



# NCPA



The Association of  
Legal Assistants • Paralegals

The NCPA is an  
Affiliate Member  
of the  
National Association  
of Legal Assistants, Inc.

# Forum

North Carolina Paralegal Association, Inc. Spring 2006



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

## The Paralegal's Role in the Settlement Process

Settlement Agreement and Release

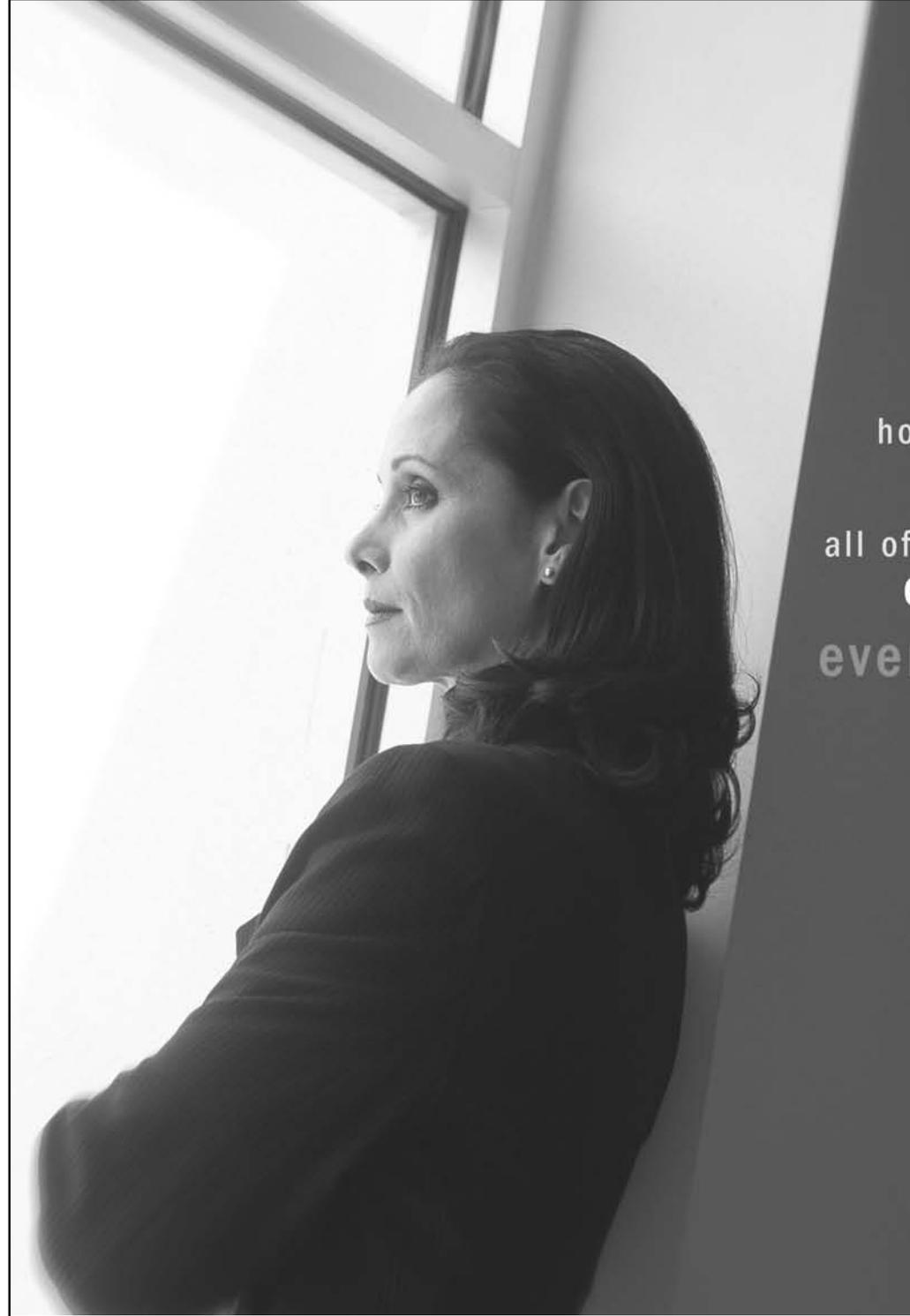
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Meet the Candidates

The Power of Settlement  
Documentary Videos

Blow It, or Tend It -  
Structured Settlements

NCPA Officers:  
The Role of the  
NALA Liaison



how are we going to  
**get through**  
all of those  
**depositions?**  
everyone's so busy

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als submitted.



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*Moving?* Be sure to let us know!

Send both your old and new address information to:

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# President's Message

Erin N. Burris, CP



Happy New Year!

January is a good time to evaluate the past year and to set goals and resolutions for the current year.

We all have daily tasks such as running errands, cooking, cleaning, laundry, and yard work, in addition to our full-time jobs at the office. We are involved in so much these days that sometimes it seems difficult to find the time to spend a few moments with our families or even by ourselves. We obviously can't do everything at once but we also can't procrastinate forever.

As my "To Do" list gets longer, I am searching for more effective ways to complete my goals.

Here are some steps from eHow.com for making your resolutions stick:

1. Be realistic by setting achievable goals. Winning the lottery, for example, is out of your grasp.
2. Describe your resolutions in specific terms. Instead of "I don't want to be lazy," opt for "I want to exercise regularly" or "I will cut down on my television watching."
3. Break down large goals into smaller ones. For instance, commit to losing weight by resolving to join a gym and improve your eating habits.
4. Find alternatives to a behavior that you want to change, and make this part of your resolution plan. So you want to quit smoking but you smoke to relax yourself? What other forms of relaxation are available to you?
5. Above all, aim for things that are truly important to you, not what you think you ought to do or what others expect of you.

## How can NCPA help you achieve your goals?

As an NCPA member, you have an instant support system at your fingertips! We are here to encourage and to mentor you.

## Are you ready to become a NALA Certified Legal Assistant (CLA)/Certified Paralegal (CP)?

NCPA offers a CLA/CP Review course every fall in conjunction with its Mid-Year Seminar (September 15-16, 2006 at the Embassy Suites in Cary, NC)

## Are you looking for a new job?

Take advantage of NCPA's Job Bank through its website. Search the job postings or place your own post.

## Do you want to get involved in the paralegal community?

Serve as an Officer, Director or Executive Committee member for NCPA.

## Do you want to participate in volunteer work?

Legal Aid of North Carolina and other organizations can use your help. Please visit our website for all pro bono opportunities.

## Are you looking for ways to expand your knowledge or to fulfill educational requirements for certification?

Attend one of NCPA's educational seminars:

- Annual Seminar and Meeting - March 30 - April 1, 2006 (Atlantic Beach, NC)
- Mid-Year Seminar - September 15-16, 2006 (Embassy Suites in Cary, NC)

Here are some helpful websites to guide you in setting and following through with your goals:

- <http://www.mygoals.com>
- <http://mentalhealth.about.com/od/selfhelp/a/newyears.htm>
- <http://www.habitsmart.com>
- [http://www.ehow.com/how\\_12077\\_make-new-years.html](http://www.ehow.com/how_12077_make-new-years.html)

Good luck. I look forward to seeing you at Atlantic Beach in March.



# Chairman's Message

Belinda A. Thomas, CLAS



## GULLIBLE'S TRAVELS

Last summer I wrote to you regarding my experience with taxi drivers in Kansas City when I attended the NALA Convention. I thought nothing could top that experience. However, today I'm seated in the RDU airport waiting for my flight. I'm on the way to Tulsa, Oklahoma to grade the Judgment and Analytical and Communications sections of the CLA/CP Exam. At least, I hope I am. Did you know you cannot be one minute late if you are going to check baggage or they will automatically delay you until the next flight? Well, I didn't know that, but I do now. (I'm a fast learner.) All I wanted was a manicure and a pedicure on my day off before I flew to Tulsa. I purposely did not work even though the flight was not until 3:00 p.m.. I knew I would be my usual stressed out, uptight, fed up self if I went in to work, so I slept in, cooked a nice breakfast and went to have my nails done. I guess I became a little too relaxed! I was a few minutes late arriving at the airport to check in. I'm now a "stand-by" passenger hoping to hear my name called for a seat. (I'm worried at this point because there is a sign at the desk that says "please notify an agent if you're willing to take a later flight for compensation.") I'm a little concerned as well if I'll ever see my luggage again. The lady at the gate was talking too fast for me to understand. She said something about the weight of my luggage. Does anyone know of a Goodwill store in Tulsa?

