger runs
48 47.5% Courthouse or other filings
23 22.8% Training
16 15.8% Negotiations/Settlements
2 2.0% Underwriting
5 5.0% Preparation of tax returns
21 20.8% UCC searches
11 10.9% Other: ____________________
Other: Assist with project management
Provide in-house computer support
Bank reports/HR matters
Real estate closings
Database preparation
Receptionist
IP database entry
SSA hearing preparation
Medical
Trademark searches and maintenance

34. Do you deal directly with clients? (# of responses: 101)
53 52.5% Always
40 39.6% Sometimes

8	7.9%	Never

35. Do you have promotion potential in your present firm or company? (# of responses:

18	18.2%	Yes
64	64.6%	No
17	17.2%	Don't know

If so, please describe your future career plans:
Become a senior paralegal
Becoming Vice President
Law school
Managerial functions
Obtaining BA and applying for law school
Paralegal Manager
Thinking about law school

36. How often do you travel on the job? (# of responses: 101)

3	3.0%	Frequently
32	31.7%	Occasionally
48	47.5%	Seldom
18	17.8%	Do not travel

Average number of days per year you travel: (# of responses: 42)
Minimum: 1
Maximum: 120
Average: 20
Do you travel: (# of responses: 77)

56	72.7%	Within NC only
6	7.8%	Throughout southeast
12	15.6%	To other parts of US
3	3.9%	Other

Other: NC/Virginia
United Kingdom
US & international

When traveling, for which expenses are you reimbursed? (# of responses: 77)

74	96.1%	Mileage
56	72.7%	Meals
54	70.1%	Lodging
3	3.9%	None

37. Do you bill your time? (# of responses: 100)

56	56.0%	Yes
44	44.0%	No

38. If yes, what is your hourly billing rate? (# of responses: 52)
Minimum: $35 per hour
Maximum: $150 per hour
Average: $91 per hour

39. Are you required to bill a certain number of hours per year? (# of responses: 95)

20	21.1%	Yes
75	78.9%	No

If yes, what is the required goal? (# of responses: 14)
Minimum: 1080 hours
Maximum: 1620 hours
Average: 1475 hours

40. Does your employer have a law library? (# of responses: 101)

85	84.2%	Yes
16	15.8%	No

41. Do you have access to Westlaw, Lexis, the Internet or other computer-type research tools? (# of responses: 101)

93	92.1%	Yes
8	7.9%	No

If yes, does your employer provide training for these programs? (# of responses: 96)

68	70.8%	Yes
28	29.2%	No

42. Do you participate in pro bono work? (# of responses: 99)

23	23.2%	Yes
76	76.8%	No

If yes, what type? All
Criminal
Elder law
Estate planning
Real estate closings
Tax - nonprofit corporations
Title research
ULP
Workmen's Compensation

43. Does your employer support and/or require pro bono work? (# of responses: 95)

36	37.9%	Yes
59	62.1%	No

44. In the past year, have you looked for another position? (# of responses: 100)

32	32.0%	Yes
68	68.0%	No

If yes, why? Advancement
Another specialty
Change in department head
Commuting
Corporate down-sizing
Dissatisfied with employer
Down-sizing
Free-lance work
Job relocated
Lack of work
More money
More money and better opportunity
More opportunity for advancement
No career advancement
Opportunity to advance; less stress; better pay
Possible relocation
Relocating
Reorganization of company; boredom; lack of work
Research opportunity
Salary
Salary/benefits
Stress in present position; no help
Unhappy with work environment

45. Are you a member of NCPA? (# of responses: 101)

99	98.0%	Yes
2	2.0%	No

If no, check all that apply: (# of responses: 1)

0	0.0%	Unable to attend meetings
1	100.0%	Too busy with other commitments
0	0.0%	Other

46. Are you a member of any other paralegal or legal assistant associations? (# of responses: 96)

61	63.5%	Yes
35	36.5%	No

Associations: (# of responses: 59)

1	1.7%	ABA
1	1.7%	Alamance Cty Paralegal Assn
2	3.4%	Asheville Area Paralegal Assn
2	3.4%	Cumberland Cty Paralegal Assn
3	5.1%	Greensboro Paralegal Assn
13	22.0%	Metrolina Paralegal Assn
29	49.2%	NALA
1	1.7%	NC Notary Public Assn
8	13.6%	NCATL-LAD
26	44.1%	NCBA-LAD
2	3.4%	NFPA
1	1.7%	RTPA
3	5.1%	RWPA
1	1.7%	Wake County PA

47. Do you feel paralegals/legal assistants should be regulated in some way? (# of responses: 99)

90	90.9%	Yes
9	9.1%	No

48. Are you in favor of the Plan for Certification as proposed by the North Carolina Bar? (# of responses: 98)

59	60.2%	Yes
7	7.1%	No
31	31.6%	Undecided
1	1.0%	Unaware of Plan

49. What do you think should be included in NCPA's long-range planning over the next 5 to 10 years?
-Better job bank.
-Building/encouraging local organizations/affiliates.
-Encouraging government-employed paralegals to join; some government agencies do not pay association dues for their paralegals. Perhaps offer them a discount? More continuing education.
-Develop consensus regarding membership requirements - especially regarding "student" members. Educate attorneys about CLA designation, advantages to the broader use of paralegals, and the importance of paralegals maintaining certification.
-Educate attorneys re: paralegal uses and how paralegals can benefit them.
-Increasing membership in remote areas of the State.
-Member recruitment in local colleges and universities in NC.
-More seminars in Asheville and Wrightsville Beach.
-Regulation/certification.
-Seminars - expand beyond "the box"; areas other than real estate need to be included; you are losing interest of members who do not work in real estate.
-Should be ethics in plan of certification.

50. Additional comments:
Survey should be on line next time.
Would prefer seminars be more centrally located due to high cost of "vacation" locations.

Database Designed
By
Agner Consulting
agner_consulting@earthlink.net
Burlington, North Carolina

Balancing Life and Practice

The Power Of The Paralegal

by Tony Wright
Lawyers Weekly USA
Sept. 2004

Dressed in black, like a thief in the night, California paralegal Carolyn Yellis strapped a camera around her neck and drove to the lumberyard where she crouched, waiting for her subject to appear.

Her mission: obtain photographic evidence of men working in the yard.

"It was my first sub-rosa [assignment]," said Yellis who, at the time, was working as a contract paralegal on a construction defect case with San Francisco attorney Kimberly Larsen. "We were defending a roofer and the lumberyard wouldn't produce an employee that we wanted to talk to and denied that the person even worked for them. So I went to the yard, peeping through the fence and caught him lifting and doing all kinds of stuff," she said. "I got my pictures."

Investigations, said Yellis, are just one innovative way to use paralegals.

The example, albeit extreme, illustrates the point that paralegals perform a variety of tasks for lawyers today that they may not have in the past.

And while most small-firm and solo practitioners don't have a need for covert operations, there are a variety of innovative ways attorneys can use paralegals that will help increase the overall productivity of the firm and allow lawyers to focus their efforts on what they do best - practicing law and rainmaking.

"Attorneys should be focused strictly on practicing law or developing clients and bringing in more business," said Lee Davis, a paralegal in Phoenix, Ariz., who has 25 years of experience and operates her own paralegal outsourcing company.
James Wilbur, a principal at a legal consulting firm in Milwaukee, Wis., echoed Davis's remarks.

"It is a safe statement to say that many lawyers underappreciate what paralegals can do for them in terms of their practice and profitability because [some] have never worked with them," he said.

