

The NCPA Forum

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President's Message



Kaye H. Summers, CLA, NCCP



Wear A New Hat

As we approach our 2008 Annual Meeting and Seminar, I try to find a few minutes in the flurry of activity to reflect on the past year and what serving as President of NCPA has meant to me. It has been a very busy year for me and at times, very challenging. Even so, I have enjoyed every minute of it. I welcomed the challenge to "wear a new hat" and proceeded with the goal to be the best leader that I could be. Every member of the Executive Committee and the Board of Directors, as well as each Committee Chair and Co-Chair has worked very hard to accomplish NCPA's goals for the year. I attended the NALA Annual Meeting in New Orleans in July and met some incredible paralegals from all over the country. I witnessed first hand how much respect paralegal organizations from other states have for NCPA. We are really held in high regard, which makes me really proud to be a member, as well as President.

Our lives are all extremely busy and we often feel we cannot take on another task or "wear a new hat". We are involved in so much these days that sometimes it seems difficult to stay in any type of "normal routine". I'm still trying to figure out what "normal" means.

Our profession is very challenging, yet rewarding, and we have made great strides over the past few years to gain the recognition that we deserve. NCPA has been committed to not only maintaining, but continually improving recognition for paralegals throughout the State of North Carolina.

I challenge each and every one of you to "wear a new hat" this year and become involved in your organization, NCPA. There are many opportunities available; some that require less time, but are just as fun and rewarding.

I look forward to seeing you at our annual meeting in Concord, and seeing what new hat you choose to wear.

Kaye H. Summers, CLA, NCCP
President

Chairman's Message

Beverly G. King, NCCP



Greetings!!!

Wow - another NCPA year has come and gone. As we embark on another year in NCPA, I am excited to see where 2008-2009 will take us - personally and professionally.

A little update on me. I will be starting a new adventure at the beginning of March. My supervising attorney and I are splitting from our current firm and opening another office with just the two of us. Most of the time I will be working at a remote office in Mooresville, while he is working in Charlotte. I am excited, but a little nervous at the same time. So many things left to do and so little time to get it accomplished. I was in a small office before joining Rallings & Tissue, PLLC, and it worked well then. At least this time, unlike our previous split in August of 2006, this one is amicable and I think that the six of us that are left at Rallings & Tissue, PLLC will remain in touch. All in all I think it will be good for all of us in the long run.

I am looking forward to a wonderful year of educational opportunities and networking within NCPA. Our educational committee continues to amaze me by putting together such wonderful seminars. I have had the opportunity to organize a few seminars, and trust me it is a lot of work. These ladies put in countless hours organizing and preparing to make sure the seminars run smoothly as possible. Yes, there are usually some bumps in the road but they handle them with such professionalism and skill that those in attendance never seem to notice.

I would like to take this opportunity to thank everyone who has attended an NCPA event. Whether it was Annual, Mid-Year, or a District Meet and Greet, thank you for taking the time out of your schedule to be apart of one or more of these events. I hope you found them as exciting and educational as I have and we all hope to see you again real soon.

Take care and best wishes to all.



NCPA's 28th Annual Seminar & Meeting, Embassy Suites, Concord, NC

Schedule Of Events

Thursday, March 27, 2008

6:00 - 8:00 p.m. **Early Registration & Exhibitor Exposition**
Join us in welcoming our Exhibitors with lite hors d'oeuvres and drinks

Friday, March 28, 2008

7:30 - 8:15 a.m. **Registration & Continental Breakfast**
Full Breakfast Provided by Hotel For Its Guests

8:15 - 8:30 a.m. **Welcome Remarks**
Kaye H. Summers, NCCP, NCPA President

8:30 - 9:30 a.m. **GENERAL SESSION (Ethics Session)**
What to Do When Your Attorney Needs Help
W. Donald Carroll, NC State Bar PALS Program

9:30 - 9:45 a.m. **Break - Visit with Exhibitors**

9:45 - 10:45 a.m. **CONCURRENT SESSION A**
E-Notary & E-Recording
Ozie Stallworth, E-notarization Analyst and Director NC Department of the Secretary of State

CONCURRENT SESSION B
Immigration Consequences of Criminal Convictions

Lt. Robert Wilborn, Alamance Co. Sheriff's Department

CONCURRENT SESSION C
Tips for Collecting Child Support
Clyde Albright, Assistant County Attorney, Alamance County

10:45 - 11:00 a.m. Break – Visit with Exhibitors

11:00 - 12:00 p.m. **CONCURRENT SESSION A**
Reading Surveys and Drafting Legal Descriptions
Joe Ritter, Fidelity National Title Insurance Company

CONCURRENT SESSION B
Children and the Legal System
Sandra Prelipp, JD, Guardian Ad Litem; Chapel Hill, NC

CONCURRENT SESSION C
Accident Reconstruction
Gary E. Kilpatrick, Gary E. Kilpatrick & Associates, PA

12:00 - 1:30 p.m. **LUNCH**

1:30 - 2:30 p.m. *From Paper Documents to Digital Evidence: Forensic Examinations Provide the Truth*

Giovanni Masucci, CCPE, CLWE; Capital City Consulting

Emily J. Will, MA, CDE; Forensic Document Examiner

2:30 - 3:00 p.m.

Break/Set Up for Annual Meeting

3:00 - 3:15 p.m.

Registration for Annual Meeting

3:15 - 5:30 p.m.

Annual Meeting – Election of Officers

7:00 - 9:00 p.m.

Dinner & Introduction of Officers for 2008-2009

Please join us for dinner and a special guest!

Saturday, March 29, 2008

8:00 - 9:00 a.m.

