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Happy New Year!! Can you believe that it is 2019? I hope that everyone had a relaxing and enjoyable holiday season.

A New Year always exciting to me as it is filled with new beginnings, hope, New Year resolutions, positive changes and challenges. I encourage you to think of this time as a new book with 365 blank pages, so let’s write an awesome one!!

Each year, I make three New Year’s Resolutions. Each resolution is for one aspect of my life: 1) professional, 2) fitness or health, 3) personal. They are goals for me to accomplish or make progress on during the year. It is my way to continue challenging myself, embrace changes and step outside of my comfort zone as it is what keeps life truly interesting and rewarding. The old saying of “nothing ventured is nothing gained” is definitely true!

The years seem to go by so fast and it hard to believe that we are at the half way mark of this term. I am truly honored to continue representing you as President for the first half of 2019.

2019 is slated to be an exciting year for the Paralegal Division (PD). It is our 38th year as a professional association with several exciting events for you to attend. We will have our winter and summer board meetings in Austin and Dallas, so be on the lookout for more information on details for those in the Paralegal Pulse e-newsletter. The 36th Texas Forum “The Power of Three: Firm, Corporate, and Government Perspectives for Paralegals & Attorneys” is scheduled for March 29, 2019 at the Texas Law Center in Austin. If you would like to learn more information or register for this event, please visit the Texas Bar CLE HERE. I hope to see you there. The Annual meeting of the Texas Alliance of Paralegal Associations (TAPA) is April 12–13 in Longview. If you would like more information about this event or for your local association, please contact me. Another event that I am extremely excited about is the Annual PD Europe Trip “Paralegals Return to London” on April 12–April 20, 2019. There are many sensational sites to see on this trip, including a day trip to Stonehenge as well as many other interesting and historic London area sites. Finally, this year we have moved our Annual Meeting of the Members, which is usually in June, to our TAPS Friday luncheon. This is an opportunity for PD members to attend two significant PD events at one time and in one location. TAPS 2019 (with Annual Meeting) will be September 18–20, 2019, in Austin. The TAPS Planning Committee is already gearing up for a fabulous event for you and it will also be the 20th Anniversary of TAPS, so plan to attend this event for 2019 as it is one you will not want to miss.

Did you know that the PD is mostly a volunteer organization run by a dedicated team of legal professionals committed to the vision of this association and the growth of the profession? I hope you consider volunteering with the PD as one of you New Year’s resolutions.

Volunteering does not require a significant time commitment— it could be just simply sharing an interesting legal article, recommending a speaker or topic for a CLE or webinar, volunteering to plan or assist with a local district event. Additionally, if you have any suggestions or ideas for the PD, they are always welcomed. Sometimes that is how successful events or improvements are made to your professional association. After all, it is YOUR professional association!! What are your ideas or suggestions? How can you be of service to the PD and to your profession in 2019? Please contact me or any of the PD leadership with your ideas or interest in volunteering.

Did you know that volunteering or even contacting us with a suggestion opens a door? It generates new ideas and invites professional collaboration as well as creates professional contacts for networking and builds new friendships. It is what continues to grow this association which benefits our profession.

Maybe sitting for a professional certification exam is one of your goals or New Year’s resolution this year. If so, please reach out to either me or any of the PD leadership for information, test taking tips, and encouragement. If taking the TBLS exam is your goal, please remember that as a benefit of your PD membership we have the TBLS Helpful Hints Guide. Personally, I can vouch for how helpful this guide was for me when I took the TBLS exam in 2015.

We are “Division with a Vision… Empowering Paralegals” and I’m available, as well as the rest of the PD leadership, to empower you with necessary tools and information needed to assist you in advancing your career and promoting the paralegal profession.

Thank you for being a member and many thanks to each of our members as well as past, present and future volunteers who keep the PD moving forward!!

I am truly excited for 2019 for the Paralegal Division and all of its members!

I wish each of you a happy, healthy, and prosperous 2019!!

—Stephanie
Stephanie R. Sterling, TBLS-BCP
President 2018–2019
Focus on. . .

Managing Your Emotions and Fears Through the Divorce Process

The Many Pros and Few Cautionary Warnings of Preparing a Witness Via SKYPE

How to Make this Year Your Most Productive—5 Steps to Getting the Right Things Done

Hot Cites

Key Estate Planning—Documents You Need

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Paralegal Certificate vs. Certified Paralegal

Et Al.

Just in Time for the Magic of Taps 2018

2018 TAPS Planning Committee

2018 TAPS Sponsors and Vendors

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Scruples—The Ethics of Using Your Paralegal Title in Your Personal Life

Quarterly Board Meeting Summary
EDITOR’S NOTE

By Megan Goor, TBLS-BCP, Editor, tpj@txpd.org

As we launch this New Year, it is the time of reflection of this past year and ahead. Were there changes in your personal or professional lives— for the better or not so much? Did you have to make some hard choices? We need to take those experiences and look positively to the future. See the “Focus On” article of family law attorney, Daryl Weinman, who talks about managing emotions during the divorce process, and Dr. Joseph Reed’s article that talks about how to make this year a productive one.

“Be kind, for everyone you meet is fighting a harder battle.”—Plato

“Dare to Be”
When a new day begins, dare to smile gratefully.
When there is darkness, dare to be the first to shine a light.
When there is injustice, dare to be the first to condemn it.
When something seems difficult, dare to do it anyway.
When life seems to beat you down, dare to fight back.
When there seems to be no hope, dare to find some.
When you’re feeling tired, dare to keep going.
When times are tough, dare to be tougher.
When love hurts you, dare to love again.
When someone is hurting, dare to help them heal.
When another is lost, dare to help them find the way.
When a friend falls, dare to be the first to extend a hand.
When you cross paths with another, dare to make them smile.
When you feel great, dare to help someone else feel great too.
When the day has ended, dare to feel as you’ve done your best.
Dare to be the best you can –
At all times, Dare to be!” —Steve Maraboli, Life, the Truth, and Being Free

TPJ Tip: TPJ “PDF” or “Digital”—To view a TPJ on the PD website home page, it gives you a choice of either “PDF” or “Digital”—what does that mean? The PDF version is what you would expect if you wanted to print the document. The digital version is very dynamic and interactive, providing ways to share or download. The digital version also provides front and back pages called electronic “presentation pages” that highlight items that are not included in the PDF version.

Thank you for being a PD member!

Texas Paralegal Journal (ISSN# 1089-1633) is published four times a year in Summer, Fall, Winter, and Spring for $15 set aside from membership dues for a 1-year subscription by the Paralegal Division of the State Bar of Texas, P.O. Box 19163, Amarillo, TX 79114.

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Focus on...

Managing Your Emotions and Fears Through the Divorce Process

By Daryl G. Weinman

Describe your ideal type of client and the types of situations they find themselves in when they come to you for your help?

Family law is emotional and stressful for everyone involved. When emotions and fear run high, people make bad decisions. My goal from the outset of any new case is to identify my clients’ biggest fears and highest priorities. I want them to understand the process of divorce and the likely outcomes for their particular circumstances.

The biggest fear for anyone is fear of the unknown. I believe that an educated client will be able to get through the process with less stress. Given my level of experience in family law and my background in finance, I prefer to take on cases with more complex issues, such as complex property divisions where we may have to value businesses owned by one or both parties or deal with unusual executive compensation packages that need to be valued and divided. Texas is a community property state, so often we have to identify the separate property (anything owned prior to marriage, anything inherited or any gifts), which can get very complicated depending on the assets, the size of the estate and the length of the marriage.

With regard to child custody issues, I prefer to take on cases involving interstate or international jurisdiction issues. Which state or country would be the proper venue for the custody case? Was the child wrongfully taken out of state or out of the country? I also like to work on cases involving complicated possession schedules. For example, when the parents will be living in different states or countries, or when one parent works an unusual work schedule, such as firemen, pilots, or hospital workers, we have to craft a schedule for the child to spend time with both parents while taking into account their unique circumstances.

What common obstacles prevent your clients from achieving their desired outcomes?

Handling your emotions throughout the process is very important. Whether you initiated the divorce or your spouse initiated, there will be feelings of loss, feelings of failure, feelings of rejection or abandonment, fear for your financial status right now, plus fear of what your financial future will look like, fear of how the divorce will affect your children,
your friends, your parents, etc. etc. This is all normal, and part of the process, but how you handle it will determine how well you will come out on the other side. And remember what they say on every airline flight: When the oxygen masks drop, put yours on first and then help others around you. You are no good to anyone else if you don’t take care of yourself first.

The first thing you need to do is to find a strong and experienced advocate to be with you in your corner who can explain to you what to expect through the process. Someone who will guide you through all of the decision making—remember that this is your life, your future, your children, and you need to be the one making the decisions. However, those decisions need to be made with all available information and an understanding of all of the likely (and unlikely) outcomes. That is where your strong advocate comes into play. You need a legal professional who has been through this many, many times and can give you important information and advice so that you can make thoughtful and educated decisions about your future and your family.

Second, you need to consider how you are managing your emotions. Maybe you need a therapist (it doesn’t make you weak to admit that you need help getting through this very difficult time), maybe your outlet for stress is exercise, or meditation, or gardening, or cooking. Whatever it is, utilize all of the tools that you have to stay calm and to keep your head clear.

When you are overwhelmed with emotion, you cannot think clearly, and that is when bad decisions get made. For example, I have had many women come to me stating that they don’t care about the money, they just want their kids. I totally understand that they would be willing to give up money to ensure that they will be able to raise their kids, but generally, about a year later when they can’t give their kids piano lessons, cars, prom dresses, tutoring, vacations, etc., they regret that decision. If they could stay calm and patient and work with the professionals, they could probably end up with both— their kids and enough money to make a good life for all of them. To make that happen, you must manage your emotions and engage a strong support system.

Recognize that while you are going through (or have gone through) the psychological phases of divorce, your spouse is going through his or her own set of phases. The phases of divorce are very similar to the phases of the death of a close family member or friend: denial, depression, anger, grief and then acceptance. You will go through all of those phases but not on any particular timeline, and you will probably go in and out of those phases several times.

When a client comes into my office and tells me that they are “done” with their marriage, and they want out now, they have probably already worked through all of the phases while they were making the decision about whether to divorce, and by the time they get to me, they are in the acceptance phase. However, it is very unlikely that the other person is in the same phase at the same time.

Very often the other person doesn’t even know the divorce is coming (even though they may have been asked many times to go to counseling, or to do other work on the marriage). When these people get served with divorce papers, they are in the denial phase. Each phase (on average) takes two to three months. When someone is in the denial phase, they cannot negotiate terms of divorce because they still don’t believe that it is real, and they probably still believe that their spouse will change their mind. It is not worth negotiating with a person in denial—it will only frustrate both of you. So, be patient and let them work through their own phases.

When they get to depression, they are likely to sign most anything put in front of them. If this is you, recognize it and get help. If you sign something while you are in the depression phase (without proper guidance), you will likely regret it.

When the other person reaches the anger phase, all of the concessions they were willing to make for you while they were in the depression phase will disappear. This is the phase where they want to fight—they decide that all of the problems of the marriage were your fault and they just want to take from you anything and everything that they can. This is not the best time to negotiate with them because they will not be reasonable and the negotiation will be a waste of time.

When they get to grief, they will be sad, but they will probably be more realistic and can likely work with you in a more reasonable manner toward getting all of the issues of your divorce case settled.