It is now 4:15 p.m. and my fears were realized. When it was time to board, I found that the plane was overbooked by six people. I now am on standby for a flight to St. Louis (maybe). That flight is completely full but not overbooked. I'm now praying for someone not to show. Not only that, my luggage is somewhere singing, "You take the high road and I'll take the low road and I'll be in Tulsa 'afore you."

The time is 7:00 p.m. and I did get to St. Louis. One person didn't show. Prayers are answered. Now it looks like I'll get to Tulsa before my luggage. The interesting part is I'm not my usual stressed out, uptight and fed up self. All in all, this has been a pretty great adventure!

This is my last report as NCPA Chairman of the Board. In my past reports, both as President and Chairman, I have tried to be an encouragement of all of you. NCPA and NALA have given me four years of experiences in my life, which are invaluable. I have seen history in the making in our profession with certification in North Carolina. I have been able to share my ideas and gain knowledge

by speaking at two NALA Conventions. I was honored in 2005 when Deb Monke, NALA President, asked me to serve as a member of the NALA Certifying Board. Due to my experiences, I am more outgoing, courageous and have developed incredible survival skills when traveling! Once again, I close with a challenge for each of you to become an active member of NCPA by volunteering your time as an officer, director or committee chair. There is absolutely nothing to lose and much to gain. You will never regret it. Who knows, you may become one of the "jet set" like me. Now where did I put that boarding pass?

## CORRECTIONS

The Winter 2005 issue should have reported that the North Carolina Board of Paralegal Certification Committee has proposed that the exam contain 200 (not 500) questions. They hope to have a data pool of at least 500 questions.

The Winter 2005 issue on page 16 should have thanked the contributors of the Mid-Year Seminar (not the Annual Seminar).

Has your



address changed?

**Please be sure to let us know so we can keep you informed of what's happening in our profession.**

**Send your old and new email addresses to:**

**[info@ncparalegal.org](mailto:info@ncparalegal.org)**

# Editor's Court

**Laura C. Braswell, Senior Editor**



My inspirational thought for today: "Live life in the now." Smell the roses. Stop obsessing about what needs to be done in the future for a few minutes or hours and spend that time doing something you enjoy: playing with your children, a quality conversation with your spouse, dinner with friends, taking your dog for a long walk, or going to a yoga class. The activities we do outside of our jobs can make or break us at work. The quality I admire the most in children is their ability to be rightfully selfish. They don't feel guilty about having fun or doing something just because it makes them happy. Why should we feel guilty about doing the same? If we don't take care of ourselves, we can't take care of everything or everyone else in our lives, including our obligations at work.

Now that I'm done lecturing you, I hope you will take a moment to read this issue of the NCPA Forum (and that you'll enjoy it). Our topic for this issue is the paralegal's role in the settlement process. We have two fascinating articles which address a few areas of the settlement process that paralegals can learn about to help improve the service their firm provides to its clients.

Please also take a look at the Meet the Candidates article and get familiar with the slate for 2006-07 NCPA Officers. These are all special individuals who should be thanked for their willingness to devote their valuable time and skills to our great organization.

Additionally, please review the list of NCPA members that have recently been awarded a North Carolina Certified Paralegal designation. You will be surprised to read about the number of NCCP applications the North Carolina State Bar has received. Are you interested in learning more about the NCCP designation? Please go to <http://www.nccertifiedparalegal.org>.

Blanche Berkowitz, Ethics Chair, discusses the importance of continuing legal education. NALA Liaison, Darlene M. Patz, CP, updates us on NALA's internet educational program and provides us with the list of paralegals that obtained the CLA or CLAS designation in July of 2005.

Last, but certainly not least, I look forward to seeing all of you at the NCPA Annual Seminar, which is being held in Atlantic Beach this year. It is a great opportunity to fraternize with your fellow paralegals and to have a little fun.

**North Carolina  
Paralegal  
Association, Inc.**

**26th Annual  
Meeting & Seminar**

**March 30 – April 1,  
2006**

**Sheraton Atlantic  
Beach**

**Atlantic Beach,  
North Carolina**

Check the NCPA Website  
[www.ncparalegal.org](http://www.ncparalegal.org)  
for more information and  
registration forms.

## 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 [www.ncparalegal.org/membershipters.htm](http://www.ncparalegal.org/membershipters.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	704.376.6574	bking@mrsmt.com

# 2nd Vice President's Report Membership



## Brenda Mareski, CP

The current membership breakdown is as follows (New members reported from July 16 through October 31, 2005):

General members:	360
Associate members:	44
Student members:	68
Affiliate members:	2
Sustaining members:	2
Educational Program members:	2
<b>Total</b>	<b>478</b>

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

Nicole Arnold (G); Jacob T. Arthur (A); Jillian Buice-Luciani (G); Lisa T. Burns (G); Lisa E. Carmichael (G); Marian Dawn Collins (A); Linda Jenkins Driver (S); Katherine M. Eberlein (S); Jan Everhart (G); Penny Spence Flake (G); Michele Croteau Handy (S); Robin Smith Hill (G); Cheryl N. Hughes (G); Sherlyn M. Mitchell (G); Margaret Ann Necessary (G); Robin S. Parker (G); Sheena C. Sawyer (G); Victoria L. Scally (G); Belinda M. Smith (G); Jennifer L. Vaden (G); Glenn James Vines, Jr. (S); Matthew D. Warren (G)

We also extend a special welcome to our newest **Affiliate** member, Cumberland County Paralegal Association, headquartered in Fayetteville, NC. NCPA is proud to recognize the following Sustaining members. We thank them for their generous support!



NCPA is pleased to recognize our **Affiliate members**, Alamance County Paralegal Association, Greensboro Paralegal Association, and Cumberland County Paralegal Association - and we also recognize our **Educational Program Members**, Caldwell Community College and Guilford Technical Community College.

# NALA Liaison's Report

## Darlene M. Patz, CP



Congratulations to the following people who passed the CLA Exam given in July of 2005: Lolita R. Crawford, CLA of Raleigh, Marion P. Crombie, CLA of Little Switzerland, Lara A. Glasgow, CLA of Durham, Martha A. Hunt, CLA of Fayetteville, Lorie A. Malone, CLA of Durham, Tina P. McGlamory,

CLA of Clyde, Corine M. Medlin, CLA of Benson, Jennifer L. Mercer, CLA of Rocky Point, Sherri D. Morris, CLA of Greensboro, Rhonda M. Pope, CLA of Charlotte, Kathryn M. Samuelson, CLA of Cary and Kurt M. Welch, CLA of Raleigh. Additionally, congratulations to Marjorie L. Kartanson, CLAS of Garner, Yolanda N. Smith, CLAS of Zebulon, and Philip Weinbrecht, CLAS, of Raleigh for passing the Civil Litigation Specialty Exam. There are currently 375 CLAs and 59 CLA Specialists in North Carolina.

NALA introduced its first synchronous internet educational program a year ago as a convenient and cost effective alternative for CLE. This fall was the launch of the third program of presentations. Most NALA Campus LIVE! and NALA Campus self-study programs qualify for credit toward maintaining the CLA/CP credential. In ad-

dition, the North Carolina State Bar has given provisional approval to NALA Campus and NALA Campus LIVE! programs for CPE credit. For more details and to view all the NALA Campus LIVE! programs being offered this spring visit <http://www.nalacampus.com>.

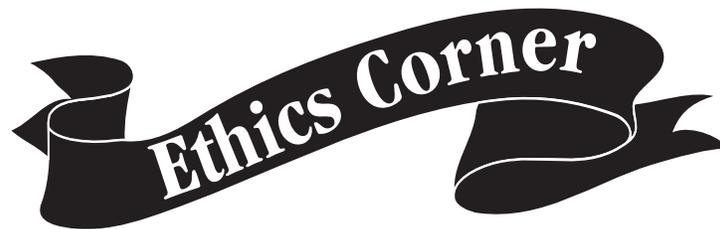
NALA membership dues should be paid by March 31, 2006. Email renewal notifications have already been sent out.