CLA/CP Breakfast
(NALA Certified CLAs and CPs only)
Tita A. Brewster, ACP; NALA President
"Let's Be Like the Geese"

9:00 - 10:00 a.m.

CONCURRENT SESSION A
Recent Changes to Living Wills and Healthcare Powers of Attorney
Susan I. McCrory, JD; Robinson, Bradshaw & Hinson PA

CONCURRENT SESSION B
Representing the Foreclosure Client
Andrea Y. Bebbler, JD; Charlotte, NC

CONCURRENT SESSION C
A Day In the Life of A Corporate Securities Paralegal:
Katrina Reck, Paralegal; DLA Piper, Raleigh, NC

10:00 - 11:00 a.m.

GENERAL SESSION
Top Websites No Paralegal Should Be Without
Patricia F. Clapper, ACP, NCCP

11:00 - 11:30 a.m.

Break (Hotel Checkout)

11:30 - 12:30 p.m.

CONCURRENT SESSION A
"The Inside Story" - The NC State Bar Paralegal Certification Exam
Mary E. Willard, CLAS, NCCP; Lisa Duncan, JD; Theresa Irvin, CLA, NCCP

CONCURRENT SESSION B
Trust Accounting Guidelines & Changes to IOTLA
Bruno DeMolli, NC State Bar

Please visit our website www.ncparalegal.org to register or download the entire brochure

Second Vice President's Report Membership

Brenda Mareski, CP



We ended the 2007-2008 Membership year with the official membership count as follows:

| | |
|------------------------------|------------|
| General members: | 390 |
| Associate members: | 31 |
| Student members: | 89 |
| Sustaining Members: | 4 |
| Affiliate members: | 4 |
| Educational Program members: | 2 |
| Total | 520 |

As we do in each edition, NCPA would like to acknowledge our newest (G)eneral, (A)ssociate, and (S)tudent members joining from October 9, 2007 – January 31, 2008:

Sheila K. Aldrich, NCCP, Thomasville, NC (G)
Amy R. Armstrong, Siler City, NC (S)
Charlene T. Bell, NCCP, Jamestown, NC (G)
Rebecca L. Billings, Lenoir, NC (S)
Melinda W. Dabbs, Mooresville, NC (G)
Lisa Daboll, Fort Bragg, NC (S)
Kimberly M. Fakhoury, NCCP, Rolesville, NC (G)
Katie Ferretti, Charlotte, NC (G)
Robin S. Hill, Concord, NC (G)
Judy M. Hill, Concord, NC (A)
Sadie E. Howard, NCCP, Raleigh, NC (G)
Marie P. Isenhour, Albemarle, NC (S)
Daniel T. Macemore, Clemmons, NC (S)

Charlotte A. Mangum, NCCP, Cary, NC (G)
Stephen R. McCorkle, Lenoir, NC (S)
Arryn J. Morris, Arden, NC (S)
Ashley M. Norris, NCCP, Asheville, NC (G)
Michelle M. O'Neill, Matthews, NC (S)
Melissa G. Pate, Raleigh, NC (G)
Sherylann E. Pica, Huntersville, NC (S)
Sara T. Pulaski, NCCP, High Point, NC (G)
Debby Sawyer, ACP, Raleigh, NC (G)
Tracee L. Scheve, Spencer, NC (S)
Stephanie J. Smith, Waxhaw, NC (G)
Pamela K. Zinser, Fayetteville, NC (G)

During the 2007-2008 membership year, Patron & Sustaining Chair Michele Tuttle, CLA, NCCP, created new levels of benefits and dues for our Sustaining Members, which has resulted in increased interest from many North Carolina businesses who would like to partner with NCPA. The result is that we are able to offer to our members a broader range of businesses that provide services used by paralegals, attorneys, corporations, and firms, etc., and those companies in turn are exposed to more of the paralegals that recommend their services to their employers. A mutually beneficial relationship is created through these memberships, and NCPA is most grateful for the support of our Sustaining Members. Our Sustaining Members for 2008-2009 are:



Please remember that Sustaining Members make possible many of the benefits that NCPA provides to our individual members. Whenever possible, please patronize or refer others to our Sustaining Members – we appreciate their support!

We are also proud to recognize our Affiliate Members, Alamance County Paralegal Association, Cumberland County Paralegal Association, Guilford Paralegal Association, and Research Triangle Paralegal Association; as well as our Educational Program Members, Caldwell Community College and Technical Institute, and Guilford Technical Community College.

Respectfully submitted,

Brenda Mareski, CP
Second Vice President



News!

North Carolina paralegals are busy! In addition to thousands being certified through the North Carolina State Bar Association, as of September 2007, there are 14,571 CLA/CPs including 424 in North Carolina. There are over 1126 CLA Specialists in the United States. In 2004, NALA registered the mark "CP" for those who prefer to use the term "paralegal" instead of "legal assistant."

