



**NCPA**

North Carolina Paralegal Association, Inc. Summer 2007

# Forum



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

## *Ethics and The Paralegal*

**ETHICS**



### **In this issue**

No, A Paralegal Is Not A Lawyer  
What Paralegals Can Do  
2007 Student Scholarship Winning Essays



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Laura C. Braswell, NCCP  
Senior Editor

Michele A. Tuttle, CLA, NCCP  
Advertising Editor/  
Patron & Sustaining Chair

Stephanie Elliott-Park, NCCP  
Articles/Association News Editor

**Contact Information:**

The North Carolina Paralegal Association, Inc.  
Mary F. Haggerty, CLA, Coordinator  
PO Box 36264, Charlotte, NC 28236-6264  
704.535.3363  
fax 704.372.9882  
www.ncparalegal.org

**Subscriptions e-mail:** laurapcubillos@yahoo.com  
**Articles e-mail:** selliott-park@gastonlegal.com  
**Advertising e-mail:** michele@barrettfirm.com

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als submitted.



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Send both your old and new address information to:

**The North Carolina Paralegal Association, Inc.**  
**Mary F. Haggerty, CLA, Coordinator**  
**PO Box 36264, Charlotte, NC 28236-6264**  
**704.535.3363**  
**fax 704.372.9882**  
**www.ncparalegal.org**

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## President's Message

**Kaye H. Summers, CLA, NCCP**



Greetings to all. I am Kaye H. Summers, CLA, NCCP, and I am your new President for 2007 – 2008. I am very pleased to have this opportunity to serve you.

I began my career as a paralegal in 1986 as a real estate paralegal. Throughout the years I have had the opportunity to work in many areas of law including commercial and residential real estate, corporate formation, commercial litigation, estate planning and administration, intellectual property, and personal injury. I received my CLA designation in 2002, and my NCCP certification in 2005.

These first few weeks of being President have been quite a shock and somewhat overwhelming, but I am beginning to feel a little more comfortable with the position. Erin Galloway, CP, NCCP has been a tremendous help to me, and I thank her dearly.

We have a fantastic Board of Directors and Executive Committee this year, and they are already hard at work. Our first meeting of the Board/EC will be May 19th. This will be an orientation meeting for those who are just beginning their term on the Board/EC. We will also be working hard on plans for our Mid-Year Seminar and CLA Review Course to be held in Boone in September.

Nancy Frye, ACP, NCCP, NALA Liaison and I are making plans to attend the NALA Annual Convention to be held in New Orleans in July. We are excited about attending the conference to represent NCPA.

To the membership of NCPA, I encourage you to become involved in NCPA by joining a committee that interests you. If you need information about committees or would like the contact information for a Committee Chair, please call or email me. If you have any questions or concerns about NCPA, please let me or a member of the Board/EC committee know.

I'm excited about the future of NCPA and my part in it. NCPA has a lot to offer to its members. I hope you will each take an active role in the Association. ♦

## Chairman's Message

**Beverly G. King, NCCP**



As I write this, spring is in the air here in Charlotte. I love this time of year. Spring and fall are my favorite seasons. My family will say that it is because during the spring and fall I am so busy with marching band. Okay. That may be part of it, but I also love watching the changes that are going on around me. While I may suffer from those dreaded allergies, I still love to see flowers and trees in bloom in the spring and watch the leaves change colors during the fall.

My first year as Chairman of the Board flew by quickly. Thank you all for your support during the 2006-2007 membership year. I am very excited to be able to serve NCPA during the 2007-2008 membership year as Chairman of the Board and District IX Director.

It is hard to believe that we just had NCPA's 27th Annual Seminar and Meeting in New Bern. Personally, I learned a lot and had a wonderful time seeing old friends and making new ones. I would like to thank Patricia Clapper, ACP, NCCP, Michelle Tuttle, ACP, NCCP, Melissa Stockley Jones, CP, NCCP and Kaye H. Summers, ACP, NCCP for preparing another great annual seminar.

I also want to take this opportunity to welcome all the new officers and board members. Congratulations to all the officers and board members on being elected or appointed to your position. Thank you for committing to serve NCPA for the 2007-2008 membership year. I look forward to working with and getting to know all of you better. It is great to see new faces stepping up to become an active part of NCPA.

Mark your calendars for NCPA's Mid-Year Seminar and CLA Review Course to be held September 21-22 in Boone, NC. Mid-Year is still in the planning stages and more information will be forthcoming.

If you are traveling this summer, please stay safe and enjoy your vacation. I hope to see all of you at a NCPA event during this membership year. ♦



## Editor's Court

Laura C. Braswell, NCCP



As paralegals we are continuously challenged with ethical issues. They may be "minor" ethical issues, but we are wise to deal with them in the same manner we would deal with a more serious ethical issue. In our profession, we tend to develop closer professional relationships with our clients than other employees in our firms. It is im-

portant for us to clearly explain our role to the firm's clients. Most importantly, we need to make sure that the clients understand that we are not able to provide legal advice. The North Carolina State Bar Board of Paralegal Certification currently requires all North Carolina Certified Paralegals to complete six hours of continuing paralegal education (CPE). One of the six hours of CPE must be in ethics/professional responsibility. The State Bar clearly recognizes the need for paralegals to be regularly educated on the ethical responsibilities that our profession must uphold.

In this issue of the FORUM, the article What a Paralegal Can Do discusses various ethical dilemmas that attorneys and their paralegals may face on a regular basis. The article provides appropriate ways to handle these various ethical dilemmas. This issue of the FORUM also includes several North Carolina State Bar ethics opinions that directly affect paralegals and other nonlawyers.

In the article No, A Paralegal Is Not A Lawyer, R. Thomas Howell, Jr., Esq. and Eric G. Orlinsky, Esq. describe numerous duties and responsibilities that can be accomplished by paralegals in different areas of business law. This is a wonderful article to share with your attorney.

Please make sure to read this year's student scholarship winning essays. They may remind you of the reason you chose the paralegal profession and inspire you to continue learning and developing your paralegal skills.

Don't miss the wonderful pictures from NCPA's 27th Annual Seminar and Meeting held in New Bern. We sincerely appreciate the support of all our exhibitors. A great way to express our gratitude for their continued support is to maintain the list of this year's exhibitors handy so that we may use their services.

Enjoy! ♦

### Website of the Quarter

[http://www.saccourt.com/geninfo/legal\\_glossaries/legal\\_glossaries.asp](http://www.saccourt.com/geninfo/legal_glossaries/legal_glossaries.asp)

Provides links to various legal glossaries in Arabic, Armenian, Hmong, Mien, Mong, Punjabi, Romanian, Russian, Spanish, Urdu, and Vietnamese.

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# First Vice President's Report - Education

**Patricia F. Clapper, ACP, NCCP**

The MidYear Seminar and CLA Review Course Committee has begun the task of pulling together the exhibitors and speakers. There's no rest for the weary! This committee consists of Michele Tuttle, who will be handling the exhibitors, and Vickie Barley, who will be handling the speakers. If you have any suggestions for topics or speakers, please contact Vickie. Regina Newsome will be taking the reigns on putting together the CLA Review Course. I have contacted the Broyhill Inn to set up a site visit at the end of June.

The evaluations from Annual have not been compiled yet, but, based on comments overheard and emails received after the event, it was again a success. Look for pictures from the seminar in the next issue of the Carolina Paralegal News (published by Lawyers Weekly) and online on our website.

I have not been able to find anyone to serve with Michele as Annual Seminar Co-Chair. If you know of anyone or if you are interested, please email me at lglduck@aol.com. It's a great way to get involved with NCPA and work with some wonderful, fun people. ♦

## 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 [selliott-park@gastonlegal.com](mailto:selliott-park@gastonlegal.com). You may also e-mail your comments, suggestions and possible article contributors to us as well.**

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## North Carolina Paralegal Association, Inc.