The Meredith R. Pollette, CLAS Scholarship Award will require revision due to NALA's newly created Advanced Paralegal Certification (APC) credential and curriculum based program. Currently, the MRP scholarship may be awarded to a person taking the CLA/CP or CLAS exams. The last administration of the CLA specialty examinations took place in July of 2005. The registration fee for the Advanced Paralegal Certification course is \$150 for members and \$175 for non-members of NALA. At the January 2006 Executive Committee/BOD meeting, it was approved to modify the requirements to reflect the scholarship as being for the CLA or APC.

Deb Monke, NALA President, has graciously agreed to be the guest speaker at NCPA's 2006 Annual Seminar CLA/CLAS breakfast.

<b>Upcoming NALA dates and deadlines:</b>	
March 24 - 25, 2006	CLA Examination
May 15, 2006	Deadline for registration for the July 2006 CLA Exam
May 30, 2006	Late registration deadline for the July 2006 CLA Exam
July 21 - 22, 2006	CLA Examination
July 26-29, 2006	NALA's 31st Annual Convention & Exhibition in Tampa, Florida
October 1, 2006	Deadline for registration for the December 2006 CLA Exam
October 16, 2006	Late registration deadline for the December 2006 CLA Exam
December 10, 2006	CLA Examination

For further information on NALA or the CLA/APC programs, please contact me at [dmp1002@carolina.rr.com](mailto:dmp1002@carolina.rr.com)



## *Continuing Paralegal Education – A Vital Part of Any Paralegal's Career*

**Blanche S. Berkowitz, Ethics Chairperson**



The NCPA's definition of a paralegal can be found in Article IV, Section 1 of its Bylaws, which also follows the NALA Code of Ethics definition. Within that definition are the requirements that paralegals "have knowledge and expertise regarding the legal system and substantive and procedural law" and "a sufficient knowledge of legal concepts." This knowledge may be obtained "through formal education, training, and experience." Canon 6 of the NALA Code of Ethics states that a "legal assistant must strive to maintain integrity and a high degree of competency through education and training with respect to professional responsibility, local rules and practice, and through continuing education in substantive areas of law to better assist the legal profession in fulfilling its duty to provide legal service."

In addition to NCPA and NALA professional guidelines, paralegals now have the North Carolina Plan for Certification of Paralegals under Subchapter G of the North Carolina State Bar's Rules and Regulations, which establishes minimum educational requirements to become certified and to maintain such certification. Paralegals who have achieved such certification should become familiar with those requirements as set forth under Rule .0120 and Rules .0201-.0205.

Building competency in the professional arena through attending continuing legal educational seminars is crucial to a paralegal's ca-

reer. Paralegals should consider attending a wide variety of classes, even in areas in which they do not practice, in order to broaden their knowledge. Paralegals need to understand legal terminology and have good research and investigative skills. Familiarity with the operation and applications of computers in legal research and litigation support is also important. Paralegals should stay informed of new developments in the laws that affect their area of practice. Attorneys have become reliant on their paralegal's cutting edge knowledge and expertise in the technicalities of the law. Participation in continuing legal education seminars allows paralegals to maintain and expand their knowledge of the most current statutes and changes in the law. As paralegals are given more responsibilities, they gain invaluable work experience and the cycle of professionalism perpetuates.

Paralegals in North Carolina are fortunate to have many resources available in order to fulfill their continuing legal education. All paralegals should take advantage of NCPA's Annual Seminar on March 30th -April 1st, as well as the Mid-Year Seminar. There are numerous other possibilities through the North Carolina Bar Association, NALA and local paralegal associations. Now that paralegals are recognized as "certified" professionals, they must continue to maintain the high standards and competency deserving of their titles.



## Statewide News & Seminars

The Cumberland County Paralegal Association (CCPA) will be conducting their annual full day seminar on March 11th, on the campus of FTCC. Please contact Trudy Rutherford for more information at 910-485-5171 or via email at emr0128@aol.

**NOTARY INFORMATION:** All notaries will be required to pass an online exam before they can re-apply for their Notary appointment. The online exam will consist of 15-20 questions to be answered within a 30 minute time frame. Notaries will be given 2-3 chances to pass. If a Notary is not able to pass the exam, he/she will need to take the notary class. If you are a Notary, you should have received information from the National Notary Association regarding a free course which provides an update on the new notary law in North Carolina. The National Notary Association is offering online courses. You can obtain additional information on their website. The Secretary of State has now posted the guidelines regarding the new Notary Act on-line at <http://www.sosnc.com/notarypublicact.pdf>.

### FREE RISK MANAGEMENT SEMINAR FOR THE REAL ESTATE PARALEGAL

Lawyers Mutual is offering a "Risk Management for the Real Estate Paralegal" seminar on March 9, 2006 in Wilmington and March 16, 2006 in Asheville. Seminar speakers will be Teresa Bowling, CLAS on "Title Searching Tips, Traps, and Tribulations"; Marisa Campbell, "Don't Cross That Line!"; and Lawyers Mutual on "Anybody v. Real Estate Lawyer." The program satisfies the CPE for paralegal certification required by the North Carolina State Bar Plan for Certification of Paralegals. For more information contact LML Risk Management at (800) 662-8843 or (919) 677-8900.

Congratulations to the Alamance County Paralegal Association on their recent 10th anniversary!

## NCPA OFFICERS: A Look At The Role Of The NALA Liaison

Are you interested in becoming the next NCPA NALA Liaison? The following is a brief review of the NALA Liaison's duties and responsibilities.

Article VIII of the NCPA Bylaws states:

6. **NALA LIAISON.** This officer shall be a NALA member, shall be familiar with the NALA Bylaws and Policies and Procedures, shall receive minutes of all NALA meetings, and shall represent NCPA at the NALA Annual Meeting of Affiliated Associations. This officer shall report quarterly on NCPA activities to the NALA Affiliated Associations Director on forms provided by NALA Headquarters, and shall report all officers' names to NALA Headquarters and to the NALA Affiliated Associations Director. This officer may submit items NCPA wishes discussed to the NALA Affiliated Associations Director and shall participate in discussion sessions at the NALA annual meetings. A report to NCPA members on the NALA annual meeting will be required. This officer shall coordinate with the CLA Review Course Subcommittee Chair on the planning and presentation of the Review Course for the completion of the Certified Legal Assistant examination. This officer shall, within sixty (60) days of passage, notify the NALA Affiliated Associations Director of any changes in NCPA's Bylaws. This officer shall be the main contact between NALA and NCPA. This officer shall be a member of the Board of NCPA (as here-

inafter defined). The NALA Liaison is responsible for obtaining a current roster of the membership from the Second Vice President and reporting the same annually to NALA along with the renewal fee for continued affiliation with NALA. **[amended 4/10/1992, 3/23/2001, 3/15/2002]**

The NALA Liaison is responsible for preparing and submitting NCPA's quarterly report to NALA, submitting any NCPA Bylaws amendments to NALA for its approval, verifying that the Treasurer has paid NCPA's annual renewal fee to NALA, preparing and attending NALA's Affiliated Associations Annual Meeting, making sure that NALA receives a copy of each issue of the NCPA *Forum*, and advising NALA of any programs or seminars the NCPA offers for inclusion in NALA's referral list. Additionally, the NALA Liaison is in charge of keeping the lines of communication open between the NCPA and NALA.

Most importantly, the NALA Liaison is a source of information for NCPA members regarding NALA's CLA/APC designations and its various seminars and programs.

If you would like to receive additional information regarding the role of the NALA Liaison, please feel free to contact NCPA's current NALA Liaison, Darlene M. Patz, CP. Please refer to the NCPA Contact List located on the last page of this issue for information on how to reach Ms. Patz.