Congratulations!! The following CLA certifications were issued to those from North Carolina that passed the exam in 2007:

Tarin M. Clark, CLA – Durham, NC
Angela T. Ervin, CP – Wilmington, NC
Harvetta M. Finley, CP – Charlotte, NC
Nichole D. Hutchins, CLA – Kernersville, NC
Patricia A. Johnson, CP – Asheville, NC
Angela M. Lachney, CP – Gastonia, NC
Eleanor Sue Latimer, CLA – Greensboro, NC
Nicole F. Macaulay, CLA – Elizabeth City, NC
Kelly L. McCall, CP – Weaverville, NC
Irene Renee Owens, CP – Charlotte, NC
Susan G. Randolph, CP – Charlotte, NC
Judy F. Reins, CLA – Winston Salem, NC
Amanda F. Reynolds, CLA – Raleigh, NC
Mary A. Siebigteroth, CLA – Louisburg, NC
Lisa A. Smithson, CP – Mooresville, NC
Kimberly A. Turner, CLA – Durham, NC
Sandra E. Turner, CP – Charlotte, NC
Melanie A. Vander Klok, CP – Raleigh, NC
Devona V. Wagner, CP – Burgaw, NC
Judith E. Weeks, CP – Jamestown, NC

Also, with the new Advanced Paralegal Certification ("ACP"), there are 13 in North Carolina and 325 nationwide. The following North Carolina paralegals obtained this prestigious credential in 2007:

Trisha Crabtree, ACP
Elizabeth T. Crittenden, ACP
Diana L. Madden, ACP
Tara Maxey, ACP
Kathryn M. Samuelson, ACP
Mary A. Siebigteroth, ACP
Marianne G. Watters, ACP

NALA Campus LIVE! courses are updated on NCPA's website and are available through <http://nala.org/>. The subjects are varied and most programs qualify for credit toward maintaining the CLA/CP credential, and most are approved by the North Carolina State Bar. However, if you do need the CLE credit, do verify that the CLE credit will be granted before signing up for these courses. This is a quick way to obtain CLE credit online. NALA encourages paralegals to participate both in obtaining CLE hours and presenting through NALA Campus LIVE!

The CLA/CP examination is offered three times a year: March/April (depending on the holiday schedule); July and December. Application forms and the requisite fees must be received by the published filing dates. Filing deadline dates are January 15 for the March/April examination, May 15 for the July examination and October 1 for the December examination session. Test dates are available on the NALA and NCPA websites.

NCPA is honored that Brenda Mareski, CP, NCCP, and NCPA At Large Director, Erin Galloway, CP, NCCP, were chosen to present at the July, 2008 NALA convention in Oklahoma City during the Affiliates Annual Meeting. In conjunction with members of the Los Angeles Paralegal Association, Brenda and Erin will discuss benefits of technology and NCPA's "MemberClicks" software. This joint presentation is entitled *Bringing Your Membership Into the Electronic Age*.

NCPA member Sharon G. Robertson, ACP, NCCP is very busy volunteering as NALA's Affiliated Associations Director. Sharon works for North Carolina Prisoner Legal Services, Inc. and resides in Linville, North Carolina.

Keep informed with NCPA's website: www.paralegal.org for NCPA's 28th Annual Meeting and Seminar on March 27-29, 2008 in Concord, North Carolina. NALA's president, Tita A. Brewster, ACP will be presenting "Let's Be Like The Geese" at the CLA breakfast.

The 33rd Annual Convention of NALA will be held July 30-August 2, 2008. Remember that NALA membership fees are due March 31, 2008. ♦

Cindy Frye, ACP
NALA Liaison

Editor's Court

Melissa Rutledge, NCCP



I would like to take a moment to introduce myself. My name is Melissa Rutledge and I have been an IP paralegal for about five years. Prior to that I was a legal assistant for about a year and before that I served in the U.S. Navy. I work full time, am married, and have two wonderful boys!

If you are interested in volunteering with the NCPA – even just a little bit – there are several positions waiting for you! I have never been a part of an organization like NCPA or of any publication's editing staff, so I am very excited to learn from my predecessors and cannot wait to read all of your article submissions – YES, anyone can submit an article, so please share your knowledge. I feel honored that I can help bring you useful and informative news and updates from paralegals around the State of North Carolina and elsewhere in the United States.

Spring is a very busy time of year for the NCPA. The Slate of NCPA Officer Candidates for the 2008-2009 year is presented for your consideration, information about this year's Annual Meeting in Concord, NC is available, and the proposed Bylaw changes are also included for your review.

We want to reinforce the importance of paralegals and their role in the various areas of research. Therefore, we hope that you find the featured articles educational or better yet a good refresher! Please enjoy this edition of NCPA's FORUM and please know that your feedback and/or comments are always welcome.

2008 Annual Meeting & Seminar

presented by the

North Carolina
Paralegal Association, Inc.

Attention all CLAs, CPs & CLA Specialists. . .

Make plans to attend the



Saturday,
March 29, 2008

8:00 a.m. to 9:00 a.m.

Tita Brewster, ACP, NALA President
will teach us how to
"Be Like The Geese"

Cost is \$20 and includes a breakfast buffet.
Look for registration information on the Annual Seminar
registration form – www.ncparalegal.org

North Carolina Paralegal Association 2008 Proposed Bylaw Amendment

Proposed additions to Article IV, Section 2, are highlighted.

- (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, 3/31/2006]*
 - (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 as credentialed by the National Association of Legal Assistants; or *[amended 3/21/1997, 3/11/2005, 3/31/2006]*
 - (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 Board of Paralegal Certification, in good standing. *[effective 3/31/2006]*



The Slate of NCPA Officer Candidates for the 2008-2009 year is presented for your consideration. Nominations were received for the following officer positions:

Kaye H. Summers, CLA, NCCP
for the Office of President

Yolanda N. Smith, ACP, NCCP
for the Office of Second Vice President
Membership Chair

Ballots will be cast at the Annual Membership Meeting on March 28, 2008 at 3:30 p.m. at the Embassy Suites Hotel Resort & Conference Center, Concord, North Carolina.

