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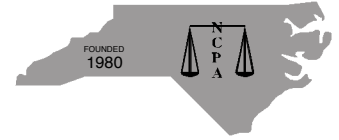
The Association of
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North Carolina Paralegal Association, Inc. Summer 2005

Forum

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



Summer 2005

In This Issue...

- **"I have chosen to be a paralegal..."
Student Scholarship Winners**
- **The Essentials of Computer Discovery**
- **Attending a Seminar on a Budget**



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 publication. The Editor reserves the right to edit
 material and accept or reject materials submitted.



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President's Message

Erin N. Burris, CP



Greetings! My name is Erin N. Burris, CP and I am your new President.

If even a few years ago someone had told me I'd be the President of a statewide association, I would have laughed at them. Growing up I was on the shy side and didn't like attention drawn toward me. I was always afraid to raise my hand in class for fear that I'd ask something stupid or say something wrong. I didn't want to apply to UNC-Chapel Hill because I didn't think I'd get in. I was uncomfortable making appointments and even ordering pizza. When I began working, I didn't speak up in group meetings for these same reasons. When I started my new job in the fall I told one of the attorneys these things about me. He said he couldn't believe it--that I'm not that person anymore. Joining and getting involved with NCPA has been one of the greatest motivators for me. It has given me confidence in my abilities and myself. I realize that I have missed out on a lot of opportunities throughout the years because I was afraid. Now, when someone asks me if I would be interested in doing something I have never done before, I jump at that opportunity. I know it will help me learn and make me a better person. If I can do it, anyone can.

I am a graduate of the University of North Carolina at Chapel Hill and from Meredith College's Paralegal Program. I worked with the General Counsel of Closure Medical Corporation for five years where I focused on intellectual property, contracts and corporate law and dabbled in securities, employ-

ment, real estate, litigation, product liability and whatever else came our way. I joined the intellectual property department at Sony Ericsson Mobile Communications (USA) Inc. in October, where my focus now is on patents and contracts.

I have been a member of the North Carolina Paralegal Association since 2000. I served on NCPA's Executive Committee as the Student/School Relations Chair for the past three years and on NCPA's Board of Directors as the District II Director for the past two years. Through these positions, I have learned the importance of having NCPA's support system in my professional and personal lives.

As part of the Executive Committee and Board of Directors, I have had a front seat view into North Carolina paralegals' wants and concerns. NCPA continues to give me the opportunity to learn through its educational programs. Being an NCPA member also allowed me to vote for the certification of paralegals in our state. Through e-mail, phone conversations and through a variety of speaking opportunities and seminars, I have shared my experiences with those in our field seeking to grow professionally and with those who are seeking information on joining our field.

I'm looking forward to a wonderful year working more closely with NCPA's Board and Executive Committee and having the opportunity to meet and speak with you, our members. If you would like to get involved, there are many opportunities such as serving on a committee, writing an article for the NCPA FORUM, or even speaking at one of our seminars. Additionally, if you have comments or suggestions, please let me know. I am here to serve you and will do the best job that I can.

Chairman's Message

Belinda A. Thomas, CLAS



"I have learned that success is to be measured not by the position one has reached in life as by the obstacles which he has overcome while trying to succeed." **B.T. Washington**

The last couple of years of my life can best be described with the above quote. The obstacles have come in all shapes and fashions. At times, I felt that I was walking in a fog of monumental proportions. However, my faith, my family and my friends have seen me through it all. A lot of you in NCPA have been faithful friends and more like family than you will ever know. Thank you for everything.

We had a wonderful time in Wrightsville Beach in March. I honestly believe it was one of the best seminars I have ever attended. The speakers were tremendous and the networking time was invaluable. We are blessed to have folks with incredible talent in NCPA (and that includes singing, Anita!). Melissa Stockley Jones, CLA, Teresa A. Stacey, Anita Watts Wing and Blanche Berkowitz are to be commended again for a job well done.

Congratulations to Erin Burris, CP, on being elected President for the 2005-2006 year, along with all the officers and directors that have been elected or appointed. NCPA is a great organization with the best leadership anywhere. Members, please feel free to contact any one of us if you have questions or concerns. The officers and directors' names, addresses, phone numbers and email addresses are in the back of the Forum. Trudy Rutherford said at the annual seminar when she received a special award, "I just did what I signed up to do." That statement sums up the goal of the leadership of NCPA. Please know that we are here to help.

The Mid Year Seminar and CLA/CP Review Course are coming up September 16th and 17th at the Embassy Suites Hotel in Greensboro. I am privileged to be working with Ruth Goodman, CLA, in putting together the program. We are working on a great variety of topics and will include an ethics block. Be watching for the brochure in the coming weeks.

We're off on another year in NCPA. Please get involved. As I've said over and over in the past two years, NCPA is only as strong as its members!

1st Vice President's Report

Education

Melissa Stockley Jones, CLA



NCPA's 25th "Silver Anniversary" Annual Seminar and Meeting was a huge success! First and foremost, I would like to thank the Annual Seminar Co-Chairs, Teresa Stacey and Anita Watts Wing, for their time and dedication. In addition to coordinating a wide range of exhibitors, Theresa and Anita did an outstanding job coming up with informative speakers for a variety of topics at the Seminar. These ladies also worked hard on the Friday night Banquet, which featured distinguished speaker, Gray Wilson, President of the NC Bar Association. Along with the entertainment and special toast with champagne flutes, this year's Silver Anniversary Banquet will be one to remember!

NCPA President, Belinda A. Thomas, CLAS, opened the 25th Annual Seminar and Meeting with welcome remarks, followed by a General Session with James L. Blackburn, Author of *Flame-Out*. Mr. Blackburn presented "Landmines on the Way to the Top...And How to Avoid Them."

Concurrent and General Sessions included:

- "Advancements in Clerk Filings, What Do Those Codes Mean?"
by Marsha L. Johnson, CLAS;
- "Purchasing a Leisure Home or Condominium: Pleasure & Pain of Owning Beach Property"
by Warren C. Hodges, Esq.;
- "Professionalism & Leadership Training: Teambuilding 101"
by Sharon G. Robertson, CLAS;
- "Can You Talk the Talk?"
by Susan McIntyre, Esq.;
- "What Do You Mean...Execute, Witness, Attest, Notarize and Apostille?"
by Mary E. Willard, CLAS;
- "Personal Safety for the Paralegal"
by the Wilmington Police Department;
- "Recognizing, Preparing, Filing and Perfecting Chapter 44A Claims"
by James A. Clark, Esq.;
- "Staying Competitive: Winning Cases and Clients by Adopting Automated Litigation Support Tools"
by Michelle T. Nichols;
- "Managing the Equitable Distribution Case in the Family Law Practice"
by Belinda A. Thomas, CLAS;
- "Finding Expert Witnesses: The Role of the Paralegal"
by Carren Mackiewicz;
- "Parenting Our Parents: (Long Distance) Elder Care Management"
by J. Gregory Wallace, Esq.;
- "Mergers, Acquisitions & Divestitures"
by George R. Walls, Esq.; and
- "Ethics in the Workplace"
by Wendy C. Vonnegut, Esq.

The Seminar concluded with a few closing remarks from newly elected NCPA President, Erin N. Burris, CP, and the giving away of door prizes.

We once again thoroughly enjoyed seeing Debra J. Monke, CLAS, NALA President for 2004-2005. In addition to speaking at the CLA/CP/CLAS breakfast this year, Debra also installed NCPA's new officers and directors at the Friday night Banquet.

NCPA is grateful for the support of our exhibitors, contributors and sponsors. NCPA 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. A special thanks to our Patron and Sustaining sponsors – Document Technologies and Bennett Legal Videos.

Mid-Year Seminar Co-Chairs Belinda A. Thomas, CLAS and Ruth Goodman, CLA are already hard at work preparing for NCPA's Mid-Year Seminar to be held September 16-17, 2005. Working just as hard is Sarah Hutchins, CLA, NCPA's CLA/CP Review Course Chair. Sarah has been lining up speakers for the CLA/CP Review Course. Please plan to join us at the Embassy Suites Greensboro in Greensboro, North Carolina.

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

Parliamentarian Report

Beverly S. Jones, CIA
Bylaws Amendments

The attached NCPA Bylaws contain those proposed amendments voted upon and ratified by the membership of NCPA during its Annual Meeting held March 11, 2005 in Wrightsville Beach, NC. For review, the amendments are listed below in their order of appearance. In accordance with NCPA Bylaws Article XVIII, the amendments provided below are not in conflict with NALA Bylaws.