Make sure you also plan for your financial future. Too often people look at the situation they are in at the time of divorce and forget about the long term. I generally encourage the spouse who did not handle the finances of the marriage to work with a financial planner. Have someone look over the assets and debts of the marriage, the age of the person, whether or not they have minor children at home, and their earning capacity.

Women who have been stay-at-home moms for 20 years and did not handle the finances are generally overwhelmed by what their financial future will look like. A financial professional (and your divorce attorney) can help you decide whether or not to keep the house (maybe selling and downsizing would be more appropriate), or where to invest any investment accounts and/or retirement accounts that they will be receiving. With complex executive compensation packages, the non-working spouse generally has no idea what certain assets are worth, such as restricted stock units, stock options, or deferred compensation. Make sure you have an experienced professional in your corner to explain to you what these assets are worth and why you should fight for your portion

Focus on...
of them.

Also, consider how you will support yourself post-divorce if you have not been working. Do you have a degree? Do you need to go back to school? Where should you start looking for a job and what are you qualified to do? A career counselor can be helpful here. Remember that if you are receiving alimony, it won’t last forever. The time period in which you are receiving support is the time period in which you should be honing your skills to be able to earn a living once it runs out.

What misguided truths do your clients believe to be true?

There are lots of common misconceptions about the divorce process. Clients very often come to me and say that they feel their divorce will be relatively easy and amicable because they are both mature, responsible adults and they only want what is fair. “Fair” is a very subjective term, and what you think is fair and what your spouse thinks is fair are probably very different. If you could agree to the definition of a fair split of your marital estate, you probably wouldn’t be getting divorced.

I hear from a lot of my breadwinner clients that they don’t feel that they should have to split their retirement. After all, they were the ones who went to work every day and earned it, while she sat on her butt at home and now wants to divorce him because she found a new boyfriend. Why is it fair to have to split that retirement income? Of course, her perspective would be completely different. I generally hear how the two of them agreed at the time that their first child was born that she would stay at home and raise the kids—and not to worry about money because he made and saved enough to take care of all of them in the long term.

So, based on that agreement, she stayed home to raise kids (which is one of the hardest jobs in the world) and didn’t earn or save any money. So why would it be “fair” for her to get none of the marital savings?

Another common misconception is regarding alimony. There are a lot of women who believe that alimony should be paid to keep them “in the lifestyle to which they have become accustomed.”

States differ on the basis and amounts of alimony, but it is not used to keep one person living the same lifestyle as they had during the marriage, while the paying party is struggling just to keep up with basic bills.

When two people are married, they generally live to the max of their incomes. When they split, there is usually not enough money to support two households at the same level as the joint household. They will both have to decrease spending, and they will probably both have to downsize their lifestyles. Alimony is generally rehabilitative—to get the receiving party to a place where they can start supporting themselves.

A third misconception comes from the notion that only moms should raise kids and that unless the mom is a crazed, drug-addicted felon, they will always win custody in a divorce case. That is not true. Every state looks at a child custody case from the perspective of the best interest of the child. A judge will want to hear about the child’s life prior to the separation of the parents and will want to know which parent handled which duties for the child. They will look at who has been the primary caregiver and who is the “psychological” parent from the child’s perspective. Who handles the day to day tasks for the child—getting them up and ready for school, picking them up and feeding them dinner, helping with homework, reading with them at night, setting up activities for them, taking them to the doctor? Who does the child run to when they get hurt or have a nightmare? That parent is most likely going to win custody of the child, even if the other person is a really good parent.

Also, when we talk about older kids, they often have a preference on where they want to live, and the court will take that into consideration. Older kids are not always choosing the parent, but rather the school, the neighborhood, their friends. Maybe dad can afford to stay in the house and mom is going to move to a different neighborhood. Maybe mom has a new boyfriend, and the child doesn’t like him. Maybe dad has just been more of the parental figure to them during the marriage. If from the history of parenting the children, dad thinks he should be the primary custodian, then he should ask for it.

What common mistakes should your clients be aware of?

When looking to hire an attorney, make sure you are hiring a specialist in family law. So many people make the mistake of hiring just any attorney—maybe a family friend or relative, or maybe the attorney who helped with your will, or a business deal, or a criminal charge. If they don’t specialize in divorce and the spouse’s attorney does, the specialized attorney will run over and take advantage of the non-specialist.

There is a lot of legal language in divorce decrees and a lot of ways to slip in some language that will have a powerful effect down the line that a non-specialist may not catch. For example, I had a client come to me with a divorce decree that was only a month old. The parties had crafted a custody arrangement where the mom would be able to stay in the house with the kids after the divorce (and dad would make that financially possible) and they would be able to share the kids on a regular basis—at least that was the deal that the dad thought he was making.

Mom had other ideas. As soon as she got a decree that gave her primary custody and enough money every month to live
pretty well, she put the house on the market and moved with the kids to another state. There was nothing that dad could do about it because the decree didn’t have geographic restriction language. In other words, mom had primary custody and was not restricted to any particular geographic boundaries. Dad assumed that she would stay in the house or at least in the area, but it was not included in the decree. Any family law specialist would have caught that immediately—but the business attorney who was helping dad with his divorce “as a favor” didn’t know to look for it.

Remember that your divorce decree is a very important document and you need someone with specialized knowledge and experience to make sure it is done right. It will cost you triple to fix a problem that could have been avoided in the first place. So, don’t go for the young, less expensive attorney simply because you are trying to save a buck. Knowledge is power—make sure that power is on your side of the negotiating table.

**What common fears hold your clients back from even attempting to achieve their goals?**

Two of the biggest fears that I hear when clients first come in are: How much is this going to cost me? and How long is it going to take? Those are very legitimate fears. How much it will cost mostly depends on how well the parties can control their emotions—and it takes two. If you are taking care of yourself but the other party’s emotions are spinning out of control, and they just want to fight, the fees go up (on both sides), and the process will drag out.

In Texas, a divorce can be final in as little as 60 days, but most states average a minimum of 6 months. Someone has to start the process by filing an original petition for divorce. If the parties can be amicable and can work together and agree on all terms for their divorce, they can simply have the attorneys draft the paperwork, and they can sign and have a judge sign at the end of their state’s waiting period.

People think they can save money by having only one attorney draft the paperwork, but keep in mind that an attorney has to represent one party—they are ethically prohibited from representing both. So, it is worth the extra money to have one attorney write the paperwork and have another attorney review it. Make sure both parties’ interests are protected and make sure that the paperwork actually reflects the agreement.

**It sounds obvious, but why would the people you serve want to take control of fear and emotions during the divorce process?**

Taking control of fear and emotions during the divorce process has so many benefits aside from the obvious benefit for you. If fear and emotion can be controlled, the process will go faster, which will not only cost you less financially but will end the fear of the unknown sooner. Without the stress of a divorce hanging over your head, you will be able to move forward in your new life. You will be mentally and psychologically able to handle your children and to focus on their new and ever-changing needs.

You will be mentally and physically healthier. The stress of a high-conflict divorce can cause all kinds of physical health issues on top of mental health issues, such as depression and anxiety that will affect you in all aspects of your life, including your job and your relationships with everyone around you. Plus, if you can control the emotions and the cost, you can protect your retirement nest egg and your children’s college funds. I tell clients that they can pay for their children’s college, or they can pay for my children’s college—it is up to them.

**What led you to this field?**

I think the reason that I was drawn to family law originally was because of my own experience as a child. My parents divorced when I was 14, and even though it was not very contentious and there was never a child custody dispute, it had some profound effects on me. At the time, I thought that I would grow up and develop some type of program that focused on kids of divorce and how to help them get through it.

However, after college, I took a different route for a while. I learned computer graphics (which was pretty revolutionary in 1988), and I got a job in mergers and acquisitions with J.P. Morgan in their corporate headquarters on Wall Street, in New York, assisting with presentation support for the financial analysts. While working there, I decided to go to law school at night so that I could work my way up the corporate ladder.

Within a year, I realized that was not what I wanted at all, and corporate work was definitely not my passion. I could never be happy being such a small cog in such a big machine. I realized that my passion was to help individual people with their personal problems. That was what I was drawn to back when I was a teenager, and I knew that when I finished law school, I would leave New York City for someplace slower, where people actually went home at a decent hour to enjoy the rest of their lives. I found Austin, Texas. I moved here with one semester of law school left, I finished school here, and I have never left. That was 24 years ago. I got married here (and divorced here), and raised my two beautiful boys here, and I appreciate life so much more.

Sometimes family law is very hard and very taxing on me. There are certainly days where the high emotion and high conflict really take a toll, and I have certainly thought about changing specialties. But then someone will remind me...
why I do this work in the first place: I got a call in the summer of 2015 from a woman who said that she knew I wouldn’t remember her, but that I represented her in 1995 when I was a young lawyer, not yet married and no kids. She said that I was appointed to her to handle a small misdemeanor charge.

She said that I got her out of jail, but that Child Protective Services had taken her children (because her husband was in prison). She said that I represented her in the CPS case and that the first time we went before a judge, she was told she would not get her children back for two years. She said that I got them back for her in six months, and then I did her divorce from her husband in prison for her. She said that she now lives in South Carolina and her children are grown, and she now has grandchildren. She said that she has the life she had always dreamed of having and that it was all because of me, and she just wanted to tell me that and hoped that I had the life I always dreamed of too.

That is why I continue to do family law.

Daryl Weinman has been handling family law cases since Weinman & Associates’ establishment in 1994. Furthermore, Daryl Weinman has been board-certified in family law by the Texas Board of Legal Specialization since 2000. This is an honor granted to less than 1% of Texas attorneys.

weinmanfamilylaw.com
The Many Pros and Few Cautionary Warnings of Preparing a Witness Via SKYPE

By Katherine James, Founder, ACT of Communication

This article, which was originally published on http://actofcommunication.com, has been edited and reprinted with permission.

I’ve been preparing witnesses virtually for more than three years and I just love it. I was a fairly early adopter of this form of witness preparation, have worked with dozens of witnesses and their lawyers this way, and have learned a heck of a lot about the process.

I decided it is high time for me to tell you why I love it, when and how to do it, and a process to help you decide when it isn’t right for a particular case or witness.

History
First there was the videoconference. They still exist, I know—but that was when I rejected the idea of virtual witness preparation out of hand early on.

Why?
Because video conferencing was never set up for the intimate relationship that is vital for a good witness preparation session. It was set up for meetings with a dozen people in one city (for example, Los Angeles) talking to a dozen people in another city (for example, Atlanta). A videoconferencing set up was (and is) the equivalent of a wide shot in the movies. What is a wide shot? Imagine one of those scenes where all the filmmaker is doing is setting up where we are. The train station in Atlanta with all those wounded soldiers in Gone With The Wind. It is a wide shot of a group of extras. Where oh where is Scarlett and what is going on with her face? Who knows? And what about the point of view of that witness who appears to me like a far away extra? How does he or she see me in my videoconferencing center? They can’t make out my features. Half the time they can’t hear me. Again, I’m an extra—maybe in the Los Angeles movie Pretty Woman. I’m not Julia Roberts. I’m the size and as clarity of one of the dozens of women in the “deep background” shot of the polo field or walking around and shopping on Rodeo Drive. Extras in different movies don’t have intimate relationships with anyone in their own movie, let alone in different movies.