**Mid-Year Seminar and CLA/CP  
Review Course**

**September 21-22, 2007**

*Broyhill Inn, Boone, NC*

Look for more information soon on our  
website, [www.ncparalegal.org](http://www.ncparalegal.org).

Make plans to also attend our  
Annual Seminar March 27 – 29, 2008  
in Concord, NC.

# Second Vice President's Report Membership

**Brenda Mareski, CP**



The current membership breakdown as of April 22, 2007 is as follows:

General members:	343
Associate members:	30
Student members:	64
Sustaining Members:	2
Affiliate members:	3
Educational Program members:	1
Total	443

Please remember that our Sustaining Members support NCPA in many ways. They provide financial and material assistance, sponsor our seminars and events, and contribute to NCPA's networking. We are very fortunate to have their backing, and hope that you use their services whenever possible. Be sure to let them know that you are an NCPA member, so they will be aware that their sponsorship is being seen and appreciated. Check out the NCPA home page for hot links to our Sustaining Members' sites – Document Technologies, Inc., and 4NCRrecords.com.

We are also glad for the involvement in NCPA of our Affiliate members, Alamance County Paralegal Association, Guilford Paralegal Association, and Research Triangle Paralegal Association; as well as our Educational Program Member, Caldwell Community College and Technical Institute. They help to spread the word about NCPA, educate our future paralegals and make available to non-members news about NCPA and our events, paralegal regulation, education, and much more. Lastly, we would like to acknowledge our newest (G)eneral, (A)ssociate, and (S)tudent members joining from February 1 - April 22, 2007:

- |   |  |
|---|--|
| Maria Christina Abelquist, Concord, NC (S)      | Sylvia J. Lawrence, NCCP, Fayetteville, NC (G) |
| Leigh C. Agnew, Burlington, NC (A)              | Claudette A. Mathis, Camp Lejeune, NC (S)      |
| Sandra K. Atkinson, NCSB/CP, Manteo, NC (G)     | Tanya L. Minton, Harrisburg, NC (A)            |
| Heather D. Baldwin, Bear Creek, NC (S)          | Ha C. Nguyen, NCCP, Raleigh, NC (G)            |
| Beverly Batton, Hempstead, NC (G)               | Sharon M. O'Brien, NCSB/CP, Greensboro, NC (G) |
| Cheryl A. Brossette, Jacksonville, NC (S)       | Michael Parsnip, Jacksonville, NC (S)          |
| Lonnie E. Christopher, NCCP, Raleigh, NC (G)    | Alexis C. Phillips, Jacksonville, NC (S)       |
| Dominca C. Cobb, Asheville, NC (G)              | LaJeanna Porter, Jacksonville, NC (S)          |
| Carissa S. Collins, Siloam, NC (S)              | Emily Potts, Sanford, NC (S)                   |
| Jacqueline Drakeford, Charlotte, NC (G)         | Elizabeth Remaily, Charlotte, NC (G)           |
| Esther Ehizuelen, Raleigh, NC (G)               | Dorothy Roberts, Mount Airy, NC (S)            |
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| Virginia Fry, Raleigh, NC (G)                   | Amy Rodriguez, Jacksonville, NC (S)            |
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| LC Gilliken, Beaufort, NC (A)                   | Brandon L. Ruth, Kinston, NC (S)               |
| Halli B. Gomez, Charlotte, NC (S)               | Victoria L. Scally, NCSB/CP, Garner, NC (G)    |
| Anna M. Hamby, Granite Falls, NC (S)            | Michele D. Shaw, Marion, NC (S)                |
| Deneen R. Harriatte, Jacksonville, NC (S)       | Mary B. Soots, Lenoir, NC (S)                  |
| Mara M. Heer-Busby, Cary, NC (G)                | Virginia Speiser, Hubert, NC (S)               |
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| James M. Hudspeth, Rhodhiss, NC (S)             | Sandra R. Taylor, Elkin, NC (S)                |
| Vickie H. Hughes, Charlotte, NC (G)             | Lisa M. Thompson, Charlotte, NC (G)            |
| Rhonda M. Hughes, NCCP, Mooresville, NC (G)     | Nancy L. Trivette, Hudson, NC (S)              |
| Erin E. Hughey, Jacksonville, NC (S)            | Ute Woodall, NCCP, Selma, NC (G)               |
| Buffy L. Johnson, NCCP, Farmville, NC (G)       | Stephanie Woods, NCSB/CP, Raleigh, NC (G)      |
| Tara N. Jones, Mount Airy, NC (S)               | Robin G. Zier, CLA, Raleigh, NC (G)            |
| Wendy Kimbel, Mebane, NC (G)                    |  |

Feel free to contact me at any time if you have questions about membership in NCPA.

Brenda Mareski, CP, Second Vice President, Membership, 704.387.7605, bmareski@carolina.rr.com ♦

# Are you aware of these North Carolina State Bar Ethics Opinions Affecting Paralegals?

## 2006 Formal Ethics Opinion 13

October 20, 2006

### Nonlawyer Signing a Lawyer's Name to a Pleading

*Opinion rules that if warranted by exigent circumstances, a lawyer may allow a paralegal to sign his name to court documents so long as it does not violate any law and the lawyer provides the appropriate level of supervision.*

### Inquiry:

Paralegal works in Law Firm. Supervising Attorney A would like Paralegal to sign Attorney A's name to pleadings in the event Attorney A is unavailable to do so. Paralegal would put her initials after the lawyer's signature so it is clear she is signing on the lawyer's behalf. Assume for purposes of this inquiry that Attorney A has either drafted the pleading herself or has closely supervised the form and substance of the pleading drafted by Paralegal.

May Attorney A delegate the signing of the pleadings to nonlawyer staff under these circumstances?

### Opinion:

As a general matter, a lawyer should always sign court documents and pleadings and should only delegate the signing of her name to a nonlawyer when the lawyer is unavailable and no other lawyer in the firm is able to do so. Nonetheless, if exigent circumstances require the signing of a pleading in the lawyer's absence, a lawyer may delegate this task to a paralegal or other nonlawyer staff only if 1) the signing of a lawyer's signature by an agent of the lawyer does not violate any law, court order, local rule, or rule of civil procedure, 2) the responsible lawyer has provided the appropriate level of supervision under the circumstances, and 3) the signature clearly discloses that another has signed on the lawyer's behalf.<sup>1</sup> The following two rules are relevant to a lawyer's responsibilities under the circumstances.

### Rule 5.3 Responsibilities Regarding Nonlawyer Assistants

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer;

### Rule 5.5 Unauthorized Practice of Law

(d) A lawyer shall not assist another in the unauthorized practice of law.

Before permitting a paralegal or other nonlawyer staff member to sign the lawyer's name to any court document, the lawyer must carefully review pertinent case law, local rules, or rules of civil procedure to determine whether such delegation is permissible

and therefore, compatible with the lawyer's professional obligations. Rule 5.3 (see above). If, for example, a pleading signed by the paralegal on the lawyer's behalf would be legally insufficient, then the lawyer cannot condone this practice. Nothing herein is intended to opine as to the legal sufficiency of a pleading signed on behalf of a lawyer.

In addition, the lawyer must exercise the appropriate level of supervision to avoid aiding in the unauthorized practice of law. Rule 5.5(d). The preparation of a pleading is the practice of law. G.S. A7 84-2.1 (2004). Nevertheless, a paralegal may prepare such a document under the close supervision of a lawyer. A lawyer must carefully and thoroughly review both the substance and form of a pleading prepared by a paralegal before filing the document with the court. Likewise, a lawyer may not permit her paralegal to sign the lawyer's name to a pleading, even in exigent circumstances, if the lawyer has not afforded the appropriate level of review and supervision.

Finally, the signature must evidence, on its face, that it is by another's hand to avoid misleading the court.

### Endnote

1. A paralegal or paraprofessional may never sign and file court documents in her own name. To do so violates the statutes prohibiting the unauthorized practice of law.