Article IV.2(a)(i),(iii) and 2(c)

(i) has completed a ~~paralegal training school or program~~ Deleted: n accredited and is, or has been, employed under the direct supervision of a licensed, practicing attorney;

(iii) is a Certified Paralegal or Certified Legal Assistant (CP® or CLA®) in good standing. *[amended 3/21/1997]*

* * * * *

(c) Student Member. Student Membership is open to any individual living in North Carolina who is enrolled as a student in a ~~paralegal training school or program in North Carolina.~~ Deleted: n accredited

* * * * *

Article IX. 2(c)

(c) "Paralegal Educator Liaison" shall be a person employed in or possessing a background in the field of education and currently involved in a ~~paralegal program,~~ Deleted: n accredited appointed by the Board to represent the state's paralegal student population (the "Students") to NCPA, communicating the opinions and needs of the Students as future members of NCPA. The Paralegal Educator Liaison shall assist NCPA in addressing the issues brought before it in the interests of the Students and in effecting a just resolution of such issues. The Paralegal Educator Liaison shall be a non-voting ex-officio member of the Board. *[effective 3/21/1997]*

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Senior Editor at
laurapcubillos@yahoo.com
if you are interested in
including your story in
the next issue of
The Forum.**

Editor's Court

Laura C. Braswell

When I first heard about the NCPA, while I was attending the Paralegal Technology Program at Johnston Community College, I had no idea that the NCPA would become an essential part of my career. As a "freshman" in the paralegal profession, the NCPA has taught me the importance of continuing to educate myself. There is so much comfort in knowing that we have a large fraternity of paralegals who are always available to lend a helping hand, comfort you in desperate times, and keep you on the path to continual development and growth.

As the new Editor of The Forum, it is my sincere desire that you, the reader, continue to receive beneficial information that is useful to your career and development as a paralegal. In this

issue you will find useful articles such as Attending a Seminar on a Budget and the Top Five Websites Every Paralegal Should Know About.

I urge all NCPA members to submit their articles, ideas, and opinions to The Forum. Your contributions will allow the NCPA to continue to address issues which satisfy its members' interests and needs.

Thank you to our Sustaining members, Document Technologies, Inc. and Bennett Legal Videos Services, and to all of our advertisers for continuing to support our association.

I look forward to giving back to the NCPA what it has given to me.

NALA Liaison Report

Darlene M. Patz, CP



The NALA 30th Annual Convention & Exhibition will be held in Kansas City, MO, July 13 - 16, 2005. NALA is celebrating its 30th anniversary with "Pearls of Wisdom from the Heartland." The keynote address will be given by the Hon. Carol A. Beier, Kansas Supreme Court Justice. The educational program provides two

Institutes, the popular Essential Skills seminars, ten workshops in a variety of legal subjects, and informed presentations in the Affiliates Exchange and prestigious Member Exchange programs. And finally, there will be a closing presentation on ethics.

The convention also provides excellent opportunities to network and discover what paralegals across the nation are doing. For more information, please visit the NALA website at www.nala.org or call (918) 587-6828.

Congratulations to the following paralegals who passed the CLA exam in December 2004: Christine M. Blount, CLA of Apex, Tracy Lynn Bowling, CLA of Holly Springs, Christy L. Brown, CLA of Raleigh, Rebecca C. Brown, CLA of Rocky Mount, Trisha L. Crabtree, CLA of Clayton, Richard W.H. Harper, CLA of Durham, Hillary N. Harris, CLA of Timberlake, Whitney D. Horn, CLA of Holly Springs, Teresa P. Loftin, CLA of Belmont, Elizabeth M. Manso, CLA of Fayetteville, Karen L. Mendorf, CLA of Raleigh, Lynn Darden Neary, CLA of Alexander, Caroll P. Prevette, CLA of Greensboro, Angelia T. Smith, CLA of Raleigh, Yolanda N. Smith, CP of Zebulon, Anita L. Steward, CLA of High Point and Philip Weinbrecht, CLA of Raleigh.

Upcoming NALA dates and deadlines:

July 13-16, 2005

NALA Annual Convention, Kansas City, MO

July 22-23, 2005

CLA/CLAS Exam

September 16-17, 2005

CLA Review Course, Greensboro, NC

For further information on NALA or the CLA/CLAS exams, please contact me at darlene.patz@celaneseacetate.com or (803) 325-6152.

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2nd Vice President's Report

Membership

Brenda Mareski, CP



The current membership breakdown is as follows (New members reported from January 21, 2005 through April 7, 2005):

General members:	325
Associate members:	41
Student members:	60
Affiliate members:	2
Sustaining members:	2
Educational Program members:	<u>1</u>
Total	431

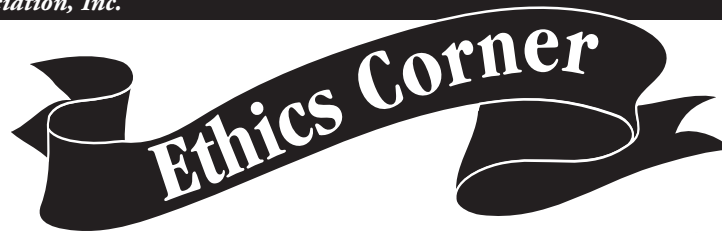
NCPA sends a warm welcome to our newest (G)eneral, (A)ssociate, and (S)tudent members who are as follows:

Claudia H. Abbott, Charlotte (A)	Juliana Angelika Harrison, Dobson (S)	Gretchen Reside, Lexington (S)
Tami Lynn Andrews, Mount Airy (S)	Karen D Hobson, Durham (G)	Deborah Roberts, Pinnacle (S)
Patrick Baker, Jacksonville (S)	Brandy Blackman Hodges, Mount Airy (S)	Veronica Rockwell, Apex (G)
Kathleen S. Barnes, Jacksonville (S)	Dina Marie Holbrook, Thurmond (S)	Elizabeth Seaborn, Raleigh (S)
William T. Barton, Durham (G)	Cheryl J. Holder, Mount Airy (S)	Merry Sievers, Charlotte (G)
Helen R. Bell, Charlotte (G)	Myra Howell, Belmont (A)	Cathy Sink, Raleigh (A)
Deborah Lynn Black, Wilmington (G)	Jo Ella Johnson, Burlington (G)	Karen Skeen, Thomasville (S)
Kristin A. Boness, Raleigh (G)	Saundra D. Johnson, Durham (G)	Tara Smith, Raleigh (G)
Lillian C. Bowman, Mount Airy (S)	Heather Dean Kinrade, CP, Raleigh (G)	Laura K. Smith, Raleigh (G)
Nancine R. Bowman, Charlotte (G)	Roberta V. Lewis, Greensboro (A)	Jennifer Story, Martinsville (G)
Kim W. Bratton, Raleigh (G)	Marilyn Lindo, Hubert (S)	Tammie Stultz, Mount Airy (S)
Paul Bucu, Wilmington (S)	Patricia A. Lorenz, Mocksville (S)	Eaton Winston Sutton, Cary (S)
Paula R. Calloway, Siloam (S)	Sharon H. Marshall, Claudville (S)	Susan J. Talbert, Raleigh (A)
Tiffany Driver Clark, Knightdale (G)	Amy L. Maruschock Charlotte (A)	Karen R. Taylor, Lumberton (A)
Louann A. Clarke, Greensboro (G)	Joy Mayo, CLA, Raleigh (G)	Deitra Templeton, Jacksonville (S)
Leslie A. Cogdill, Durham (A)	Kimberly McKillop, Jacksonville (S)	Susan D. Umberger, Raleigh (G)
Donna L. Cooper, Asheville (G)	Lashawn McKoy, Charlotte (S)	Dee Dee Michele Volp, Jacksonville (S)
Trisha L. Crabtree, CLA, Clayton (G)	Lyndsay Mills, Mount Airy (S)	Judy Weddle, Mount Airy (S)
Marion P Crombie, Little Switzerland (S)	Sukesha Moore, Jacksonville (S)	Alicia Jean Whitcomb, Fayetteville (G)
Kelli D'Arcy, Lillington (S)	Tanya Annette Morand, Clayton (A)	Cari S. White, Jacksonville (S)
Selina Royal Dougherty, Trinity (S)	Jill S. Moseng, Stanfield (S)	Ann Marie Wiertel, Indian Trail (G)
Loretta P. Drake, Asheville (G)	Annie Nelson, Raleigh (S)	Eunice Wilkerson-Evans Durham (G)
Stephanie Elliott-Park, Gastonia (G)	Dorothy Novak, Jacksonville (S)	Stephany, Wilson, Jacksonville (S)
Susan S. Floyd, Asheville (G)	Deborah L. O'Rourke, Winston-Salem (S)	Rebecca K. Wilson, Burlington (G)
Lisa L. Gaskins, Pikeville (A)	Michelle M. Parker, Charlotte (G)	L. Dianne C. Woods, Stoneville (G)
Lisa Groesbeck, Wilmington (G)	Annie Flynn Patterson, Broadway (S)	Victoria Marie Wright, Cramerton (S)
Paula E. Hannaway, Charlotte (G)	Manette L. Payen, Jacksonville (S)	Christopher Wright, Hubert (S)
Mary B. Hardy, Kannapolis (G)	Sonya Potter, Carthage (S)	
Elisah Harris, Mount Airy (S)	Elizabeth A. Remaily, Charlotte (G)	

NCPA is proud to recognize the following Sustaining members. We thank them for their generous support!