I had tried preparing witnesses via videoconference a few times in the late 1990s and early 2000s. I couldn’t see the faces of the witnesses. They couldn’t hear me. Atlanta in 1863 was trying to communicate with Beverly Hills in 1990. It was deeply unsatisfying. The assessment of the session by the lawyer and by me was “it was better than nothing.” It left such a bad taste in my mouth that I decided preparing people virtually was ridiculous and I would never do it again.

The thing about being a self-righteous Midwestern protestant (yes, that is who I am by birth) is that once you make up your mind about something that is that. A bad experience always brings out the worst of the stubbornness of who I am by birth. And
so many years went by and I paid almost no attention to the improvements that were being made. Especially in personal computers. Facetime, SKYPE—this whole movement of clearer cleaner and more intimate virtual face-to-face interaction just passed me by.

And then Persephone happened.

Persephone is my older granddaughter. She was due in June of 2011 right here in Los Angeles. Right in the middle of what was a big trial season for me. I know, I know—when isn’t it a big trial and deposition season for me? I never have less than 20 cases going to trial and new requests for helping prepare folks for depositions, trials, etc. come in several times a week 52 weeks a year. I love my business and how it hums along. BUT . . .

I had originally planned on taking off a few weeks after she was born and was imagining I was only going to be taking on local work in the weeks before and after her arrival. I warned all my out of town clients who were counting on me to work with their witnesses that we needed to schedule two weeks before the due date or two weeks after the due date. Inevitably, invariably, one didn’t. And the trial was starting the second week of June. In a state far, far away. He said to me, “How about SKYPE?” I, of course, in a brilliant marketing move said, “Well . . . I did that once and it was ‘just okay’. If you’ll do it with no guarantees that it is nearly as effective as being in the room with me and you won’t hold it against me if it is a disaster and will still use me in the future then I guess the answer is . . . reluctantly . . . yes.”

We scheduled the first session for June 9. We set aside several hours—like four, I think. I joined SKYPE. We did a test run. The lawyer and I. Drumroll . . . hey . . . it wasn’t that bad. In fact, it was good. I could see him clearly through the little camera on my laptop. He could see me clearly. We could hear one another perfectly. Maybe . . . this would work. It certainly wasn’t nearly as horrible as that god-awful Max Headroom Extras On The Set video conferencing experience.

June 9th dawned.

The attorney “called” me and we were looking at one another. He moved his chair out of the way and the witness slid onto my screen. Nervous, hesitant—just like many witnesses are when we are first in the room together. I usually come closer when they are scared . . . but I wasn’t in the room . . . or was I? “Scoot up so that I can just see your head and the top of your torso on the camera,” I said. He did. I did the same. Magically, we were as intimately in “the same space” as if we had just moved our chairs closer to one another in the room.

He spoke to me freely. He confided in me. The attorney, who was off screen for me but sitting right next to the witness added to the conversation from time to time. Then it was time for mock examination. I said, “I’m the jury” just as I did and do in every in person session that gets a witness ready for a jury trial. Briefly I panicked. I realized that I couldn’t capture the witness on “video” and play it back as part of the critique. So I said to the lawyer, “Take extra careful notes on content.” I whipped out a writing pad. I have been taking notes on my laptop for years since I can read my hand writing SO MUCH BETTER when I type it. Too bad I sucked at math and science—my hand writing screams “medical school”.

Luckily I remembered a very important fact—I am so old and have been doing this for so long that I PREDATE VIDEO. Yes, long before I was “taping and playing back” I was just imitating witnesses. Brilliantly, I might add—because I am a fabulous actor. I had come to realize that actual taping and playing back was superior when I was in the room with a witness. But technology wasn’t really there yet . . . so my imitation of the good, the bad and the ugly was going to have to be “good enough.”

We started. We hummed along. Two hours later we were done. We signed off with the lawyer saying, “We have to do a lot more of this next week with all my other witnesses . . . okay?” I hung up, and sat back. I thought, “That was truly the next best thing to being in the room.”

Equipment and Personnel—K.I.S.S.

I really like what I have—a laptop computer with a great camera. This allows for the ultimate intimate “sharing” relationship between the witness and me.

Sometimes the lawyers in the room find this frustrating. I have noticed this happens when there is more than one lawyer in the room. They want to see me, too. Unless they are directly looking at me they become distracted and don’t understand how to “lean into” the process. So they let the witness deliver into a camera, but they put me up on a big screen in a conference room. The first time this happened the witness said, “Wow, you are huge. Did you know that?” Of course I thought she was rude and referring to my weight and then I realized that she meant my face was taking up the better part of a large wall in a conference room.

I now request that the following not happen: Don’t throw me up on the big screen. Totally ruins the intimacy. Also, I am really loathe to have “tons” of lawyers in the room or “tuning in” remotely. Yeah, yeah, yeah. I know you are used to it. But I can’t handle a bunch of lawyers in the room virtually. You know I can make the room “perfect” for the witness when I’m in the room with several lawyers.

My current solution is that the following happens: no more than two lawyers can be with us for the session and they both need to be in the same room that the witness is in. Why? Total focus on the witness.

At the same time, there needs to be at least one lawyer in the room at all times—it’s not like privilege goes away because this is a fancy kind of a “call,” Plus—you know that if I am working with a witness and you aren’t there you aren’t going to get what the learning point is of the conversation between me and the witness. Which is vital for you as the lawyer.
Finding the Right Connection
Right now I rely on two kinds of connection: SKYPE and GOOGLE HANG OUT. I just call it all SKYPE just like I call all facial tissue KLEENEX and all photocopying XEROX. And there may at some point soon be even better connectivity that allows me “in.” Can’t wait. People often ask me which I prefer. I prefer whichever one gives us the best connection. Sometimes that is SKYPE. Sometimes that is GOOGLE HANG OUTS. A test run determines which is which. I have a wonderful client who lives only 350 miles away and SKYPE cuts out on us and GOOGLE HANG OUTS works like a charm.

Another client who is 3,000 miles away works with SKYPE and not GOOGLE HANG OUTS. I don’t pretend to understand why. I just know that at this point in time, neither works for everyone in some cases, and in most others, both work perfectly.

I am sitting right next to the physical equipment in my office that connects me with the internet. I have had some frustrating moments where things worked perfectly in another room of the lawyer’s office but in the conference room where they want the virtual session to happen it is a nightmare of connectivity. Right now I find that the closer you are to the point of your connection to the internet the better. Some folks aren’t so into WiFi and connect with me with their laptop plugged into a physical connector. Fine. Whatever works is always my motto.

What You Can Do Virtually That You Can’t Do In Person
Should we start with “save money”? The cost of hauling me to your office with travel time and travel expenses and then paying for the day of witness preparation is costly. That’s reality. There is a wonderful client of mine who lives in the Midwest. I used to come out only for big cases—once about every year and a half. Now I help prepare every one of his clients for deposition and trial. I was looking at the numbers and I figured out that for less money, he gets me for every case. I have local clients who choose to buy a couple hours of my time for all their cases rather than the cost of local travel time plus work time for a few of their cases. Again, I ran the numbers and realized that those folks, too, are saving money.

Let’s go to “walk out.” I was helping to prepare a witness on the other side of the country for her deposition. I looked at her and thought, “Dang. She’s high.” I said to the lawyer when the witness had to leave the room almost immediately after our session started to go to the bathroom (hel-LO?), “She’s high.” The lawyer didn’t see it. Witness comes back in the room. We face one another—literally my face and her face filling one another’s screens. I say, “Are you high?” She says, “Well, you know—I’m so sad I just can’t stand being straight.” I say, “Well, honey, I won’t work with you if you are high. Your lawyer is spending too much money to have me work with you. If you decide that you are willing to straighten out and work with me and stay straight until this case is over . . . fine. But until she calls and tells me that you have made that commitment to her and to this case I am out of here.” And I turned off the screen. Poo—she disappeared and I disappeared. Total cost to the lawyer? I think 15 minutes. Total cost saved if I had been in that room? Thousands of dollars. Actually, it is worse than that. If I had been in the room I never would have said, “You’re high, this is over.” Of course not. I would have been there, three time zones and several thousands of dollars in. We would have worked with her high. Of course. And we never could have had the result we had in the case. Why not? She straightened out, made the commitment to the lawyer, rescheduled the SKYPE session, had a successful SKYPE session and the case was settled successfully. Would she have gotten the message that she had to straighten out if I had been in the room and reinforced the fact that you can be high and if there is enough money on the line that you can get away with it? I dunno. Nor do I know if she is still straight. God, I hope so.

A final great thing that you can do virtually is do follow up reinforcement sessions to your initial “in person” sessions. Sometimes the deposition or the trial happens within two of the preparation session and the witness is on and off before three weeks are out. Great. But . . . sometimes cases get pushed. Like until next year. The work that has been done in person can be reinforced with a SKYPE or two next year. Or what if during trial the witness needs a pick-me-up? That can happen easily during trial either after court or on the weekend during the trial.

When Is In Person Better Than SKYPE
One of my favorite models is preparing multiple witnesses in the same case during the same session. This works only sometimes via SKYPE—like with a family, for example. Not so much with a number of clients who aren’t related to one another in a business case. Kind of like having too many lawyers in the room—people are distracted when it isn’t “their turn” as opposed to learning by example as well as by “doing.” So I proceed with caveats here.

Again, when there are going to have to be multiple lawyers in the room in person is just better. One partner, two associates, one corporate counsel . . . hey . . . much better if we are all in the room at the same time with that witness literally instead of virtually. I’ve gone into detail about that in the “Equipment and Personnel” section of this article.

Another thing that I’ve run into in the past year or so is that some lawyers “get it” better in the room. The vast majority of the lawyers I now work with sometimes in person and sometimes via SKYPE started out exclusively as “in person” clients. The math shows that 37 years of in person and virtual experience minus 3 years of virtual experience equals 34 years of in person experience. There are now lawyers who are my clients who only know me through SKYPE. I’ve met them and their clients
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The paralegal profession has changed radically in the last 30 years. We are now virtual witnesses. Many paralegals are virtual assistants and are no longer face-to-face with their superiors. In fact, some paralegals have never even met their attorneys. This means that virtual preparation is a necessity in our profession. But, there are still some physical witnesses who need to be prepared. We are going to look at both types of preparation in this article.

Virtual preparation is the process of preparing a witness virtually. This can be done by sending them an email with a list of questions or by having a virtual meeting with them. The advantage of this type of preparation is that it is much more efficient than traditional preparation. However, there are some disadvantages as well. For example, it can be difficult to get a virtual meeting with a witness and they may not have access to the necessary technology.

Physical preparation is the process of preparing a witness physically. This can be done by having a face-to-face meeting with them or by giving them a set of questions to answer. The advantage of this type of preparation is that you can see the witness’s body language and facial expressions. However, it can be more time-consuming than virtual preparation.

There are some people who just can’t be reached by my charming personality coming at them through the screen and need me, literally, to hold their hands. Touch their forearms. Feel my body near them. Yep, people who are “touchy-feely” (aka kinesthetic processors) can have a harder time with virtual preparation. But I find if I point out that they need that “touch” and the lawyer is able to provide that touch this can be solved. But some lawyers don’t like to touch people. Got it. I have no qualms about it. So then I need to come in.

Finally, there might be a virtual session that just doesn’t “take” and so I need to fly in. This is why just like any witness preparation session; I recommend that it be booked at least 2 weeks before the “event.” That way if we need to book more virtual sessions or I need to fly in we have enough time to figure that out.

Conclusion
Virtual witness preparation is effective, efficient, cost saving and sometimes “better.” I am so grateful that technology has allowed it to be a part of my practice and I hope that you will find it to be helpful in yours.