## 2005 Formal Ethics Opinion 6

October 21, 2005

### Compensation of Nonlawyer Employee Who Represents Social Security Claimants

*Opinion rules that the compensation of a nonlawyer law firm employee who represents Social Security disability claimants before the Social Security Administration may be based upon the income generated by such representation.*

### Inquiry #1:

Law Firm employs Legal Assistant, a nonlawyer, to assist Attorney with the representation of disability claimants before the Social Security Administration (SSA). Because nonlawyer representation of claimants before the SSA is allowed by the Social Security Act, see 42 U.S.C. A7406, and Attorney believes that Legal Assistant is competent, Legal Assistant frequently represents the claimant in the hearing before the SSA Administrative Law Judge (ALJ) without the involvement of Attorney. Prospective clients are advised of this arrangement as required by 05 FEO 2 and Attorney represents any claimant who files an appeal to federal district court. Legal Assistant is currently paid a salary and bonuses.

Legal Assistant has informed Attorney that she is leaving the firm

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*Ethics Options continued...*

to become an independent claimant's representative on Social Security disability claims. After Legal Assistant establishes her separate business, may Attorney refer disability claimants to her, including claimants that he was representing when Legal Assistant was still employed by the firm?

**Opinion #1:**

Yes. If Attorney believes that Legal Assistant is competent to represent claimants before the SSA and that it is in the best interest of a client to be represented before the SSA by Legal Assistant, he may refer clients to her. See Rule 1.1.

**Inquiry #2:**

Attorney and Legal Assistant work on a client's disability claim before Legal Assistant leaves the firm to establish her own practice. After she leaves the firm, Attorney refers the client to Legal Assistant for representation before the SSA. Disability benefits are awarded to the client and the ALJ also awards a fee for the representation to Legal Assistant. From that fee, may Legal Assistant reimburse Law Firm for the work performed by Legal Assistant and/or Attorney while the matter was still with Law Firm?

**Opinion #2:**

Yes. There is nothing in the Rules of Professional Conduct that prohibits a lawyer or a law firm from accepting such compensation provided it is otherwise lawful. Cf. 03 FEO 10 (Social Security lawyer may agree to compensate a non-lawyer/claimant's representative for the prior representation of a claimant).

**Inquiry #3:**

Legal Assistant wants to remain an employee of Law Firm but she would like her salary to be based upon the fees that she generates from the representation of claimants before the SSA. May the compensation a law firm pays to a nonlawyer employee who represents claimants before the SSA take into consideration the income generated from the representations?

**Opinion #3:**

Yes.

Rule 5.4(a) specifically prohibits a lawyer or a law firm from sharing "legal fees" with a nonlawyer except in certain specific situations that are not relevant to this inquiry. As noted in comment [1] to the rule, "The provisions of this Rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment." In reliance upon this prohibition, RPC 147 holds that a lawyer may pay a paralegal a bonus for productivity but the bonus may not be a percentage of the income the firm derives from legal matters upon which the paralegal has worked.

The present inquiry is distinguishable. Rule 5.4(a) regulates the distribution of fees that, because of the prohibition on the unauthorized practice of law, may only be earned by a lawyer. However, nonlawyers are legally permitted to represent disability claimants before the SSA and to be awarded fees for such representation. When generated by a nonlawyer as authorized by law, such a fee cannot be designated a "legal fee" subject to the limitations of Rule 5.4(a). See e.g., 03 FEO 10. Moreover, the nonlawyer's participation in the fee does not impair a lawyer's

independent professional judgment when the nonlawyer may, by law, represent the claimant without the supervision or participation of the lawyer.

**Inquiry #4:**

May Legal Assistant and Law Firm enter into an agreement clarifying how fees from Legal Assistant's representation of Social Security disability claimants will be distributed between Legal Assistant and Law Firm in the event Legal Assistant leaves the firm?

**Opinion #4:**

Yes.

**2000 Formal Ethics Opinion 10**

*July 27, 2001*

**Appearance of Non-Lawyer at Calendar Call**

*Opinion rules that a lawyer may have a non-lawyer employee deliver a message to a court holding calendar call, if the lawyer is unable to attend due to a scheduling conflict with another court or other legitimate reason.*

**Inquiry:**

Attorney A is a criminal defense lawyer in a solo practice. He frequently has cases on the calendar simultaneously in juvenile court, district court, superior court, and administrative court. When a client's case is in court for a routine calendar call or an administrative status calendar call, Attorney A would like to send a non-lawyer member of his staff to the hearing to report to the court on his whereabouts and scheduling conflict. May Attorney A do so without violating the prohibition on assisting the unauthorized practice of law?

**Opinion:**

Yes, provided the nonlawyer employee is merely providing the court with information and does not request or argue for a particular action by the court.

Rule 5.5(b) prohibits a lawyer from assisting a person who is not a member of the bar in the performance of any activity that constitutes the unauthorized practice of law. G.S. § 1-11 provides that, "A party may appear either in person or by attorney in actions or proceedings in which he is interested." G.S. §84-4 permits only licensed North Carolina lawyers "to appear as attorney or counselor at law in any action or proceeding before any judicial body." See also G.S. §§84-2.1, 84-4, and 84-36. Nevertheless, when a lawyer has a conflicting commitment to appear in another court or when another legitimate conflict prohibits a lawyer's appearance in court for a client, the lawyer may send a nonlawyer employee to the court to inform the court of the situation. This is not assisting in the unauthorized practice of law. 1 In response to information about a lawyer's availability, the court may, on its own motion, determine that a continuance or other action is appropriate.

A lawyer should rely on a nonlawyer to notify the court of a scheduling conflict only when necessary. Moreover, Rule 5.3 requires a lawyer who supervises a non-lawyer assistant to make reasonable efforts to ensure that the non-lawyer's conduct is compatible

*continued on next page...*

Ethics Options continued...

with the professional obligations of the lawyer. If a nonlawyer is present in court to provide information about the lawyer's scheduling conflict, the duty of supervision includes insuring that the assistant complies with court rules on decorum and attire.

### Endnote

1. See *People v. Alexander*, 202 N.E. 2d 841 (Appellate Court of IL. 1964): "We agree with the trial judge that clerks should not be permitted to make motions or participate in other proceedings

which can be considered as 'managing' the litigation. However, if apprising the court of an employer's engagement or inability to be present constitutes the making of a motion, we must hold that clerks may make such motions...without being guilty of the unauthorized practice of law."

*This material is the property of the North Carolina State Bar. Additional North Carolina State Bar ethics opinions can be found on the State Bar's website - <http://www.ncbar.com/ethics>. ♦*



*NCPA wishes the following members a very Happy Birthday!*

### June

Gretta L. Brown, NCCP  
Wendy L. Bryant  
Paige Garriques  
Tanya A. Morand, NCCP  
Diane N. Morgan, NCCP  
Ujeana A. Pearson, NCCP  
Debra M. Rich, NCCP  
Mary M. Strawn

### July

Leslee N. Black, CLA  
Donna L. Cooper  
Joan Brinson Dressler, CLA  
Karen F England  
Kimberly Roberts Eshleman  
Anna M. Hamby  
Regina H. Newsome, CLA/NCCP  
Judy Weeks, NCCP

### August

Darlene C. Foster, NCCP  
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LC Gilliken  
Nancy Glasgow, NCCP  
Mara M. Heer-Busby  
Saundra D. Johnson  
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Ann Marie Wiertel, NCCP  
Stephanie Woods, NCSB/CP

Not listed? Want to appear on the next Birthday list? Log in to your Profile at [www.ncparalegal.org](http://www.ncparalegal.org) to make sure your Month of Birth (and other profile information) is up-to-date.