NCPA is also pleased to recognize our **Affiliate members**, Alamance County Paralegal Association, Greensboro Paralegal Association, and our **Educational Program Member**, Caldwell Community College.



GETTING BACK TO BASICS *Our Code of Ethics*

Blanche S. Berkowitz, Ethics Chairperson

In undertaking the NCPA position of Ethics Chairperson, I am learning what the position entails. Therefore, I believe it would be beneficial to begin my series of articles with a review of our professional and ethical responsibilities as NCPA members.

Article IV, Section 3 of our Bylaws mentions that "NCPA is an affiliated association of NALA and that all members of NCPA are bound by the NALA Code of Ethics and Professional Responsibility in addition to any code adopted by NCPA." Article XVII of the NCPA Bylaws states that:

"Every member of NCPA shall subscribe to and be bound by the Code of Ethics and Professional Responsibility of the NALA and any other code so adopted by the membership of NCPA. Violations of the Code shall be grounds for immediate cancellation of membership. A member's rights to appeal ethical charges and /or cancellation of membership are set forth in Article IV, Section 6 of these Bylaws."

It is the Ethics Committee's responsibility to resolve any question of ethics presented to it and to report any alleged violation of the Code to the President and Chairman of the Board for action. Article IV, Section 5, of the NCPA Bylaws further empowers the Board, by majority vote, to cancel the membership of any member who has "(a) violated the Code of Ethics and Professional Responsibility of NALA, and adopted by NCPA; (b) been guilty of conduct substantially to injure the name of NCPA; (c) failed to maintain a high standard of professional ethics; or (d) been convicted of a felony."

After researching the history of the origins of paralegal ethics, I found that in the 1970s and 1980s the ABA promoted the role of the paralegal in law practices. According to the ABA, paralegals themselves are guided by NALA and NFPA guidelines of professional conduct. The Model Guidelines for the

Utilization of Legal Assistant Services were adopted by the ABA in 1991 and amended in 2003. In conjunction with the Model Rules of Professional Conduct, the ABA's Model Guidelines dictate to attorneys the guidelines for the use of paralegals and the relationship between paralegals and clients. The guidelines establish the attorneys' responsibility for the actions of their employee paralegals and ensure that attorneys are:

- providing proper direction for professional conduct
- delegating acceptable legal work
- confirming proper disclosure of the paralegal's identity and position
- maintaining client confidentiality
- preventing conflicts of interest
- complying with fee regulations, and
- allowing for continued education and possible pro bono opportunities.

As paralegals in North Carolina we are not regulated by any state agency, but we do fall under the authority of the Guidelines for Use of Nonlawyers in Rendering Legal Services adopted by the N.C. State Bar. As with the ABA guidelines, the Guidelines for the Use of Nonlawyers, which follow the Rules of Professional Conduct for attorneys, help attorneys in determining the extent to which paralegals can be used in their practice and the amount of oversight the attorneys must exercise. Of course, with the new certification rules underway, we will need to comply with such rules as they apply.

Paralegals are morally bound to abide by the codes of ethics set forth by the ABA and our state's rules and codes. As members of NCPA, we have an additional duty to uphold our association's Bylaws and allow ourselves to be guided by them.

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/membership/terms.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	Brenda Mareski, CP, Second Vice President	704.543.6667	bmareski@carolina.rr.com
Patron / Sustaining Membership	Chris Reeves, Patron / Sustaining Chair	919.682.9691	chris@pwkl.com
Affiliate Membership	Ruth H. Goodman, CLA, Affiliate Director	336.584.3388	ruth.goodman@wnhplaw.com
Paralegal Educational Program Membership	Beverly King, Student/Schools Relations Chair	704.37636574	bking@mrsmt.com

Report

State Bar Board of Paralegal Certification Liaison

Yolanda N. Smith, CP



The State Bar Board of Paralegal Certification met on April 13, 2005. The Board took the following actions:

1. The Board approved the final draft of the application for paralegal certification with the recommended minor changes from the Certification Committee.
2. The CLE Committee reported that it met and developed guidelines for approving CLE sponsors and courses that would satisfy the CLE requirement under the certification plan. The Board reviewed the proposed guidelines and recommended incorporating the State Bar's definitions of ethics and professionalism. The Board voted to approve the guidelines with this revision.
3. The Publicity Committee reported that it designed a website for the Board and obtained domain names. The Committee hopes to have the site up by mid-May. The Committee has designed a brochure that discusses certification and has also developed a Power Point presentation. The Committee will make the brochure, Power Point presentation and application available on the website. The Board's website will be available as a link on the State Bar's website. The Committee plans to send the brochure and application to the North

Carolina Bar Association, the North Carolina Academy of Trial Lawyers and the major paralegal organizations for distribution to their membership in mid-May. The Committee also plans to send this information to the Clerks of Court for each county in an effort to make the materials available to all paralegals in the state.

4. The Board formed the Paralegal Program Certification Committee. This Committee will be responsible for determining whether programs providing paralegal education meet the requirements for paralegal studies programs as outlined in The Plan for Certification of Paralegals.

NCPA would like to remind our members that the Board will begin accepting applications on July 1, 2005. The initial application fee will be \$125 and there will be an annual renewal fee of \$50. Applicants must meet one of the following criteria during the two-year grandfather period: (1) have a high school diploma or equivalent and worked as a paralegal in North Carolina for not less than 5000 hours in the five years prior to application; (2) obtained and maintained the CLA/CP, RP or other nationally recognized paralegal certification designation and worked as a paralegal in North Carolina for not less than 2000 hours in the two years prior to application; or (3) have an associate's, bachelor's or master's degree or post-baccalaureate certificate from a qualified paralegal studies program or have an associate's or bachelor's degree in any discipline from an accredited post-secondary institution plus 18 or more semester credits from a qualified paralegal studies program. Applicants who apply during the two year grandfather period and do not meet the educational requirements or who do not have the CLA/CP, RP or other nationally recognized paralegal certification designation will need to take three hours of ethics prior to applying.

Calling All Members!

*"I always pass on good advice.
It is the only thing to do with it.
It is never of any use to oneself!"
-Oscar Wilde*

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Attending a Seminar on a Budget

Theresa (Terry) Irvin, CLA



Many of you may have the benefit of working for an employer who financially supports continuing legal education for paralegals. Your employer may cover the registration fees, travel costs or portions thereof, allow for time off or even assist with costs incurred preparing for the CLA/CP exam. However, not everyone enjoys these benefits and what if you change jobs or take an extended leave of absence? The NCPA 2004 survey indicated that 8.1% of the respondents were not reimbursed at all for CLE costs. The majority of respondents did receive reimbursement for registration, lodging, mileage and meals, however, the percentages decreased for each category respectively. LAT's survey results recently published in *Legal Assistant Today*, March/April 2005, indicated that 22.8% of the respondents did not have the benefit of their employer paying for or sharing the costs of continuing education opportunities.

Today's financial climate is forcing companies and firms to look at their bottom lines and control expenses. While employers may cover CLE costs now, they may change their policies in the future or implement an annual budget.

How can you afford to attend a seminar? Some may answer this question with the question, "How can you afford NOT to attend a seminar?" The benefits of actually attending continuing education are vast and merit an article of their own: education, networking, job building skills, career development, just to name a few. Keep in mind that the benefits you receive by attending a seminar will benefit your employer, but they will also be yours to keep and take with you. The purpose of this article is to offer ideas and suggestions for dealing with the financial aspects of continuing education.