Katherine James, MFA, Founder, Act of Communication. A trial consultant who specializes in live communication skills based in the discipline of theatre, Katherine James has been working to make attorneys and witnesses better courtroom communicators since 1977. Over 40,000 attorneys have taken ACT of Communication2 workshops that she developed with co-founder Alan Blumenfeld. She has helped take over 1,500 cases to trial and helped prepare literally thousands of witnesses, including experts of every stripe. She coaches witnesses and their lawyers to reach, persuade and activate jurors. She has taught for AAJ (formerly ATLA) ABTL, ABA, NITA, DRI, CICA as well as many private law firms and bar associations.

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Focus on...

How to Make This Year Your Most Productive  5 Steps to Getting the Right Things Done

by josephreed@drjosephreed.com

This article, which was originally published on www.drjosephreed.com, has been edited and reprinted with permission.

It’s a new year. Again! 2016, this time. Many of us are making resolutions and maybe even crafting goals for the future. But wait! Hold off for just a minute. . . . Haven’t you been there and done that before? How did it work out for you? Did you accomplish the things you resolved to do? Did you make that quantum leap in productivity and satisfaction that you were hoping for? I’m betting maybe not. A University of Scranton Study published in the Journal of Clinical Psychology found that only 8% of those well-intentioned resolutions are ever accomplished. Why not try a different approach? I want to offer you a potentially better way: Five relatively simple steps to become exponentially more productive this year.

Let me begin by saying that it is easy to fall short of our potential when it comes to productivity. And by easy I don’t mean physically or emotionally easy because of a lack of effort. If you’re reading this I imagine you’re a pretty motivated individual. You probably care about what you do and you probably put a great deal of effort into it. But that effort may not give you the return that you hope for. A lack of alignment between effort and activity can be a derailer. Productivity isn’t about getting everything done. That’s probably impossible! True Productivity is about consistently accomplishing the important things. False Productivity is about getting a lot of things done, maybe even doing them very well, but having very little to show for it at the end of the day. One of the challenges to True Productivity is that there are simply so many urgencies and events in our lives that it is very easy to get caught up in activity traps that don’t provide a lot of value. Have you heard of the 80/20 Rule? It’s a ratio based on the work of Italian Economist Vilfredo Pareto. Back in the 1890’s Pareto discovered that income distribution was disproportional within the population. To simplify it, he found that 80% of the wealth was held by about 20% of the people. That 80/20 rule applies to much of what we do and experience in life. Years ago I was doing work for Campbell Soup in Camden NJ. Campbell’s at the time (and still does) made a great many varieties of soup. But two of their soups accounted for a disproportionate percentage of sales. Can you guess which ones? That’s right, Tomato and Chicken Noodle. That’s the Pareto Principle in action; a majority of results from a minority of causes; a disproportional amount of value from a precious few activities. It also means that within a set of items—soups, salespeople, activities on a typical to do list—only a few of them will return a high value on the time invested. Most of them will likely be relatively low value activities. The Pareto Principle helps to explain how the True Productivity in our lives can be masked by all of the many, many low value activities that we face every week. It’s very easy to get caught up in those low value events and simply not spend our time on the truly productive activities. We can find ourselves like a racehorse with blinders on, running hard first thing in the morning out of the starting gate, around a circular track but ending up right back where we started at the end of the day.
So what do you need to do to become truly productive? There are a number of time-tested principles. Since this is a blog and not a book, let me hit the highlights in five relatively simple steps.

**Step 1: Clarify who you are and what matters to you**

This requires some introspection and soul searching. I know that’s not always easy. Self-reflection doesn’t always feel tangible. Many of us have an action orientation; we want to do something, and introspection doesn’t feel much like action. But there is a real value in that inward focus. That’s not exactly new information is it? The ancient Greek aphorism “Know Thyself” was written on the wall of the Apollo Temple at Delphi. Cutting edge or not, it is good advice. How can you hope to be truly productive long term, day in and day out without self-knowledge of your strengths and weaknesses, preferences and blind spots? That self-knowledge is a prerequisite for self-regulation and the ability to flex your approach from an area of strength to a less preferred area of need. But I’m getting beyond the scope of this post so let me refocus. How can you do what really matters most until you’ve really pondered (yes I used the word pondered) who you are and what you are about? Yes, yes, I know that’s a lifelong process. And in future postings I’m going to offer a variety of tools to help. But let me get you started with a few simple questions. To help you overcome inertia and kick it off, put aside 30 minutes today or tomorrow and answer—*deeply answer*—the following questions:

1. Who Am I? What makes me tick as a person? (Try to peel back the layers of who you are):
2. When I look at myself honestly, what do I do well? Identify your best traits, qualities, skills and abilities:
3. If I am completely honest with myself, if I look behind the façade that I wear, I have the following weaknesses or development areas:
4. What do I value most? (Check off the ones that matter most to you)
   - Pleasure
   - An exciting life
   - Personal growth
   - A comfortable life
   - A sense of accomplishment
   - Family
   - Freedom (independence)
   - Wisdom
   - True friendship
   - Spiritual development
   - Power
   - Inner harmony
   - Mature love (personal intimacy)
   - Recognition or fame
   - ?

Notice that these aren’t questions about what to do or how to do it. They are at a much more fundamental level, questions about who you are and what matters most to you.

**Step Two: Identify which hats you prefer to wear**

We all wear a lot of different hats; we play different roles. I’m a father—husband—son—coach—friend—teacher—neighbor …. the list goes on and on. But some of the hats I wear are more important than others. Step number two to becoming more productive is to identify the roles that are most important to you. Which hats do you most care about; what are your key roles? Keep the list to between three to seven roles. Any more and you will find yourself wearing hats you that matter less to you; any less and you may lose the balance in your life. And don’t forget to consider both your personal and your professional hats. The most important roles in my life are:

   - Husband,
   - Parent,
   - Grandfather,
   - Income Generator,
   - Subject Matter Expert,
   - Personal Coach and
   - Self.

I highly recommend that you include yourself—using whatever terminology floats your boat. If you aren’t a stakeholder in your own life, then who is?

**Step Three: Identify who matters most**

Life is about relationships. People matter. Our relationships come in a variety of flavors. We interact with one another at different levels and intimacies. Husband—wife—friend—coworker; we have varying stakes in one another’s lives. But some of our relationships matter more than others. Those relationships represent our Key Stakeholders—the individuals and groups in our life to whom we have the greatest interest and connection. It’s critical that we identify who those people are and how we want to be with them and be seen by them. To do that, look at the roles you identified in earlier. Ask yourself:

1. Who are the key stakeholders for each role?
2. How do I want to be with them? How do I want to be seen by them?

For example one of my key roles is Parent. Now, we all have paradigms and baggage about what being a Parent is all about. But I have to peel back those layers to identify what it really means to me.

**How do I want to be with my children?**

Relaxed, natural, genuine, helpful are some words that come to mind right away.

**How do I want to be seen by my children?**

I want to be seen as caring and loving. I want to be seen as offering unconditional support. It’s important to recognize that how I want to be, and be seen, are both aspirational. My kids will be the first to tell you that I am not always helpful, that they don’t always see me as caring or offering unconditional support. But by clearly identifying and articulating those behaviors here, I can work to make them part of who I am on a daily basis.

**Step Four: Program Yourself for True Productivity**

We use the GPS in our car or on our phone to get to where we want to go.
Once we’ve set the destination, we rely on it to help us navigate the twists and the turns, the cross streets and the detours on our journey.

We need a reliable GPS for our personal productivity as well. Life can be hectic. We have twenty-seven different people who want something from us, a hundred tasks on our to do list and only twenty-four hours in the day. We can’t do it all. It’s very easy to get caught up in the day and react to the urgencies and pressures of the moment. We can fall in to that activity trap and feel that sense of false productivity I mentioned earlier. Everything that we’ve done so far until now is to help you identify what really matters to you. It’s not just an exercise. It needs to become a tool you use everyday. It needs to be transformed into an inspirational GPS that you can follow to achieve what matters most to you. And that GPS needs to be visible—on a daily basis—so that it resonates in both your head and heart. To make that happen, I recommend that you develop a personal productivity statement. Use what we’ve done so far as the springboard and develop a written—paper or virtual or both—statement about what you aspire to. Keep it in an accessible, conspicuous place. Start off each day by reviewing your productivity statement to reinforce your intentions and help you focus your attention and energy. Here’s my personal productivity statement:

- I will aspire to maintain myself physically, emotionally and ethically so that I can:
- Be Kathy’s best friend
- Actively demonstrate my love for my family
- Enjoy life through everyday pleasures
- Help people to improve their effectiveness by providing simple truths, interpersonal tools and helpful mental maps
- Develop and manage diversified income streams

Yours doesn’t have to look like mine. Craft it in a way that is meaningful and inspiring to you. But make sure that it is built on your Values, Roles and Stakeholders, and that you keep it handy.

Step Five—Live it

Living it will always be a test. It requires discipline—the ability to do what you know needs to be done even when you don’t want to do it. Discipline can be painful. But as the legendary Jim Rohn wrote, “We must all suffer one of two things: The pain of discipline or the pain of regret. The difference is that discipline weighs ounces while regret weighs tons.” But discipline and good intentions alone aren’t enough. To live it, you need to plan it. Take time—at the start of each week—to review your personal productivity statement. And then ask yourself “what can I do this week to move towards who I want to be?” Identify one or two activities that will add value to each role you’ve captured in your personal productivity statement. They don’t have to be large projects, just activities that will help you move in a positive direction. Being truly productive is often a matter of doing the right small things. For me, identifying an activity like “watch Love It or List It with my wife” is a value added activity that moves me closer to my aspiration of being Kathy’s best friend. It’s a simple thing. It doesn’t require a great deal of effort on my part (although I am not a particularly big fan of that show) but it is still a high value activity.

One last recommendation. Studies show that actually scheduling an activity increases the likelihood that you will accomplish it. Once you’ve identified those value-added activities for the upcoming week, pull out your calendar—paper, smartphone, notebook, whatever you use—and allocate time on the calendar to do it. Instead of just saying I’m going to go the gym and work out this week. Identify the specific days and times that you plan to accomplish those tasks. Then hold yourself accountable. If something unavoidable crops up to pre- vent you from meeting a scheduled commitment immediately move it to another location in your calendar. The ideas I’ve written about here aren’t my inventions. I didn’t pull them from thin air. They’ve been written about by many authors over the years, including Alan Lakein, David Allen, and Stephen Covey. I’ve given you a relatively high level view. If you’d like a deeper dive into some of these concepts I recommend The Five Choices by Kory Kogon, Adam Merrill and Leeana Rinne of Franklin Covey, I’ve just scratched the surface. There are at least twenty-five important ideas that I didn’t talk about here that can help you improve your true productivity. Tools or tactics about setting goals, managing email, mono versus multitasking, and daily planning to name just a few. I will get to them, I promise, in future posts. The five steps I’ve written about here really work. I use them myself and I’ve also seen them make a difference for my clients. If you follow these simple steps they can make a difference for you as well. Why not try something different this year and make that leap in productivity?