# The Partnership NCPA & LANC Join Hands

Submitted by D. Grace Carter, CLA

The North Carolina Paralegal Association ("NCPA") has formed a partnership with Legal Aid of North Carolina ("LANC") to assist attorneys in providing pro bono services to the 24 LANC offices across North Carolina. LANC Private Attorney Involvement Coordinator/Paralegal Roselle Margolis will be our LANC contact and coordinate opportunities for NCPA and LANC attorneys and paralegals to work together. She can be contacted at P.O. Box 814, Wilmington, NC 28402, [rosellem@legalaidnc.org](mailto:rosellem@legalaidnc.org), 800-672-9304 and via fax at (910) 343-8894. Ms. Margolis has been working with LANC and the predecessors of Legal Services in North Carolina for over thirty years and has been actively involved in pro bono work since 1982. Currently, Ms. Margolis is an appointed member of the North Carolina Bar Association Public Services Advisory Committee and a volunteer member of the Bar Association's Legal Assistants Division Pro Bono and Public Service Committee. Nationally, Roselle is an Executive Board Member of the National Association of Pro Bono Professionals. She said, "LANC and our clients will benefit by volunteer paralegals, as volunteer paralegals will add to our available Pro Bono resources. Volunteer paralegals will be able to use their skills in a variety of capacities throughout the state to assist LANC offices and specific projects. We will try to match volunteer skills, available time and interests and possibly offer opportunities to volunteers looking to expand their legal substantive and cultural knowledge."

LANC is a statewide, nonprofit, 501(c)3 law firm that provides free legal services in civil matters to low-income people. The headquarters of LANC is located in Raleigh, but it operates in all 100 North Carolina counties through 24 geographically based offices located in:

Ahoskie	Goldsboro	Raleigh
Asheville	Greensboro	Rocky Mount
Boone	Greenville	Sanford
Charlotte	Monroe	Smithfield
Concord	Morganton	Sylva
Durham	New Bern	Wilmington
Fayetteville	Pembroke	Wilson
Gastonia	Pittsboro	Winston-Salem

LANC also operates six Statewide Project Units that focus on special areas of the law:

- Advocates for Children's Services (Durham and Winston-Salem offices)
- Domestic Violence Prevention Initiative (a statewide project with staff in each office)
- Battered Immigrant Project (a statewide project, with intake through 800-672-9304)
- Environmental Poverty Law Project (Greensboro office)
- Farmworker Unit (Raleigh office)
- Mortgage Foreclosure (Prevention) Project (Wilson office)

LANC is currently seeking volunteer paralegals for the following projects:

## **Mortgage Foreclosure Project**

A statewide project needing volunteer paralegals to be used in the following capacities: drafting legal documents, legal research, gathering case information and documents.

## **LANC-New Bern**

Experienced volunteer paralegal(s) is(are) needed to train the New Bern office staff volunteer paralegals on rules of civil procedure, legal research, information gathering, investigation, drafting pleadings, assembling trial notebooks and trial preparation.

## **Forest Ridge Project - Winston-Salem**

Paralegals needed to help with discovery, assistance with preparing pleadings and preparing evidence for trial, as well as to help with some limited legal research.

## **LANC - Durham and Henderson**

LANC has opportunities at its offices in Durham and in Henderson for paralegal volunteers. Paralegal volunteers will assist with intake of new clients, preparation of legal documents, court house research, and performing follow-ups with clients in connection with LANC's credit counseling project. LANC is also starting an expungement project and assistance is needed in helping clients review various legal options, filling out forms and navigating the legal system. All activities will be supervised by an attorney and training will be provided if needed.

There is flexibility on the hours (and possible work at home options), but assistance will primarily be needed between 9 a.m. and 5 p.m. Monday through Friday.

We'd like to encourage all NCPA members to answer the pro bono call and make a contribution by getting involved in one or more LANC pro bono projects. If you would like more information or if you would like to serve on NCPA's Pro Bono Committee, please contact Grace Carter, CLA at [grace.carter@syngenta.com](mailto:grace.carter@syngenta.com) or Sharon Robertson, CLAS at [sharongr@bellsouth.net](mailto:sharongr@bellsouth.net). For more information regarding LANC visit [www.legalaidnc.org](http://www.legalaidnc.org).

# The Power Of Settlement Documentary Videos

Submitted by Tom Bernett, Bernett Legal Video Services

## Video: Its Not Just For Depositions!

Using video just for depositions is like using a computer only as a calculator. Paralegals are aware that most lawsuits filed never go to trial – they will usually settle out of court during the discovery phase or in plea bargaining prior to trial. This is the time to take full advantage of the power of a settlement documentary video.

## The Plaintiff's Show

Usually presented by the plaintiff in a wrongful death, personal injury, or patent infringement case, a settlement documentary video is a concise summation of the case, presented with the power and emotional impact of a video. If produced effectively, a settlement documentary video will have the look and impact of a segment on a news magazine television show such as *60 Minutes* or *20/20*. It can include supporting informational footage, interviews, expert analysis, animations, professional narration, and moving musical backgrounds. (Note that a personal injury documentary video will emphasize continued living difficulties for the injured and their family, while a wrongful death settlement documentary video will focus on the impact the death has had on the survivors. A patent infringement documentary will focus on manufacturing or scientific processes or products.)

Sometimes incorrectly called a settlement “brochure” (brochures are made of paper), a settlement documentary video can provide a clear and comprehensive presentation of complex medical reports, difficult to understand product demonstrations, accident scenes, and the condition of the plaintiff or the plaintiff's family.

Unlike a “Day-in-the-Life” video, a settlement documentary video is not intended (nor prepared) to be presented in a court of law as evidence. The objective is to get the defense and/or insurance company to fully comprehend the pain and suffering that has resulted from their negligence, their malpractice, or their product liability. It is produced specifically to show the strength of the plaintiff's case and to impress upon the defense, in pretrial hearings or mediation, that there isn't any chance they can win the case if they insist on going to trial.

## Occasional Defense Use

While primarily used by the plaintiff, under some circumstances a defense attorney can also make creative use of a settlement documentary video. If there is powerful information or strategy that can shut the case down, video may be the best way to get that story across.

All the disadvantages of a written settlement brief and all the potential hours of tedious discovery depositions can be alleviated with a professionally produced, well-edited settlement documentary video.

## Showing Damages

The settlement documentary video is uniquely well-adapted to

demonstrating non-economic damages such as pain and suffering, mental anguish, and human tragedy. It also makes it easy to demonstrate the loss of employment, the loss to family and society, or the need for future care and medical needs. It reduces the necessity of lengthy written explanations, yet still makes it clear to insurance adjusters why they should not go to trial.

A simple typewritten settlement brief alone lacks the emotional impact of the case. In addition, because a settlement brief can be browsed through quickly and because an insurance adjuster or attorney going through it at their desk is subject to all the various interruptions that take place in every office, the important information being communicated is always diluted and rendered powerless.

On the other hand, a settlement documentary video is a “linear experience” that cannot simply be “browsed through” – it cries out to be viewed, in its entirety, from start to finish. And when written, filmed, and edited by an experienced producer, the liability, the hurt, the emotion, and the devastation felt by the plaintiff and their family becomes clearly visible.

In fact, because of the nature of video, it can carry so much emotional firepower that the opposing attorney often becomes quite enthusiastic about a quick settlement. Sometimes, a settlement documentary video can even be presented before a suit has been filed, especially in a case where liability is very clear.

## A Money Saving Process

While a settlement documentary video will not necessarily turn a bad case into a winner, it can certainly make a reasonable case more persuasive. More often than not, a good settlement documentary video gets the point across so strongly that out-of-court settlements are the rule rather than the exception. Their use can save everyone time and therefore prevent firms from wasting large amounts of money in drawn out proceedings.

In personal injury cases, in the event that an out-of-court settlement is not agreed upon, the video footage shot in preparation of a settlement documentary video can usually be re-edited in order to produce an effective “Day-in-the-Life” video for use in trial. (In fact, an experienced producer will always recommend acquiring additional footage for this purpose “just in case.”)

## The Production Process

A finalized settlement documentary video varies in length but, typically resembles a television news documentary and runs 10-20 minutes (although it is best to keep it in the 12-15 minute range). The attorney decides what information is best to present for settlement leverage and should determine the direction and emphasis of the program (i.e., liability and damages, damages only, liability only, etc).

It is critical that the video producer and attorney work closely together. The attorney must be willing to confide in the producer and treat him or her as a partner in the case. Both parties bring different kinds of expertise to the table, neither of which is capable of creating the desired result without the other. The process of creating an effective, successful settlement documentary video is, beyond a doubt, a synergistic effort. (Issues concerning the security of privileged information can be resolved in a project "letter of agreement" between the video producer and the attorney.)