Volunteer. Often times the association sponsoring the event will waive registration costs or even cover some travel costs for those that organize the event. What better way is there to learn and network than to actually be a part of the event planning process? Associations recognize the importance of having diversity in planning events and they also recognize that not everyone can afford the costs to participate. Check with your association and ask about its expense and reimbursement policy. Keep in mind that the associations are usually on tight budgets of their own, so not all costs may be covered, but they may help with your expenses and you will be receiving the added benefit of learning more about your association and volunteering your time to advancing your profession. This will also show your employer that you are serious about your career and professional development and they may be willing to support your involvement as an active member. When you do volunteer, make sure the attorney(s) you work for knows about your involvement. This promotes yourself and promotes the organization.

Speak. Do you have a special area of expertise? Offer to teach at a seminar. Associations generally do not pay speaker fees, but registration fees may be waived for speakers and they

may reimburse travel costs. Check with your association. This will not only help you financially, but you will be helping the association and fostering your professional development. Associations prefer to have "one of their own" lead a session, as the advice and guidance is educational as well as practical and valuable in the every day setting. As with volunteering to be on the committee, make sure your employer knows you are speaking. This is another way to promote yourself and your association in the eyes of your employer.

Get your CLA. Easier said than done, right? Achieving the CLA/CP credential demonstrates to your employer your commitment to your profession. It states that you value your professional development and wish to succeed in becoming an asset to the firm or corporation. With your CLA/CP designation, you must maintain a minimum of continuing legal education to renew the designation. Attorneys must also receive minimum CLE each year to maintain their licenses. They understand this process and may be willing to support CLE coupled with a professional credential that requires it.

At the interview. The first place to ask about the policy on costs of continuing legal education should be the job interview. Make it known to your prospective employer how much you value CLE. Be prepared to educate them on how CLE is a benefit to you, which in turn will be a benefit to them by making you a better and more skilled employee. The discussion of CLE at the interview will also give you a flavor for how important this issue is to your prospective employer. Their policy may not be the deciding factor for accepting or declining an offered position, but you will have expressed your desire and commitment to enhance your career and you will know their policies upfront.

Cutting CLE travel costs. Seminars out of town require additional costs such as hotel, transportation, meals, etc. The ideas above apply to local and out of town events. The following should be considered when travel costs will be incurred. They may seem obvious, but are important to note.

Find a roommate. This option is not for everyone, but it is one to consider and you have just saved at least 50% on the hotel costs if you have one roommate and even more if you room with more than one person. This is a win-win for both sides. Do you know someone who will be attending with whom you could share a hotel room - a colleague, co-worker, friend? If you are new to the association, this may be a little more difficult as you may not know anyone well enough to ask. However, one way to get to know people is by volunteering your time and becoming actively involved. Unfortunately there can be a down side to this option and that is rooming with someone who is not compatible with you. It can happen, but you learn from the experience and know who not to ask next time. The upside to this option is that friendships are forged that may last a lifetime.

¹See NCPA FORUM, winter issue 2004

Seminar on Budget continued...

Stay in a different hotel. Conference attendees are usually given a special hotel rate and it is more advantageous to the association to have attendees stay at the conference hotel. The contracts with the hotels usually require the usage of a minimum number of rooms and when those numbers are not met, additional meeting room fees are assessed to the association. It is also very convenient for the attendees to stay in the conference hotel. However, conferences are commonly held at larger, more expensive hotels because of the meeting room space and banquet facilities. The economy hotels do not offer this, but are generally prevalent in the vicinities where conferences are held. Staying off site is not convenient, but it may be more affordable and is a workable solution. You will need to allow time to travel between locations and will need to plan ahead to avoid repeated trips back to your hotel room. If there are evening events, planners usually schedule extended breaks between the day events and the night events to allow attendees to change clothing as appropriate.

Carpool. This can be tied to finding a roommate or just riding with someone from the same city (or on the way) to the conference. This may also be a great way for you to find a future roommate. Another savings, your transportation costs just went down by 50% or more and it could turn a long drive into a short one by having the company.

Make it a mini-vacation. Sometimes conferences are held in places that are conducive for bringing the family. If you have a family vacation budget, you might be able to combine a little rest and relaxation with the conference. One note of caution here, make sure your family knows that you are going to be separated from them while the conference is in session. Discuss the conference schedule with them. They may have to spend the day on their own, with you joining them at night.

Take a friend, relative. I have talked to people who have been accompanied by their spouses, children, siblings, nieces, nephews, parents, grandparents, and friends. They will ride together, share a room(s) and even bring them to the association social events. You will need to discuss the schedule with your traveling companions and let them know you are there to attend the conference, but this may be a great way to share the travel costs and have fun with friends and family at the same time.

As paralegals, continuing education should be important to all of us. We need to keep our skills current, learn about new technology, keep abreast of changes in the law and advance our professional development. The lack of financial support for CLE by your employer should not prevent your individual advancement. Attending CLE is an investment in yourself. Planning and budgeting are key whether costs are paid by you or your employer.

Theresa (Terry) Irvin, CLA is a paralegal with Bank of America in Charlotte supporting the Community Development Banking Group. Ms. Irvin received her Associate in Applied Science (Paralegal Technology) degree at the Lincoln School of Commerce in Lincoln, Nebraska, and has been working as a paralegal for 18 years. She earned her Certified Legal Assistant designation from the National Association

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Top Five Websites Every Paralegal Should Know About

Submitted by Patricia F. Clapper, CLAS

1. www.nclbgc.net/index.html - North Carolina General Contractors Licensing Board - A contractor who enters into a contract for a construction project for more than \$30,000 must be licensed by the Board. Obtain license status and contact information.
2. www.vitalrec.com - Vital Records - This will link you to a database for contact information for each state's vital records office. Keep in mind that most states do not have the actual vital records information available online.
3. <http://ncinfo.iog.unc.edu/library/counties.html> - A link to the homepage for all 100 counties in North Carolina.
4. www.hoovers.com - A free directory of over 12,000,000 companies with information such as chairpersons, annual sales, competitors, subsidiaries and rankings. For a fee based subscription, you can obtain more in depth information.
5. www.netronline.com - This site will tell you whether or not any county in the United States has its real estate information online (deed information, tax office, etc.).

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The Essentials of Computer Discovery

Joan E. Feldman, President

Computer Forensics Inc.™

I. INTRODUCTION

Chances are good that the date you scheduled, the letter you wrote, and the inter-office message you just read have all been recorded on magnetic media. Like any other business record, electronically stored files are discoverable in litigation and can be used as evidence in the courtroom.

What distinguishes computer-based evidence from traditional paper documents in discovery? "Electronic" documents thought to be lost or destroyed can be recovered. Valuable information such as the time, date, and author's name may be embedded in the electronic version of a document. Comparisons of computer backups to existing documents can be used to show that a critical document was altered and when the event occurred. In the case of electronic mail, casual and candid correspondence may be frozen in time like insects in amber.

GLOSSARY

Computer System refers to the entire computing environment. This environment may consist of one large computer serving many users (e.g., a mainframe or mini-computer) or one or more personal computers working individually or linked together through a network. A computer system includes all hardware and peripherals used (e.g., terminals, printers, modems, data storage devices), as well as the software.

Files are groups of information collectively placed under a name and stored on a computer. Files are organized in various folders sometimes referred to as *directories* and *subdirectories*.

Media is the generic term for the various storage devices used to store computer data. For PCs, the most common media are the internal hard drive, CDs, and floppy disks. Backup tapes, thumb drives, and DVDs are other forms of storage media.

Networks are the hardware and software combinations that connect computers and allow them to share data. Two common ways PCs are networked are peer-to-peer and client-server. **Peer-to-peer networks** physically connect each computer in the network to every other computer in the network. Files are stored on the hard drives of the individual PCs with no centralized file storage. **Client-server networks** connect individual PCs called "clients" to a central "server" computer. In contrast to peer-to-peer networks, files are stored centrally on the server.

II. FILLING IN THE DETAILS WITH COMPUTER-BASED EVIDENCE"

Computer-based evidence exists in many forms and locations within any computer system. The key to finding and using this information is understanding the kinds of information that may exist and where within the system to look for each type of information.