Dr. Joseph Reed is a Doctor of Organizational Psychology, a Master Trainer, an MBTI® Master Practitioner as well as a former Marine Corps Officer and University Faculty Member. Dr. Reed is the CEO of J.R.Training—A Learning and Development Company. I’ve spent over twenty years working with both leaders and individual contributors to help them improve their abilities to get the right things done, enhance their working relationships, and perform up to their potential.
Key Estate Planning—Documents You Need

By Craig Hackler, Financial Advisor, Raymond James Financial Services

There are five estate planning documents you may need, regardless of your age, health, or wealth:

1. Durable power of attorney
2. Advance medical directives
3. Will
4. Letter of instruction
5. Living trust

The last document, a living trust, isn’t always necessary, but it’s included here because it’s a vital component of many estate plans.

Durable power of attorney

A durable power of attorney (DPOA) can help protect your property in the event you become physically unable or mentally incompetent to handle financial matters. If no one is ready to look after your financial affairs when you can’t, your property may be wasted, abused, or lost.

A DPOA allows you to authorize someone else to act on your behalf, so he or she can do things like pay everyday expenses, collect benefits, watch over your investments, and file taxes.

There are two types of DPOAs: (1) an immediate DPOA, which is effective immediately (this may be appropriate, for example, if you face a serious operation or illness), and (2) a springing DPOA, which is not effective unless you have become incapacitated.

Caution: A springing DPOA is not permitted in some states, so you’ll want to check with an attorney.

Advance medical directives

Advance medical directives let others know what medical treatment you would want, or allows someone to make medical decisions for you, in the event you can’t express your wishes yourself. If you don’t have an advance medical directive, medical care providers must prolong your life using artificial means, if necessary. With today’s technology, physicians can sustain you for days and weeks (if not months or even years).

There are three types of advance medical directives. Each state allows only one type (or types). You may find that one, two, or all three types are necessary to carry out all of your wishes for medical treatment. Just make sure all documents are consistent.

First, a living will allows you to approve or decline certain types of medical care, even if you will die as a result of that choice. In most states, living wills take effect only under certain circumstances, such as terminal injury or illness. Generally, one can be used only to decline medical treatment that “serves only to postpone the moment of death.” In those states that do not allow living wills, you may still want to have one to serve as evidence of your wishes.

Second, a durable power of attorney for health care (known as a health-care proxy in some states) allows you to appoint a representative to make medical decisions for you. You decide how much power your representative will or won’t have.

Finally, a Do Not Resuscitate order (DNR) is a doctor’s order that tells medical personnel not to perform CPR if you go into cardiac arrest. There are two types of DNRs. One is effective only while you are hospitalized. The other is used while you are outside the hospital.

Will

A will is often said to be the cornerstone of any estate plan. The main purpose of a will is to disburse property to heirs after your death. If you don’t leave a will, disbursements will be made according to state law, which might not be what you would want.

There are two other equally important aspects of a will:

1.) You can name the person (executor) who will manage and settle your estate. If you do not name someone, the court will appoint an administrator, who might not be someone you would choose.

2.) You can name a legal guardian for
minor children or dependents with special needs. If you don’t appoint a guardian, the state will appoint one for you.

Keep in mind that a will is a legal document, and the courts are very reluctant to overturn any provisions within it. Therefore, it’s crucial that your will be well written and articulated, and properly executed under your state’s laws. It’s also important to keep your will up-to-date.

**Letter of Instruction**

A letter of instruction (also called a testamentary letter or side letter) is an informal, nonlegal document that generally accompanies your will and is used to express your personal thoughts and directions regarding what is in the will (or about other things, such as your burial wishes or where to locate other documents). This can be the most helpful document you leave for your family members and your executor.

Unlike your will, a letter of instruction remains private. Therefore, it is an opportunity to say the things you would rather not make public.

A letter of instruction is not a substitute for a will. Any directions you include in the letter are only suggestions and are not binding. The people to whom you address the letter may follow or disregard any instructions.

**Living Trust**

A living trust (also known as a revocable or inter vivas trust) is a separate legal entity you create to own property, such as your home or investments. The trust is called a living trust because it’s meant to function while you’re alive. You control the property in the trust, and, whenever you wish, you can change the trust terms, transfer property in and out of the trust, or end the trust altogether.

Not everyone needs a living trust, but it can be used to accomplish various purposes. The primary function is typically to avoid probate. This is possible because property in a living trust is not included in the probate estate.

Depending on your situation and your state’s laws, the probate process can be simple, easy, and inexpensive, or it can be relatively complex, resulting in delay and expense. This may be the case, for instance, if you own property in more than one state or in a foreign country, or have heirs that live overseas.

Further, probate takes time, and your property generally won’t be distributed until the process is completed. A small family allowance is sometimes paid, but it may be insufficient to provide for a family’s ongoing needs. Transferring property through a living trust provides for a quicker, almost immediate transfer of property to those who need it.

Probate can also interfere with the management of property like a closely held business or stock portfolio. Although your executor is responsible for managing the property until probate is completed, he or she may not have the expertise or authority to make significant management decisions, and the property may lose value. Transferring the property with a living trust can result in a smoother transition in management.

Finally, avoiding probate may be desirable if you’re concerned about privacy. Probated documents (e.g., will, inventory) become a matter of public record. Generally, a trust document does not.

**Caution:** Although a living trust transfers property like a will, you should still also have a will because the trust will be unable to accomplish certain things that only a will can, such as naming an executor or a guardian for minor children.

**Tip:** There are other ways to avoid the probate process besides creating a living trust, such as titling property jointly.

**Caution:** Living trusts do not generally minimize estate taxes or protect property from future creditors or ex-spouses.

Craig Hackler, Financial Advisor, holds the Series 7 and Series 63 Securities Licenses, as well as the Group 1 license (life, health, annuities). Through Raymond James Financial Services, he offers complete financial planning and investment products tailored to the individual needs of his clients. He will gladly answer your questions. Call him 512.391.0919 or 800.650.9517 or e-mail Craig.Hackler@RaymondJames.com Raymond James Financial Services, Inc., 3345 Bee Caves Rd., Suite 208, Austin, TX 78746. This Information, developed by an Independent third party, Broadridge Investor Communications Solutions, Inc., has been obtained from sources considered to be reliable, but Raymond James Financial Services, Inc. does not guarantee that the foregoing material is accurate or complete. This information is not a complete summary or statement of all available data necessary for making an investment decision and does not constitute a recommendation. The material is general in nature. Past performance may not be indicative of future results. Raymond James Financial Services Inc. does not provide advice on tax, legal or mortgage issues. These matters should be discussed with the appropriate professional. Securities offered through Raymond James Financial Services, Inc., member FINRA/SIPC, on Independent broker/dealer, and are not insured. Investment advisory services are offered through Raymond James Financial Services Advisors, Inc. Raymond James is not affiliated with Texas Paralegal Journal.
Biometric Data Collection, Storage, and Use in the Cloud

By Al Harrison and Joseph Jacobson


Introduction

From phones to secure room access pads, biometric data is gaining greater acceptance for use as an integral part of physical and cyber security. How that data is collected, transmitted, and stored often involves the Cloud. Biometric data has the positive advantage of ease in use (your fingerprint, your hand, your iris, your face, is accessible and available). Biometric data avoids cumbersome codes which must be easy enough to be remembered, but which can be stolen by someone looking over your shoulder.

Your clients and you will want to be prepared for compliance as more states regulate this type of data, and as more companies mine this data for commercial purposes.

What is biometric data?

Biometric data can take many forms. As of the end of 2017, three states Texas, Illinois, and Washington, had created protection and obligation for biometric data capture. Biometric data capture includes those attributes that are unique biological patterns such as fingerprints, voiceprints, eye retina scans, iris scans, hand prints, or facial recognition.

The image may be digitized for easy storage and portability. Furthermore, only certain characteristics of the image may utilized for efficiency in access. For example, one retailer which used thumbsprints for identification for accepting checks had an initial check cashing application which included a thumb print scan. This full scan was reduced in practice to 17 points of identification. While examining only 17 points did not take into account the uniqueness of the full thumbprint, matching on 17 points allowed sufficient match to provide the clerk with critical information. The 17 points may be unique to an individual. But if the points were not unique or there was a set of approximate matches, then the clerk would see information that would enable a verification. For example, the 3 best matches would identify the thumb as belonging to a 20-year old woman, a 50-year old man, and a 43-year old woman—all of whom provided their thumbprints when applying for a check cashing by thumbprint identification. The clerk can visually see the age and sex of the person in front of them. The customer does not have to pull out his or her driver’s license or write any information. This efficiency is significant and valuable.

How Cloud companies use biometric data for their own purposes.

You may wish to consider voice mail as a means of obtaining a voice print. If you use a Cloud service such as Google Voice, then voiceprint biometric data may be analyzed, and according to Google, protected because it is anonymized.

This author’s personal story may be surprising. My mother was over 90 years old and had a deep voice with a Texas accent, and because of a viral infection, it occasionally cracked. My mother left voicemail for me through my Google Voice number. When I received the email with the voice mail, there was an advertisement associated with it for a Korean physician, i.e., a physician with an office in Korea. The physician specialized in surgery for transgender individuals whose voice did not match her new identity as a woman.

While this targeted marketing alone is significant there is a greater shock with further analysis. Before Google could sell this advertising, then it had to be confident of the matches it would receive. While we do not know exactly how Google verified the accuracy of its voice recognition Artificial Intelligence (AI), we can guess. Google could have identified physicians who performed transgender surgery, and then tracked the voicemail of patients or people making appointments with these physicians—just as Google tracked my mother’s voicemail left on my number. Google could have related a person’s Google+ account which may disclose a transgender surgery to their voicemail or voice commands using Google Assistant or some other Google feature. My mother left no message referencing transgender surgery, or physicians who may have performed transgender surgery. Google’s analysis was based solely on the pitch, volume, and tone of my mother’s voice.

While supposedly anonymous, Google’s capture and analysis of a voiceprint through voicemail, may be offensive to many people.

Once confident of the accuracy of its AI to identify people with transgender surgery, then Google or its marketing partners would be able to approach the physician in Korea to purchase advertising from Google to reach transgender individuals. Recognize that I was the one who saw the advertising related to my mother’s voice mail; so, Google had to determine that I had a strong possibility of influencing the person who left the voicemail (my mother in this instance, but it could have been a friend).

Google Voice and other Cloud providers have terms of service where you as a subscriber confirm you have the authority to store data of your clients or third-par-
Conclusion: Be careful and thoughtful. The U.S. and China have very different approaches to privacy which have already effectuated significant business practice changes by international companies. Artificial intelligence (AI) requires tremendous computing power and, similarly, relies upon enormous data. As AI and machine learning programming acquire and rely upon more data, the accuracy and reliability of the results will proportionally improve. Baidu, Alibaba and Tencent (often referred to as BAT) are Chinese large cloud providers and, significantly, are visionaries who’ve assumed the lead regarding AI applications.6 Beware that your client’s data and your law firm data could also be used by your CSP to practice its AI or machine learning—if the data weren’t encrypted.

If technical support to your clients or to your law firm were rendered by a provider who’ve unequivocally accepted government restrictions limiting or impinging upon human rights or fundamental democratic principles, then challenges are apt to be raised on an insensitivity basis. Indeed, recall that many companies ceased or limited operations in South Africa so long as Apartheid had been imposed upon the populace. Likewise, this same consequence could be thrust upon your CSP.

Whether U.S. based or situated abroad, most CSPs have contractual language permitting examination of unencrypted end user data for any purpose. Interestingly, an “end user” is contemplated as any entity to whom the CSP can sell virtually anything. Hence, you ought to strive to limit your CSP to locations where the data is stored regionally, thereby excluding countries and venues where there are inadequate safeguards to prevent undue government intrusion upon confidential information and clients’ trade secrets.