Depending on the direction set forth by the attorney, a settlement documentary video uses scripted, edited segments to introduce the viewer to the life of the plaintiff and the plaintiff's family

or damage

- Interviews with experts such as economists or scientists
- Existing news footage or TV coverage from an accident or situation
- Still photos from police files or newspapers
- Personal clippings from scrapbooks
- Family photos
- Existing home movies/videos of the plaintiff and family in their healthy, pre-injured state
- Video of personal projects, trophies, and/or awards
- Video of the plaintiff's daily life activities
- Interviews with family members, friends, and coworkers

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before and after the accident or negligence. By showing how the plaintiff and/or the plaintiff's family members and friends are affected by a death or injury, the video establishes the important elements of dependency, loss, and the life-changing impact resulting from the negligence. It also shows the defense how powerful and effective your witnesses will be to the jury should the defense allow the case go to trial. The personal injury or wrongful death documentary can include:

- Video or photos from the scene of an automobile or industrial accident
- Computer graphic animations showing how an accident occurred
- Interviews with a physician showing x-rays and/or anatomical models to quickly and clearly explain the nature of an injury

These pieces can be enhanced and segued together with background music, professional narration, and family/friend voice-overs.

## Fair Game

Emotional dialogue, insinuations, accusations, leading witnesses, or playing on the sympathies of the jury would never be allowed in a trial setting. However, since a settlement documentary video is not actually used in court nor seen by a jury, many persuasive and powerful techniques that would not be allowed in a courtroom are fair game in a video.

## Hire a Professional

The first step is to hire an experienced professional legal video producer. It is important to remember that there are enormous

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*Power of Settlement Documentary continued...*

differences between shooting a deposition and producing a persuasive settlement documentary video. Since it incorporates pieces from so many different sources, a settlement documentary video requires the background and equipment of a full-service video production company and a creative, visionary video producer.

An experienced legal video producer is an expert storyteller. He/she can create a very moving statement when presented with an outline of the facts and details of the case in an structured manner.

In many cases, it's possible that an attorney for an insurance company may have seen *hundreds* of settlement documentary videos, so the skill and the production experience of the video company is crucial.

### **Scheduling Considerations**

Next, determine your deadlines and go over these with the video producer. It is a good idea to have the video finished at least 2-4 weeks prior to any potential pretrial hearing.

Some attorneys suggest having the settlement documentary video viewed by the defense attorney and/or insurance adjuster well in advance of the hearing. This practice is based on giving the defense an idea of the amount of money the plaintiff is asking for so they can send a representative with enough authority to negotiate a settlement. *However, I believe that the plaintiff's attorney should carefully control the first viewing of the video to assure the proper initial impact.* In most cases, the defense will already have a rough idea of the damage amounts being claimed, which would make defense previewing of the video unnecessary.

There is another reason to arrange a specific time and place for the viewing - if the video is simply tendered to the opposing attorney, it may be viewed many, many times which tends to lessen its impact. Further, unless the attorney controls the presentation, the viewer may be interrupted by phone calls or other diversions so that the viewing will be disjointed and diluted.

### **Pre-Production**

A pre-production meeting with the video producer is important to determine the overall strategy and the potential pieces to be compiled. This process should result in a comprehensive outline which is used to generate a final script.

Next, gather any existing pieces available for the video producer and coordinate the interviews with the plaintiff, family members, friends and coworkers. Encourage them to gather their photos, home videos, awards and pertinent memorabilia to be included in the presentation. (Don't worry. A qualified producer will be able to scan or film such memorabilia and return them completely undamaged to their owners.) Many materials can be used to construct a "before and after" portrait of the plaintiff.

Remember that family members and friends interviewed on camera in a home setting will be much more relaxed and emotionally open than they would be in your firm's office - it's worth the extra time, effort, and expense to go to them.

Also remember that tact and respect are of the utmost importance in getting these people to discuss difficult topics. At the interviews, the attorney may want to prompt witnesses with leading questions. The witness needs to respond to questions or prompts in complete statements because only the responses are used in the finished video. Encourage witnesses to talk freely about their loss and experience. Even pauses when the witness stops to think or hesitates in mid-sentence can often be more powerful than what they actually say. Don't be too concerned if they wander a bit because their segment can be edited to keep the story on track.

Be sure to plan for interviews with physicians, economists, and any other relevant experts who can attest to the various aspects of the loss. (These expert interviews will usually take place after the script is written.)

When witness/family/co-worker interviews are complete and all the information to be presented has been gathered, the video producer will begin the all-important process of writing a script for the voice-over narration and creating a storyboard that shows what words will be heard with what pictures or graphics.

The video producer knows how to make the best use of the grimace on the face of an accident victim struggling through physical therapy or the tear rolling down the cheek of a child who lost a mother to medical malpractice. These are the images that tell the true story of suffering. Once the attorney has gone over the script and storyboard, and officially approved it with the video producer, the production phase begins.

### **Production**

The production phase is simply the process of going out and shooting the footage that matches the image decisions depicted in the story board. (Technically, "production" also includes the videotaping of the various interviews of family, friends, and co-workers, but for the purpose of this discussion, those interviews will be considered to be part of the pre-production process.)

Since the production phase occurs after the script has been finalized and approved, production usually includes interviews of experts who are coached to provide the desired on-camera result in support of the script.

Once all of the planned and desired video footage, still photographs, and graphics have been collected, the post-production phase begins.

### **Post Production**

The post-production process usually begins with the studio recording of the voice-over narration. Remember that the narration should not be recorded until the script has been absolutely and completely approved and finalized. (In fact, no video footage, with the exception of witness interviews, should be filmed until the script has been absolutely finalized.) Changing the script after production has begun is very time consuming and expensive. Changing the script after post-production has begun is disastrous.

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*Power of Settlement Documentary continued...*

After the narration has been recorded and edited to a final recording, the documentary video is edited together piece by piece or even frame by frame. A twenty minute program contains over 36,000 individual frames of video. The inclusion of each frame must be a conscious decision. The video and audio are compiled in sequence, with each part being individually evaluated for suitability and continuity. Post-production is the mechanical and creative process that brings together all of the existing video, audio, animations, still photography, narration, and computer graphics into a compelling finished video product. Post-production is the crucial piece to the outcome of the project and is very time consuming.

From the initial post-production process comes an "approval copy" of the finished video. At this point, the video is essentially finished. View the approval copy and have associates view it to get their "first time" reactions. Get their feedback. Is it a good distillation of what the case is all about? Is it clear and concise? What do they like or dislike about the video? Does it hold their attention? Could anything be added or removed to make it more persuasive? It's possible that the video may need to be "tweaked" two or three times before it captures exactly what is desired. Try to view each revision as if it is your first time watching it. If you are using the same people to help you re-evaluate it, remind them also to make an honest attempt to view it as if it is their first time.

However, when viewing the video it is critically important to not fall into the trap of playing "movie director." Remember that your job is simply to evaluate the effectiveness with which the video presents the case. Leave the technicalities of editing and the creative decisions of camera angle to the professional producer. Also remember that making frivolous changes to an edited video presentation is a tediously difficult and time-consuming process. Most video producers will only allow a minimal level of such alterations before billable "change orders" are charged to the client, thereby increasing the project cost.

Producing a video is very much like painting a landscape in oils – if you are not careful, you can continue to paint forever, long past the point at which the painting is "finished." But usually, the painting (and the video) ends up being much better if it is subjected to less "tinkering."

#### **Cost of a Settlement documentary video**

By the time a professional settlement documentary video is produced, the cost can easily run between \$500 and \$2,000 per finished, edited minute of program.

This means that a twenty minute program could end up costing as much as \$40,000. However, very simple and effective settlement documentaries can be produced for a total budget of as little as \$5,000-\$6,000 with careful planning and cooperation. Post production will constitute the majority of the cost since it includes the majority of time and expense required for editing, professional voice-overs, background music license fees, computer generated reenactments, and other creative special effects.

If your firm is just investigating the possibility of using a video in a case, expect to pay a fee for consulting when meeting with a video producer. However, most producers will not charge for this initial consultation if they are hired for the project.

Consider that a settlement documentary video does not necessarily add to the cost of litigation. Instead, it can save money by getting a higher settlement and by inducing a prompt settlement that saves months or even years of litigation time and expense.