Experts agree that small-firm lawyers can increase profitability and build their practice by gaining a better understanding of the specialized skills many paralegals possess, whether it be expertise in a particular practice area, a firm grasp of technology, the ability to manage complex projects or the interpersonal skills necessary to market the attorney's services.

The Many Faces Of The Paralegal

"[Paralegals] are professionals with educations and are here solely to help attorneys," said Yellis, "and a lot of attorneys don't realize some of the tasks that we can do. That's why we are on a quest to educate attorneys here in California," she said. Paralegals can serve a variety of non-traditional functions in a law firm, including:

The paralegal as specialist.

"I've seen paralegals earn six-figure incomes who are experts in certain areas and work on very sophisticated matters," said Wilbur.

California paralegal Ray Goldstein is a perfect example.

Goldstein, who began his paralegal career later in life at the age of 40, played a key role in the $3 billion verdict against Philip Morris in June 2001, won by Los Angeles small-firm attorney Michael J. Piuze. (Boeken v. Philip Morris, Inc., June 6, 2001.)

"Without Ray Goldstein, I was nowhere," Piuze told Lawyers Weekly USA following the verdict.

Goldstein's specialty is managing large numbers of documents - in the Boeken case, more than 27 million pages of documents - through a mastery of the database program, Microsoft Access.

"All the lawyers have it," said Goldstein, "but none of them know how to use it."

Now, said Goldstein, after working for four years, he has more than 6,000 documents in his tobacco litigation database, all linked, catalogued and indexed, which makes him an invaluable resource for lawyers who may be involved in tobacco litigation. But his expertise using Access isn't limited to tobacco litigation. His skills are also in demand by lawyers involved in any type of complex litigation.

"I had an attorney call me the other day who had 1,300 images on a CD ROM and needed a structure to browse through them, code them and link them. I created that vessel for them," he said, so that 1,300 random images become an organized resource for litigation purposes.

Goldstein also has digital imaging and PowerPoint presentation skills, which allow the attorneys who hire him to request and receive graphs, presentations and demonstrative evidence, often needed on the fly.

His proficiency with software programs like Access and PowerPoint, and his ability to churn out work product quickly and with little lead-time makes him a hot commodity.

"If you have a case in an 'electronic courtroom,' a technology-savvy paralegal would be invaluable - much more so than having a technical consultant," said Davis, because the paralegal has both the technical and the legal skills.

"It's our job to stay on top of the technology," she added.
Phoenix attorney Russell Kolsrud, one of Davis's clients, said that he always brings a paralegal familiar with electronic evidence into the courtroom with him these days.

"They know what needs to be done and they work with me on the presentation of evidence," he said, which frees him up to focus more on the trial and on strategy rather than worrying about how to keep track of and navigate through large quantities of documents, exhibits and witnesses.

The paralegal as 'case manager.'

Yellis explained that paralegals often appear in place of an

continued on next page

Balancing Life conti...

attorney at Social Security and other administrative hearings, and in some situations even in small claims court.

"For example, in California, if a law firm you work for has a dispute [with a client] over fees, the firm could send the paralegal to small claims court in that situation," said Yellis.

The distinction, she said, is the paralegal in that scenario is acting as a representative of the firm and not representing a client, which would constitute the unauthorized practice of law. In fact, Lori Holcomb, director of the Unlicensed Practice of Law Section of the Florida Bar, said that it is rare to see unauthorized practice of law issues with paralegals working for lawyers.

"The only time we see a big problem is when we see the tail wagging the dog," she said.

She described a case where the paralegal was "running the law office," deciding which clients to take, "calling all the shots," and earning far more income than the attorney.

"The other problem we see occasionally is where a paralegal decides, 'I can handle this case.'"

Then at some point the client contacts the attorney, who has no idea who the client is, she said.

But, Holcomb said that these examples are the exception, and, for the most part, as long as paralegals aren't giving legal advice or setting fees, and are working under the supervision of an attorney, "anything's fair game," she said.

Vero Beach, Fla., attorney Bill Stewart has taken his residential real estate practice to new heights by positioning his paralegals as "case managers" or "transaction managers" who, under his direction, build relationships with his clients by fielding numerous calls and answering a lot of the questions that jittery homebuyers often have before their closing.

"I gave them notepaper and business cards identifying them as [case managers] and the routine was if a contract was signed in the office, the [client] would be introduced to the case or transaction manager, and invited to call [that person] with questions. Or if the contract was signed outside of the office, the [client] would receive a letter from the case manager explaining her function. She would then initiate a phone call [to the client]," said Stewart.

The purpose of all of this, Stewart explained, was to build a relationship between the client and someone other than himself and to provide the client with a resource who was more accessible than he.

So when the phone rang, the client was comfortable asking the case manager when the closing was instead of insisting on talking to Stewart to answer the same or similar routine questions.

"It eased up my day," said Stewart, who admitted that his paralegals were more prepared to answer the practical questions his clients called with anyway.

And despite his flat-rate fee structure for real estate closings, Stewart said that his clients, in the end, seemed relieved that they could trust their questions to his paralegal staff because of the mistaken belief that they were paying more every time they had to get Stewart on the phone.

The paralegal as marketer.

Another innovative but often-overlooked area where paralegals can assist attorneys is marketing.

While speaking to a group at the American Bar Association's Annual Meeting this summer in San Francisco, Larsen, the San Francisco attorney, explained how she leveraged Yellis's skills at speaking engagements.

Larsen said that when she speaks at various bar functions or to other groups she takes Yellis with her so that at the end of the presentation both of them can work the crowd, handing out business cards and meeting contacts.

While acknowledging that there's no substitute for face-to-face time with the attorney, Yellis and Larsen stressed that it's better to have a prospective client or referral source meet the paralegal and receive the attorney's card than to have no direct contact with the firm at all.

Shmoozing aside, Yellis and Wilbur both said that a paralegal should handle all of the planning and execution of any of the attorney's speaking engagements.

"I worked for a firm where I would do all of the PowerPoint presentations for the speaking engagements, make all the arrangements, and go and do the meet-and-greet," said Yellis. She also said that attorneys would often tell her where they would like to get invited to speak and she would do the legwork to get the attorney in the door.

"One attorney would tell me where he wanted to go and I would get him in," she said, by spending the time to make phone calls and connecting with the right people.

The paralegal as collections agent.

Long Island attorney Harriet Steinberg saw the receivables in her four-attorney firm extending out longer and longer, with the amount owed to the firm getting larger and larger.

"Before you know it, three to four months have gone by without [receiving] a payment," she said, and it was often her family law clients who were delinquent.

"People in the matrimonial arena are distraught emotionally, and getting legal bills doesn't help. We saw things getting out of hand," she lamented.

Steinberg got creative.

She approached a paralegal in her office and offered her a financial incentive to become the office bill collector on top of doing her more traditional paralegal work.

"I decided in my mind it would be worth $10,000 to me to collect an additional $300,000-400,000 a year, so I worked out an arrangement with my paralegal where she would call clients, make financial arrangements, follow up and receive and track payments. She got a certain amount just for assuming the role and then a sliding scale bonus [up to $10,000 a year] based on how much she was able to collect," said Steinberg.

The result?

"Magnificent," said Steinberg.

"[The paralegal] has brought our receivables into a very good position. She's quite effective - not offensive, but she will get the money."

Steinberg said that her paralegal's interpersonal skills and ability to read clients has been crucial to her success.