Declaration of Candidacy for the Office of President

Kaye Summers, CLA, NCCP is a paralegal with the law firm of Pulley, Watson, King & Lischer, P.A. in Durham, North Carolina. Kaye works with Malvern King and Charles Carpenter on all types of commercial transactions and commercial litigation cases. Kaye has worked as a paralegal in Durham since 1985. She earned her CLA designation from National Association of Legal Assistants (NALA) in 2001, and her NCCP designation in 2005. She is a member of the North Carolina Paralegal Association, and is currently serving as President. She is also a member of the Legal Assistants Division ("LAD") of the North Carolina Bar Association ("NCBA") and serves as LAD Liaison for the General Practice Solo and Small Firm Section, a position she has held since 1999. She has also served as the Chair of the Utilization Committee for LAD, which Committee produced a brochure entitled *PARALEGALS: An Asset To Your Team*, An Overview of Paralegal Services. She has been a member of the National Association of Legal Assistants since 2001. Kaye is currently serving on the Advisory Board for the paralegal program at Durham Technical Community College. Kaye's article *Surviving the Incapacitation of Your Employer*, an article inspired by her work with the Rich Harris Committee, was published in the February 2004 edition of "Facts & Findings" the national publication of NALA; the Spring 2004 edition of NCPA's "Forum"; and the April 2004 edition of "TALA News", a publication of the Toledo Association of Legal Assistants in Toledo, Ohio.

Declaration of Candidacy for the Office of Second Vice President – Membership Chair

Hi all. I'm Yolanda N. Smith and I'm seeking to become the North Carolina Paralegal Association's next Second Vice President – Membership Chair.

I've been a member of NCPA since 2000 and during that time I've witnessed our membership steadily grow. During the next year I'd like to see significant growth. As of January 30, 2008, there were 4,492 paralegals certified by the North Carolina State Bar Board of Paralegal Certification. My goal as Second Vice President will be to recruit new members from these certified paralegals.

I've held several positions within NCPA including Chair of the Long Range Planning and Pro Bono Committees and Secretary to the Board and Executive Committee. Currently, I'm the Liaison to the North Carolina State Bar Board of Paralegal Certification.

As a dedicated NCPA member, it is my desire to see NCPA continue to grow and develop. Thank you for giving me the opportunity to assist in NCPA's growth by serving as Second Vice President – Membership Chair.

The following NCPA member is being considered for Job Bank Committee Chair

Stephanie B. Woods is a North Carolina State Bar Certified Paralegal with the law firm of Teague Campbell Dennis & Gorham, L.L.P. specializing in insurance defense litigation and workers' compensation defense. She earned her AA Degree in Legal Secretarial Science from Hardbarger Junior College of Business and a Paralegal Certificate from Paralegal Career Development Institute of Atlanta, Georgia. She has over 17 years of legal experience, and is a member of the North Carolina Bar Association - Legal Assistant's Division, North Carolina Paralegal Association, and the National Association of Legal Assistants. ♦

Statewide News

DISTRICT II:

Director: Tiffany Driver Clark, NCCP

The Research Triangle Paralegal Association, Inc. holds bi-monthly meetings the 3rd Wednesday of the month. The second meeting of the 2008 term is April 16, 2008. Please visit www.rtpanc.org for additional information.

DISTRICT IX:

Director: Beverly King, NCCP

District IX has a new paralegal association in the area the "Catawba Valley Paralegal Association." NCPA wishes this new association the best as it is organized. Monthly meetings are held the second Tuesday of each month at Catawba Valley Community ("CVCC") College Auditorium.

Summary of the

January 12, 2008

BD/EC Minutes Unapproved

The NCPA Board of Directors and Executive Committee met in Burlington, NC, on January 12, 2008.

Patti Clapper, First Vice-President (Education) reported to the Board/EC on speakers and final arrangements for the upcoming Annual Meeting and Seminar in Concord. Patti also reported that Sherry Vaughn, Convention Coordinator, is in the midst of site selection for the 2009 Annual Meeting and Seminar; convention sites in Wilmington and Wrightsville Beach are being considered.

Brenda Mareski, Second Vice-President (Membership) reported that NCPA now has 501 members, and several others are pending approval. The first new member has joined under our new three-tier system of sustaining memberships: Kay McGovern and Associates joins DTI and 4NC Records as NCPA sustaining members.

Nancy Glasgow presented Treasurer's Reports from February through December 2007. The reports had been audited and approved by Belinda Thomas, Audit Committee Chair. The Board/EC approved the reports.

The Board/EC discussed the proposed 2008 – 2009 Annual Budget at length, made some changes to it, and then voted to submit it to the membership for approval at the Annual Meeting.

The Board/EC discussed Bylaw changes suggested by Parliamentarian April Sansom, and voted to include those changes on the ballot for consideration at the Annual Meeting. April also reported that she had done some research on the NCPA's parliamentary authority, and that no Bylaw change will be necessary in order to begin using a simplified version of Robert's Rules of Order for information and reference for the officers and board members, however, the official Robert's Rules of Order must be used and maintained as the official parliamentary authority of NCPA.

Several district directors reported on the current membership trends and activities in their districts. District III Director Trudy Rutherford discussed the well attended December Meet and Greet, which featured attorneys who had previously worked as paralegals. She also announced that the Cumberland County Paralegal Association would hold a full day seminar on April 12. Blanche Berkowitz, District IV Director, announced that Guilford Paralegal Association, an NCPA

affiliate, would be hosting a continuing education seminar in Greensboro on May 3.

District VII Director Beth Stallings informed the Board/EC about the need for an affordable and accessible paralegal program in the Asheville area, and the group discussed possible courses of action. District IX Director and Chairman of the Board Beverly King announced that a new paralegal association has been formed in her district, the Catawba Valley Paralegal Association, and it meets at Catawba Valley Community College each month.