# C A L E N D A R I O F O F E S T I V E S

**July 11-14, 200**

NALA's 32nd Annual  
Convention in New Orleans

**July 20-21, 2007**

CLA/CP Exam

**September 20-22, 2007**

NCPA's Mid-Year Seminar in  
Boone

**October 1, 2007**

Deadline for submitting  
application to take July  
CLA/CP Exam

**November 30 -  
December 1, 2007**

CLA/CP Exam

**March 27-30, 2008**

NCPA's 28th Annual Meeting  
and Seminar in Concord



## *Memories from NCPA's 27th Annual Seminar and Meeting in New Bern, NC*



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*Gorgeous sunset over the marina in New Bern (Photograph courtesy of Alison E. Foster, NCCP)*

# What Paralegals Can Do

## And the list goes on

By R. Thomas Howell Jr. and Eric G. Orlinsky

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Sure, you have some business paralegals on staff. But have you really considered the universe of ways they can help you out?

Business lawyers, when asked, have dramatically divergent approaches to paralegal use. There is some evidence that lawyers may misuse or under use them, and, on the other hand, evidence that others are making far better, more cost-effective use of them.

To ascertain “best practices,” to educate business lawyers about paralegals, and to improve the satisfaction and quality of life of the paralegals who work with us, the Section formed an ad hoc committee in 2004 to learn how business lawyers use paralegals and to point out better, more efficient and effective ways to use business paralegals.

Among the first items of business the committee undertook was to engage the Section membership in a comprehensive survey of a variety of issues relating to business paralegals. Respondents included many firms, large and small, urban and rural, and nearly a third of them practiced in-house. The purpose of this article is to detail the many responses to that survey.

According to the Business Law Section survey, one thing that is clear is that paralegals spend a considerable amount of their time interacting with our clients. Of the respondents surveyed, 95 percent reported that their paralegals had written or e-mail correspondence with clients at least weekly, and of those, 77 percent reported daily e-mail or written client communications. At least weekly client telephone communications were reported by 93 percent of those surveyed, and 70 percent reported at least weekly face-to-face client contact. Similarly, respondents reported that 76 percent had at least weekly contact with government agencies.

We suspect, based on these results, that in many cases, the paralegals have more frequent contact with firm clients than the lawyers for whom they work. Being able to communicate effectively, both orally and in writing, is a critical skill for a paralegal. Lawyers and paralegal managers should place significant emphasis on this skill when hiring new paralegals.

Paralegals also continue to do a significant amount of clerical-type work, with 83 percent performing “clerical” work weekly, 88 percent performing filing and administrative work weekly, and 83 percent photocopying weekly. Among the other fairly common tasks performed by business paralegals on a weekly basis were entity formation, due diligence, factual investigation, legal research and transactional document drafting. Each of these general categories will be addressed with more specificity below.

Perhaps the one item identified by the survey that paralegals were reported not to be doing was setting the fees to be charged

for legal work. Fee setting is recognized in many states as such a core function of being a lawyer, that paralegals would be engaged in the unauthorized practice of law if they did it. This issue is discussed in more detail elsewhere in this issue of *Business Law Today* — see Frances Kao’s article just before this one.

In the Section survey, we asked members to identify those substantive areas of law in which the paralegals in their firms most frequently practiced.

More respondents indicated that the paralegals in their firms practiced more frequently in litigation than in any other substantive practice area. We suspect that since most firms surveyed also have litigators (where paralegals are generally used much more frequently and effectively), most respondents forgot that we were only asking about business paralegals. Another reason may be that all paralegals in some firms are managed centrally. As a result, we have disregarded litigation as a substantive area.

Of the remaining areas surveyed, members indicated that their paralegals practiced most frequently in corporate/formations, corporate/acquisitions, real estate, intellectual property and securities. Using a recent Legal Assistant Management Association (LAMA) survey, we can then identify which specific tasks were performed most frequently by paralegals in those areas. These tasks provide fertile ground for identifying new ways in which you might be able to put your business paralegal to better use.

**Corporatelformations and corporatel/acquisitions.** In the area of corporate law relating to both formations and acquisitions, business paralegals frequently:

- draft, prepare and file corporate charter documents, including amendments and merger documents, as well as partnership and limited liability company certificates;
- develop checklists for the proper formation and operation of each of the different forms of entities;
- prepare minute books, stock certificates and stock ledgers and procure corporate seals;
- prepare and file all documentation necessary to register or qualify an entity in one or more foreign jurisdictions;
- prepare documentation for transfers of stock ownership;
- draft minutes;
- draft board resolutions;
- draft and prepare the many documents required for shareholders’ meetings; and
- draft resolutions and other documents required to implement dividends and distributions as well as stock splits.

Business paralegals are also frequently called on to draft and prepare documents for corporate and partnership dissolutions, noncompete agreements, loan documents and UCC filings, in addition to ordering and administering UCC, lien and judgment searches on various businesses. Of course, in the acquisition or loan context, business paralegals are also often called on to assist with due diligence and to administer transaction closings.

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*What Paralegals Can Do continued...*

**Real estate.** In real estate practices, paralegals are asked to:

- draft deeds;
- order title searches;
- draft leases and lease assignments, amendments and exclusions;
- prepare legal descriptions;
- review plats and surveys;
- coordinate escrow arrangements and prepare escrow instructions;
- arrange for title insurance;
- prepare mortgage releases;
- calculate amortization tables;
- prepare title abstracts; and
- prepare, distribute and administer landlord consents and estoppel letters.

**Intellectual property.** In intellectual property practices, business paralegals:

- correspond with the U.S. Patent and Trademark Office;
- manage foreign patent and trademark applications and registrations;
- docket IP deadlines;
- perform trademark searches;
- perform prior art patent searches;
- assist with opposition and cancellation matters;
- draft, prepare and file copyright filings and notices;
- draft intellectual property licenses and assignments;
- proofread technical documents; and
- assist with IP due diligence for business transactions.

**Securities.** The securities areas saw some of the most sophisticated opportunities for business paralegals. Securities paralegals were frequently delegated the responsibility to:

- manage the EDGAR filing process, including the EDGARization of documents;
- review filings for EDGAR coding and filing requirements;
- draft and prepare SEC Forms 3, 4, 5, 8-K, 10-Q and 10-K;
- less frequently, aid in the drafting of prospectuses and registration statements or assist in the preparation of proxy statements;
- obtain SEC ID numbers and CUSIP numbers;
- assist with the printing and finalization of prospectuses and related documents at the financial printer;
- prepare and administer securities compliance calendars;
- draft form ADVs, Form U-4s, Form Ds; and
- prepare and file other federal and state securities filings.

Our committee was interested in the effect of the increasing use of technology in law firms and the effect it might have on business paralegals. We asked Section members whether or not they believed that the growing use of technology was decreasing the use of paralegals. Only 11 percent of respondents thought that it was. It has been our experience that business paralegals are among the first to adapt to the use of new technologies and, as a result, are often among the best-trained staff when it comes to technology.

In many firms, the adaptability of the business paralegals in this regard actually may provide them with greater responsibility for new projects that require the use of technology. So it does, indeed, appear that the increasing use of technology, the automation of certain legal processes and the concomitant desire to leverage on that technology and to push workflow down to lower and more cost-efficient levels (not to mention the increasing commoditization of legal services) may be increasing the use of business paralegals.

The LAMA survey seems to bear this out. According to LAMA, paralegals frequently used and were facile with Microsoft Word; document management programs such as PC Docs, DocsOpen and iManage; spreadsheets such as Lotus and Excel; data bases such as Access, Paradox and dBase III; document assembly programs such as HotDocs; presentation software such as PowerPoint; Lexis/Nexis and Westlaw; Dun & Bradstreet; LiveEdgar; EDGAR; PACER; and, more generally, the Internet.

More great ideas were found in some of the anecdotal responses from some of the firms that responded to the Section's survey.

One lawyer explained how he frequently used his business department paralegal to assist him with client development and marketing. As a value-added service to his technology clients, this lawyer helped circulate their business plans to potential funding sources such as venture capital firms. The paralegal assisted with preparing a matrix of all of the venture capital firms with whom the law firm had contact, the size and stage of deal the venture capital firm was interested in and the industries in which the venture capital firm would consider investing.