"Depending on who the client is she can be domineering at times and say 'Just get the check to us.' Other times she can be very sweet."

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Balancing Life conti...

Steinberg noted that she certainly couldn't have hired someone for only $10,000 to do the collection work her paralegal has taken on with such aplomb, and the extra $350-800 per month in the paralegal's pocket keeps her motivated to keep on collecting.

How To Hire

"I would urge any lawyer who is at the point where they need to bring someone in to consider a paralegal," said Wilbur, who also noted that the decision to hire someone full- or part-time or to hire on a contract basis should be determined simply by the volume of work.

"If you don't have enough work to keep a paralegal busy all the time, then you should hire on a contract basis," he said.

Wilbur urged attorneys considering a paralegal to find colleagues in their communities who use them and start asking questions about how they hired and what the paralegals are doing for the attorney.

Davis said that one place to look for a contract paralegal is an outsourcing company like hers in Phoenix, the benefit being that the company has already done the legwork and pre-screened the paralegals, and knows what skills each of them can bring to the attorney.

But Yellis said that there are plenty of experienced paralegals out there who freelance, and a good place to start looking is local and regional paralegal associations, most of which have websites that offer attorneys a place to post job opportunities or provide contact information for members and directors of the association.

For the most comprehensive listing of paralegal associations in the United States, go to www.paralegalgateway.com. The site provides hotlinks to more than 80 associations nationally.

Bar associations can be another great resource for finding a contract or freelance paralegal, said Yellis, and often provide attorneys with a list of local qualified paralegals.

And a good tip, she said is to develop a relationship with a contract paralegal now, even if you don't have an immediate need for a full-time employee, so that when the time comes to hire, attorneys don't make rash staffing decisions.

Finally, most attorneys know that paralegals can and should be income-producing members of the practice, said Davis, particularly when they are hired on a contract basis, where the attorney is only paying their fee without having all of the other expenses that go along with hiring an employee.

Wilbur agreed.

"The key is to make sure your practice is such that a paralegal makes sense," he said. "With that said, I can hardly think of a practice where a paralegal wouldn't make sense. And for a small-firm or solo practitioner, you can bill for the time, which helps [the attorney] leverage his or her time and create better profitability."

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Regulation Task Force

Sharon L. Wall, CLAS

We are pleased to report that the inaugural members of the North Carolina State Bar (State Bar) Board of Paralegal Certification (Board) were appointed by the State Bar Council on October 22, 2004. Members of the Board include:

Attorneys

- Mike Booe, Charlotte, Chair (3-year term)
- Renny Deese, Fayetteville (2-year term)
- Barry Mann, Raleigh (2-year term)
- John Harris, Morehead City (1-year term)

Paralegal Educator

- Marisa Campbell, Esq. (3-year term)

Paralegals

- Sherri Wall, CLAS, Raleigh (3-year term)
- Tammy Moldovan, RP, Raleigh (2-year term)
- Sharon Robertson, CLAS, Linville Falls (1-year term)
- Grace Carter, CLA, Raleigh (1-year term)

Congratulations to these Board members! They will be very busy during the next year getting the certification program up and running. NCPA will certainly keep you posted on the work of the Board, particularly as to when the applications will be made available for those of you interested in becoming a State Bar Certified Paralegal.

We also are pleased to report that the North Carolina Supreme Court approved the Plan for Certification of Paralegals during the week of October 3, 2004. The Plan is now a part of the N.C. Administrative Code.

We wish the State Bar Board of Paralegal Certification much success, and we hope you, too, will be interested in participating in this new and exciting certification program.

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Ethics Corner

CORPORATE ETHICS

The Maintenance and Destruction of Client Files
by Mary Joyce-Wheeler, CLA

After a case has been settled, dismissed, or an attorney withdraws from record, do you hear, "Who gets the originals?" or "How long do we maintain the client's file?" I frequently hear these questions. Following are a few general rules to follow:

The original file belongs to the client and the attorney has a fiduciary duty to safeguard the property of the client. A client's file should be maintained in a secure location to protect the confidentiality of the material. See Rule 4 and 10.1 of the Rules of Professional Conduct. If the client's file has been closed, the attorney may destroy the file <u>only</u> with the client's consent. Without the client's consent, the closed file must be retained for a minimum of six years after the conclusion of representation. "Six years is the required minimum period for retaining a closed file because this retention period is consistent with the retention period for records of client property...of course, the statute of limitations may require the retention of a closed file for more than six years." RPC 209.

If a file is closed but six years have not elapsed since the conclusion of the representation, the attorney or the attorney's legal assistant should notify and advise the client that the attorney intends to destroy the file. If the client indicates that he/she wants to retrieve the file, the client must be given a reasonable period of time to do so. If the client fails to retrieve the file after notification, the attorney should <u>review the file and retain any items that belong to the client</u> or "contain information useful in the assertion or defense of the client's position in a matter for which the statute of limitations <u>has not</u> expired." See RPC 16 (emphasis added).

After the expiration of six years from the conclusion of representation, the attorney is not required to notify the client that the file will be destroyed; however, many attorneys contact the client as a courtesy. As earlier mentioned, the file should be purged of any client possessions. These items should be returned to the client or secured in a place until the client is able to retrieve them or until the items are deemed abandoned and escheat to the state under Chapter 116B of the N.C. General Statutes. It is also important that the attorney or the attorney's legal assistant maintain a record of all destroyed client files.

In a situation where an attorney withdraws from a case, the attorney is required to deliver to the client all papers and property which the client is entitled pursuant to Rule 2.8(a)(2) of the Rules of Professional Conduct. In addition, "a lawyer must provide a former client with originals or copies of anything in the file which would be helpful to the new lawyer but that the discharged lawyer's notes made for his own future reference and study and similar things not representing a completed work product <u>need not</u> be turned over." See CPR 3 (emphasis added).

There are a few ethic opinions that deal with the disposition of the files of a deceased lawyer. If an attorney is appointed by the court as conservator of the deceased attorney's files, the appointed attorney should take note of the confidential information as cited in the Rules of Professional Conduct and should avoid simply transferring a case to another attorney without the client's consent. The storage of the deceased attorney's files in a secure location would be appropriate. The appointed conservator should comply with the direction of the court and follow his personal conscience and sense of professional responsibility in making every effort to see that the deceased attorney's files are dealt with appropriately. See RPC 16.

If the client's file has been closed, the attorney may destroy the file <u>only</u> with the client's consent.

As a final note, the legal assistant should always consult with his/her supervising attorney in regard to the closing procedures utilized by the attorney and/or the respective law firm and as required by the Rules of Professional Conduct.

Mary Joyce-Wheeler, CLA , is an Executive Assistant for the Reidsville Police Department. She received her paralegal training at Davidson Community College where she earned an associate's degree with honors. She received her business training at Rockingham Community College where she earned an associate's degree. Ms. Joyce-Wheeler has served as the President of the Greensboro Paralegal Association and is a member of the North Carolina Paralegal Association and the North Carolina Bar Association's Legal Assistants Division.

Are You Riding a Fine Line?

Learn to identify and avoid issues involving the unauthorized practice of law.

By Debra Levy Martinelli

Sometimes it's black. Other times, it's white. But most of the time, it's a murky, muddy gray. The unauthorized practice of law (UPL), say lawyers, legal educators and paralegals alike, is often hard to identify and still harder to define.