NALA Liaison Cindy Frye reported that NCPA's proposal to give a presentation at NALA's 2008 Annual Convention has been approved. Brenda Mareski and Erin Galloway will work with members of the Los Angeles Paralegal Association to do a presentation on the benefits of using web-based technology to manage membership records and communicate with association members.

Historian Karen England provided a report on NCPA's events and activities for the previous year.

Nominations and Elections Chair Catrina Mitchell reported that Kaye H. Summers had declared her candidacy for President and Yolanda Smith had declared her candidacy for Second Vice President. No other nominations have been received. Any other persons wishing to run for an office must be nominated from the floor at the Annual Meeting.

Melissa Rutledge was introduced as the new Senior Editor for the FORUM. She has already begun work on the Spring issue.

Erin Galloway, Student School Relations Chair, reported that essays have already been submitted for the student scholarship contest, and the deadline for entries is January 31. The winners will be announced at the Annual Meeting.

NCPA Coordinator Mary Haggerty will be retiring from her position at the close of this year's Annual Meeting. The Board/EC approved hiring Brenda Mareski to succeed Mary Haggerty.

President Kaye Summers reminded all officers, board members, and committee chairs to submit reports for the annual meeting and to update the Orientation Manual, if necessary, for their successors. ♦

The Short Course

**A preparation course for Nationwide certification as a paralegal/legal assistant
April 24–26, 2008 • Jacksonville, FL • Hyatt Regency Jacksonville**

One of NALA's most popular continuing legal education programs has been scheduled in time for those preparing for the CLA/CP examination in July.

- Satisfy the continuing legal education requirements for maintaining your CLA/CP credential with this course.
- If you want to brush up to be sure your "experience" is fresh, this is the course for you.
- Your expertise in presenting review courses for local paralegal associations and schools will be enhanced by attending this three-day program.

American Legal System—Karen Sanders-West, ACP, JD

Judgment & Legal Analysis—Virginia Koerselman, JD

Ethics I—Kay Kasic, CLA

Contracts—John W. Dunn LLB & Karen M. Dunn, CLAS

Legal Research—Virginia Koerselman, JD

Civil Litigation—Karen Sanders-West, ACP, JD

Ethics II—Kay Kasic, CLA

Real Property—John Dunn LLB & Karen M. Dunn, ACP

Business Organizations—Connie Kretchmer, ACP, &

Virginia Koerselman, JD

Administrative Law—Karen Sanders-West, ACP, JD

Estates & Trusts—Virginia Koerselman, JD &

Connie Kretchmer, ACP

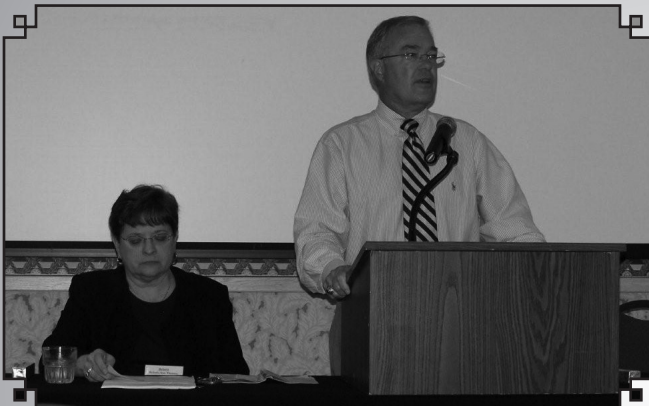
The Hyatt Regency Jacksonville Riverfront is a premium location near the business district, beaches, and shopping. Special NALA rates are \$145/night for single or double occupancy, triple is \$170, and the maximum quad is \$195. Call 904-588-1234 and reference this meeting to ensure your special rate.

Watch your mail for the brochure or visit www.nala.org for more details.

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2007 NCPA Mid-Year Meeting in Boone, NC



Wiley Wooten, Esq. and Belinda A. Thomas, ACP, NCCP



NCPA Time Machine & the Chicken #2
(a.k.a. "Never had Feathers Anyway")

Dennis G. Embo, NCCP
and
Belinda A. Thomas, ACP, NCCP
& the Chicken
(a.k.a. "No Feathers Left")



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Time to Shine

Due diligence for litigation paralegals.

By Oliver M. Gierke

Due diligence traditionally is thought of as an area handled by corporate lawyers and paralegals as part of negotiating mergers, acquisitions and other contractual agreements. However, due diligence in litigation is one aspect of the merger process where a litigation paralegal can shine.

Litigation due diligence involves evaluating past litigations and pending lawsuits and claims, as well as reviewing any possible future exposure to lawsuits. This helps potential buyers or potential partners in a joint venture decide whether it makes sense to buy the company, and it also can be used to help determine the price and other details of the negotiation and purchase. Litigation paralegals can be invaluable to this aspect of the merger process because of their experience working with dockets and pleadings, their knowledge of how to read and analyze litigation documents and files, and their research skills.

Types of Litigation Activity

Researching past and current litigations is an increasingly vital part of the merger negotiating process. As the paralegal performing this research, you need to be aware of the types of litigation in which a company could be involved, especially given the current climate of increasing litigation activity in the following areas:

Damages. Is the company pursuing or defending against the collection of damages for defective products? These products can be anything from motor vehicles to pharmaceutical products. The damages can range from one-time awards granted to a single plaintiff to class action lawsuits in federal and state courts involving thousands of plaintiffs and the possibility of long-term monitoring for health concerns (e.g., in cases that involve pharmaceutical or other health-related products). Other damages claims might involve being overcharged for services, such as mortgages or credit cards; missed investment opportunities because of false reporting regarding a company's financial situation; or allegations of preferential allocation of highly desirable shares during initial public offerings.