A decision to produce a quality settlement documentary video could be a very wise investment. It would assist your firm in reaching its ultimate goal – helping your clients achieve the best possible outcome for their case.

*Tom Bennett is the owner of Bennett Productions (Bennett Legal Video) in Durham, North Carolina. In addition to covering all facets of the legal video field, his business also provides general video production services for corporate marketing, training videos, and more. His legal video settlement documentaries have been used as examples at the University of Seattle and University of Pennsylvania; he is recognized as a video communications expert by the National Scenic Byway Commission; and he has won awards from the U.S. Forest Service and the Tree Trust for his public sector video clients. A professional musician from 1969 to 1993, he currently fills his spare time by performing as the drummer for the 18-piece Raleigh Jazz Orchestra.*

## **Calling All Members!**

**"People who ask our advice almost never take it. Yet we should never refuse to give it, upon request, for it often helps us to see our own way more clearly." –Brendan Francis**

**Please consider contributing to the next edition of the *NCPA Forum*. Not only do we want our association's publication to be informative and innovative for each and every member, we also want it to include helpful hints and sound advice from our main resources, our members. We are looking for all types of articles that relate to the paralegal community. Anything of interest to you will most likely be of interest to other paralegals across the state. Let your voice be heard in the *NCPA Forum*. Please submit all articles in Word format to [alison.foster@meineke.com](mailto:alison.foster@meineke.com). You may also e-mail your comments, suggestions and possible article contributors to us as well.**



## Meet The Candidates

The Slate of NCPA Officer Candidates for the 2006-2007 year is presented for your consideration.

Nominations were received for the following officer positions:

- ★ **Erin N. Burris, CP**  
*for the Office of President*
- ★ **Melissa Stockley Jones, CLA**  
*for the Office First Vice President*
- ★ **Brenda Mareski, CP**  
*for the Office of Second Vice President*
- ★ **April Sansom**  
*for the Office of Parliamentarian*
- ★ **Alison E. Foster, NCCP**  
*for the Office of Treasurer*
- ★ **Darlene Patz, CP**  
*for the Office of NALA Liaison*

Ballots will be cast at the Annual Membership Meeting on March 31, 2006 at 3:30 p.m. at the Sheraton Atlantic Beach in Atlantic Beach, NC.

The following recommendations for District Directors were received:

- ★ *Two Year Term - District III:*  
**Trudy Rutherford**
- ★ *Two Year Term - District VII:*  
**Marilyn Moran, CLA, NCCP**
- ★ *Two Year Term - District V:*  
**Alison R. VanDyke**
- ★ *Two Year Term - District IX:*  
**Beverly G. King**

Pursuant to Standing Rule VIII(C)(7)((c)) they will be declared Directors by acclamation of the Board at the March meeting.

### DECLARATION OF CANDIDACY FOR THE OFFICE OF PRESIDENT



Greetings. For those of you who do not know me, my name is Erin N. Burris, CP, NCCP, and I am running for the Office of President for 2006-2007.

I am a graduate of the University of North Carolina at Chapel Hill and of Meredith College's Paralegal Program. I obtained the Certified Legal Assistant designation from the National Association

of Legal Assistants in 2001.

I began working in the intellectual property department at Sony Ericsson Mobile Communications (USA) Inc. in the Research

Triangle Park just over a year ago. Prior to joining Sony Ericsson, I was employed with Closure Medical Corporation in Raleigh. I joined the North Carolina Paralegal Association, Inc. in 2000. Since then I have served as Student/School Relations Chair, District II Director and most recently as President of NCPA. Through each of these positions, I have learned the importance of having NCPA's support system in my professional and personal lives. NCPA continues to give me the opportunity to learn through its educational programs. Through email, 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 have had an upfront view of your wants and concerns and have also had the opportunity to work with the Board of Directors and Executive Committee to implement change to better serve you, our members.

I am eager to help, to learn, and to spread the word about our association and its benefits; and I look forward to having the opportunity to serve as your President for a second term.

### DECLARATION OF CANDIDACY FOR THE OFFICE OF FIRST VICE PRESIDENT

My name is Melissa Stockley Jones, CLA and I am a candidate for First Vice President of the North Carolina Paralegal Association, Inc. I have been a member of NCPA since 1996 and I have had the opportunity to get involved with NCPA by serving as CLA Review Course Chair, interim First Vice President and the current First Vice President. My involvement with NCPA has offered invaluable experiences to me and I hope to gain even more experience by continuing to serve as First Vice President.



In December of 1992, I graduated from Appalachian State University with a Bachelor of Science degree in Criminal Justice. I am also a graduate of Meredith College's Program for Legal Assistants. In April of 1998, I received the Certified Legal Assistant designation from the National Association of Legal Assistants. Since 2000, I have been employed as a paralegal with the law firm of Smith, Anderson, Blount, Dorsett, Mitchell and Jernigan, L.L.P. in Raleigh. I work primarily in medical malpractice defense. In addition to being a member of NCPA, I am also a member of the National Association of Legal Assistants and the Legal Assistants Division of the North Carolina Bar Association.

I would like to continue participating in NCPA by serving as your First Vice President in the upcoming year. I am aware of the importance of education and the role that NCPA plays in ensuring its members are aware of new developments in our profession. If elected to the office of NCPA First Vice President, I will utilize the experience I have gained while serving as First Vice President and CLA Review Course Chair to help develop worthwhile educational programs for NCPA.

*continued on next page*

Meet the Candidates continued...

## DECLARATION OF CANDIDACY FOR THE OFFICE OF PARLIAMENTARIAN

My name is April Sansom and I have declared my candidacy for the office of Parliamentarian for 2006-2007. I have lived in North Carolina for the past 18 years. I moved to Chapel Hill in 1987 after graduating from Texas Tech University with a B.A. in English and Psychology. After several years of graduate school at UNC and one disastrous year of teaching high school, I concluded that I needed to find a career outside of academia and teaching. I soon settled on the legal field, which I had been exposed to in various ways by my father, a general practitioner in Texas.

Soon after being hired as a litigation legal assistant at a small firm in Durham in 1991, I realized that I had found the perfect field for my skills and interests. Over the past 15 years, I have worked for a family law specialist, a respected medical malpractice defense firm and a successful personal injury firm. I am fortunate to have been trained by some of the best attorneys in the Triangle. In 2005, I felt that I had enough experience to start working freelance, and have been managing insurance defense cases with Bruce Hoof, of Poe & Hoof in Durham, since July.

I earned my CP credential from the National Association of Legal Assistants in January 2002. In September 2005, I obtained my North Carolina Certified Paralegal designation, a program that I hope is the first step toward paralegals in this state becoming more respected and acknowledged for the substantive legal knowledge that we bring to our work. I am also a member of the Legal Assistants Division of the North Carolina Bar Association.

I have been a member of the NCPA since 2001 and served last year as the Nominations and Elections Committee Chair. That was my first exposure to the inside workings of the NCPA. I enjoyed learning how things run and seeing how hard the officers and committee members in our organization work to keep us informed and educated. That experience confirmed my desire to continue and increase my involvement in NCPA, and when I was asked this fall if I would be interested in running for Parliamentarian, I readily agreed. I've seen that NCPA members are the "cream of the crop" of our profession, and I welcome the opportunity to participate more deeply in NCPA and to work with and learn from the more experienced officers as we continue to promote our organization and our profession.

## DECLARATION OF CANDIDACY FOR THE OFFICE OF TREASURER

My name is Alison E. Foster, NCCP and I have declared myself a candidate for the office of Treasurer. As Articles Editor for the Forum this past year, I have experienced first-hand the benefits of working so closely with our Association. Not only does it allow for more networking opportunities, it also has allowed me to become better acquainted with a wider array of members on a more personal basis. This upcoming year I would like to be your Treasurer and continue to build association ties while maintaining the highest accountability. In addition to my paralegal resume, my qualifications include my tenure as Business Manager for an advertising company in which I was in charge of all accounts payable and receivable aspects of the business. I am also known among

my coworkers and peers as being extremely organized and detail-oriented, two qualities that, I believe, must go hand-in-hand with maintaining the books for the NCPA. I look forward to serving our Association in this capacity.