Some cases of UPL are easily recognizable: The person without a license to practice law who advises his or her so-called clients on how to avoid bankruptcy proceedings, or the one who - absent statutory or rule authority - appears at a court proceeding as an advocate for a client. But it's much less clear when the practitioner is what has come to be known as a traditional legal assistant - someone trained and educated in the paralegal profession, often with years of experience, who works under the supervision of licensed attorneys. Can traditional paralegals tell a client in a litigation matter what to expect procedurally without crossing the line into giving legal advice? Can you observe a deposition without a supervising attorney being present? Can you handle real estate closings outside the presence of an attorney? Can your name be included on firm letterhead and, if so, are there restrictions?

These are the types of questions paralegals at all experience levels face on a regular basis. The answers, however, are not always obvious and may vary from jurisdiction to jurisdiction. The American Bar Association (ABA), National Association of Legal Assistants (NALA), National Federation of Paralegal Associations (NFPA), state and local legal assistant organizations and most states have developed guidelines, ethical canons or statutes to help define the practice of law. But even those who deal daily with the issue of UPL admit it can be tough to pin down what does and doesn't constitute the practice of law.

"It's nearly impossible to draw a line between what is and isn't UPL when a paralegal is working under the supervision of an attorney," said Thomas E. Spahn, a partner at McGuire Woods in McLean, Va., who spends the bulk of his time advising his 550-attorney firm on issues of ethics and con flicts and lecturing on those subjects to others. "It's a very quirky area."

The Law, the Rules and the Guidelines

Limitations on the practice of law in the United States date back more than 200 years. A proliferation of untrained practitioners during colonial times "caused local courts to adopt rules requiring attorneys who appeared before them to have a license granted by the court," according to "The Concise Guide to Paralegal Ethics," published by Aspen Law & Business, 2001 and written by lawyer and educator Therese A. Cannon. These rules were adopted in part to "stop incompetence that harmed not only the clients but the adminisration of justice and dignity of the courts."

According to Cannon's book, UPL is a misdemeanor in more than 30 states and subjects a person to civil contempt proceedings in more than 25 states. But criminal prosecution is reserved for the most egregious cases. "[Criminal] prosecutions generally arise only if someone, like a disgruntled customer or a lawyer, complains," explained Cannon, consultant to and former member of the ABA's Standing Committee on Legal Assistants. "There have been some [prosecutions] in Florida, California, Tennessee and Illinois but not in many other places."

Crossing the Line

One such Florida case involved Jesse Toca, who operated an independent paralegal business and was convicted in 1998 of six first-degree misdemeanor counts for promoting a "pay for delay" scheme in which people facing mortgage foreclosures hired him to file motions and provide advice resulting in delays in the litigation. While UPL actions in Florida are usually handled through civil proceedings, prosecutors determined Toca's activities were particularly harmful to the public. At trial, Toca didn't deny his actions, maintaining he didn't know what he was doing was unlawful. The jury was not convinced. After the verdict, one juror called him "the epitome of what paralegals do not want in their field.... He was definitely practicing law. He was telling his clients what to do and how to do it." (See November/December 1998 LEGAL ASSISTANT TODAY.)

The Toca case is a UPL example in the extreme. In the day-to-day practice of a legal assistant, the question always looms: Where is the line drawn between what is and isn't the practice of law?

State Variations

Today, there is wide variation of UPL regulations. "Control over the practice of law is vested in the states, not the federal government, so naturally there are different views on areas like UPL," Cannon said. "The regulations are usually in the form of state statutes that prohibit the unauthorized practice of law. They are fairly uniform."

The California Business and Professions Code, for example, states, "No person shall practice law in California unless the person is an active member of the state bar." Further, "[A]ny person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the state bar, is guilty of a misdemeanor" (Calif. Business and Professions Code, §6125-6140.05). Similarly, the law in the Commonwealth of Virginia states that those who hold a license or certificate to practice law under the laws of the commonwealth and have paid the license tax prescribed by law may practice law there, but violators could face a misdemeanor penalty (Va. Code §§ 54.1-3900 and 54.1-3904). A handful of states, including Arizona, Iowa and Delaware are without any UPL statutes. But according to Fran Johansen, UPL counsel for the State Bar of Arizona, some of those states deal with UPL through a state Supreme Court rule (see "Crisis of Faith", January/February 2002 LEGAL ASSISTANT TODAY for details).

"The variation [in state statutes] comes in when these laws are applied to actual instances of UPL that are the subject of criminal prosecution or civil lawsuits," Cannon explained.

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"Since the courts can only decide what comes before them, there will always be some variation."

The ABA's View

Like the states, the ABA is loath to adopt a narrow definition of the practice of law. Its Model Code of Professional Responsibility EC 3-5 states, "[l]t is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law."

Spahn noted the ABA rules also acknowledge lawyers, in their practice of law, may rely on paralegals, but must avoid assisting others - including paralegals - in the unauthorized practice of law. "ABA Model Rule 5.5(b) states that, 'A lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law,' " he said.

The Black and White Prohibitions

Most bar or state definitions of the practice of law generally prohibit the following activities by nonlawyers:

Establishing an attorney-client relationship. Lawyers' relationships with clients are governed by statutes and ethics rules that hold them to a high standard of care in serving those clients. Communications between attorney and client are protected by the attorney-client privilege. Many courts have ruled that privilege extends to nonlawyers only when they are acting under the direct supervision of a lawyer (see discussion of HPD Laboratories Inc. v. Clorox Co. below).

Setting fees. Fee setting is considered part of establishing the attorneyclient relationship. Consequently, only an attorney can contract with the client for legal services and determine the fees charged for those services.

Representing a client in court or acting as an advocate in a representative capacity. Court appearances, taking or defending depositions or engaging in substantive negotiations with adversaries typically require the skills and knowledge that only a trained, educated and experienced lawyer can provide. However, paralegals can provide valuable assistance at trials, hearings and depositions by reviewing relevant documents, identifying areas of questioning, helping to prepare witnesses and assisting with the introduction of evidence.

Providing legal advice. Like appearing in court on behalf of a client, providing legal advice can be undertaken only by someone who has the necessary knowledge of law gained through education, training and experience. While Cannon noted that the concept of giving legal advice is complex and has a lot of gray areas, generally it consists of directing or recommending a course of action that might have legal consequences; explaining to a client his or her legal rights and responsibilities; evaluating the probable outcome of a matter; and interpreting the law.

The Struggle Over Legal Advice

Cannon said the biggest potential UPL problem for paralegals working under attorney supervision may be drawing the line when it comes to giving legal advice when they communicate with clients. "They have to evaluate whether explaining something to a client constitutes legal advice or not," she said.

Take the case of Karen Peeff, a paralegal in the legal department of Clorox Co. In HPD Laboratories Inc. v. Clorox Co., WL909258, D.N.J. (2001), a patent infringement and unfair competition action, HPD Laboratories sought production of a number of Clorox documents it claimed were not protected by attorney-client privilege because they were communications between Peeff and certain nonlegal department Clorox employees who came to Peeff for legal advice. The documents, primarily memoranda and e-mails, summarized advice provided by Peeff to the employees or conveyed her views about specific claims made by HPD Laboratories.

Peeff admitted she didn't consult with her supervising attorney or other in-house counsel prior to dispensing the advice documented in the materials. Further, she was the only legal employee involved in the communications with the nonlegal department Clorox employees on this matter.

In its ruling, the court addressed the attorney-client privilege issue but didn't address the underlying issue of UPL. "It's shocking that there was no UPL analysis in the decision," Spahn said. "Instead, the judge determined certain information was no longer protected by the attorney-client privilege. As a result, Clorox was compelled to cough up documents regarding this paralegal's relationship with a client that otherwise would have been protected."