A. DATA FILES

The primary function of most computer systems is to process and store information. Information processed and stored electronically can be divided into four basic categories:

1. Active Data

Active data is the information readily available and accessible to users. Active data includes word-processing documents, spread sheets, databases, email messages, electronic calendars, and contact managers. A listing of active data files can be easily viewed through file manager programs such as Windows Explorer (Windows 95/98/2000/XP) or through "list file" commands in DOS.

2. File Clones

Many operating systems build in automatic backup features that create, and periodically save, copies of the file being worked on by a user. These files are created and saved in order to help users recover data lost due to a computer malfunction (e.g., system crash or power loss); usually, the file clones are not stored in the same directory as the active file.

File clones are useful because they create a copy, or multiple copies, of a document that the users may not erase and may not be aware exists. On most networked systems, file clones are saved to the user's hard drive rather than to a centralized network file server. As a result, a document (or some version of it) that was purged from the file server may exist as a file clone on a user's hard drive.

3. Backup Data

Backup data is information copied to removable media in order to provide users with access to data in the event of a system failure. Networks are normally backed up on a routine schedule, while individual users tend to back up (or not) on an informal basis. Network backups normally capture only the data saved on the centralized storage media (e.g., the file server) and do not capture all the data stored on individual users' hard drives.

A typical network backup schedule would be as follows: A full weekly backup (usually done on Fridays) with "incremental" backups to capture all new or changed data made on all other days. At the end of the month, the last full weekly backup will be pulled from its rotation queue and saved as "monthly backup." Monthly backups may be kept anywhere from several months to many years. In most businesses, as the backup schedule progresses, the media are "rotated"—recycling older media back into the rotation queue as new backups are created.

Backups provide a historical snapshot of the data stored on a system on the particular day the backup was made. Reviewing a series of backup sessions can provide a wealth of information about how a particular matter progressed over several weeks or months. The difficulty with using backup data is that the media (usually tapes) hold a large amount of data that is only loosely organized.¹ Consequently, finding relevant data requires restoring a tape, viewing its directories, and searching within the directories for specific files. If the file is not on the tape, the process must be repeated for each backup tape. A large number of backup tapes can be an expensive and time-consuming process.

4. Residual Data

Residual data is information that appears to be gone, but is still recoverable from the computer system. It includes "deleted" files still extant on a disk surface and data existing in other system hardware such as buffer memories of printers, copiers, and fax machines.²

How is deleted data recoverable? In most operating systems, the term "deleted" does not mean destroyed; rather, when a file is deleted, the computer makes the space occupied by that file available for new data. Reference to the "deleted" file is removed from directory listings and from the file allocation table; but the bits and bytes that make up the file remain on the hard drive until they are "overwritten" by new data or "wiped" through use of utility software. The result is that a file appears to have been deleted, but may still be recovered from the disk surface.

Until data is overwritten or wiped, it can be restored through use of *undelete* or *restore* commands contained in many systems' operating software or through specialized programs. As "deleted" files may be overwritten when a new file is saved, new software is loaded, or unused space is wiped through routine system maintenance (e.g., data compression and disk de-fragmentation or optimization routines), the amount and type of residual data that can be recovered will vary. In the case of a partially overwritten file, pieces of the file or "file fragments" may also be recovered.

Residual data can be buried in a number of other places on disks and drives. Forensic specialists have tools that allow them to examine the entirety of a drive for residual data. It is therefore important to note that simple copy commands will not capture residual data. Additionally, most commercial backup programs do not capture deleted files. As will be discussed in section III.C., gathering this information requires creating an image copy of the drive at issue.

It's important to note electronic mail messages are managed differently than data files, and chances of recovering deleted messages are less likely.

B. ELECTRONIC MAIL

Email has several characteristics that make it an excellent source of evidence:

- Most people use email informally and candidly.
- Many people believe that email messages are impermanent.
- Email is more difficult to get rid of than most users believe. Permanently deleting messages on most email systems is usually a two-step process and many users only complete the first step. Email is easily copied and forwarded thus making distribution of a message nearly impossible to control. And finally, undeleted email may be captured on system backups.

Though business use of email is skyrocketing, guidelines for its use are lacking. A recent survey conducted by the Cohasset Group³ revealed that 59 percent of organizations using email did not provide policies concerning either content control or retention periods for saving messages.

¹A single backup tape can store the equivalent of 1 to 5 million written pages of information. In order to fit as much data as possible on a tape, backup programs normally "compress" the data. To access the data on backup tapes often requires decompressing the data and restoring it to a host drive. Because most organizations do not have enough drive space to restore backups without overwriting current data, parties may need to find additional drive space to restore the data.

²Data contained in buffer memory is usually limited to recently created and stored information only.

³Williams, Robert F., "Electronic Records Management Survey: A Call to Action." Cohasset Associates Inc. Co-sponsored by ARMA International and AIIM.

C. BACKGROUND INFORMATION

While data files and email are often targeted for evidence, they are not the only information that can be gleaned from a computer system. Computer systems can provide a wealth of background information, which may be valuable evidence or can be used to further develop the facts of a case.

1. Audit Trails

Audit trails and *computer logs* create an electronic trail regarding network usage. Typically, an audit trail contains information about who, when, where, and how long a user was on the system. Also recorded may be information about who modified a file last and when the modification was made. An audit trail may also indicate when and by whom files were downloaded to a particular location, copied, printed out, or purged.

In addition to using a network's audit trail, an increasing number of companies are also installing software designed to monitor employees' use of company computers. This software records information such as programs used, files accessed, email sent and received, and Internet sites visited.

2. Access Control Lists

Access control lists limit users' rights to access, view, and edit various files. Access rights often depend on the employee's particular job duties and position in the company. For example, the access rights for a company's billing files may be limited to the accounting department and senior management. Moreover, different personnel may have different access rights. For example, the accounting department may have read and write access, whereas managers may have read-only access. If litigation centers on a particular file or group of files, identifying who had access rights to the files and the type of access each person was allowed can establish data ownership/authenticity of files. Network security systems allow system administrators to set and maintain varying level of access to users on the system.

3. Non-Printing Information

The *non-printing information* carried by most data files is another excellent source of information. The most common example is the date and time stamp the operating system puts on every file. Some word-processing programs store revisions to documents, allowing a viewer to follow the thought process of the author as a document is edited. Some word-processing packages allow users to insert "hidden" or non-printing comments. Many schedule programs track who made changes to a calendar and when the changes were made. This information may never appear in hard copy form, but may be found in the electronic version.

The following checklist summarizes the different types of media that should be collected during discovery.

Electronic Media Collection Checklist

Data Files*

- office desktop computer/workstation
- notebook computer
- home computer
- computer of personal assistants/secretary/staff
- palmtop devices
- network file servers/mainframes/computers

Backups

- system-wide backups (monthly/weekly/incremental)
- disaster recovery backups (stored off site)
- personal or "ad hoc" backups (look for disks and other portable media)

Other Media Sources

- tape archives
- replaced/removed drives
- floppy disks and other portable media (e.g., CDs, thumb drives)

*To assure that all data, including residual data, are captured, an image copy is recommended when copying data from local computer hard drives.

The following scenario illustrates how computer-based evidence, in all its incarnations, can be scattered throughout a company's computer system.

CASE SCENARIO

To remain in business, VeryTech Corporation needed to launch a new version of their software. The announcement of a June 2003 ship date for the new release gave a welcome boost to shareholders. Stock prices soared, and optimism was high. VeryTech principals and directors did well. The June 2003 date came and went, and VeryTech's software was still only in beta-stage. When

continued on next page...

stock prices plummeted, shareholders filed suit. Aggressive attorneys for the plaintiffs incorporated requests for computer-based files in their discovery strategy. Five computer-based documents provided the jury with a compelling picture of investment security fraud.

See if you can identify where the five “smoking gun” documents were found:

Jed Roberts, principal and CEO of VeryTech, wrote a memo to Susan Davis, VeryTech’s public relations director, encouraging her to accelerate work on May’s media campaign regarding the June ship date. Using the hidden text feature of his word-processor, Roberts wrote this side note to his secretary: “delivering smoke and mirrors to the press is like carrying coals to Newcastle.” He gave his secretary the memo on his thumb drive. The edited copy, generated by his secretary and emailed to Davis, did not contain the side note.

In May, Steve in research and development was sending his own messages to fellow staff members, making use of VeryTech’s email system. “Even if we triple our staff (which you know we won’t), we’re never going to make it.” This email message, sent at 11:00 p.m., was swept into the monthly backup created at midnight.

