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PRESIDENT'S *Message*

by Stephanie Hawkes, RP, CIPP

If you are like most, myself included, you were happy to see 2009 come to an end.

I believe that 2009 will be remembered as the year we all cut back and learned to do more with less. For many of us, it was an opportunity to grow and we lived up to the expectations set by our employers and ourselves. The Paralegal Division was not immune to the obstacles of 2009 but we too grew and met many of the expectations set by the Board and our members.

As you cut back and do more with less, the PD wants to be your first resource for ways to handle your job more efficiently. Over the next few months, you will see more information about the many benefits that the PD and State Bar offer to you, as part of your membership. These benefits are often overlooked but are important when you need them. I hope you all enjoyed the most recent newsletter sent to you, that newsletter contained infor-



mation about a free database for legal research and also an opportunity for group insurance coverage, both benefits of membership that I don't think many of us take advantage of but are very important when we need them.

That newsletter was put together by our new staff person, Rachel Strong Mahler.

We welcome Rachel to the PD as our Membership Services Coordinator. In this role, she will be helping our Directors with growing our membership and making sure our members know how to maximize their benefits. Rachel has a lot of great ideas on how to build excitement and I know we will all enjoy the things she has planned. While Rachel helps to grow our membership, Norma Hackler continues to support the PD in our day to day business and event planning.

I am looking forward to all that the Paralegal Division will be offering our members in 2010. Our Directors have

CLEs planned, discounted webinars are in the works and networking events are happening, across the State. We have begun planning for TAPS, which will be in Austin at the end of September. I also hope you will join us at the State Bar's Annual Meeting in June in Fort Worth; this is one of the few events where our entire Board is together and accessible to our members. Our Directors enjoy hearing from our members, so whether you are at the Annual Meeting or another event, please take a moment to give them your thoughts on the PD and ideas on what you need from us. We are here for you and want to make sure that we are helping you and your firms do less with more.

I wish all of you a wonderful 2010, here's to a great year!

Sincerely,

The Paralegal Division wants to recognize its members who successfully completed the 2009 Texas Board of Legal Specialization Board Certified Paralegal Examination.
CONGRATULATIONS!

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1515. Registration fees: \$150 for one day and \$245 for two day; **extra fee to attend the Paralegal Division Annual Meeting Luncheon.**

Continuing Legal Education (sponsored by the Paralegal Division):

- | | |
|-------------------|---|
| 9:00 am—10:00 am | ID THEFT —Lori Varnell, Tarrant County D.A.'s Office, Economic Crime Unit |
| 10:15 am—11:15 am | RULES of CIVIL PROCEDURE/CIVIL TRIALS , J. Wade Birdwell, Wallach & Andrews |
| 11:15 am—1:30 pm | PARALEGAL DIVISION ANNUAL MEETING LUNCHEON |
| 1:30 am—2:30 pm | TECHNOLOGY & DEMONSTRATIVE EVIDENCE , Wendi Rogers, TBLS Board Certified Paralegal - Personal Injury Trial Law |
| 2:30 pm—3:30 pm | ETHICAL CONSIDERATIONS WHEN USING SOCIAL NETWORKING SITES TO BUILD YOUR CASE , Jonathon Smaby, Executive Director, Texas Center for Legal Ethics |

Final details will be forwarded to the PD members in April 2010! Register at www.texasbar.com.

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Texas Paralegal Journal

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Paralegals of Texas have a better profession today thanks to Justice Linda Thomas.

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EDITOR'S *Note*

by Heidi Beginski

This month's issue pays homage to a grand dame of not only the judicial system in Texas, but to a great proponent, mentor and friend to paralegals. Justice Thomas has figured very prominently in the advancement of not only paralegalism, but in the recognition of paralegals as professionals as well. And she did all that while building a record number of years as chief justice of the 5th Judicial District Court of Appeals—Dallas. She is truly a remarkable woman, and whether you know her personally or just wish you did (like me!), please turn to our cover article for a brief overview of her contributions. No amount of space could have completely captured what she has contributed to our profession.

Just when you think you know all the types of jobs a paralegal could have, you read an article like this month's article on Allen Barr, who is not only a Charter Member of the Division, but also served in Iraq and Afghanistan throughout most of 2003. Save this article, and whenever you think you've had a bad day, re-read about Allen's accomplishments in situations where his life was truly at stake for none other than his love of this country. If you can't thank Allen personally, I imagine Allen would be just as pleased if you thanked any service member you know.

Our profession is truly blessed with remarkable people—such as Justice Thomas and Allen Barr—and I tip my hat in gratitude to all of you!