The issue was one of supervision. Had Peeff's activities in this particular matter been conducted under the direct supervision of an attorney, it's likely the court would, have held that the documents were, in fact, protected. "While there is nothing wrong with Clorox employees using Ms. Peeff as a legal resource, there is also nothing privileged about their communications to her in this instance," the court wrote. "Clorox has not demonstrated that its employees conferred with Ms. Peeff to obtain legal advice from counsel. Instead they endeavored to obtain her own views and opinions. Accordingly, their statements are not privileged." In supporting this position, the court cited previous cases that concluded privilege doesn't cover communications between a nonattorney and a client that involve the conveyance of legal advice offered by the nonattorney *(United States v. Kovel*, 296 F .2d 918 (2d Cir. 1961); *Byrnes v. Empire Blue Cross Blue Shield,* No. 98 Civ. 8520, 1999 WL 1006312 (S.D.N.Y. Nov. 4, 1999); *United States Postal Service v. Phelps Dodge Refining. Corp.*, 852 F.Supp. 156 (E.D.N.Y. 1994)).

Drawing the Line

In some instances, legal advice has even been construed as giving legal presentations. In *Doe v. Condon*, 532 S.E.2d 879 (4th Cir., 2000), WL 718448, the question of UPL arose in the context of a paralegal teaching a seminar without an attorney being present.

The court held that a paralegal can't make unsupervised public presentations (in this case, the topic was estate planning) or conduct initial client interviews in which the paralegal answers general legal questions. But the court made no distinction between general and specific legal questions, ruling that a paralegal may not give legal advice, period.

Pamela Jo Packard, chair of the NFPA's Ethics Board, advised paralegals struggling with whether they are engaging in UPL to think about the questions they are being asked and the answers they are giving.

"They need to ask themselves whether their answers sound like advice only an attorney could give," she said. In her own

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practice, her rule of thumb is this: “If the information is strictly procedural, I feel comfortable providing it to a client. But sometimes clients will ask me something that can only be answered by a lawyer, because it requires a legal judgment. In those cases, I tell the client that I’ll convey the question to the lawyer and one of us will get back to him or her.”

Full Disclosure

Closely tied to the issue of dispensing legal advice is the issue of what Spahn calls “holding out” - in his opinion, a critical issue for paralegals. “Because legal assistants work so closely with lawyers, they must be careful to avoid ‘holding themselves out’ as lawyers, either intentionally or unintentionally. When speaking or meeting with clients or the public, legal assistants must correctly describe their role,” he explained. That extends to making sure they properly represent themselves in correspondence and on business cards.

“I worry about people being misled into thinking a paralegal is an attorney. If malpractice is committed, there could be an additional legal complaint that the client thought the paralegal was a lawyer,” Spahn said.

He said he believes such violations are unlikely to occur in large firms such as McGuire Woods, because the paralegals in that type of environment work very closely with lawyers. However, similar violations may be more common in small firms or in solo practices where legal assistants are depended upon to move a matter forward from start to finish, Spahn explained. Packard, however, said she believes traditional paralegals are unlikely to commit UPL. “I can’t imagine that any paralegals working in law firms would be likely to commit UPL because of the fact that they’re required to work under the supervision of attorneys,” she said. “[When looking for UPL violations], the bar is looking for people out on the street who aren’t supervised.”

In her role as NFPA Ethics Board chair, Packard fields many requests for guidelines on what paralegals can and can’t do. “There are people out there who don’t think they’re practicing law because they’re just filling out forms for people for wills or divorces or simple entity organizations. But they have to decide which forms to use and that requires a legal judgment.”

Spahn said that, although defining permitted activities is as difficult as defining those that are not permitted, several national ethics guidelines list activities in which a legal assistant may freely participate. For example, the NALA Model Standards, Guideline 5, states that, as long as legal assistants act with full disclosure (defined in NALA’s Code of Ethics and Professional Responsibility as disclosing his or her status as a legal assistant at the outset of any professional relationship with a client, attorney, court or administrative agency, or member of the general public), they may:

- Maintain client contacts after creation of the attorney-client relationship
- Send and receive correspondence from clients and third parties
- Conduct factual investigations
- Conduct legal research under the supervision of an attorney
- Draft, for a lawyer’s review, legal documents, pleadings, correspondence and other materials
- Summarize pleadings and depositions
- Accompany lawyers to and assist them with meetings and court proceedings.

Stephanie Mark, CLAS, NALA ethics chair and a 24-year paralegal veteran who has been with the firm of Hall, Estill, Hardwick, Gable, Golden &.Nelson, in Tulsa, Okla. since 1984, said NALA doesn’t deal with UPL per se. Instead, its approach is to educate its members on all aspects of ethics, including UPL, through its publications, meetings, seminars and Web site. “We don’t see gray areas when it comes to UPL,” she said. “We emphasize disclosure and also focus on what legal assistants cannot do, like give legal advice, establish the attorney-client relationship, set fees or appear in court or in an administrative proceeding unless expressly authorized by rule or statute. But it all goes back to educating on ethics.” She cites the Condon case as an example of the types of deci sions NALA monitors and updates its members about.

However, like Packard, she differentiates between how UPL relates to traditional paralegals and how it relates to people who “fill out forms and call themselves legal assistants,” such as legal document assistants in California. The latter, she said, “we could talk about forever.

NFPA’s Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement expressly prohibits UPL, stating, “[A] paralegal shall comply with the applicable legal authority governing the unauthorized practice of law in the jurisdiction in which the paralegal practices” (EC-1.8(a)). It also specifies these guidelines for full disclosure:

- A paralegal shall clearly indicate his or her status and disclose it in all business and professional communications to avoid misunderstandings and misconceptions about the paralegal’s role and responsibilities.
- A paralegal’s title shall be included if the paralegal’s name appears on business cards, letterhead, brochures, directories and advertisements.
- A paralegal shall not use letterhead, business cards or other promotional materials to create a fraudulent impression of his or her status or ability to practice in the jurisdiction in which the paralegal practices.
- A paralegal shall not practice under color of any record, diploma or certificate that has been illegally or fraudulently obtained or issued or which is misrepresentative in any way.
- A paralegal shall not participate in the creation, issuance, or dissemination of fraudulent records, diplomas or certificates (EC-1.7(a)-(e)).

Packard said she believes all of the rules, codes and laws lead practitioners to one final truth: What is in the best interest of the client?

A paralegal for 30 years, the last 24 of which have been at Stoel Rives, in Boise, Idaho, Packard has come to trust her professional instincts about what she can and can’t do. “If it feels like giving legal advice and it sounds like giving legal advice, I don’t do it,” she explained.

Instead, she consults the attorney about the client’s questions and gets back to him or her. After speaking with the attorney, she conveys his informational response..

Mark’s advice is this: Err on the side of caution. “As educated’ individuals, we know what’s ethical and what’s not. In those situations when we are unsure, we should always, always go to an attorney.”

DEBRA LEVY MARTINELLI is an Oklahoma-based writer and former paralegal. She holds bachelor’s and master’s degrees in journalism and is a frequent contributor to LEGAL ASSISTANT TODAY.

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Fee Sharing between Lawyers and Nonlawyers

by Kent Kaufmann, JD

Both the ABA Model Rules of Professional Conduct (upon which 43 states, the District of Columbia, and the Virgin Islands base their attorney ethics codes) and ABA Model Code of Professional Responsibility (upon which 5 states and Puerto Rico base their attorney ethics codes) allow lawyers in different firms to share a fee, provided the client consents to the fee sharing. However, there is no similar allowance for the sharing of fees between a lawyer and a nonlawyer.