Then, every time a client or prospective client of the firm was seeking capital, the paralegal matched the client with all of the venture capital firms that might be interested in investing and could send the client's business plan, along with a specifically tailored e-mail, to the law firm's contact at the venture capital firm. In this way, the lawyer could provide a true value-added service to the client or prospective client without spending too much time on implementation.

A lawyer at another firm described to us how her firm was carefully refining all of their audit responses and opinion letters into highly standardized forms and using the HotDocs document-assembly program to allow their business paralegal to assemble drafts of audit response letters and third-party opinion letters (together with back-up certificates) for transactions in ever-increasing numbers with ever-increasing speed, efficiency and accuracy.

Several other firms have established subsidiaries that act as registered agents for their incorporated clients. These registered agent operations are profit generators for their firms and are run by the business paralegals.

Great ideas for more effectively filling the plates of our business paralegals are all around us. We hope that some of these ideas, and many others in the other articles in this mini-theme issue, will help you to rethink how you or your firm uses your business paralegals. Effectively using them will lead to greater personal and professional satisfaction for you (the business lawyer) and greater professional responsibility and satisfaction for your business paralegal.

And we assure you: It can be a profitable experience!

*Howell is of counsel with Seyfarth Shaw LLP in Chicago. His e-mail is rhowell@seyfarth.com. Orlinsky is a partner in the Baltimore office of Saul Ewing LLP. His e-mail is eorlinsky@saul.com. ♦*

# No, A Paralegal Is Not A Lawyer

## A few things to keep in mind

By Frances P. Kao

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Let's face it: A paralegal can definitely represent added value for your legal practice. But beware the possibility of bumps in the road.

Many recent articles, books and seminars have used economic analyses to demonstrate the financial benefits that paralegals can bring to a law practice. Less frequently discussed are the ethical boundaries that lawyers working with paralegals must observe. These ethical rules are ignored at a lawyer's peril since violating them can bring significant financial and reputational harm to both the lawyer as well as the firm.

Potential pitfalls can arise starting from the hiring decision and throughout the duration of the lawyer-paralegal relationship. However, a lawyer's ethical obligations when working with paralegals are relatively straightforward and, with some care, need never be the cause of an unpleasant discussion between the lawyer and his governing bar disciplinary committee.

### **So you're gonna hire a paralegal.**

*Jane Hendrick, a lawyer with a five-person firm, has just hired Bob Worth, a paralegal, to assist with the firm's general nonlitigation work. Bob Worth is currently employed by Smith & Smith, another small firm in the same city. Prior to being hired by Jane Hendrick, Bob Worth had been supporting the lawyers at Smith & Smith in a small asset-purchase transaction on behalf of Atkins Co. The seller, Baily Ltd., is represented by none other than Jane Hendrick. At the time she hired Bob, Jane did not know that Bob had been working on the Atkins/Baily deal from the Smith & Smith side.*

*On Bob's first day, he hears that Jane is representing Baily and he tells her that he was the one that had been assisting the lawyers doing due diligence and had taken notes at several meetings between Atkins and the lawyers from the Smith law firm. Jane likes it that Bob already knows something about the transaction and tells him he can work on the deal with her. Having a general understanding of the rules on ethical conflicts, Jane purposely assigns Bob to the task of finalizing and preparing the closing documents because this does not require that Bob make use of or otherwise disclose any privileged information that he received while working at Smith & Smith. How's Jane doing so far?*

Guideline 1 of the ABA Model Guidelines for the Utilization of Paralegal Services (Utilization Guidelines) provides that "a lawyer is responsible for all of the professional activities of a paralegal performing services at the lawyer's direction and should take reasonable measures to ensure that the paralegal's conduct is consistent with the lawyer's obligations under the rule of professional conduct . . ." In turn, Rules 1.7 through 1.10 of the ABA Model Rules of Professional Conduct (Model Rules) impose specific obligations on lawyers with respect to conflicts and imputations of conflicts.

Given that conflicts rules would prohibit a lawyer from working on the opposite side of a continuing matter, it is clear that a paralegal likewise may not do so. The paralegal also cannot work on a matter adverse to a former client for whom he previously worked if the two matters are substantially related and confidentiality may be jeopardized.

Most law firms would never take the risk of hiring a new lawyer without screening those lawyers for conflicts because the principle of vicarious disqualification imputes the potential new lawyer's conflicts to everyone in the firm — thereby, disqualifying the entire firm from a particular transaction or representation. However, many lawyers and law firms do not screen paralegals or other nonlawyers for conflicts even though the same principles of vicarious disqualification apply.

As a matter of good ethical practice, all potential new hires should be screened for conflicts at the time the firm makes an offer of employment and that offer should be contingent on the results of that conflict check. The paralegal should be asked to provide written detail of every individual or entity for whom the paralegal provided services. This disclosure would then allow the hiring firm to determine whether there are conflicts between the hiring firm's business and the paralegal's prior work.

Moreover, irrespective of size, all firms should have, and should rigorously enforce, written policies regarding avoidance of ethical conflicts, how to check for conflicts and, in the event of a potential conflict, the importance of setting up ethical walls to prevent the disclosure of confidential information.

Discovering potential conflicts early is critical because it gives the hiring firm several options. First, the firm can decide if it wishes to obtain consents or conflict waivers from the affected clients. Second, the firm can erect an ethical wall to protect against the communication of confidential information from the new employee to others in the firm. Third, the firm can just decide not to hire the paralegal with the conflict.

If no conflicts checks are ever made and the paralegal is hired, the lawyer or law firm runs the risk of being entirely disqualified from representing the client on the particular transaction. In this era of increasingly competitive law practice, this is certainly an unsettling prospect.

### **All in a day's work.**

*Jane wants to make good use of Bob's experience in drafting company bylaws, articles of incorporation, board minutes and the ministerial aspects of incorporating a company. She thinks that by giving Bob substantial responsibility and treating him as a full member of the legal team, she can increase Bob's job satisfaction. Bob appreciates Jane's trust in him and always does his best for all of Jane's clients.*

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No, *A Paralegal Is Not a Lawyer*, continued...

Jack Jameson, the founder of Conrad Inc. and a potential new client, calls Jane's office to ask about forming a new corporate entity as a Conrad Inc. subsidiary. Jane is out of town but Bob invites Jack to talk things over. During the first in-person meeting between Jack and Bob, Bob is asked whether the corporation should be formed in Delaware or New York; Jack also tells Bob that speed is of the essence.

Bob tells Jack that the entity could be most quickly and efficiently formed in Delaware. Jack, impressed with Bob's professionalism, says "great, let's get it done." Bob tells Jack that he has to sign the form retention agreement for all new clients and Jack does so.

Once Jack leaves the office, Bob drafts standard articles of incorporation and also fills in the form-book company bylaws and sends them directly to Jack for his approval. A day later, after Jack gives the nod to these documents, Bob electronically completes the necessary filings to incorporate the new entity. Bob's provided terrific client service and Jane should be very pleased, right?

Not exactly. All states prohibit the unauthorized practice of law and have an ethics rule like Rule 5.5 of the ABA Model Rules, which prohibits lawyers from aiding another person in the unauthorized practice of law. Although what constitutes the unauthorized practice of law differs in specifics from state to state, there are generally three things that every state — as well as Guideline 3 of the Utilization Guidelines — prohibits a paralegal or other nonlawyer from doing.

First, a paralegal may not establish the attorney-client relationship. Second, a paralegal may not give legal advice. Third, a paralegal may not appear in court on behalf of a client — and this prohibition covers the taking and defending of depositions and the signing of pleadings or other papers to be filed in court.

Limited exceptions to this third prohibition exist; for example, certain federal and state agencies, certain tribal courts and certain state courts under local rules permit nonlawyers to make appearance on behalf of clients.

In addition to these three hard and fast rules, it is incumbent on the lawyer, not the paralegal, to determine what constitutes the practice of law in her jurisdiction. Lawyers should keep in mind that, in some jurisdictions, any exercise of independent legal judgment constitutes the practice of law.