Jed Roberts, the CEO, automatically received electronic status reports generated using Project Manager software. Project Manager reports included Gantt charts showing critical path, as well as resource, cost, and project status. The Project Manager software and data was stored on R&D’s file server and backed up weekly.

Susan Davis in public relations wrote a memo to Jed Roberts expressing her growing alarm that VeryTech’s promises to the press were untrue. Before printing the memo, she had second thoughts and deleted it from her hard drive.

Hidden text revealed when file on thumb drive was reviewed, 2) Steve’s email message stored on monthly backup tape, 3) Jed Roberts’ hard drive contained saved status reports, 4) Project Manager files were stored on weekly backup tapes, 5) The deleted file on Susan Davis’ hard drive was recovered.

III. GATHERING COMPUTER-BASED INFORMATION

There is no question that information stored on computers is discoverable. The Federal Rules of Civil Procedure (and most state rules) include in their definitions of documents “data compilations from which information can be obtained” and permit parties to “copy, test, or sample any tangible things” within the scope of discovery.⁴ Courts facing the issue have uniformly ruled that computer information is discoverable.⁵ Courts have further held that deleted files on a party’s hard drive are discoverable and that an expert must be allowed to retrieve all recoverable files.⁶ In one case, a party failing to produce properly requested data was subject to sanctions, even though the data was not available in a hard copy form.⁷ More recent discovery opinions and case law paint a grimmer picture of electronic discovery error, timing disasters, and spoliation issues⁸

There are three key things you must do to effectively gather computer-based evidence:

A. PRESERVE EXISTING ELECTRONIC EVIDENCE

Every time a user enters new data, loads new software, or performs routine system maintenance, some data may be modified permanently. In fact, the simple act of turning a computer off or on will change the information on that computer. To preserve the maximum amount of information, you must put all parties (including your own client) on notice that information contained on computer systems is relevant to the dispute and that all parties must take immediate steps to preserve such information.

The first part of the notice should outline the type of information to be preserved:

- Electronic mail and information about electronic mail (e.g., message contents, header information, and logs of electronic mail system usage).
- Data files created by word-processing, spreadsheet, or other application software.
- Databases and structural information about the databases; network activity logs and audit trails.
- Electronic calendars, telephone logs, and contact managers.

Explain that this information may exist inactively in places such as network file servers, mainframe computers or minicomputers, standalone PCs, and network workstations. Data may also reside on off-line data storage media including backups and archives, CDs, DVDs floppy disks, tapes, and other removable electronic media.

The second part of the notice should specify that no potentially discoverable data should be deleted or modified, and procedures that may affect such data should not be performed unless all potentially discoverable data has been copied and preserved. The key is to make clear that the data to be preserved includes not just active data, but also archival, backup, and residual data.

⁴Fed. R. Civ. P. 34(a); CR 34(a). Federal Rule 26 also expressly includes data compilations in the items that must be either produced or particularly described in the parties’ initial disclosures. Fed. R. Civ. P. 26(a)(1).

⁵See, e.g., *Anti-Monopoly, Inc. v. Hasbro, Inc.*, 94 Civ. 2120, 1995 U.S. Dist. LEXIS 16355 (S.D.N.Y. 1995) (“today it is black letter law that computerized data is discoverable if relevant.”); *Santiago v. Miles*, 121 F.R.D. 636, 640 (W.D.N.Y. 1988) (“A request for raw information in computer banks is proper and the information is obtainable under the discovery rules.”); *In re Brand Name Prescription Drug Antitrust Litigation*, 94-C-987, M.D.L. 997 (N.D. Ill. 1995) (email is discoverable); *Seattle Audubon Society v. Lyons*, 871 F. Supp. 1291 (W.D. Wash. 1994) (ordering production of email).

⁶*Easley, McCaleb & Assocs., Inc. v. Perry*, No. E-2663 (Ga. Super. Ct. July 13, 1994). Such access, however, is not unlimited. In two recent decisions, access to a litigant’s computer system was denied because the party seeking discovery could not show a likelihood that relevant information could be retrieved. *Strausser v. Yalamachi*, 669 So. 2d 1142, 1144-45 (Fla. App. 1996); *Fennell v. First Step Design, Ltd.*, 83 F.3d 526 (1st Cir. 1996).

⁷*Crown Life Ins. v. Craig*, 995 F.2d 1376 (7th Cir. 1993).

⁸See www.forensics.com for in-depth, quarterly update of recent case law.

With respect to system users that may have discoverable information on their computers, no new software should be loaded and no data compression, disk de-fragmentation, or optimization routines run until there has been an inspection or image copies of the hard drive has been made. Note, however, that most network servers, mainframes, and minicomputers have disk optimization routines that must remain operational. As a consequence, the instruction regarding data compression and disk de-fragmentation is best suited to preserving evidence on the hard drives of desktop and notebook computers.

With respect to backup systems, ask that the rotation and reuse of backup media cease until relevant data can be copied. Requesting parties should ask that existing tapes be held aside and not recycled. Parties should also be instructed not to dispose of any electronic media storage devices that are being replaced due to failure or system upgrade.

Remember that your client will also be expected to follow the same steps you are instructing your opponent to follow.

B. GET AN OVERVIEW OF THE SYSTEMS AND USERS INVOLVED

Effectively planning and responding to discovery requires you to know how the computer systems are structured. Indeed, your notice letter will be more effective if you can gather some information on your opponent's system beforehand. For both the opponent's and your client's systems, you will need the following information:

- **System configuration.** This includes the types of computers and other hardware used, desktop and network operating systems, and the type of network and communications software and hardware used.
- **Application software and utilities.** Ask for the name and version of all application software and all utilities used on the system; this includes both commercially available applications and custom applications. If you are interested in email, find out what types of email programs are used and ask for current lists of system users.
- **Backup procedure and frequency.** This includes the name and version of the backup software used, the type of media used, the schedules used for incremental and full backups, the length of time backups are kept, and how often backup media is reused. Also ask how the backup media is indexed and stored.
- **Logons and passwords.** Ask about any encryption programs that may be used to "lock" sensitive information. This information will help you when reviewing the data collected and will also assist in the authentication process.

In addition to the discovery directed at the computer system, every witness must be questioned about his or her computer use. Users' computer sophistication varies widely. Knowing how each witness uses his or her computer and organizes and stores data may lead to sources of data not revealed by the discovery directed at general system usage. This discovery should also focus on the secretaries and other people assisting key witnesses.

Perhaps the most overlooked source of electronic evidence is users' home computers. Data can end up on home computers in a number of ways. Data can be transferred to and from the workplace on removable media, via email attachment or employees may be able to log on to the company network from outside of the office. With direct access, the home computer acts much like the employee's office workstation. Regardless of how data is transferred, the critical point is to find out whether the witness works from home and if there is data on a home computer.

Witness and client interviews, carefully crafted interrogatories, and requests for production are all excellent ways to gather information regarding the systems. Another extremely useful tool is a 30(b)(6) deposition of a party's information systems department. The deposition serves two basic purposes: first, it provides the system overview needed to effectively undertake further discovery; second, as with all custodian of records depositions, it helps establish the foundation needed for using the computer records as evidence.

Checklist For System Discovery

- The layout of the computer system, including the number and types of computers, and the types of operating systems and application software packages used.
- The type of electronic mail system, including software used, the number of users, the location of mail files, and password usage.
- The structure of any network, including the configuration of network servers and workstations, and the network operating system.
- Specific software used. This includes software applications for things such as calendars, project management, accounting, word-processing, and database management. It also includes industry-specific programs, proprietary programs, encryption software, and utility programs.
- The personnel responsible for the ongoing operation, maintenance, expansion, and upkeep of the network.
- The personnel responsible for administering the email system.
- The personnel responsible for maintenance of computer-generated records and the manner in which such records are organized and accessed.
- Backup procedures used on all computer systems in the organization. This should include descriptions of all devices (e.g., tape drives) and software used to create backups, the personnel responsible for conducting the backups, what information is backed up, backup schedules, and tape rotation schedules.
- The process for archiving and retrieving backup media both on and off site.

- The procedures used by system users to log on to computers and into the network. This includes use of passwords, audit trails, and other security measures used to identify data created, modified, or otherwise accessed by particular users.
- How shared files are structured and named on the system.
- Routines for archiving and purging different types of data.

C. PRESERVE THE CHAIN OF CUSTODY

A chain of custody verifies that information copied was not altered in the copying process, and has not been altered during analysis. A solid chain of custody is essential to authenticating computer-based evidence copied from your opponent.