Why is Sharing Fees with a Nonlawyer Prohibited?

One of the strongest arguments in support of the increased use of paralegals is that clients get a smaller bill since a paralegal's billing rate is less than a lawyer's billing rate. Therefore, assuming that a paralegal, on behalf of the attorney and in support of the client's case, engages in substantive legal work, but does not engage in the unauthorized practice of law, what would be wrong with allowing the paralegal to share in the fee? The answer lies in the title of ABA Model Rule 5.4, "Professional Independence of a Lawyer." MR 5.4(a) states that a lawyer or law firm is not allowed to share legal fees with a nonlawyer. The ABA Model Code has the same prohibition in DR 3-102(A). The interest promoted by such a prohibition is that the professional judgment of the lawyer — that for which the client is paying — could be at risk if a nonlawyer has direct rights to share in the fee.

Fee Sharing and Law Firm Employees

Despite the clear language of MR 5.4(a), there are instances where lawyers are disciplined for sharing fees with their nonlawyer employees. Occasionally, these arrangements not only violate the fee sharing prohibition, but also the prohibition of paying someone a finder's fee. A New Jersey case illustrates this kind of double-sided arrangement. In *Gallagher v. Weiner, 1993 WL 460101* (U.S. Dist. N.J., 1993), Gallagher was hired as the office manager of Weiner's firm and was to be paid $15,000 dollars of every $250,000 dollars collected by the Weiner firm from clients brought to the firm by Gallagher, which the court held was illegal.

Fee Sharing and Paralegals

If the danger of a lawyer sharing a fee with a nonlawyer is that the professional independent judgment of the lawyer could be hindered when a nonlawyer has a financial stake in the case, is that danger an issue with the paralegal? Assuming other applicable ethics rules are being followed — unauthorized practice of law, and illegal solicitation, for instance — is the lawyer's professional judgment going to be at risk by rewarding the paralegal directly from the lawyer's fee? Interestingly, the proposed version of MR 5.4 would have allowed a lawyer to share a legal fee with a nonlawyer, if the compensation was reasonable and if the nonlawyer used no solicitation in order to receive the compensation. That version, however, never became the final version. So, we are back to the original premise: a paralegal may not directly share in the legal fees earned by the lawyer.

In an Iowa fee sharing case, a lawyer retained the services of a paralegal recently released from prison, and the paralegal provided the lawyer a client still behind bars. Upon taking the case, the lawyer required the client to pay a retainer to the lawyer, as well as a retainer to the paralegal (who then proceeded to do unsupervised legal work for the client). The Court found such an arrangement was a violation of the prohibition of fee sharing, suspending the lawyer indefinitely. And by the time the disciplinary case made its way to the Iowa Supreme Court, the paralegal had made his way back to prison. *Committee on Professional Ethics and Conduct of Iowa State Bar Association v. Lawler, 342 N.W.2d 486 (Iowa 1984).*

Tying a paralegal's compensation to the number of cases filed also violates the fee sharing rules. In a Michigan case, a firm specializing in bankruptcy cases paid a base salary to its paralegals who conducted initial interviews with prospective clients when the firm filed a minimum of 15 bankruptcy cases per week. If the firm filed more than 15 cases per week, those paralegals would receive more pay, in increments leveling at $1,150 dollars per week. Although the firm said that the lawyers and their clients, and not the paralegals, made the decisions whether to file bankruptcy petitions, the Court found that the compensation scheme created a vested, financial interest in the paralegals, encouraging them to present their consultation information to the lawyers in ways that would promote the filing of bankruptcies. In re Bass, 227 B.R. 103 (Bkrtcy. E.D.Mich. 1998).

A variety of ethics opinions share the view that the compensation of paralegals may not be directly tied to their work product. Maryland held that a lawyer may not pay nonlawyer employees compensation based on a percentage of the client's total recovery. Maryland State Bar Association Commission on Ethics, Op. 94-103 (1984). Ohio declared that a law firm may not pay nonlawyer employees compensation calculated as a percentage of their billable hours for work performed on behalf of a client. Ohio State Bar Association Ethics Op. 97-4 (1997). New York City's Bar Association also decided that firms may not pay commissions or bonuses to nonlawyer employees that are directly tied to specific fees, or for cases brought to the firm by those employees. New York City Bar Association, Ethics Op. 95-11 (1995). See also Pennsylvania Bar Association Formal Op. 98-75 (1998); Illinois State Bar Association Advisory Opinion on Professional Conduct, Op. 94-8 (1994); Dallas, Texas, Bar Association Ethics Op. 1991-03 (1991); Colorado State Bar Association Ethics Op. 97 (1991); Georgia Bar Association Advisory Op. 21 (1977).

Getting What Was Promised: Breach of Contract and Illegal Fee Sharing

Can paralegals recover their promised compensation even

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Fee Sharing conti...

if the arrangements violate the fee-sharing rules? Generally, no, because contracts that violate the law are usually considered void and, therefore, ineligible for breach of contract remedies. For instance, courts do not hear breach of contract suits over illegal gambling contracts.

An Indiana case, *Trotter v. Nelson*, 648 N.E 2d 1150 (Ind. 1997), serves as a blue print on how many courts treat suits over illegal fee sharing agreements. In the case, a nonlawyer employee sued her former employer/attorney over an alleged compensation promise, claiming the attorney promised her 5% of any fees from workers compensation cases that she personally referred to the attorney. The attorney argued the agreement did not exist and, even if it did, the agreement violated the referral fee rules and was unenforceable. Because the alleged agreement was not in writing, the court's analysis was made—in order to resolve the issue—assuming the agreement had been made. The Indiana Court of Appeals had held that even if the agreement violated the rules of professional conduct, it could still be enforced, because a contract that violates the rules of professional responsibility is not the same as a contract that violates a statute. But the Indiana Supreme Court disagreed, declaring that the rules of professional conduct are a declaration of the state's public policy. Therefore, the supposed agreement was both impermissible and unenforceable. *Trotter*, at 1155.

Such a view is not the case everywhere, and in *Atkins v. Tinning*, 865 S.W.2d 533 (Tex. App. 1993), the Texas Court of Appeals reached an opposite conclusion to *Trotter v. Nelson*. *Atkins* involved a private investigator who sued an attorney for failure to honor an oral agreement in which the private investigator was to receive one-third of the attorney's contingency fees from cases where the investigator gathered evidence. When the attorney failed to pay the investigator a $300,000 dollar fee, the investigator sued the attorney, and the attorney had the investigator arrested and charged with barratry. Although the Court found that such an alleged contract between a lawyer and nonlawyer was in violation of the disciplinary rules—and could subject the attorney to professional sanction—it specifically refused to find that the disciplinary rules, unlike statutes, had any application to nonlawyers. Therefore, the Court said the agreement, if made, was not illegal, even though the agreement violated the disciplinary rules. *Atkins*, at 537.

Retirement compensation programs and profit-sharing plans are funded from monies left over after expenses and overhead have been paid.

When is a Compensation Scheme Not Illegal Fee Sharing and What is the Difference?

ABA Model Rule 5.4(a) does have three exceptions, and the first two do not apply to paralegals. MR 5.4(a)(3) does apply to the paralegal, because it states,

> A lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

This exception allows a lawyer or law firm to fund retirement compensation programs, such as a 401k plan, for their nonlawyer employees. It also allows paralegals to be paid bonuses, or to be included in profit-sharing plans. The predecessor Model Code has a similar exception in DR 3-102(A)(3).