## DECLARATION OF CANDIDACY FOR THE OFFICE OF NALA LIAISON



Hello. I am Darlene Patz, CP, NCCP, and I have declared my candidacy for re-election to the Office of NALA Liaison. Previously, I held the Office of NCPA Second Vice President for two consecutive terms. I have a B.S. in Animal Science from the University of Vermont and a paralegal certificate from Burlington College in Vermont. This past summer, I successfully transitioned from my position of five years as a corporate and intellectual property paralegal to a workers' compensation paralegal. I was previously employed at several law firms in the Vermont performing mainly insurance defense support.

I believe strongly in membership, involvement and support of one's professional organizations. This past year I have thoroughly enjoyed representing the NCPA on the national level. At the NALA Annual Convention in July, I was able to meet many truly exceptional paralegals. It was both inspiring and humbling experience. I look forward to enthusiastically promoting and encouraging others to take advantage of the opportunities offered through NALA for another year.

Thank you for your support and your vote.

# Can't Attend the Annual Meeting?

**Be sure to vote using your Proxy!**  
**Your vote is important because**  
**it allows your voice to be heard,**  
**and informs the Board of Directors**  
**and Executive Committee about**  
**the direction in which you**  
**feel NCPA should be moving.**

**C'mon - Send it in!!!**

# Paralegal Program Draws 1,200 Applicants

By Michael Dayton

A State Bar program to certify paralegals has only been taking applications for five months but already has 1,200 submissions.

By last week, more than 500 of those applications had been approved, according to Tara Wilder, assistant director of the certification program.

That is well ahead of what Bar officials predicted when they opened shop on July 1 (see June 27, 2005 *Lawyers Weekly*). But those numbers are just the tip of the iceberg, according to Wilder, who predicts as many as 7,000 applicants could ultimately be approved.

The success of the program could have implications for how much law firms charge for their paralegals' work and how much they are paid.

Wilder, who is herself a paralegal, says she's not surprised by the program's explosive growth.

"Every paralegal that I've talked to has been very excited about becoming certified, so I sort of knew this was going to be big," she said.

The Bar has been receiving as many as 75 applications per day — in part because wording on the application led some to mistakenly believe their application had to be in by Nov. 30. Wilder said she'll accept applications this month but will not process them for 30 days while the Bar staff catches up on its backlog.

Wilder says it's taking about 90 days from receipt of an application to its approval.

## Background

The state Supreme Court approved the voluntary certification plan in October 2004, and North Carolina joined four other states — California, Louisiana, Florida and Texas — that certify paralegals. At least two groups offer nationwide credentials for legal assistants, and many North Carolina paralegals have certificates from them.

Under the North Carolina regulations, a two-year grandfather period will end on June 30, 2007. During that period, applicants can qualify through one of three alternatives:

- A high school diploma, 5,000 hours of work experience as a paralegal in North Carolina during the last five years, and a three-hour ethics course.
- Two thousand hours of work experience in the last two years and a board-approved national paralegal designation such as Certified Legal Assistant, Certified Paralegal or Registered Paralegal.
- A degree or certification in paralegal studies from an approved paralegal program or at least an associate's degree with 18 hours of paralegal coursework, and 2,000 hours of experience in the last two years.

Once the grandfather period ends, requirements will emphasize higher education and an examination.

Successful applicants can hold themselves out as a "North Carolina Certified Paralegal" or "North Carolina State Bar Certified Paralegal."

## Paying Their Way

Raleigh paralegal Jennifer Watford, president of the 120-member Raleigh-Wake Paralegal Association, said she's been impressed — but not surprised — by the number of applicants. She said her

group strongly favored certification.

"To my knowledge, almost every one of our members has applied for certification," she said. "We all want the recognition that comes along with it. This is a profession. It's not just a job. We all want more credibility to go along with what we do, and how we feel about what we do.

"We've worked very hard to get to where we are, both through experience and education, and we want some credibility to go along with it," she said.

Watford, who works at Young, Moore & Henderson, said the law firm encouraged all of its paralegals to seek certification.

"In fact, they paid for our certification fee," she said. "For our clients to know that paralegals working on their case have achieved these different things means a lot."

Jim Welch, the firm administrator for Young Moore Henderson, explained why the firm paid the application fee for its 13 paralegals.

"We wanted to show our support in getting them certified, and we looked at it as an investment," he said. "The firm is going to be stronger and better competitively by having our paralegals certified. And they're going to be better from a career standpoint.

"Our clients expect us to have the most experienced and best qualified people handling their files," Welch said. "We feel this is a step in that direction."

Welch said it remains to be seen what effect the voluntary certification plan will have on law firms' hiring practices.

"We haven't talked about whether we would require certification or even ask that in a job interview," he said. "I think it would depend on our clients. We may reach a point where our clients require that the paralegals working on their case be certified if they're going to pay for their time, and particularly if they pay the competitive rates."

Welch said the firm would not turn away a qualified and experienced candidate who lacked certification.

"But once you hired them you would encourage them to become certified," he said.

Asked whether certification might affect how much law firms charge for their paralegal's time, Welch said, "It's possible it will change down the road but I don't see that as making a change right now."

Erin N. Burris, president of the North Carolina Paralegal Association, said being certified could eventually mean higher pay for paralegals, but it will probably take a long time for this to occur. "Right now many are being grandfathered in on job performance only and their employers are not going to change their title or increase their pay," Burris said in an e-mail to *Lawyers Weekly*.

Asked whether certification would ever become a must-have for paralegals, Burris said, "If that occurs, I think it's a long way out. However, I heard last week that someone saw a job posting for a paralegal position at a law firm that required North Carolina certification for potential applicants."

— Questions or comments may be directed to [Mike.Dayton@nc.lawyersweekly.com](mailto:Mike.Dayton@nc.lawyersweekly.com). Reprinted with permission of *Lawyers Weekly*.

*We are very proud to announce that NCPA President, Erin Burris, CP, was recently featured on LawCrossing, a legal website.*

## *Profile: Erin Burris*

**By Anne O'Dell-Rivero**

**Erin Burris, Raleigh, NC resident and president of the North Carolina Paralegal Association, said in a recent interview that achieving her career goals as a paralegal gave her a self-assurance she never had before.**

"I was never one to exude confidence. Obtaining these goals led to tremendous personal and professional growth."

Burris, who cites her involvement with both the National Association of Legal Assistants and the North Carolina Paralegal Association as highlights of her career, encourages students and new paralegals to polish and perfect their networking abilities.

"Networking is very important in the paralegal profession...get involved with a paralegal association. Paralegal associations generally offer a discounted rate to student members; they also often provide discounts to seminars. Associations are a wonderful way to meet paralegals who work in many different settings and areas of law."

After receiving a bachelor's degree in interpersonal and organizational communications from the University of North Carolina at Chapel Hill, Burris began working as a paralegal with Closure Medical Corporation in 1999.

Rather than seeking out employment in the legal field, said Burris, "I actually stumbled upon it. I was looking for a new job. Closure was located very close to home, and I was initially impressed by its technology. After I met with the general counsel and other employees, I was even more impressed."

Having no previous legal experience or education, Burris started in a paralegal certificate program at Meredith College in 2000.

Burris got her certificate by taking classes at night, and she encourages future paralegals to consider many different kinds of programs for their legal education.

"There are so many types available, including baccalaureate degrees, associate degrees, certificate programs, ABA-approved programs, and online programs. There are pros and cons to each type."

She also notes that familiarity with a paralegal's work environment is a valuable asset when searching for that first job.

"Internships allow you to get your foot in the door and gain some experience."

While she was taking night classes for her paralegal certificate, Burris spent her days working very closely with the general counsel of her company, a patent attorney. In fact, the legal department comprised just the two of them. With so much one-on-one time with the general counsel, Burris was able to get involved in many aspects of her field immediately.

"I spent a lot of time on patent and trademark prosecution and participated in all company project/product teams. I drafted various agreements, including confidential disclosure, animal and clinical study, and consulting agreements. When situations arose, I would assist in employment, FDA, real estate, and corporate compliance issues."

Now, Burris works at a larger firm—Sony Ericsson Mobile Communications—in its intellectual property department, along with four attorneys, a patent agent, and three other support staff.

"When I started working at Sony Ericsson, I was supporting the patent prosecution side, which involves interacting with our inventors—our clients—and outside counsel taking an idea or invention from concept through the patent process with either the United States Patent and Trademark Office or foreign patent and trademark offices.