Pension Plans. Is the company being sued by past or current employees over pension plan issues? If yes, this could mean the buyer of the

company will inherit the liability and will have to pay if the plaintiffs get a judgment. This could require recovering the loss of value of funds in pension plans under the Employee Retirement Income Security Act due to false or misleading earning reports or failing to allow a company's retirement plans to invest outside its own stock, such as was the case with Enron Corp.

Corporate Assets. Is the company involved in any litigation to protect corporate assets, such as patents, copyrights, trademarks and other trade secrets (e.g., customer lists and supplier databases), including the enforcement of non-competition agreements with former employees now working for competitors? The potential buyer will want to know the chances of success. Does success mean the other party will stop infringing, or can the company collect damages? Or, is the company being accused of infringing on someone else's intellectual property and facing the possibility of paying damages to someone else?



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Time to Shine continued...

Identifying Potential Exposure

Depending on the business or industry in question, litigation due diligence also includes identifying any current or past exposure to lawsuits the company faces for environmental and related damages. This includes any liabilities that might have been assumed by the company in prior mergers or acquisitions. For example, depending on the company, your research might include an analysis of potential liability for environmental damages and cleanup expenses resulting from superfund sites, or the cleanup or damages associated with exposure to toxic substances such as asbestos, lead in paint, or other chemicals.

Along with determining the existence and extent of any potential exposure or liabilities, you also will need to determine what insurance coverage the company has available, whether coverage was or is under litigation (e.g., the insurance company refuses to pay), and whether the defense is covered by insurance under a reservation of rights. In addition to researching and analyzing the insurance policies, you might also need to review and determine the litigation pattern of the relevant insurance carriers, such as whether they have a history of denying claims or disputing coverage under the same or similar types of exposure the company is facing. You also need to determine how much coverage is available, both on a per-claim basis and under the policy overall, and whether coverage includes litigation expenses or only potential damage awards.

Another potential liability you will need to review is the bankruptcy filings of the target company and its subsidiaries. Also, review any monies owed by third parties currently undergoing financial restructuring or operating under bankruptcy protection. Does someone owe money to the company your client wants to buy, and what are the chances of collecting that money? A company could have a large number of outstanding receivables by pre-existing clients who can't pay because they are in bankruptcy. The receivables add no value to the merger because the money can't be collected. The potential recovery versus the cost of said recovery, such as legal fees, will play into the overall financial feasibility or attractiveness of the transaction for your client.

Keeping Costs Down

Litigation due diligence is a necessary expense to avoid excessive damages or to protect signed contracts, assets and intellectual property rights. It will not make a deal go smoother, but can alter or cause the termination of plans for an acquisition or joint venture. The buyer might decide the potential exposure and liabilities make the deal impractical or will require renegotiations

of the acquisition price and potential future liabilities to be covered by the seller or one of the parties in the joint venture. Another possibility is that a client might be one of several bidders for a particular company or asset, and regardless of the due diligence efforts, the deal might not go through because the sale of the company could go to another bidder.

Given these possibilities, the legal team usually is asked to minimize the overall costs of due diligence and litigation due diligence. As the paralegal performing much of the litigation research, there are a number of ways you can keep costs down:

- Perform research on databases such as Westlaw, LexisNexis, PACER and CourtLink under the rule "as little as possible, but as much as necessary." In other words, conduct whatever research is needed to cover all the bases and to protect the client's interests without expending unnecessary time and money.
- Restrict court searches to (1) certain geographic areas, such as the state(s) where the company mainly operates or has its headquarters or main offices; (2) certain types of litigation (e.g., when a car manufacturer is sued for product liability because of traffic accidents when someone claims the car malfunctioned, or when a pharmaceutical company is sued for product liability because people taking a medication experience negative side effects); and (3) certain timeframes relevant to the contract in question.
- Carefully review the initial search results from litigation and docket searches prior to ordering potentially expensive copies of pleadings and court filings. Determine which documents easily can be retrieved online and which documents might have to be retrieved by sending an outside retrieval service or a paralegal to court to physically inspect the files and copy the documents.
- Know your firm's vendors and vendor contracts, as well as the individual vendor's cost structure for certain tasks, in order to choose the most prudent approach for obtaining particular documents, balancing both time constraints and budget limitations.

A Win-Win Situation

As a litigation paralegal, the more you are able to handle in regard to litigation due diligence, the smoother the overall due diligence project, creating a winning situation for everyone involved in the mergers and acquisitions process.

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Law Firm Librarians Exploring New Territory

Survey indicates roles expanding into marketing research, knowledge management.

By Janet Roberts

According to *Law Firm Inc.*'s sixth annual survey of law firm librarians at Am Law 200 firms, today's law firm librarians are continuing to move beyond traditional library work. The survey, sent to the 200 largest law firms in the country in the spring of 2007 with results released in the July/August 2007 issue of *Law Firm Inc.* magazine, reveals that law firm librarians' roles are expanding into marketing, competitive intelligence, computer training and knowledge management projects.

Of the 95 law firms who responded to the survey, 84 percent reported that law firm librarians play an active role in the firm's knowledge management efforts, and 63 percent said the library was the main resource for marketing research. The survey also indicated that a growing number of firms now have at least one library staff member whose sole job is to develop business intelligence. Most notable, though, is that 76 percent of law firm librarians who participated in the survey reported that they enjoy their expanding roles into nontraditional law firm librarian activities.