No information was added or harmed. Before doing anything else, software and media you intend to use must be virus checked with up-to-date virus checking utilities. It also means that before examining any media or making any copies, that the originals be “write-protected” so that no data is added or changed during inspection and copying.

Make a complete copy. Accurately copying all data on a drive requires making a sector-by-sector copy of the drive. A sector-by-sector copy (also called an evidentiary image copy) creates a mirror image of the drive being copied, thus capturing all data, including residual data, on the drive surface. Simply making a file-by-file backup captures only active data and may be deemed inadequate for evidentiary purposes.⁹

Use a reliable copying process. In copying data, there are a number of different programs and media that can be used. The following criteria must be met: (1) it must meet industry standards for quality and reliability, (2) it must be capable of independent analysis, and (3) it must create tamper-proof copies. Keep in mind that any copies must be able to withstand cross-examination by your opponent’s expert as well as judicial scrutiny.

Secure all media. All copies should be tamper-proof and any original media collected as evidence should be write-protected or otherwise made tamper-proof. All media (copies and originals) should be labeled by time, date, and source and stored in a secure place. Forensic analysis of the information collected should be done on a working copy created from the secure copy whenever possible.

IV. SUMMARY

Businesses and individuals now use computers to store and communicate tremendous amounts of information. Much of this information – over 90 percent – is never printed to paper. This means that neglecting discovery aimed at computers and computer-based records, greatly increases the odds that you will overlook a critical piece of evidence.

Computer discovery does not require you to be a computer expert. Rather, what it requires is a fundamental understanding of what kinds of information exist, where this information may be stored, and how to ask the questions that will lead you to it.

JOAN E. FELDMAN, known as one of the nation’s premier “cybersleuths”, is a pioneer in the science of forensic computing. Ms. Feldman’s background combines over twenty years of computer forensics and litigation expertise. As president of Computer Forensics Inc.™, Ms. Feldman obtains and analyzes electronic data used as evidence in civil litigation and oversees the work of CFI’s forensic teams. A recognized authority on electronic media discovery and related topics, Ms. Feldman is a busy national speaker, magazine contributor, and media resource for expert commentary. Based in Seattle, Washington, Computer Forensics Inc.™ works with clients nationwide.

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⁹See *Gates Rubber Co. v. Bando Chemical Indus., Ltd.*, 167 F.R.D. 90, 112 (D.Colo. 1996) (the court criticized a party’s expert for not making an image copy, concluding that when collecting evidence for judicial purposes a party has “a duty to utilize the method which would yield the most complete and accurate results.”).



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NCPA 2005 Student Scholarship Winning Essay Forum

Throughout the year, the Student/School Relations Committee fields a variety of e-mail requests from current and prospective students interested in the paralegal field. We provide information, as we are able, including links to other sites that may be of interest to the students. The majority of requests concern school programs and requirements for paralegals working in the State of North Carolina.

Another responsibility of the Student/School Relations Committee is to promote the North Carolina Paralegal Association, Inc.'s yearly Student Scholarship Program. Any paralegal student enrolled in an accredited North Carolina paralegal educational program is eligible, and an essay competition is the basis of the scholarship. The essay topic is: "I have chosen to be a paralegal..."

All winners received a complimentary student registration to the Annual Meeting and Seminar, a complimentary one-year student membership to NCPA and a scholarship check to be paid to his or her school.

This year we received a total of forty-seven (47) essays for the contest. It was a difficult decision for the judges. We had five winners—1st through 4th with a tie for 4th place. Now, we would like to show you the winning essays:

1st Place Winner:

Jill S. Moseng of Central Piedmont Community College - \$400.00

The woman sat in her car adjusting the small paravent on the driver's side to capture the slight breeze that blew across the school parking lot. "Go figure," she muttered to herself, "I purposefully planned to get here at 1:15 when everyone should be back from lunch. But, wouldn't you know, today the very department I need to see decides to take a long lunch." "Oh well," she sighed resignedly. She was on a mission for one of her daughters who, naturally, had waited until the last moment to register for an essential class. "It's of paramount importance!" her daughter had insisted. And so, of course, the woman had agreed to drive over to the Community College to take care of the necessary paperwork. "And the tuition payment," she thought parenthetically. Still, the available college staff had been very nice – sincerely apologetic – and had even given her reading material to pass the time. So the woman scooted aside the paraphernalia cluttering the car's front seat, sprawled into a comfortable position and opened said reading material: the ever-exciting "Community College Catalog." She read a few paragraphs about the school's history, then, growing bored, fanned the pages to see if any section caught her eye. And one of them did -The Paralegal Program. "This is something new," she murmured to herself. Well, not quite new. She remembered someone mentioning a few years ago that he was a paralegal. "How sad!" she had thought. "He used to be a U.S. Federal Marshal; but now he's just a legal secretary and so embarrassed by his current status that he has to use a euphemism for it." "But no," she now realized as her eyes darted down the list of courses: Commercial Law; Criminal Law; Civil Litigation;

Real Property Law; Legal Research & Writing; Corporate Law; Family Law – and the list when on and on. "It's almost like law school!" she exclaimed aloud. And then it hit her. For a moment she was paralyzed by the significance of it. Then slowly her eyes opened wide, her jaw dropped down and she looked about her as if the dull gray asphalt and dusty, parked cars had suddenly become sanctified. "This errand is not just one more inconvenience in the parade of inconveniences that fill my days. This is my paraclete's, my intercessor's, way of finally getting through to me! This is the answer to my prayers!"

A long time ago, after the birth of her first child, the woman had returned to college, convinced that she owed her newborn all the material advantages. She pursued a major in accounting and landed a job in the Audit Department of a Big Eight accounting firm. She worked hard and she loved it. The money was good, but the workdays grew longer and longer, until she had to cram her parenting into the hours between seven and ten at night. After a few years she realized that her mother, that paragon of womanly virtue, had been right when she advised (paraphrased): "One can 'have it all,' but, paradoxically, those around you suffer from the 'law of diminishing returns'." And so, with the birth of her second child, the woman quit work to become a full-time Mommy. Years passed and two more children were added to the brood. More years passed and the children were no longer "children." It was time for her to return to work. But as what? She had awakened from motherhood to find herself a virtual parachronism – the world viewed both her and her accounting skills as out-of-date. She had not diminished; she had not changed; but a parallax arose since others now viewed her from a different perspective. Auditing had allowed her to travel from company to company, learning new manufacturing processes and meeting new people. Now all she would be deemed qualified for was a menial bookkeeping job done in a small cubicle. Besides, she now felt more drawn to words than to numbers. She told her daughters that her ideal career would be to help society by doing some sort of writing in an environment filled with stimulating people. But neither the Observer nor the Internet listed such a job description. And so, in private, she prayed. She asked God for guidance; she would put herself in His hands, if only He would show her the way; would give her some sort of sign. But more years passed and, if any signs were given, she didn't see them.

As the woman stared about her, a car rolled into a parking space near her and four adults stepped out, chattering and laughing as they walked to the school building. The woman soon followed and, once inside, enrolled both her daughter and herself in the computer class, a requirement for the paralegal course. On the drive home, a silly grin grew on her face and her normally methodical mind was dominated by a single, ancient word tumbling over and over: "Eureka!" "Eureka!" At home she leapt from the car and began to prance and pirouette up the walk; then suddenly stopped and, with a sense of paranoia, peered about, fearing that neighbors had witnessed her clumsy victory dance.

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Essay Forum continued...

She refined her step to a dignified, matronly stride. Once inside, her methodical mind now restored, she searched the Internet for more information on paralegals. The more she learned, the more parallels she saw between this profession and the part of auditing that she had loved the most: those early years of hands-on delving into company records. In fact, she had dreaded the move into management where most of her job would be reviewing the work of others. She realized that, while others might view the paralegal course as a parapet – a jumping-off point for Law School – for her it was a paradigm of her dreams and, in itself, met all the parameters of her wish list.

In the following weeks, as she reflected on the practicality of this new venture, she acknowledged that it would not parachute her into a soft landing in paradise. Both school and an eventual job would return her to long days and hard work. And she knew that, no matter how well she did in school, many law firms would still consider her too old for the job. But she also knew that God would not lead her down a long passageway only to be greeted by a locked door.

2nd Place Winner:

Kelli D'Arcy of Central Carolina Community College- \$300.00

The choices we make early in life have an effect that will echo for many years. I always believed that I was pretty smart growing up, I never felt like much of a kid. I had lots of responsibilities that most young people do not know exist. Although it was hard at the time, I am grateful for these experiences because they have helped to prepare me for the battles I will face later on in life.