Nevertheless, it should be evident that the preferable way to protect confidential information and trade secrets is to take the crucial extra step of encrypting data. Notwithstanding personally being convinced of not only the necessity of encryption, but also its relative ease-of-use, you should anticipate being confronted with client challenges and resistance! May you prevail and have a positive experience seeking to introduce encryption logistics to your firm and to your clientele alike!

Special Request: Please share with us your anecdotes while addressing encryption and related issues—both internally to your firm and externally to your clients.

1. “Some information may be retained on our active servers temporarily for billing or other business purposes, and residual copies may remain in our backup systems. Anonymized copies of call record information, with no personally identifiable information, will be retained in our systems to meet our reporting and auditing requirements.” https://www.google.com/policies/technologies/voice/

Joseph Jacobson has a transaction practice focusing on business law and commercial real estate. He negotiates contracts and develops privacy policies consistent with corporate goals. Formerly, an adjunct professor at Southern Methodist University Dedman Law School, he integrates new technological capabilities with the practical but sometimes unforeseen impact of new technology afforded.

Joseph also presents targeted CLE programs to specialized industry groups.

Al Harrison is a patent attorney, concentrating on oil and gas and software and practicing intellectual property law in Houston, Texas. He is co-chair of the GPSolo Division’s Joint Resource Center—Technology Committee and chair of the Intellectual Property Committee, a member of the Book Publishing Board. He is chair of the Data Privacy and Security Committee of the Business Law Section and a past chair of the Computer and Technology Section of the State Bar of Texas; serves on the Advertising Review and the Professionalism Committees; and is a board member of the Texas Bar College.

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Paralegal Certificate vs. Certified Paralegal

By Carli Collins, Professional Development Chair

These terms are often confused by legal professionals, educators, and students; however, the terms have separate and distinct meanings.

A paralegal certificate is something that a paralegal will possess upon successful completion of a formal program in paralegal education and training. Depending upon the prerequisites of the program, the student may have a bachelor’s or associate’s degree in another field. The certificate program will only offer legal specialty courses and could be a program that lasts six weeks to several months. Once the student successfully completes the prescribed course of study, the student is issued a certificate. This paralegal is now “certificated” in paralegal studies. Not all paralegal education and training programs are created equal; each program will develop a curriculum that follows the guidelines of their accrediting body, if applicable.

Occasionally, a paralegal may present him/herself “certified” by virtue of completing a paralegal training course or another type of preparatory education. Although the student may receive a certificate upon completion, this does not make the student a certified paralegal. In this instance, the certificate is an acknowledgment of completion of a paralegal training program. Professional certification from an entity such as NALA or TBLS recognizes specific skills, experience, and knowledge.

A certified paralegal is one that has successfully passed one of the voluntary certification examinations offered by a certifying organization (see table below). Certification grants formal recognition to a paralegal that has met certain educational and work experience requirements and passed the exam given by the certifying organization. Upon successful completion of the organization’s exam, the paralegal is a “certified” paralegal and may represent him/herself as such by displaying the designation attributable to the organization. There is no single authority in the United States that oversees the paralegal profession.

Carli has been a litigation paralegal at Allstate Insurance Company since 2012.

<table>
<thead>
<tr>
<th>DESIGNATION</th>
<th>BASIC PREREQUISITES FOR APPLICANTS*</th>
<th>CERTIFYING ORGANIZATION</th>
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<tbody>
<tr>
<td>CP/CLA*</td>
<td>- Graduation from an ABA-approved program, an associate degree program, a post-baccalaureate certification program in paralegal studies; OR a bachelor’s degree in any field + one year of paralegal experience; OR high school diploma + 7 years of experience as a paralegal, AND 20 hours CLE within 2 years of exam</td>
<td>NALA – The Paralegal Association <a href="http://www.nala.org">www.nala.org</a></td>
</tr>
<tr>
<td>ACP</td>
<td>- Already earned (and maintained) the CP credential</td>
<td>NALA – The Paralegal Association <a href="http://www.nala.org">www.nala.org</a></td>
</tr>
<tr>
<td>RP</td>
<td>- Associate’s degree in paralegal studies + 6 years of paralegal experience; OR - Bachelor’s degree + 3 years of paralegal experience; OR - Bachelor’s degree + completion of paralegal program + 2 years of paralegal experience; OR - Four years of substantive paralegal experience on or before 12/31/2000</td>
<td>National Federation of Paralegal Associations (NFPRA) <a href="http://www.paralegals.org">www.paralegals.org</a></td>
</tr>
<tr>
<td>CRP</td>
<td>- Bachelor’s degree, paralegal certificate, or associate’s degree (no experience or CLE); OR - Associate’s degree + 1 year of experience + 6 hours CLE; OR - High school diploma or GED + 5 years of experience and 12 hours CLE in the 2 years preceding the exam</td>
<td>National Federation of Paralegal Associations (NFPRA) <a href="http://www.paralegals.org">www.paralegals.org</a></td>
</tr>
<tr>
<td>ALP</td>
<td>- Completion of an accredited business/legal course; OR - Completion of a NALS Legal Training Course; OR - One year of general office experience</td>
<td>NALS – The Association for Legal Professionals <a href="http://www.nals.org">www.nals.org</a></td>
</tr>
<tr>
<td>PLS/CLP*</td>
<td>- Minimum of 3 years of experience in the legal field (partial waiver may be granted for post-secondary degree or other certification in lieu of experience) Certification should demonstrate mastery of office skills; ability to interact on a professional level with attorneys, clients, and other support staff; the discipline to assume responsibility and exercise initiative and judgment; working knowledge of procedural law, the law library, and how to prepare legal documents.</td>
<td>NALS – The Association for Legal Professionals <a href="http://www.nals.org">www.nals.org</a></td>
</tr>
<tr>
<td>PP</td>
<td>- Minimum of 5 years of paralegal experience; OR - Bachelor’s degree in paralegal studies; OR - Graduation from an ABA-approved paralegal program or another accredited program; OR - Bachelor’s degree in any field + one year of paralegal experience</td>
<td>NALS – The Association for Legal Professionals <a href="http://www.nals.org">www.nals.org</a></td>
</tr>
<tr>
<td>TBLS-BCP</td>
<td>- Minimum of 5 years of experience as a paralegal; OR - 3 years of Texas experience in the particular specialty area (see below); OR - 30 hours of relevant CLE in the 3 years preceding exam application; OR - successful completion of CP exam; OR - Bachelor’s degree; OR - Completion of ABA-approved paralegal program, or OR - Seven years of paralegal experience</td>
<td>Texas Board of Legal Specialization <a href="http://www.tbs-bcp.org">www.tbs-bcp.org</a> The Texas Board of Legal Specialization is a professional certification organization that provides certification to both attorneys and paralegals in TEXAS STATE LAW only.</td>
</tr>
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Scruples

The Ethics of Using Your Paralegal Title in Your Personal Life

Ellen Lockwood, ACP, RP

Being a paralegal definitely has its benefits. Paralegals develop an understanding of how the legal system works, knowledge of laws, cases, and legal procedures, and often develop friendships with attorneys who are wonderful resources for legal guidance for personal legal issues, and referrals to their attorney friends.

Being a paralegal may also afford paralegals opportunities to misuse and abuse their positions. By far, the most common complaint received by the chair of PD’s Professional Ethics Committee is related to paralegals using their positions to harass, intimidate, and even threaten others.

In many of the complaints, paralegals are using firm letterhead or email addresses to send correspondence that is not related to a firm matter. At times they are using firm letterhead or email addresses to send correspondence regarding a personal matter. In other instances, paralegals are using firm letterhead and email addresses to send correspondence on behalf of a friend or family member. In both situations, the purpose is to make the recipient believe one or more of the following:

• the law firm is involved in the matter, which will use the legal system to attempt to force the recipient of the correspondence to proceed as requested in the letter
• the law firm will become involved in the matter if the recipient of the correspondence does not proceed as requested in the letter

...criminal charges will be filed against the recipient of the correspondence if the recipient does not proceed as requested in the letter

Many people are intimidated by the thought of legal proceedings, or even the threat of an attorney becoming involved in a matter. This intimidation may be the result of a negative experience with attorneys and/or the legal system, the concern that they may be forced to hire an attorney to represent them which they are worried they cannot afford, and the fear they will lose any legal battle on this issue, primarily because they do not have the resources to fight back.

Using firm letterhead or email addresses in this manner is completely unethical. If the law firm for which the paralegal works is willing to represent the paralegal, or the paralegal’s friend or family member in the matter, then an attorney with the firm should be the person to reach out to the other party. It is also unethical to imply verbally, or through any form of correspondence, that a specific attorney or law firm is involved in the matter, or will become involved in the matter, if the attorney or law firm has not already agreed to become involved.

When the chair of the PD’s Professional Ethics Committee receives a complaint alleging this type of behavior by a paralegal, it is recommended that the complainant file a complaint with the Supreme Court of Texas Unauthorized Practice of Law Committee against the paralegal, and file a grievance with the State Bar of Texas against the paralegal’s supervising attorney based on the attorney’s failure to adequately supervise the paralegal. The complainant is also advised to consult with an attorney to determine if there are any other possible legal actions that may be filed against the paralegal.

While thus far the complaints received of this type have not been against current PD members, it is wise for all paralegals to ensure they are not using their positions in an unethical manner for personal matters.

Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president of the Division. She is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division’s Paralegal Ethics Handbook published by Thomson Reuters. She may be contacted at ethics@txpd.org.

By Ellen Lockwood, Laurie L. Borski, Rhonda J. Brashears, Debra Crosby, Javan Johnson, Lisa Sprinkle

This handbook is an essential resource for experienced paralegals, those new to the profession, and the attorneys working with them.

*The Paralegal Ethics Handbook* is a resource for all paralegals that addresses ethical considerations for 17 practice areas, as well as considerations for in-house, corporate, freelance, administrative, governmental, and regulatory law paralegals. This title:

- Examines topics such as defining ethics, ethical obligations, and remaining ethical
- Addresses ethical considerations for e-filing, e-discovery, and technology
- Provides resources for state information and paralegal association ethics cannons, plus related information
- Contains rules and regulations for all 50 states and Washington, D.C
- Explains how to determine whether an action may be an ethical violation

Features & Benefits:

- Format: Book - softbound
- Components: Print 1
- Pages: 332
- Print Product Number: 40638127
- Print Price: $114.00

Price subject to change without notice.

To order, or for more information, visit [legalsolutions.thomsonreuters.com](http://legalsolutions.thomsonreuters.com).
The Board of Directors met on October 12–13, 2018 in San Antonio, Texas. At this board meeting, the Board discussed the reports regarding CLEs, and other developments of each of the districts since June, and goals and plans for the rest of the term.

Here are some membership reminders:

**President-Elect Nominations Announcement.** The announcement for the upcoming President-Elect nominations is coming out in the Winter TPJ. Eligible candidates should see the announcement (also on the PD website) for the President-Elect Election guidelines. The President-Elect election by the Board will be held in January.

**Odd-Numbered Director Elections.** Online voting for Active members will begin for odd-numbered districts (Districts 1, 3, 5, 7, 11, and 15) will be voted on in March.

**TAPS 2019 and Annual Meeting.** This will be the first year where TAPS and Annual Meeting will be held together. Save the Date! September 18–20, 2019, Austin, Texas.