A lawyer avoids running afoul of the prohibition against aiding in the unauthorized practice of law through proper delegation and supervision of paralegals. Supervision is key because the lawyer is responsible for the actions of any paralegal that she employs and proper supervision gives both the lawyer and the client confidence that the paralegal is taking substantively and ethically proper actions.

Proper delegation and supervision begins when selecting qualified persons as paralegals. A paralegal can be qualified either by education (there are some several hundred paralegal education programs that are approved by the American Bar Association) or by experience or a combination of both.

Second, proper delegation and supervision means that a lawyer should match the paralegal's skill set with the task that needs to be done. For example, one should not delegate real estate closing tasks to a litigation paralegal unfamiliar with real estate

transactions or assign inexperienced paralegals to tasks without appropriate instruction. A lawyer can both ensure having qualified paralegals and provide proper supervision by providing orientation and continuing training programs, either formal or on-the-job, for the paralegal.

Third, a lawyer should properly guide the paralegals' work. This means that adequate instructions should be given when assigning a new project to a paralegal. Moreover, the lawyer should also monitor the progress of each assignment to ensure that the paralegal is proceeding on the right track.

Most important, proper supervision requires that the lawyer review the paralegal's work product. It is not enough that the paralegal has performed a particular task dozens of times and will likely again perform the task properly. The lawyer must review the substantive work and be available to the paralegal to provide guidance in even routine assignments. Permitting a paralegal to issue work product on a substantive assignment without a lawyer's review can constitute aiding in the paralegal's unauthorized practice of law.

As a general matter, lawyers should implement policies to avoid putting their paralegals into difficult positions relative to client demands. For example, lawyers should implement a policy requiring their paralegals to identify themselves to new callers or visitors as paralegals who are not licensed to practice law. For small firms, the firm may want to use the standard engagement letter to clearly identify the lawyers and the paralegals.

Paralegals should also be periodically reminded to defer all legal issues to the lawyers. These procedures would comport with Guideline 4 of the Utilization Guidelines that requires lawyers to take "reasonable measures" to ensure that clients, courts and other lawyers are aware that an individual working with the lawyer is a paralegal and not licensed to practice law.

For both the lawyer and the paralegal, there are practical ramifications to engaging in and aiding in the unauthorized practice of law. In most states, unauthorized practice of law is a misdemeanor or offense. Accordingly, the paralegal can be charged with a violation of law. That means that the paralegal can be subject to an injunction against future conduct and, possibly, civil penalties.

For the lawyer, if the governing disciplinary organization determines that the lawyer failed to properly supervise or otherwise aided the paralegal in the unauthorized practice of law, the lawyer may be subject to penalties such as public censure, injunction, civil penalties, disgorgement of fees and even suspension and disbarment. Also, because a paralegal's work merges into and becomes the lawyer's work, a lawyer will be held liable for the malpractice of the paralegal working under his supervision. Being charged with malpractice is one of the most severe reputation blows that a lawyer can experience.

### **Silence is golden.**

Bob is married and his wife, Carol, is also a paralegal. Carol has brought work home and has told Bob about a particularly tricky research project she has been assigned. Bob has done this type of research before in working with one of Jane Hendrick's clients and knows that the result is highly fact dependent. He tells

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*Carol the important underlying facts of the matter that he worked on and also reveals the name of the client for whom he undertook the assignment.*

*He and Carol then share details of both his previous assignment and the areas of similarities with her current assignment. Bob thinks nothing of telling his wife the details that the client shared with him — he is confident that his wife will not share these discussions with anybody else.*

The attorney-client privilege and the ethical obligation of client confidentiality extend to the paralegal and all nonlawyers working with the lawyer. Rule 5.3 of the Model Rules provides that lawyers who are partners in a firm, who have comparable managerial authority or who have supervisory authority over nonlawyers “shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.” An analogous provision exists in Guideline 6 of the Utilization Guidelines.

The effect of Model Rule 5.3 is that lawyers are responsible for nonlawyers’ violations of the ethical rules if they order or ratify the act, or are partners or supervisors of the nonlawyer and fail to take timely remedial action on the conduct.

As a practical matter, lawyers must implement policies to protect client information and to train their paralegals about the importance of client confidentiality. This obligation of confidentiality extends to all types of client information including documents, files and computer security. As an initial step in implementing confidentiality policies, the lawyer may want to ask that each paralegal sign a confidentiality agreement that prohibits the paralegal from revealing any client information and that sets forth penalties for breach of that commitment, including termination of employment.

Lawyers should also highlight issues arising from new technology including placing restrictions on sending electronic materials directly to opposing counsel and the implementation of measures to ensure that previous drafts of documents cannot be accessed. Key to this effort is the routine use of built-in software features or custom programs that eliminate meta-data or lawyer notations from electronic copies of documents.

Lawyers should further consider training paralegals on limiting the number of recipients of e-mail communications sent to clients and others to avoid wide dissemination and inadvertent disclosure of client information.

Further, it is important to inform paralegals and other nonlawyers that client confidentiality should be a pervasive concept. For example, client matters should not be discussed on the elevator. After all, who else is in the elevator and might be listening in? Information from or about the client should not be discussed at home with a spouse or a significant other even if the person is confident to a moral certainty that the information will go no further.

Lawyers also need to stress that, in the event of inadvertent disclosure, be it through erroneously sent e-mail, mislaid documents or otherwise, the paralegal needs to immediately inform the lawyer of the inadvertent disclosure rather than ignoring the disclosure and hoping that no ill results follow. The earlier the

lawyer learns of the inadvertent disclosure, the earlier that steps can be taken to remedy the problem including informing the receiving party of the inadvertent disclosure and requesting the return of the disclosed materials.

Finally, on termination of employment, lawyers should remind the departing paralegal of her continuing obligation to maintain the client confidences learned during the course of the paralegal’s employment.

### **Time is money.**

*Bob Worth is a terrific paralegal but is not a particularly organized record keeper. He often forgets to keep a detailed record of the matters he worked on and the amount of time that he spent on specific matters. He routinely turns in a month’s worth of time entries on the last day of the month and “estimates” the amount of time he thinks was spent on each client’s matter.*

*He believes he tends to underestimate the time for each client and when he cannot exactly recall what task he performed, he writes in as a time description “attention to corporate transaction.” Since Bob’s estimates are fair, there is no concern for Jane, right?*

Paralegals and lawyers should follow the same rules when it comes to time keeping and billing. Just like all professionals in the firm, a paralegal must follow careful procedures in keeping track of work time including making accurate daily time entries with a detailed description of the task undertaken.

Keeping track of working time is important for both the law firm and for the client. The law firm should be fairly compensated for work performed on behalf of the client. Conversely, the client should only have to pay for work actually performed and time actually expended — clients should never be billed for duplicate time, excessive time or “guesstimated” time.

Accurate time keeping and proper task description are particularly important for those lawyers who routinely file fee petitions. With respect to such petitions, courts mandate accurate and detailed time records and, in case lawyers think appropriate delegation is unimportant, courts will often disallow fees requested for paralegals for functions that are considered clerical or secretarial in nature. Also, some courts will lower the rate of compensation if a lawyer performs work that should have been delegated to a paralegal.

### **More rules about money.**

*At the end of the year, Bob approaches Jane and tells her he needs to be compensated more than his agreed-on salary because he has worked a lot more hours than he originally anticipated when he came to the firm. Also, during the course of the year, Bob had referred several new clients to Jane. He asks Jane to give him either a referral fee a share of the fees earned from the clients he referred to Jane.*

*Jane tells him she will think about it and indicates that she is in favor of such an arrangement. After all, Jane gives referral fees to other lawyers who refer clients to her — what is different about doing the same for Bob?*

The fact that Bob is not a lawyer is critical to Jane’s analysis. A lawyer may not split fees with nonlawyers. Moreover, referral fees are strictly prohibited. What can be done, however, is for lawyers to implement a compensation plan that includes bonuses or

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other amounts based on the individual nonlawyer's productivity or based on the firm's profitability.