This is not my first time attending classes in the paralegal program. My first semester began five years ago when I was only seventeen. After having dropped out of high school at fifteen, and working at a few fast food restaurants, I realized that I was heading down a dangerous path full of hard times and heartache. I decided to go back to school to finish my high school diploma. Within the same week of this decision a very good friend told me about a file clerk position available in his law office. Automatically I thought that I would not be able to work in a law firm, I was very scared and nervous that I was not smart enough or even old enough to handle that kind of job responsibility. But after a moment of thought I said yes to the job offer and started working the next day. I was surprised at how easily I caught on; granted filing is not a very complex task. I found myself looking at the documents that I was filing and reading them, trying to understand what it all meant. I was very intrigued and thoughts of being a legal professional entered into my head. Within six months of going to night school and working a full time job, I received my adult high school diploma. I was only sixteen at the time and I felt great. Soon after I graduated, the firm had hired a file clerk to fill my position because I was promoted to "legal secretary". I worked directly under an attorney and with a paralegal each day, and each day I loved it more and more. Life was great for a sixteen year old girl.

As we all know, things can creep up on you in a flash. Although my life was great and I enjoyed my job, I was still

very lonely. I realized that I had been neglecting the "teenager" inside of me. I started going out on weekends and meeting new people. One day, I met a boy. He was very charming and handsome, but he was not the type of guy to bring home to the parents. At first I tried not to care about him, but he was very persistent and eventually I gave in. So now I was seventeen and in love. Everyone tried to warn me of him, but I knew deep down that he could change and grow up to be a man. Meanwhile at work, my boss talked me into attending school at the local community college to get a degree in the work I had been doing. Honestly, I didn't even know that someone could get a degree to be a paralegal. So I started my first semester in the spring attending full time, working full time, and in a full time relationship. I really enjoyed school and was surprised to learn and understand so many things that helped me at work. After the semester I took the summer off from school. To everyone's shock, I moved in with my boyfriend. Then to our shock, life's little miracle crept up on two teenagers. We were both happy and excited but also terrified about the future. My intentions were to return to school in the fall but I had a very difficult pregnancy and literally could not get out of bed. Now, I was an eighteen year old woman with a husband, a baby and a home to manage.

So here I am, nearly five years later, finally coming back to school. Throughout the past couple of years of changing diapers, making bottles, and potty training, I never stopped thinking of my future career as a paralegal. I have never even considered being anything else but a paralegal. Things have been hard for me at times, but I got through it. Now, I am looking forward to graduation and I can't wait until I can begin to work again. I have missed the excitement of an office and the feelings of accomplishment in knowing that I made a difference in someone's life. So as I said before, I have had some trials and tribulations early in life and I do not regret any of them. Who knows, if I had not made some of the choices I made, I might not have the life I have now, which is full of love, beauty and thankfulness.

3rd Place Winner

Victoria Wright of Central Piedmont Community College - \$200.00

I have chosen to be a paralegal due to the excitement and complexity of the legal system. Paralegals provide much needed assistance to attorneys, which allows more people to benefit from the services offered.

My dream is to have a career that has a purpose and one that will provide me with job satisfaction. I believe that becoming a paralegal will accomplish that goal. A great deal of responsibility is given to paralegals to complete critical and time sensitive tasks on a daily basis. Due to the amount of responsibility and the fact that paralegals deal with so many diverse cases will make the job more challenging and rewarding at the same time. The realization that I will help in providing quality legal services to the public motivates me to learn everything about the law. The legal system is a complex and unpredictable entity, which makes the role of a paralegal more intriguing. Paralegals find themselves in an ever-changing environment

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Essay Forum continued...

leaving no room for monotony. I am interested in every aspect of being a paralegal. Interviewing witnesses, investigative research, preparing documents and working with clients strikes my curiosity and excites me. Being there for clients and attorneys when they need me the most and learning everything about getting a case ready for trial will be the job satisfaction that I have been searching for. These characteristics are what give this profession the title of career rather than a job.

The paralegal field is a fast growing profession and I look forward to being part of the successful career. Paralegals will always be an important part of the legal system because they helped to make the system what it is today. They make legal services more available to the public and allow the job of an attorney to be less stressful. The attorney can focus on other aspects of the case while the paralegal prepares vital information. I am anxious for the day that I can consider myself part of such a dynamic team.

4th Place Winner

Annie Flynn Patterson of Central Carolina Community College - \$100.00

In today's demanding world, many adults find themselves longing for a college education. This desire may be based on a need to increase household finances or an individual's desire to fulfill a life-long goal. I have chosen to earn a degree in Paralegal Technology for numerous reasons.

First, it is important to have a career which I can be proud of. Generally, people have a sense of respect for those working in the legal profession. Only recently, however, has society realized the vital role a paralegal plays in the legal profession. Paralegals offer a more cost efficient option for many clients requiring general assistance. Also, with the use of paralegals/legal assistants, attorneys are able to assist more clients. A job in this challenging, yet highly rewarding, field will be something I can take great pride in.

Also, I want to work in a profession that offers a wide array of employment options. As a paralegal, I can explore various areas of the legal system. I may work for a firm that practices numerous types of law, for example, criminal, corporate, or family law. I may choose to work for a private attorney specializing in a specific area such as real estate. Another avenue I can explore is working independently as a freelance paralegal or representing clients with grievances against certain types of governmental agencies.

In addition, I enjoy working at a fast pace and handling numerous tasks. I think being a paralegal will be very interesting because there are so many different things I will be required to do. Unlike some jobs, that limit an employee to sitting in front of a computer all day, paralegals are often on-the-go, handling many different cases, and carrying out various jobs.

Finally, I have chosen to become a paralegal because of my life-long interest in America's judicial system. I consider it an honor to live in a country that allows all citizens, regardless of race or income, the right to a fair trial. I look forward to taking part in the United States of America's legal processes and helping to maintain the legal system which our forefathers established.

While earning a college degree may aid in my pursuit for financial stability, my decision to enter this profession is much more personal. I think earning my Associates Degree in Applied Science in Paralegal Technology will help me obtain a career that I can be proud of, that gives me options, and that I enjoy.

4th Place Winner:

Sonya Potter of Central Carolina Community College - \$100.00

Professions are chosen for many different reasons by people like you and I. It could be we've chosen a certain profession due to a personal experience or maybe it is because that particular profession is a field that has always interested you. I have chosen to be a paralegal for a few different reasons, but the main reason is because it has always been my dream.

Approximately 23 years ago, I graduated from high school with a dream of going to college to become a paralegal. Out of 3 children in my family, being the only child to graduate from high school was already an accomplishment I conquered, and I wanted more. I began college the Fall semester of 1981, with the world at my feet, or so it seemed. I attended college for approximately 1 year. At that time, for personal reasons, I had to quit and get a job. Leaving my dream behind at this point in my life brought a lot of disappointment. Eventually, I realized it was for the best due to the situation I was dealt.

Through the years I have raised a daughter, worked for the government, and now I am starting over again. I have never forgotten the dream I had wanting to be a paralegal. Furthermore, after all these years it has become not only a dream but something I feel I must do.

I was injured on the job a few years ago, and everything I went through led me back to where I started when I was 18. Back to my dream I once had. I had to hire an attorney and his paralegal was the best and most trustworthy person I could have had to help me.

Working with her on my case made me realize again, how much I missed my dream by not fulfilling it a lifetime ago. Also, I could have been helping people in situations like myself and maybe making a difference in someone's life, like she had helped me in mine. The knowledge she portrayed as a paralegal and being there when my attorney was not available meant a lot to me. Consequently, her knowledge and willingness to help me understand, again, brought me back to where I started many years ago. This time, I had other reasons. I want to be the one to have the knowledge needed to help someone if possible, and I am not going to let anything stop me.

I am 41 years old. I am presently attending college. I have a cumulative GPA of 3.80 and I am going to be a paralegal. I have chosen to be a paralegal because it is my dream and it is a challenge. A challenge I have waited half my life for. There is an old saying my grandmother used to say "Life is like a boomerang, if something is meant to be, it will come back to you someday". It appears that my dream found its way back into my life, now into my future. I have chosen to be a paralegal because it is my lifelong dream and it is also my way of giving back assistance that was given to me. I guess being a paralegal is what I was meant to be.

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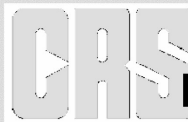
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