"I additionally draft confidential disclosure and licensing agreements and work on estimates and actuals for the patent budget. I have since shifted more into the licensing and patent-litigation side."

While she has remained employed in the same area of legal practice for six years, Burris says "the challenge and the variety" are what she most enjoys about her job.

"The law is always changing, and I am always learning. I regularly attend seminars—not because I need the continuing legal education credits, but because it would be a detriment to stop learning and challenging myself."

However, Burris also faces the same challenges as any paralegal in assisting clients who request immediate answers to legal questions and do not understand that paralegals do not have the authority to give legal advice. Still, she strives to provide excellent customer service to those clients in every acceptable way.

"I have found that it helps to smooth ruffled feathers by keeping the lines of communication open and keeping them apprised of new information and being responsive to their requests or inquiries," she said.

Careful listening, a helpful, responsive attitude, and command of the spoken and written word are parts of the ideal skill set that a good paralegal must master. Being organized and committed to research are also among those abilities Burris considers "crucial to being an effective paralegal."

"I love to read," said Burris, "and I have always been a good listener, since I was more of an observer. My other big hobby is genealogy," which, Burris notes, allows her to continuously improve her researching methods.

With all her experience as a leader in the paralegal field, Burris said that the challenges always provide opportunities for growth, overcoming those challenges leads to great personal satisfaction, and monotony at work is never a problem for her.

"No two days are the same...I feel that the sky is the limit; I would not change a thing."

*This article originally appeared on LawCrossing ([www.lawcrossing.com](http://www.lawcrossing.com)).*

# *Proposed Amendments to NCPA Bylaws*

The following proposed amendments to the NCPA Bylaws will be voted on at the March 31, 2006 Annual Meeting of the NCPA Membership. The amendments are as follows (**underlined and bolded**):

2. MEMBERSHIP CATEGORIES, ELIGIBILITY, RIGHTS AND PRIVILEGES. Membership shall be open to paralegals, students in paralegal programs, attorney, educators, paralegal associations, and others in the legal and related professions. Membership shall be available for a one-year term renewable annually by the payment of dues as outlined in Article VI. Categories of members and their respective rights and privileges shall be as follows: **[amended 3/19/2004]**

- (a) General Member Eligibility. General Membership is open to any individual who resides or is employed in North Carolina, and meets at least one of the following requirements: **[amended 3/21/1997]**
  - (i) has completed a paralegal training school or program and is, or has been, employed **as a paralegal** under the direct supervision of a licensed, practicing attorney; **or [amended 3/11/2005]**
  - (ii) has completed three years of continuous on-the-job training as a paralegal under the direct supervision of a licensed, practicing attorney when certified by that attorney; or **[amended 3/21/1997]**
  - (iii) is a Certified Paralegal or Certified Legal Assistant (CP® or CLA®) in good standing; **or [amended 3/21/1997, 3/11/2005]**
  - (iv) is a North Carolina Certified Paralegal (NCCP), a North Carolina State Bar Certified Paralegal (NCSB/CP), or a Paralegal Certified by the North Carolina State Bar of Paralegal Certification, in good standing.**

General Members are the only members with full voting privileges and the only members eligible to serve as NCPA officers, directors or committee chairmen. **[amended 3/21/1997]**

# Blow It, or Tend It Structured Settlements

By Thomas Dunlap, CSSC

Throughout my years in the business of providing professional structured settlement services for personal injury, medical malpractice and workers compensation claims, I have learned that it is the paperwork that is sometimes the biggest obstacle to obtaining closure of a case. Time and time again I have had the pleasure of working with a firm's paralegal to "get it done." While the structured settlement professional will work with counsel on the form of the settlement, it is the legal secretary or paralegal that works with the firm to prepare the documents necessary to perfect the settlement.

The primary objective of structuring a settlement is to help provide for the future needs of an injured party. The only way to do that is to truly listen to what the claimant is really saying.

Many settlements today are received in the form of lump-sum cash settlements. It is in only a matter of a few years, perhaps only months, that many of these cash awards are totally dissipated. I could write a book on the many times I have seen individuals squander their injury award funds.

A better way of handling awards today is through the *Internal Revenue Code* (IRC) provision for personal injury awards to be dispersed over a span of time. It was a little over 20 years ago when structuring settlements became fashionable, and today, more than 25 percent of injury cases are being structured in a more meaningful way for the claimant. It is important to understand what a structured settlement is, how it works, when to use one, and why it works so well.

A structured settlement is an alternative to a lump-sum cash payment in the resolution of a personal physical injury, wrongful death, or workers compensation case. The settlement usually has two components: an upfront cash payment to provide for immediate needs, and a series of future payments of an annuity policy, a Treasury bond program, or reinsurance from a life insurer who makes periodic payments directly to the plaintiff. These structured settlements are advantageous when plaintiffs require payment of funds over time, such as:

- Those who require continuing future medical expenses
- Plaintiffs (or dependents) who require replacement of lost future income
- Those who require a secure lifetime tax-free income
- Those who have little or no experience managing money
- Those with Workers Compensation total disability or death claims
- Any cases involving minors, since courts usually will not allow payment to be made directly to the minor until he or she reaches the age of majority
- Wrongful death cases where there is a definite need to provide for the future

There are two major advantages offered by structured settlements. First, the IRC, Sections 104 and 130, provide for periodic payments in personal physical injury and workers compensation cases to be free from income tax. Second, structured settlements prevent plaintiffs from dissipating settlement proceeds. Studies show that most recipients dissipate funds from a cash settlement in less than five years while their fixed financial needs continue.

Additional advantages to plaintiffs include:

- A greater amount of money over time than would be obtained in a lump-sum cash award
- Guaranteed regular payments
- Competitive long-term returns on the settlement principal

In addition to advantages for plaintiffs, the defendants also receive benefits such as:

- Earlier resolution of cases
- Avoidance of the uncertainty and expense of litigation
- Settlement of high exposure cases for severely injured plaintiffs with impaired life expectancy at a reduced premium—and with full lifetime protection for plaintiffs

A structured settlement is a unique settlement technique that requires precise wording in the "Settlement Agreement and Release" in order to preserve the tax-free status of the periodic payments. There are industry-standard word groups (usually five or six paragraphs) that define and limit the rights and duties of the litigants to preserve the favorable tax advantages for both the plaintiff and "assignee." A legal assistant whose employer or client deals with tort or workers compensation cases must be proficient in this area.

Periodic payments from a structured settlement are tax-free to the recipient as a result of several IRS tax codes and rulings favorable to the injured party. *IRC Section 104 (a) 1&2* provide for certain settlement proceeds to be excluded from the recipient's gross income. *IRC Section 130* (the *Periodic Payment of Judgment Act of 1984*) allows the settling defendant to transfer periodic payment obligations to a third party "assignee."

*There are industry-standard word groups (usually five or six paragraphs) that define and limit the rights and duties of the litigants to preserve the favorable tax advantages for both the plaintiff and "assignee."*

*continued on next page*

*Blow It, or Tend It continued*

The assignee is usually the sister company or wholly owned subsidiary of the life insurer making the periodic payments. Most structured settlements today are assigned and utilize either a "Uniform Qualified Assignment" agreement or "Reinsurance agreement" for this transfer. The standard documents that are signed by the settling defendant, or the defendant's carrier and the life insurers' assignee, are usually provided by the life insurer through a structured settlement professional who works with the litigant's paralegal to perfect the documents.

In practice today, after the specifics of a structured settlement have been agreed upon, the paralegal works with the structured settlement professional to perfect the settlement agreement and assignment agreements before counsel presents them for signature. It is imperative that a paralegal exposed to a structured settlement be aware of the necessary documentation required to provide proper service for their employer or client.

This information can be obtained from a Certified Structured Settlement Consultant (CSSC) from one of the industry's nationwide structured settlement brokerage firms, or from attending an administration workshop provided by the National Structured Settlement Trade Association (NSSTA) in Washington DC.

*Thomas Dunlap is an independent Certified Structured Settlement Consultant with the Delta Group of Settlement Companies (www.deltasettlements.com). Mr. Dunlap can be reached at 800-258-4625 or at tom@thomasdunlap.com.*

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