There is little doubt that a paralegal is a critical member of the legal team and helps to make a lawyer's practice more efficient and profitable. To enjoy these benefits, however, lawyers must focus on proper supervision. Supervision can result in early problem spotting, enhance the proper training of nonlawyers, and give comfort to clients that proper attention is being paid to their substantive work. Supervision is also central to avoiding malpractice and violating state law and ethics rules.

After all, it is the lawyer's obligation to ensure that the paralegal is properly screened, adequately trained, performs appropriate tasks, maintains high ethical standards and produces a competent work product.

## Resources

For more information about working with paralegals, visit the Web site of the American Bar Association's Standing Committee on Paralegals ([www.abaparalegals.org](http://www.abaparalegals.org)).

Or, consult the very informative book, *Concise Guide to Paralegal Ethics*, by Therese A. Cannon (Aspen Publishers, 2006).

Also, virtually all state and local bar associations have programs or sections relating to the use of paralegals.

*Kao is a partner in the Chicago office of Skadden Arps Slate Meagher & Flom LLP. Her e-mail is [fkao@skadden.com](mailto:fkao@skadden.com). She was the chair of the ABA Standing Committee on Paralegals from 2004 to 2006. ♦*



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Send your typewritten essay by August 15, 2007 to:

North Carolina Paralegal Association, Inc.

c/o Chairman of the Board

P.O. Box 36264 • Charlotte, NC 28236-6264

For additional information, please e-mail:

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### 32nd Annual Convention & Exhibition – July 11-14, 2007

The 2007 Annual Convention Educational programs offer a wide array of educational opportunities for all paralegals. The program features 3 Institutes and 3 Educational Tracks, as follows:

#### Institutes:

- Appellate Procedure
- Electronic Data Discovery
- Human Resources

#### Tracks:

- A la Carte*
- Disaster Recovery:
    - Lessons from Katrina
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  - Vulnerable Immigrant Populations - How to Recognize Them

#### Advanced Essential Skills

- Alternative Dispute Resolution
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#### Essential Skills

- Written Communications
- American Legal System
- Judgment & Legal Analysis
- Legal Research

The speakers are noted experts in their fields. Check out the session details and descriptions at <http://www.nala.org>.

**Very Special Session Announced** . . . In recent years, members have asked for more in-depth leadership sessions for their personal growth as well as for the benefit of their affiliated associations . . . in 2007, we have merged these ideas into a very special Membership Forum Session.

Thanks to the sponsorship of Thomson/Delmar Learning, nationally recognized speaker Mark Levin is going to make a presentation on Thursday, July 12, from 1:15-4:30 p.m. Mr. Levin's presentation stresses that effective leaders have the ability to do things AND to get things done. His interactive presentation will help bring out the leader in you. For more details and a biography of Mr. Levin, please see the NALA web site or visit <http://www.baileadership.com>.

**The Venue.** The meeting will be held at the Sheraton New Orleans Hotel, 500 Canal Street, New Orleans, Louisiana. Guest room arrangements for the 2007 convention may be made on the web at <http://www.starwoodmeeting.com/Book/nala>.

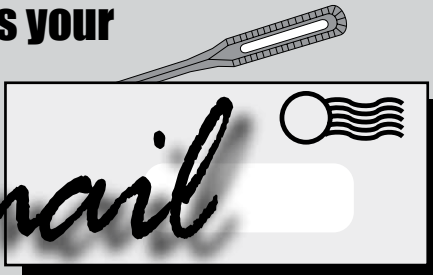


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# *“I have chosen to be a paralegal...”*

## *Student Scholarship Winning Essays*

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. The Committee provides information, as it is able, including links to other sites that may be of interest to the students. The majority of requests concern school programs and requirements for a paralegal 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. An essay competition is the basis of the scholarship. The essay topic is: “I have chosen to be a paralegal...”

All winners receive a complementary student registration to the Annual Meeting and Seminar, a complementary 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 40 essays from 11 different programs for the contest. It was a difficult decision for the judges. In this article, we have included the winning essays:

### ***1st Place Winner***

**Emily Potts**

*Central Carolina Community College*

I have chosen to be a paralegal because the law is something that I have always found to be very interesting. As a child I was never the little girl that played house, I was the little girl that played “lawyer”. I can remember getting my sister to sue my mother for crazy little things. One time I had my sister file a pretend suit on my Mother because she would not raise her allowance. Of course I charged for my services, but I was the best priced ten year old around. My Mother made me my first briefcase out of poster board, I could never forget it, it was this awful color yellow, but it did have little handles stapled on it. I had a big wooden toy box that I would sit behind as my desk, complete with my paper name tag that sat proudly in front. For some strange reason I enjoyed doing my pretend paperwork that my mother would make for me. While the rest of the kids were playing with their Barbie dolls, you could find me behind my toy box filling out documents, putting them safely in my paper briefcase, and preparing for the pretend trials. As I grew older, I grew out of getting my family to hire me as their attorney to represent them in fake court. Before I turned thirteen my father was diagnosed with cancer, it was the worst news that you could announce to a child that had always been “Daddy’s little girl”, but being so close to my father I knew that all he ever wanted was for me to be happy and successful in life. As I continued through school his cancer grew worse. I found it hard to concentrate in school knowing what was going on, so my junior year of high

school I dropped out. Breaking the news to my Father was one of the hardest things I have ever done, but right then and there I promised him that I would go back, attend college and make something of myself; however, at that time being with him was just something I had to do. It was just two months after I turned eighteen that my Father passed away, I knew then that I had to fulfill my promise so I went to get my GED. The first day I could take the test just so happen to be the same day of his funeral. I just felt like everything in the world was going against me, like I just could not catch a break. I rescheduled, took the test and passed with very high scores. It was kind of a bitter sweet day, I knew that he would be so proud of me but deep down I wanted nothing more than him to be there with me. I enrolled in classes at a local community college right away and now here I am, going to school for something that I have wanted to do since I was six years old and most importantly keep a promise that I am made to my father, a man that I admire above all others. Although I will not have my father at my graduation, I know that he will be looking down so very proudly, smiling and thinking “that’s my girl”. And one day maybe I will even have a real desk, with a real briefcase, and I will be able to call myself a real paralegal.

### ***2nd Place Winner***

**Maria Christina Abelquest**

*UNC-Charlotte*

I have chosen to be a paralegal due to a crisis that occurred several months ago which I faced in the same manner that I have met adversity most of my life, with courage, flexibility, resilience, an openness to divine guidance, and a desire to be a role model to my daughter, Laura.

At this writing, my twelve year old daughter is inside a high school taking the SAT exam. Laura chose to take this grueling five hour exam upon being selected by the Duke University Talent Search program, forgoing her usual Saturday morning routine of watching cartoons on TV while simultaneously playing a game of Animal Crossing on her Nintendo DS.

Laura has been on the A honor roll since elementary school, won twice in school Spelling Bees, and enjoys art and reading immensely. The truth is that Laura has been in academic settings since she was six months old and big changes came into our lives. With the dissolution of my marriage to her father, I enrolled in college in pursuit of a bachelor’s degree in English and found myself juggling motherhood, work, and a full load of classes. During the weekends, it was not unusual for Laura to accompany me on campus to the school library where she went through stacks and stacks of children’s literature (which was reserved for the early education majors) with amazing concentration, while I delved into research for yet another twelve page essay. It seems that our noses were always in books in those days.

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*Student Scholarship Winning Essays continued...*

After college, I embarked on a career in the human services field that lasted six years until change in management resulted in the loss of my job. That was the crisis. Instead of plunging into grief and lamenting the loss of a comfortable income and meaningful work, I found myself intently reading an advertisement for a paralegal program in the classifieds section of a daily newspaper. I wondered what paralegals were, what their work entailed, and contacted the advertised telephone number for more information. Then, I made the hard decision of dipping into my savings to make an investment into this different career path and secured a job at a shoe distribution warehouse that offered ideal work hours and an income to put food on the table, so that I could attend classes.