Cynthia Papermaster, a law firm librarian at Am Law 100 firm Gibson, Dunn & Crutcher in San Francisco, agreed with much of the survey's findings. "I am doing more marketing research for lawyers or for the marketing department, often on potential clients," Papermaster said. "I also think we will have more of a role going forward in developing intranet content for practice area research needs, as well as the look and feel of our intranet." She attributes the expanded responsibilities to lawyers' understanding of the wide spectrum of work law firm librarians with their research skills can provide.

Papermaster, who supports about 90 of the firm's more than 700 lawyers, also said she is not doing as much traditional law firm librarian administrative work, such as managing, developing and cataloging print resources, as she did five or 10 years ago. "We've moved away from exclusive print resources to providing electronic versions of traditional printed books and periodicals," she said. About 25 percent of her current workload is new, nontraditional assignments, such as using PACER to research potential clients, plaintiffs, opposing counsel, or pulling federal dockets and documents. While much of her research is done with inexpensive online resources, vendors' research programs still play a large role at her law firm.

According to the law firm librarians who responded to the survey, electronic services, such as PACER, have not replaced books or lowered costs; rather, the fees for online services continue to rise each year well beyond the rate of inflation. At

least 60 of the firms surveyed spent an average of \$1.4 million on Westlaw in 2005 and \$1.6 million in 2006. The same firms spent an average of \$999,825 on LexisNexis in 2005 and \$1.2 million in 2006.

Although Mary Staats, manager of library services at Farella Braun and Martel in San Francisco, doesn't work for an Am Law 200 firm, she said she struggles to justify the costs of rising electronic online services in her monthly reports to each practice group and her annual library budget to the firm. Some of the increases in costs can be attributed to clients who no longer want to pay for online research. During the dot-com era, the firm was busy and clients made little objection to factoring online costs into the bill. Now clients are more cost conscious.

Staats, like Papermaster, has seen her role expanding over her 20 years at the firm and estimated that 80 percent of her time now is spent on nontraditional law firm librarian duties, such as marketing research requests, handling financial costs with vendor relationships and mining pleadings through court systems that now are online.

"Research requests have increased over the last five years, primarily due to the increasing availability of deep information through different electronic vendors," said Donna Fryer of SearchitRight.com, a Greensboro, N.C.-based law firm vendor that provides business and legal information research for law firms and legal consultants. "Almost all of our research requests have come from the management area of law libraries."

Fryer said five years ago the trend was reduction in library staff, but today law firm librarians have made themselves an invaluable part of the firm by learning new tools and being flexible in their roles. This flexibility could include more training responsibilities since 40 percent of firms that responded to the survey indicated that the library had become the main resource for training lawyers in computer research skills. Papermaster has added training sessions for new lawyers and paralegals and sees the demand for those sessions increasing. "Training is an area where I see law librarian duties growing quickly," Papermaster said.

Staats finds that some of the partners at her firm are asking law firm librarians to become more involved in training. She currently is working with a group of San Francisco law librarians to develop transition training in research skills for law students. In regard to law firm librarians' active role in a firm's knowledge management efforts, Papermaster said law firm librarians save the lawyers' time and usually bill at senior paralegal rates, thus contributing to the firm's bottom line.

The *Law Firm Inc.* survey was conducted by sending survey questions to head law firm librarians at Am Law 200 firms. Questions covered the law firm librarians' responsibilities and the library's budget, resources and staffing. Ninety-five librarians responded. A partial list of the results from the survey is available at www.lawfirminc.com. To purchase the complete results, go to www.almresearchonline.com.

Janet Roberts is a communications consultant and freelance writer based in Ohio. ♦

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There's No Place Like Home

Helpful tools for researching U.S. companies.

By Mark A. Gediman

As I sit at my desk trying to decide whether to tackle a stack of administrative reports, the phone rings. On the other line is an attorney who wants to find out the name and principals of a U.S. company that is behind a rash of illegal advertisements negatively affecting our client's business. I look wistfully back to my pile of reports. Where to begin? Before we get started, let's take a look at the resources we can use to research U.S. companies.

Publicly Traded Companies

An excellent source is Yahoo Finance, <http://finance.yahoo.com>, which provides great capsule reports on publicly traded companies, as well as snapshots of their current state. Included are current news items, Security and Exchange Commission filings (including the annual Form 10-K), analyst reports and current and historical stock quotes, as well as a wealth of other information. To access this information, type the company name into the "Get Quotes" text box at the top of the home page. As you type the first couple of letters, a drop-down list will appear with the company names (and their stock symbols) that match what you are typing. Just highlight the correct one and click on it. Your company report will then appear.

Another source is Google. Why Google? We use it to search practically everything else, why not companies? Typing a company name will return several useful hits, including a company's Web site, if it has one. However, before we discuss the value of the company Web site, let's talk about a link I noticed in my search result: Google Finance. Now, as I had never seen this Web site before, I was a little curious so I checked it out at <http://finance.google.com>. It currently is in "Beta" mode, meaning it's so new that it's still undergoing testing. It appears to be very similar to Yahoo Finance, even including the drop-down, "auto-fill" feature of possible company matches. However, I did notice two areas that were different: It incorporates a company-specific discussion group for anyone interested in a particular company, and it includes Google's powerful news service. The inclusion of this service gives this product a definite advantage.

Back to our discussion of a company's Web site: This is one of the best free sources on the Internet for information about a company. Publicly held companies usually have a shareholder relations area of their Web site that will have financial information, annual reports and press releases, as well as a phone number you can call with questions. I can't overstate what a great resource the people in the investor relations department are to the intrepid information gatherer.