**Pro-Rated Membership!** The Membership Pro-Rated Dues Application Period began on December 1, 2018 and is in effect through February 25, 2019. So encourage your colleagues or others when you network to join the PD!

**Board of Directors and Committees.** We are hard at work for you—Get to know your Board of Directors and Committee Chairs. Please reach out to them if you are interested in learning more about how to serve on a committee or volunteer!

*The vision ahead of President Stephanie Sterling is “Growth, Foster, and Represent!” We always appreciate hearing from you about comments, suggestions, and recommendations to bring to the Board.*
Magic,” according to Merriam-Webster, involves an extraordinary power or influence. If you have ever attended TAPS, you understand that. When the theme for TAPS 2018 was selected, I believe the members of the Planning Committee were reflecting on their past experiences while looking forward to this yearly convocation.

The magic began back in January, as the Planning Committee held its first meeting and outlined this year’s event. The momentum continued building all the way through the closing session of TAPS. Exhausting as it can be, I think everyone involved went away feeling empowered.

This year’s TAPS was at the Crowne Plaza in Addison, on September 26–28. The Committee members gathered ahead of time to set out the registration packets, put up signs, and get their schedules. Besides those “official” members, we had quite a number of volunteers helping throughout the whole event, and we are so grateful. We couldn’t have done it without them!

We had 65 speakers, and every one of them was outstanding! Because of my other duties, I was unable to attend every session I wanted to. If the truth be known, I wanted to attend pretty much every session . . . but every single one I attended was excellent. There were sessions on everything from real estate to human trafficking to family law to bankruptcy to—well, you get the idea. One that I found especially timely was Robert West’s presentation on the notary laws, where I was able to pick up some tips on becoming an online notary. A very popular topic on Friday was “Active Shooter Awareness,” presented by Doug Carson.

The free TAPS app was available again this year (thank you, Misti Janes!). It enabled attendees to access speaker papers, check the schedule, participate in the Click

Grand Prize Underwood Law Firm and Kathy Taylor

Grand Prize Special Delivery and Lynette Dahmann
Throughout the three-day event, there was a collection box in the registration room, and we collected donations for the Chris Kyle Frog Foundation. Each person who donated $5 received a chance to win a $200 gift card donated by Easy-Serve. Some people donated money without even taking a ticket! In all, we collected $970.50. In addition to these donations, the Planning Committee elected to donate the money we would have otherwise spent on speaker gifts and volunteer gifts. This amounted to an additional $900 for the CKFF. Read more about CKFF at https://www.chriskylefrogfoundation.org. This is an amazing organization that is dedicated to life-changing services to active duty military, veterans, and first responder families.

At the volunteer luncheon on Thursday, I spoke for a couple of minutes about what the Chris Kyle Frog Foundation does, and mentioned my nephew, who has PTSD from his time of service in Afghanistan. When I sat down, the vendor sitting next to me showed me a picture of his own nephew and told me a heartbreaking story about what this veteran and his wife were dealing with, and how grateful he was that we had chosen to support this organization that supports our veterans. So many of us have been affected by PTSD.

(Personal note here: I was thrilled when the Committee decided to support the Chris Kyle Frog Foundation. As many of you know, current military members and veterans have a special place in my heart. The men in my family have served during peacetime and in every war this country has ever been involved in. I have two grandsons in the Marines, and a grandson-in-law in the Army (in Afghanistan), and I cherish your prayers for them.)

Wednesday morning began with a rush for everyone to pick up registration packets and TAPS t-shirts, find their first class, and get hugs from friends they hadn’t seen since last year. Thirty CLE opportunities were available on Wednesday. After the last session, we gathered for a Spellbinding Networking Social. Great appetizers, awesome networking, and lots of door prizes!

Thursday was a big day, with 25 CLE
sessions and everyone visiting the booths in Vendor Hall between classes. Many of our exhibitors offered door prizes and goodies. It was so good to see some of them who return year after year, and exciting, too, to welcome new sponsors. We have a wonderful support base with our vendors. A special enticement for our attendees involved a card that was included in the registration packet. The object of the game was to visit every single vendor and have each square on the card marked. Completed cards garnered attendees an entry into the $500 grand prize drawings.

Thursday evening, we loaded up on the bus for a journey to the Magic Time Machine, where we experienced A Special Kind of Magic. This was a different sort of event than the Thursday socials we’ve had in the past. We enjoyed a wonderful meal, but were split up into separate areas, where we were attended by servers in costume. Many of our attendees also dressed in costume! (Yes, Susi Boss, I’m thinking of you!) Everyone seemed to have a great time, laughing and taking photos with all those costumed characters. After the meal, we moved upstairs for a rollicking time of karaoke. Who knew Jesse Guerrero and his “girls” could put on such a show?! The last day of TAPS started with a special presentation on pro bono service, followed by four more CLE sessions. The Friday luncheon is always a big event. The food, of course, was really good, and we had lots more door prizes. We
also announced our grand prize winners (Lynette Dahmann and Kathy Taylor), introduced our TAPS scholarship recipient Jannet Alarcon, and heard from Samantha Kalfas, a representative of the Chris Kyle Frog Foundation. The highlight of the whole event was a heartfelt presentation from Terry Bentley Hill, our keynote speaker: “Hope and Healing and a Few More Gifts Along the Way.” Ms. Hill is a nationally-recognized mental health advocate and criminal defense attorney in Dallas. Her personal-experience talk fit hand-in-glove with our emphasis on CKFF, and she was so excited about our donation to the Foundation in lieu of a speaker gift.

Attendees were asked to complete surveys about the sessions they attended, as well as an overall survey on the whole convention. Those who completed the surveys had a chance at a discount on the registration fee for next year’s TAPS.

I want to recognize this year’s awesome Planning Committee members. Rhonda Brashears, of course, did an outstanding job as Meeting Planner and keeping us all in line. Stephanie Sterling served as both TAPS Scholarship Chair and as Secretary for our meetings. Javan Johnson, once again, outdid herself on the TAPS Socials. Deb Pointer and Joncilee Davis worked together to get top-of-the line speakers. Pam Etie was in charge of registration and also corralled the volunteers. Francesca Romans did a great job of marketing the event to paralegals and paralegal programs across the state. And Shanna Mello lined up all those amazing door prizes. Misti Janes, as I mentioned, put together the TAPS app, and was also responsible for garnering vendor support for this event. We had three public members this year: Frank Hinnant, with Innovative Legal Solutions (our title sponsor); Dean Shaw, with Kim Tindall & Associates, returned for another round; and a new member, Renda Abram, with File & ServeXpress. These folks were so good to fill in wherever needed, whether folding t-shirts or helping attendees download the app. Thank you all!!!

If you were unable to attend TAPS this year, but would like to check out some of the CLE offerings, a limited number of them are expected to be added to our online CLE library beginning in January.

Next year will be the 20th anniversary for TAPS, and you don’t want to miss the excitement. Join us in Austin on September 18–20, 2019 for the big event. See you there! ~ Mona

<table>
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<tr>
<th>Position</th>
<th>Committee Member</th>
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<tbody>
<tr>
<td>Chair</td>
<td>Mona Tucker, ACP</td>
</tr>
<tr>
<td>Secretary, Scholarship, Board Advisor</td>
<td>Stephanie Sterling, TBLS-BCP</td>
</tr>
<tr>
<td>PD Coordinator / Meeting Planner</td>
<td>Rhonda Brashears, CP, TBLS-BCP</td>
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<tr>
<td>Speakers Chair</td>
<td>Joncilee Davis, ACP, Deb Pointer</td>
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<tr>
<td>Registration Chair</td>
<td>Pam Etie, ACP</td>
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<tr>
<td>Marketing Chair</td>
<td>Francesca Romans, ACP</td>
</tr>
<tr>
<td>Socials Chair</td>
<td>Javan Johnson, ACP, TBLS-BCP</td>
</tr>
<tr>
<td>Door Prizes Chair</td>
<td>Shanna Mello</td>
</tr>
<tr>
<td>TAPS App Chair</td>
<td>Misti Janes, TBLS-BCP</td>
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<tr>
<td>Vendors Chair</td>
<td>Misti Janes, TBLS-BCP</td>
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<tr>
<td>Public Member</td>
<td>Frank S. Hinnant, Innovative Legal Solutions</td>
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<td>Public Member</td>
<td>Dean Shaw, Kim Tindall &amp; Associates, Inc.</td>
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<td>Renda Abram, File &amp; ServeXpress</td>
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Exhibitors:
AppClose Inc.
Assure Court Reporting
Capitol Services, Inc.
Complete Legal
Compex Legal
Courtroom Sciences, Inc.
DWQ Solutions
Easy Serve, LLC
Elite Document Technology/Deposition Technologies

Encase Legal
File & ServeXpress
Haag Engineering Co.
Hanna & Hanna, Inc.
Innovative Legal Solutions
Kim Tindall & Associates, Inc.
Lemieux & Associates
Lexitas
NALA—The Paralegal Association
Registered Agent Solutions, Inc.
Rimkus Consulting Group, Inc.
SLS Litigation Services, LLC

System Engineering and Laboratories (SEAL)
TexasFile
The Legal Connection, Inc.
U.S. Legal Support
Veritext Legal Solutions
Westlaw—Thomson Reuters

Grand Prize Donors:
Special Delivery
Underwood Law Firm
2019–2020 President-Elect
Notice of Nomination

Nominations are currently being accepted for 2019–2020 President-Elect
Pursuant to Standing Rule XIV of the Paralegal Division of the State Bar of Texas, notice is hereby given of an election for the office of 2019–2020 President-Elect. This election will be held by electronic mail during the month of January 2019 by the Board of Directors.

Qualifications for serving as President Elect of the Paralegal Division are contained in Standing Rules XIV as follows:

XIV. OFFICERS

B. ELIGIBILITY
Any current or past Director who is currently an active member of the Division and who has completed at a minimum a full term (two (2) consecutive years) as Director is eligible to be elected as President or President-Elect.

1. Any current or past Director who is currently an active member of the Division and who has completed at a minimum a full term (two (2) consecutive years) as Director is eligible to be elected as President or President-Elect.

Any qualified individual who is interested in running for office of President-Elect should forward a one-page resume, together with a letter of intent to run, to the nominations committee chair at the following address TO BE RECEIVED NO LATER THAN JANUARY 15, 2019.

Mary R. Wintermote
Chair, President-Elect Nomination Committee
Cotten Schmidt, LLP
100 Energy Way, Suite 2000
Fort Worth, Texas 76102
817-338-4500 (o)
mwintermote@cottenschmidt.com

Note: In the event the Board of Directors of the Paralegal Division elects an individual who is currently serving as a Director, a vacancy will be declared in the district in which that individual serves. An election will be held to replace the outgoing Director (President-Elect) at the time the elections for the Board of Directors are regularly scheduled.

Texas Advanced Paralegal Seminar
and Annual Meeting

Three-day CLE event sponsored by the Paralegal Division of the State Bar of Texas in conjunction with the Paralegal Division Annual Meetings

SAVE THE DATE
September 18–20, 2019
Double Tree Hotel, 6505 Interstate Highway 35 North, Austin, TX

Event details—coming soon in late April 2019
Paralegal Division
Notice of 2019—Odd-Numbered District Director Election

The Paralegal Division’s DIRECTOR ELECTION for District Directors in odd-numbered districts (Districts 1, 3, 5, 7, 11 and 15) will take place March 22 through April 8, 2019.