If paralegals cannot be paid directly from the legal fees earned by the lawyer, or otherwise share in those fees, then how can they be paid bonuses, or be part of a profit-sharing plan? There are two differences between prohibited fee sharing and allowed compensation plans.

Extra Compensation Can Come From Net Proceeds

The first difference is that an allowed retirement compensation program or profit-sharing plan is funded from the net proceeds of earned legal fees. Paid legal fees constitute gross revenues, and that is what may not be shared with a paralegal, or any other nonlawyer. Retirement compensation programs and profit-sharing plans are funded from monies left over after expenses and overhead have been paid. Fee sharing prohibitions involve gross revenues, but a lawyer or law firm can share whatever they want with whoever they want from what is left over after paying the bills.

Extra Compensation Can Come From General Success, Not Specific Success

The second difference is that compensation plans, such as bonuses, may not be made payable to a paralegal contingent on the success of a specific matter. A general bonus, such as a quarterly bonus, may be paid to a paralegal. But when a paralegal is paid a specific bonus for work on a particular case, that kind of payment would generally be inappropriate because it vests in the paralegal a direct, financial interest in the case, and could affect the paralegal's judgment. Furthermore, specific bonuses can masquerade as finders' fees, in violation of the rules that prohibit a lawyer from compensating someone for recommending the lawyer's services. MR 7.2(c); DR 2-103(B).

The ABA issued an ethics opinion in 1979 approving of the inclusion of nonlawyer employees in a law firm's profit sharing plan. Although the opinion specifically concerned a firm's nonlawyer-administrator, its reasoning is equally applicable to all nonlawyer employees, in that its approval of nonlawyer participation in profit-sharing plans is contingent on two factors: the profit sharing method is based on the firm's net profits; and, the profit sharing is not based on a percentage of specific, client fees. ABA Commission on Ethics and Professional Responsibility, Informal Op. 1440 (1979). Some states have followed suit, issuing opinions approving of profit sharing plans. Virginia, for instance, issued three closely related opinions that approve of the following: law firms including nonlawyer employees in profit-sharing plans (Virginia State Bar Standing Comm. on Legal Ethics, Op. 767 (1986)); law firms paying bonuses to secretaries based on profits (Op. 806 (1986)); and, collections firms compensating nonlawyer employees on a percentage of collections profits (Op. 885 (1987)).

continued on next page

Fee Sharing conti...

Utah has issued two ethics opinions that are slightly different from the traditional view expressed by the ABA and many jurisdictions. Utah has stated that nonlawyer employees may be included in retirement plans, *regardless of whether the payments are based on the firm's gross or net income,* as long as there is nothing in the arrangement that would impair the lawyer's independence, and as long as the payment is not tied to a fee from a specific case. Utah State Bar Association, Ethics Advisory Committee Op. 139 (1994). And, a 2002 ethics opinion authorizing the use of independent contracting paralegals prohibits lawyers from sharing fees with their independent contracting paralegals to the extent allowed for paralegals who are law firm employees. Utah State Bar Association, Ethics Advisory Committee Op. 02-07 (2002). Although approving of firms compensating their employed paralegals based on a percentage of the firm's fees, the opinion disapproves of identical compensation for independent contractors, reasoning that independent contractors are in a "less subordinate role" than their employed counterparts, implicating the independent judgment policy behind the nonlawyer fee sharing prohibition.

Kent D. Kauffman, Esq., is the Paralegal Studies Program Chair at Ivy Tech State College, in Fort Wayne, Indiana, and is the author of Legal Ethics, a new textbook published by West Legal Studies. This article was an excerpt from Legal Ethics.

YOU ARE INVITED TO THE NORTH CAROLINA PARALEGAL ASSOCIATION, INC.

MEET AND GREET BREAKFAST

District III
Saturday, January 22, 2005
Holiday Inn Bordeaux Café, Fayetteville, NC

RSVP To:
Trudy Rutherford, District III Director
emr0128@aol.com or 910-485-5171

Dutch Treat

Networking Breakfast
9:30 a.m. – 10:00 a.m.

Guest Speaker:
Appellate Court Judge John M. Tyson
10:00 a.m. – 11:00 a.m.

Come learn more about NCPA and what NCPA can do for you.
Meet your District Director, the Chairman of the Board and other officers of NCPA.
You will have a chance to get acquainted with us and other paralegals in your area. All are welcomed. We hope to see you there!

Future Meet & Greets:
District IX - Saturday, January 29, 2005 – Hickory
District II – Saturday, February 5, 2005 – Raleigh
District I – Friday, March 10, 2005 - Wrightsville Beach

Details coming soon at www.ncparalegal.org

North Carolina Paralegal Association, Inc.

25th Annual Meeting & Seminar

March 10 - 12, 2005

Holiday Inn Sunspree Resort

Wrightsville Beach, North Carolina

Check the NCPA website

www.ncparalegal.org

for more information and registration forms.

CALL TO ACTION: NOMINATIONS AND ELECTIONS

The Value of Service

You have heard the old expression "What goes around, comes around..." If you value NCPA for the service it provides you, here is your chance to make the same meaningful contribution to the lives and careers of other paralegals. Consider serving as an officer or director in the 2005-2006 membership year. Not only will it give you insight into the workings of NCPA, but it will improve your leadership skills, broaden your network of important contacts, and you might just have a lot of fun, too.

Enclosed you will find a "Declaration of Candidacy for Office" form, and for some district members, a "Recommendation for District Director" form. If you are interested in becoming more involved in NCPA, or know of someone who you believe would be good for the organization, please complete the form and return it to the address listed on the form. The deadline for returning the "Declaration of Candidacy for Office" form is **December 19, 2004.** The deadline for returning the "Recommendation for District Director" form is **January 4, 2005.**

Do you think you may be interested, but are not sure what these duties entail? Briefly, these are the duties of the Officers. Please refer to your Membership Directory to find references to the Bylaws and Standing Rules.

President:	Represents the needs and concerns of the membership before the Board of Directors, supervises the work of other Officers and Committee Chairmen, and keeps the membership advised. [See Bylaws Article VIII.1. and Standing Rule VIII.A.1.]
First Vice President:	Is responsible for planning seminars, workshops, and other educational events and is the Chairman of the Education Committee. [See Bylaws Article VIII.2. and Standing Rule VIII.A.2.]
Second Vice President:	Is the Chairman of the Membership Committee and is responsible for the compilation of the Membership Directory. [See Bylaws Article VIII.3. and Standing Rule VIII.A.3.]
Secretary:	Responsible for keeping a permanent record of all meetings of the membership. [See Bylaws Article VIII.4. and Standing Rule VIII.A.4.]
Treasurer:	Responsible for the deposit of funds and makes disbursements as provided for in the budget; is the Chairman of the Finance Committee and prepares the budget for the ensuing fiscal year to be approved by the Board of Directors. [See Bylaws Article VIII.5. and Standing Rule VIII.A.5.]
NALA Liaison:	Is a NALA member who is familiar with the NALA Bylaws and Standing Rules, represents NCPA at the NALA Annual Meeting of Affiliated Associations, and makes quarterly reports to NALA concerning NCPA's activities; coordinates with the CLA Review Course Subcommittee Chair on planning and presentation of CLA Review Course. [See Bylaws Article VIII.6. and Standing Rule VIII.A.7.]
Parliamentarian:	Attends all membership meetings and gives opinions on parliamentary procedure and interprets NCPA's Bylaws and Standing Rules; is the Chairman of the Bylaws and Standing Rules Committee. [See Bylaws Article VIII.7. and Standing Rule VIII.A.6.]