Information on Private Companies

Now, the Web sites previously listed all have one thing in common — they are excellent resources when you are looking for information on publicly traded companies (companies who

have stock traded on an exchange, such as the New York Stock Exchange or NASDAQ). But where should you go for information on private companies? Let's take a look.

Both *Inc.* and *Forbes* magazines have annual issues devoted to the ranking of the "top" or "largest" private companies in the United States. These issues will give you a thumbnail sketch of these companies with sales or revenues, as well as the name of the top executive.

Unfortunately, the best resource for private company information is the Dun & Bradstreet Market Identifiers database available from LexisNexis. Unfortunate because there is a fee to search this database, although not for its content. The database may also be available through other online research services. (Check with your provider for details.) The Market Identifiers database has a retail cost of \$64 per search, but that is for as many reports as you wish to view with that search. These records include:

- the DUNS Number (useful if you want to run a full Dun & Bradstreet Business Information Report at a later date);
- company address;
- SIC Code(s) (used to describe the company's line of business);
- annual sales figures;
- links to parent companies and headquarters (where applicable);
- names and titles of executives;
- state and date of incorporation (gives you a source to check for Good Standing and agent for Service of Process information); and
- number of employees.

This probably is the most comprehensive information you will find for the price for the vast majority of privately held companies. Company information also can be accessed directly from the Dun & Bradstreet Web site, www.dnb.com/us. Though the reports provide similar company information, the Market Identifier product is not readily available from the company's Web site, and there are billing and cost differences.

Another important fact to keep in mind is that a small number of privately held companies are regulated by government agencies. Some examples of these companies include water and electric utilities, as well as telecommunications companies. These agencies, both at the state and federal levels, typically require all companies they regulate to file detailed annual reports that become public record. I once was conducting research on water utilities in California and was unable to find any information on a small, privately owned water utility. I called and asked very politely for a copy of its most recent annual report. The individual I spoke with not-so-politely told me to go roll my hoop (not his exact words, but I edited this for the delicate sensibilities of my readers). I thanked him for his time and then tried to think of a better way to get at this information. It then occurred to me that all water utilities in the state of California are regulated by the state Public Utilities Commission. I gave the PUC a call and requested a copy of this company's latest annual report. I received it by overnight delivery the next day.

Subscription Resources

We have looked at some inexpensive resources. Now, let's take a quick look at some of the subscription resources for both public and private companies.

continued on next page...

There's no place like home continued...

Both LexisNexis and Westlaw have company information, with the edge going to Lexis in breadth and scope of information offered. LexisNexis' Smartlinx product is a bit pricey, coming in at about \$99 per search, but you get a lot of information for the money. In addition to the information listed in the previous section for the Market Identifiers, the reports will contain liens (including UCC liens), judgment and bankruptcy information that can be difficult to get elsewhere.

Other resources, such as Factiva from Dow Jones, Dossier from LexisNexis and Business Finder from Westlaw, incorporate the same basic information found on Yahoo Finance for both private and public companies, but for a price. These services add value by pulling together the information found in their many databases (SEC filings, news, judgments) into a single product. Factiva from Dow Jones aggregates more than 10,000 sources, including the Wall Street Journal and Barrons. LexisNexis' Company Dossier pulls together SEC material, applicable news resources and intellectual property (patents, trademarks and copyrights) owned by the company into a single report. Westlaw's Business Finder incorporates public record and docket information along with SEC filings and news sources.

Problem Solved

Now back to our original problem.

First, we need to figure out what we already know:

1. Do we know the name of the business we are researching? If yes, do we know whether the company is public or private? Most of the time the person giving you the assignment will not know the answer to this question, but it doesn't hurt to ask

when you receive the request. If you know the name of the company, then begin by running searches on Google Finance and Yahoo Finance. If it's a public company, you most likely will find it in your search results. If it's a private company and they have a Web site, you probably will find it in your Google results. If you don't get any results in either place, consider running a Dun & Bradstreet Market Identifiers report. The \$64 you spend might be preferable to spending a large quantity of your billable time on this project, time that probably would get written off anyway.

2. If we don't know the name of the business, then hopefully we know the name of one of the principals. With a name, you can run a search in Google. Hopefully, you will have a unique name and be able to target your results. However, if it's a name like "John Smith," forget it. You will have too many hits in your search to be of any use. If this doesn't point you to the company, run a search on LexisNexis or one of the similar services. Again, the time you save should justify the expense.

Use the Right Tools

Between free resources and subscription services, searching for information on U.S. public or private companies isn't as daunting as it might appear. For basic information, it's best to turn to the free resources. But, when you need to step up your game and answer questions from your attorney quickly and efficiently, it might be worth the investment to pay a fee and save time. Armed with patience and some valuable resources, you will be able to find the information your attorney needs, and, in my case, get back to that stack of administrative reports in no time. ♦

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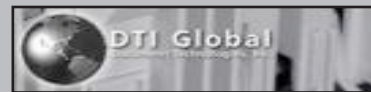
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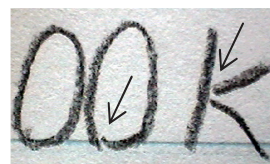
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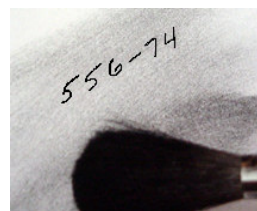
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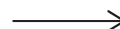
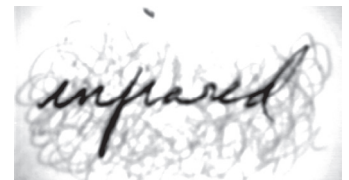
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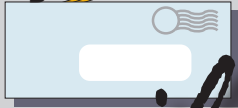


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