• Beginning on January 31, 2019 each Elections Subcommittee Chair will prepare and forward, upon request, the following materials to potential candidates for director in their respective district at any time during the nominating period:
  a. A copy of the List of Registered Voters in candidates’ respective district;
  b. A sample nominating petition; and
  c. A copy of Rule VI of the Standing Rules entitled “Guidelines for Campaigns for Candidates as Director.”

• Each potential candidate must satisfy the following requirements:
  a. Eligibility Requirements. The candidate must satisfy the eligibility requirements of Article III, Section 3 and Article IX, Section 1 A and Section 4 of the Bylaws and Rule V B, Section 5c of the Standing Rules.
  b. Declaration of Intent. The candidate must make a declaration of intent to run as a candidate for the office of director through an original nominating petition declaring such intent that is filed with the Elections Subcommittee Chair in the candidate’s district pursuant to Rule V B, Section 5 of the Standing Rules.
  c. Nominating Petition. The original nominating petition must be signed by the appropriate number of registered voters and must be submitted to the Elections Subcommittee Chair in such district, on or before February 22, 2019.

If you are interested in running for District Director, or need further information regarding the election process, contact the Elections Committee Sub-Chair in your District, or the Elections Chair, Jennifer Rogers, CP, at Elections@txpd.org.

2018–2019 District Election Committee Sub-Chairs:

District 1—Amy Rainwater—amy.rainwater@patenergy.com
District 3—Susan Davis—sedgpd@gmail.com
District 5—Brenda Key—brendakey@iheartmedia.com
District 7—Shandi Howard, CP—showard@americanlandtexas.com
District 11—Jo Ann Dickinson—jdickinson@calawfirm.com
District 15—Ashley Antol—aantol15@gmail.com

NOTICE OF VOTING—March 22–April 8, 2019

All Active members of the Paralegal Division in good standing as of March 22, 2019 are eligible to vote. All voting must be completed on or before 11:59 p.m., April 8, 2019.

All voting will be on-line and no ballots will be mailed to members.

Please take a few minutes to logon to the PD’s website and cast your vote for your district’s director. The process is fast, easy, anonymous, and secure.

• Between March 22nd and April 8, 2019 go to www.txpd.org
• In the Members-Only section, click on “Vote”
• Follow the instructions to login and vote
Exceptional Pro Bono Service Award

The Paralegal Division (PD) of the State Bar of Texas is proud to sponsor an Exceptional Pro Bono Service Award. Its purpose is to promote the awareness of pro bono activities such as those defined by the State Bar of Texas, and to encourage PD members to volunteer their time and specialty skills to pro bono projects within their community by recognizing a PD member who demonstrates exceptional dedication to pro bono service. Paralegals are invited to foster the development of pro bono projects, to provide assistance to established pro bono programs, and work closely with attorneys to provide unmet legal services to people with low incomes. This annual award will go to an individual PD member, who performed the pro bono service(s) in the State of Texas, and has volunteered his or her time and special skills in providing uncompensated services in pro bono assistance to their community. The recipient of the award will be announced at the Paralegal Division Annual Meeting Luncheon, his/her expenses to attend the Annual Meeting Luncheon will be incurred by the Division, and a profile of the individual will be published in the Winter issue of the Texas Paralegal Journal.

Definition of Paralegal Pro Bono Service (Adopted June 2013)
Providing legal assistance, without remuneration or compensation to the paralegal, that requires specific legal skills, knowledge or training, under the supervision of a licensed attorney or qualified organizations, whether individually, or through non-profit charitable, religious, civic, community, or governmental organizations, and serving as an advocate for those with limited means or that are unable to speak for themselves.

1. Providing legal support services for persons of limited means, either through qualified legal services/legal aid programs.
2. Providing legal support services at community legal clinics; and
3. Providing assistance for, working directly with attorneys on cases, or providing direct client advocacy, under legal services/advocacy programs that are sponsored by a bar association, court, governmental agency or non-profit agency.

Please complete the attached nomination form, and return it NO LATER THAN MARCH 31, 2019 to the following:

Shanna Mello
Eggleston King, LLP
102 Houston Avenue, Suite 300
Weatherford, Texas 76086
P: 817-596-4200 | F: 817-596-4269
ProBonoChair@txpd.org

EXCEPTIONAL PRO BONO SERVICE AWARD NOMINATION FORM

Individual’s Name: ____________________________

PD Member Number: ____________________________

Firm: ____________________________ Job Title: ____________________________

Address: ____________________________

Phone: ____________________________ Fax: ____________________________ Yrs. in Practice: ____________________________

Work Experience: ____________________________

Give a statement (on a separate sheet using “Nominee” rather than the individual’s name) using the above definition and following guidelines as to how the above-named individual qualifies as rendering Exceptional Pro Bono Service by a Paralegal Division Member:

1. Renders service without expectation of compensation.
2. Renders service that simplifies the legal process for (or increases the availability) and quality of, legal services to those in need of such services but who are without the means to afford such service.
3. Renders to charitable or public interest organizations with respect to matters or projects designed predominantly to address the needs of poor or elderly person(s).
4. Renders legislative, administrative, political or systems advocacy services on behalf of those in need of such services but who do not have the means to afford such service.
5. Assist an attorney in his/her representation of indigents in criminal and civil matters.
**PARALEGALS**
Texas Bar College
Associate Membership

**PRIDE & PROFESSIONALISM**

**REQUIREMENTS**
A paralegal may become, or may maintain his or her status as an associate member of the College by:

1. completing twelve hours of approved CLE in the current or preceding calendar year, including 2 hours ethics
2. paying the required fee,
3. submitting an application form on which a licensed Texas attorney verifies the applicant’s good character and qualifications as a paralegal, and
4. submitting a report identifying the sponsor of the CLE programs attended, the specific topics included, the names and firms of speakers on the programs.

Two of the twelve hours, including one hour ethics, may be earned through non-accredited CLE and submitting the necessary information for each.

**PURPOSE**
In delivering the highest quality legal services to clients, the lawyer-paralegal team is an essential element. As the law develops, continuing legal education for paralegals is as important as it is for lawyers. Through associate member status, the College honors paralegals that make a commitment to maintain and enhance their professional skills through attending an extraordinary amount of continuing legal education hours.

**BENEFITS**
- A certificate of membership and a leather portfolio with the Texas Bar College logo
- Newsletter sent three times a year
- Distinction of attaining a higher level of professional membership
- Unlimited free access to the Online Library of TexasBarCLE.com that includes thousands of CLE articles from TexasBarCLE courses
- A twenty-five dollar discount to all TexasBarCLE.com live or video replay seminars

**JOIN TODAY!**
Please contact Merianne.Gaston@texasbar.com for an application.
Pro-Rated Membership Dues!

That’s right! The Membership Pro-Rated Dues Application Period began on December 1, 2018 and is in effect through February 25, 2019. So from now until February 25, 2019 you can join the Paralegal Division for half price!

There has never been a better time to see what the Division has to offer you! (See here for full details.) Membership approved during this pro-rated period will expire you on May 31, 2019, at the end of the Paralegal Division fiscal year.

https://txpd.org/page.asp?p=Applications

New Member Application

• Active—As an Active member, you are entitled to vote, hold office or serve in a voting capacity on one of the Division’s seven standing committees.
• Associate—As an Associate member, you will enjoy many of the Division's benefits, and your membership can become Active upon meeting the criteria.
• Student—As a Student member, you will enjoy many of the Division's benefits, and your membership can become Active upon meeting the criteria.
• Sustaining—As a Sustaining member, any entity which supports the goals of the Division may join the Division.
• Subscribing—As a Subscribing member, you will enjoy many of the Division's benefits.

For a full description of our membership criteria, please visit PD Membership Types and Criteria.

Begin Membership Process HERE

The Paralegal Division membership year is June 1–May 31 (annual basis). Fees are shown below:

<table>
<thead>
<tr>
<th>Membership Type</th>
<th>Full Year</th>
<th>Pro-rated Year*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active</td>
<td>$75</td>
<td>$37.50</td>
</tr>
<tr>
<td>Associate</td>
<td>$75</td>
<td>$37.50</td>
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<tr>
<td>Subscribing</td>
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<td>$50</td>
</tr>
<tr>
<td>Sustaining</td>
<td>$225</td>
<td>$112.50</td>
</tr>
</tbody>
</table>

*Pro-rated dues are only accepted (processed) between December 1 and February 25
PARALEGALS RETURN TO London
April 12 – April 20, 2019
(Eight Days and Seven Nights)

FRI, April 12, 2019 -- Depart from the USA to Europe.

SAT, April 13, 2019 (London) – Morning arrival. Enjoy this day to get familiar with your surroundings. This evening enjoy a special welcome dinner to kick off your trip. (D)

SUN, April 14, 2019 (London) – This morning you will enjoy a guided sightseeing tour with blue badge guide which highlights the best of London. (B, D)

MON, April 15, 2019 (London) – Today enjoy a full-day excursion to York by train, with a visit to York Minster. Return to London this evening. (B, L)

TUE, April 16, 2019 (London) – This morning we will tour the infamous Tower of London. In the afternoon, you will visit Parliament. This will be an evening to remember with dinner followed by a West End Show. (B, D)

WED, April 17, 2019 (London) – Early morning departure for a full day excursion to Stonehenge and Salisbury. Late evening return to London. (B)

THU, April 18, 2019 (London) – Enjoy a free day in London with a farewell dinner this evening. (B, D)

FRI, April 19, 2018 (London) – Today we will enjoy a visit to the London Eye in the morning and an afternoon visit to Kensington Palace with High Tea at St. Martin in the Fields. (B, L)

SAT, April 20, 2019 - Depart for the USA. (B)

FEE WITH AIR INCLUDED: Fee is based on registration by December 1, 2018.

Fees: Departing DFW/Houston– $4,526; Austin/San Antonio-$4,786 Amarillo/Midland - $4,826 (includes program fee). Note: Registrations after August 1 may include additional fuel surcharges that are finalized 45 days prior to departure; an invoice will be sent at that time if there are any increases. Other departure cities available upon request. Fees based on 20 persons and includes airfare, hotel, transportation, tours, and meals as indicated above.

Additional/Optional fees: Single room supplement: $859; Ultimate Protection Plan: $270; Comprehensive Protection Plan: $225; If the Ultimate or Comprehensive Plan is purchased there is a surcharge for guests ages 66+: $100

LAND ONLY FEE: (if you wish to make your own air travel arrangements): $3,479

PAYMENT SCHEDULE: Deadline for registration is November 1, 2018; Initial non-refundable deposit is $200; another $295 payment will be due 30 days after registration, third payment of $500 is due November 15, 2018; fourth payment of $500 is due on December 15, 2018, with balance due on January 15, 2019. Non-payment of required on-time monthly payments will result in trip cancellation.

MAKE IT EASY ON YOURSELF! SIGN UP FOR AUTO PAYMENTS: Automatic Payments plan available. Automatic Payments makes planning your trip budget easy because your payments are spread out evenly, giving you more time to pay. You choose a payment frequency (every 2 weeks, every 4 weeks, monthly, or quarterly) and your payments are automatically deducted from your checking or savings account. Travelers who use autopay will be given a $50 discount. Automatic Payments are available for all registered participants in "My Account:" at www.acis.com/accounts.

EXTENSION: To extend stay at the end of the trip, an Alternate Request Form must be completed (found at https://www.pdfiller.com/217790774-2016-Alt-Return-Formpdf-2016-Alternate-Return-Request-Form---