For those district members who are electing new District Directors, a "Recommendation for District Director" form is enclosed. Your Director, as a member of the NCPA Board of Directors, is responsible for the promotion of NCPA within his or her own district. This includes the recruitment of new members and assisting with the development of educational events within your district. [See Standing Rule IX.C.5.] This position gives you a great chance to network with other paralegals in your own geographic district and it gives you the opportunity to find out how other areas in North Carolina are educating and promoting paralegals in their districts. Please return the "Recommendation for District Director" form by **January 4, 2005.**

If you have any questions about any position, Officer or Director, please do not hesitate to call Nominations & Elections Committee Chair April Sansom, CLA, at 919.534.1200 or avsansom@yahoo.com, or contact one of the current NCPA Officers or Directors. Their names can be found in the front of your Membership Directory or the inside back cover of this issue.

DECLARATION OF CANDIDACY FOR THE OFFICE OF:

____

OF
NORTH CAROLINA PARALEGAL ASSOCIATION, INC.
2005-2006

The undersigned hereby declares that he/she is actively employed as Paralegal or Legal Assistant; is legally competent to enter into contracts; and is currently a General Member in good standing of the North Carolina Paralegal Association, Inc., and has been so for at least one (1) year.

<u>Qualifications for Office:</u>

Having read and understood Articles VII and VIII of the Bylaws of the North Carolina Paralegal Association, Inc. pertaining to officers, I hereby declare myself a candidate for the office of ____, subject to election at the 2005 Annual Meeting of the Corporation.

Date: __________________________ ____
(Print/Type Your Name)

____
(Sign Your Name)

My Address and Telephone Number: ____

____

____

____

Mail to: APRIL V. SANSOM, CLA
NCPA Nominations and Elections Chair
Reinhardt Milam Law Group, PLLC
Post Office Box 1452
Durham, NC 27702
919.534.1200
Facsimile 919.683.2399
avsansom@yahoo.com

RECOMMENDATION FOR DISTRICT DIRECTOR

FOR DISTRICT _____ OF

THE NORTH CAROLINA PARALEGAL ASSOCIATION, INC.

Pursuant to the provisions of ARTICLE IX.3 and .5 of the Bylaws of the North Carolina Paralegal Association, Inc. and Section IX.C. of the Standing Rules, the position of District Director for Districts I, III and V (one-year interim position), and II, IV, VI, and VIII (two-year term position), will be elected by the members of their respective regions and announced at the Annual Meeting in Wrightsville Beach, North Carolina on March 11, 2005.

<u>If you are a member of District I, II, III, IV, V, VI, or VIII</u> and wish to nominate a candidate for the Directorship of your District, **please complete the following form and mail it, together with a letter from your nominee expressing his/her interest in the position and a copy of the nominee's resume,** in accordance with the following instructions.

DEADLINE FOR RECEIPT BY ELECTIONS CHAIR IS JANUARY 4, 2005

Mail to: APRIL V. SANSOM, CLA
NCPA Nominations and Elections Chair
Reinhardt Milam Law Group, PLLC
Post Office Box 1452
Durham, NC 27702
919.534.1200
Facsimile 919.683.2399
avsansom@yahoo.com

FROM: ____
(Print/Type Your Name)

Address: ____
____
____

With his/her permission, I hereby recommend for election to the Board of Directors of the North Carolina Paralegal Association, Inc. as Director of District ______________, subject to the provisions of Article IX of the Bylaws:

____
(Print/Type Name of Nominee)

Address: ____
____
____

Employment: ____

Telephone No.: ____

This will certify that I am a member in good standing and that my nominee is a General Member in good standing of the North Carolina Paralegal Association, Inc., and has been so for at least one year as of this day, is employed as a paralegal, and is a permanent resident of the State of North Carolina.

Dated: ______________________________ ____
(Signature of Nominator)

North Carolina Paralegal Association Contacts

OFFICERS				
President	Belinda Ann Thomas, CLAS	Vernon, Vernon, et al.	336.227.8851	btp@vernonlaw.com
First Vice President (Education)	Melissa Stockley Jones, CLA	Smith, Anderson, et al.	919.838.2015	mjones@smithlaw.com
Second Vice President (Membership)	Darlene M. Patz, CP	Celanese Acetate LLC	803.325.6152	darlene.patz@celaneseacetate.com
Secretary	Yolanda Nicole Smith	Tharrington Smith, LLP	919.821.4711	ysmith@tharringtonsmith.com
Treasurer	Patricia F. Clapper, CLA	Levine & Stewart	919.929.0386	lglduck@aol.com
Parliamentarian	D. Grace Carter, CLA	Myers Bigel Sibley & Sajovec	919.854.1400	grace.carter@nelsonmullins.com
NALA Liaison	Mary Parrish Coley, CLA	BB&T Governmental Finance	704.954.1706	mcoley@bbandt.com
DIRECTORS				
Chairman & At Large Director	Theresa (Terry) Irvin, CLA	Bank of America	704.388.7030	theresa.irvin@bankofamerica.com
Secretary	Yolanda Nicole Smith	Tharrington Smith, LLP	919.821.4711	ysmith@tharringtonsmith.com
District VIII – Please contact	Chairman Theresa (Terry) Irvin, CLA	Bank of America	704.388.7030	theresa.irvin@bankofamerica.com
District I Interim Director	Shirley C. Carter, CLA	Legal Aid of NC, Inc., Wilmington	910.763.6207	shirleyc@legalaidnc.org
District II Director	Erin N. Burris, CLA	Sony Ericcson	919.472.1201	erin.burris@sonyericsson.com
District III Interim Director	Trudy Rutherford	Barrington & Jones Law Firm	910.485.5171	emr0128@aol.com
District IV Interim Director	Ruth Goodman, CLA	Wishart, Norris, et al.	336.584.3388	ruth.goodman@wnhplaw.com
District V Interim Director	Alison Reynolds VanDyke	McGuire Woods, LLP	704.373.8061	avandyke@mcguirewoods.com
District VI Interim Director	Michele A. Tuttle	Wake Forest University Health Sciences	336.716.8138	matuttle@wfubmc.edu
District VII Director	Marilyn Moran, CLA	Coward, Hicks & Siler, P.A.	828.586.2147	mmoran@chspa.com
District IX Director	Beverly King	Mitchell Rallings & Tissue	704.483.3495	bgk6489@aol.com
Affiliate Director	Teresa A. Stacey	Vernon, Vernon, et al.	336.227.8851	tas@vernonlaw.com
Bar Liaison	Sherry G. Vaughan, CLA	NC Electric Membership Corp.	919.875.3128	sherry.vaughan@ncemcs.com
Paralegal Educator	Susan H. McIntyre, JD	Carteret Community College	252.222.6230	shm@carteret.edu
Attorney Advisors	Teresa M. Brenner	Bank of America	704.386.4238	teresa.brenner@bankofamerica.com
	Wiley P. Wooten	Vernon, Vernon, et al.	336.227.8851	wpw@vernonlaw.com
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NCPA COORDINATOR				
NCPA Coordinator	Mary F. Haggerty, CLA	Grubb Properties, Inc.	704.372.5616 ext. 105	mhaggerty@grubbproperties.com

-- NOTES --