Laura was with me on the first day of class, and she understood the importance of my decision to be a paralegal. Amid the weekday routine of motherhood, work, and school, my daughter and I have been encouraging each other to do our best in school by good naturedly saying to one another, "I can't let you be the only one to get an A around here!" And as the weeks and months pass, I am glad that I took that leap of faith: I enjoy the courses in the paralegal program and see how my natural talents and acquired skills in administration, attention to detail, computer applications, customer service, data analysis, interviewing, listening skills, multi-tasking, organization, research, timeliness, and verbal and writing skills, all apply in a paralegal career. Moreover, I find the law fascinating and ever changing just like me.

Upon reflection, a crisis may have initially motivated me to take action. But I know that I have chosen to be a paralegal to contribute to the profession, bringing with me my positive attitude, education, skills, talents, and professionalism.

***3rd Place Winner***  
**Halli B. Gomez**  
*UNC-Charlotte*

The paralegal profession is going to be my second career. At 37 years of age, and after many months of job and soul searching, I am excitedly embarking on a new path. To fully understand what brought me to the paralegal field, I will need to explain a little about myself; my hobbies, my first career path and dream job, and the hurricanes of South Florida.

I think back many years ago when I would sit for hours devouring Agatha Christie books, anxious to uncover the murderer just as Miss Marple or Hercule Poirot had done, and hoping I was smart enough to draw the same conclusions. When I wasn't reading, I tuned into The Big Valley to watch Jarrod Barkley, the lawyer. At ten years old I did not understand very much about careers, but knew that I wanted to be surrounded by the law in some aspect. That desire led me to seek out all law and police courses offered throughout school, and to search for a career in the criminal justice system. With that direction I began working at the Miami-Dade Police Department as a clerk typist, hoping I would find the job that was right for me.

After a short time, I discovered the field of crime analysis. The analysts working in the investigative section assisted the detectives on their cases, researched similar facts to develop trends, and prepared background investigations on suspected criminals.

I volunteered to assist them and soon realized that I had a talent for this type of work. I learned as much as I could from my co-workers, and when I saw a job opening, I applied and became a police crime analysis specialist. During a normal day, I linked cases, tracked down criminals, and wrote reports. While I was busy working long hours and going to school to obtain a Masters degree, my friends from the other section were keeping an eye on me. With only three years analytical experience, they asked me to develop the first Sexual Crimes Clearinghouse in the country.

That is what I referred to as my dream job. I was promoted to an intelligence analyst and set up an analytical unit that tracked sexual crimes over several jurisdictions. I became a liaison between my department and others around the country and developed procedures for case linkage, suspect research, and case management. During this time, my husband and I had two beautiful children. Our priorities changed to become theirs, and our focus was now on providing the best life for them that we could. They are what led us to North Carolina.

The year 2005 was the busiest hurricane season in history. While living in Florida, we sustained damage to our house in both Hurricanes Katrina and Wilma. My husband and I still remember the terror and heartache we experienced during Hurricane Andrew in 1992, and decided we had enough. We didn't want our children to go through the same sadness of losing their house or their precious belongings. Within a few months we relocated to Charlotte, North Carolina. My husband got a job as a litigation technology coordinator for a Charlotte law firm and I began my search for a job.

I hoped to continue my analytical work and began volunteering at the Charlotte-Mecklenburg Police Department. However after several months I realized that the possibility of getting a paid position was not likely and I began to think about the future. I looked at my dream job and it was clear that I loved research, writing and being involved in the cases. I then decided to look outside of law enforcement to other areas where I could apply my skills. It wasn't long before I discovered the paralegal profession, and as every well-trained analyst and future paralegal would do, I began my research. I searched the Internet for job duties, qualifications, and employment opportunities. I talked to paralegals and asked them for a realistic account of their day, wanting to hear the good and the bad. The more heard, the more I knew that the paralegal profession was for me.

With the support of my husband and children, who are willing to be without me two nights a week, I enrolled in a paralegal program. After the first class I knew the decision was the right one and I am looking forward to the time when I am actively working in my second career.

***4th Place Winner***  
**Heather D. Baldwin**  
*Central Carolina Community College*

At my sister's wedding this fall, I became engaged in conversation with her new father-in-law. Kindly, he acknowledged the fact that I am currently going back to school, inquiring about my major. Upon learning I am majoring in paralegal technology, he

*continued on next page...*



*Student Scholarship Winning Essays continued...*

replied, "Oh, I don't know HOW those girls type so fast and get down everything they talk about during the trial, it's amazing!!" Similarly, my grandfather, excited about my decision to enroll in college, recently took me aside for a "talk." I was surprised when he said to me, "I know you're going to school to be a paralegal; we're so proud of you! What will you be doing when you finish?"

Despite the fact the paralegal profession is one of the most rapidly growing occupations in the country, the vast majority of the general public knows neither the true definition of a paralegal nor the value of paralegals to our legal system. According to Black's Law Dictionary, a paralegal is "a person who assists a lawyer in duties related to the practice of law but who is not a licensed attorney—also termed legal assistant; legal analyst." Black's Law Dictionary 1136 (7th ed. 1999). While this is certainly an efficient definition, it does not clarify the significance of a paralegal's role. For centuries, attorneys have been a crucial factor in monitoring and maintaining the standards of law established by our forefathers. Today, the intricacies of the law are more tediously applied and more time-consuming in research and application than ever before; the existence of qualified legal assistants with knowledge of the law greater than that of the common citizen is an invaluable commodity to our legal system. This is the integral role of the paralegal.

In making my decision to return to college after a twelve-year hiatus, I was overwhelmed with the career opportunities available to me. A degree in computer science initially appealed to me, but through research I found the computer job market overpopulated. Television shows such as "CSI" have made forensic science a wildly popular option; however, the "Mayberry-esque" quality of my hometown certainly indicated limited necessity and career potential in the field. I quickly realized that beyond desiring a career I would enjoy, I should make job stability, availability, and security the predominant factors in my search.

I turned my focus to previous employment, reflecting on the work experiences I most enjoyed. For several years, I worked as a legal assistant for a small law firm that focused primarily on real estate transactions. Initially hired as a secretary, I was soon asked by my employers to take on more challenging responsibilities. After a whirlwind training session, I found myself submerged in the world of real estate closings. Imperative deadlines; complicated HUD settlement statements; wily real estate agents; nervous first-time homebuyers; multi-million-dollar trust account transactions; in short, I was given responsibilities that would leave the unprepared or faint-of-heart nervous and fleeing for the door. Despite the pressure and my lack of formal legal education, I loved my job...and I was an exceptional legal assistant.

As I enjoyed my fond memories of the years I spent in that law office, I browsed the online version of our local community college's course catalog. I stumbled upon the paralegal program...and I knew it was the perfect career choice for me. The demand for college-educated paralegals is greater than ever; jobs are available in a broad spectrum of areas of the law with competitive salaries, and it would be a career I would enjoy and in which I would thrive.

While in pursuit of my degree, I eagerly anticipate my contribu-

tion to the legal system as a paralegal. I will be qualified upon graduation to prepare complex legal documents for my employers. I will be eager to enter the deed vault to research a one hundred-year-old property title, and I will be prepared to interview witnesses from an automobile accident in search of settlement for a personal injury lawsuit. I will take pride in preparing settlement statements for joyous first-time homebuyers, and I will be able to assist my employers in finalizing the estates of clients for their bereaved families in a timely, gracious manner.

Through the guidance of my professors, I will hone my skills in communication and broaden my general knowledge of the law of our land. It is my goal to assist others as a paralegal, both through words and deeds, in a capable, professional manner that will allow me to enjoy a rewarding career assisting attorneys in upholding our country's excellent legal standard and in taking another bright step into the future of the ever-changing world of law. ♦



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