Texas Paralegal Journal (ISSN# 1089-1633) is published three times a year in Winter/Spring, Summer and Fall for \$15 set aside from membership dues for a 1-year subscription by the Paralegal Division of the State Bar of Texas, 3505 Black Mesa Hollow, Austin, Texas 78739. Periodical Postage Paid at Austin, TX. POSTMASTER: Send address changes to the *Texas Paralegal Journal*, P.O. Box 1375, Manchaca, Texas 78652.

Circulation Summer 2009: Total Printed: 1,700; Paid or Requested: 1,624; Mail Subscriptions: 1,624; Total Paid and/or requested circulation: 1,624; Free Distribution: 0; Total Distribution: 1,624; Office Use or Leftover: 76



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See www.txpd.org in June 2010 for complete registration packet.

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The *Texas Paralegal Journal* is published three times a year as a service to the paralegal profession. A copy of each issue is furnished to the members of the Paralegal Division as part of their dues.

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DEADLINE FOR SUBMISSION OF ARTICLES FOR THE WINTER/SPRING ISSUE IS APRIL 2, 2010.

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IN GOD WE TRUST

Journey to Justice

by Michele Boerder

The paralegals of Texas have a better profession today thanks to Justice Linda Thomas, Chief Justice of the 5th District Court of Appeals – Dallas. In October 2009, Justice Thomas retired from the bench, but will not be forgotten for her role in progressing paralegals in our state.

During her tenure as Chief Justice, she was chair of the State Bar of Texas Standing Committee on Paralegals. Justice Thomas shepherded the Division's goal of voluntary specialty certification to fruition by being instrumental in the development and implementation of the Texas Board of Legal Specialization exams, which were first given in 1994. She gave many hours of her time to assist the Division and the Paralegal Committee with this endeavor, including presentations to the State Bar of Texas President, Board of Directors and the Texas Supreme Court, on behalf of the paralegals of Texas.



Perhaps Justice Thomas had a special place in her heart for our profession, as she herself started out first as a legal secretary, then a legal assistant, in the very early days of our profession. She obtained her undergraduate degree, went on to law school at SMU, graduated in 1973, then was elected in 1979 as a Family Court judge in Dallas. In 1986 she ran for the 5th District Court of Appeals – Dallas, was elected, and served two terms. In 1994 she was elected Chief Justice (the first woman to ever hold the position of Chief Justice) and retired from that position, completing a total of 31 years on the bench, a record for the State of Texas.

During her tenure on the Court of Appeals, Justice Thomas wrote the first Texas appellate opinion on the recovery of fees for legal work performed by [then called "legal assistants"] that could be recovered as part of an attorney fee award.

The opinion set forth the evidentiary tests for recovery: (1) that the legal assistant is qualified through education, training or work experience to perform substantive legal work; (2) that substantive legal work was performed under the direction and supervision of an attorney; (3) the nature of the legal work which was performed; (4) the hourly rate being charged for the legal assistant; and (5) the number of hours expended by the legal assistant." *Gill Sav. Ass'n v. Int'l Supply Co., Inc.*, 759 S.W.2d 697, 705 (Tex.—App. Dallas 1988, writ denied).

This opinion demonstrated the distinctions applicable to paralegal work and helped to further define the profession.

Justice Thomas may be retiring from the bench, but not from the legal profession, as she plans to remain active as a mediator and arbitrator.

For everything you did to shape and enhance our profession, a sincere and heart-felt thank you, Justice Thomas, from the paralegals of Texas!

Michele Boerder is a paralegal with K&L Gates, L.L.P. in Dallas.

A Paralegal in Baghdad

by Linda Studer ACP

Allen Barr is a Charter Member of the Paralegal Division and an active member of District 4. Following 9/11 he was mobilized after receiving a call on his cell phone while in his car. Allen supported operations in Afghanistan and Iraq through most of 2003. In January 2006 he was called back up and deployed to Baghdad.

It's hot in Austin, Texas. It's hotter in Baghdad. And not just from the 120 degrees of blistering sun that turns a relaxing run into a moveable sauna.

No, it's another kind of heat that gets your attention, as Allen Barr discovered shortly after arriving in Baghdad. Trudging outside to retrieve materials from his vehicle, Allen was startled by a fierce buzzing around his head. Looking around for some angry bees to swat, he heard frantic yelling from the cover of a nearby wall. "SIR! Those aren't bees buzzing; those are bullets! Get over here!"

His comrade proceeded to enlighten him on survival basics in Baghdad. It seems when some of the locals get particularly inspired by a sermon at the local mosque, they literally come blasting out, firing their weapons over the wall into the nearby military base, Camp Slayer, home to many of the U.S. forces in Iraq. Quite different from a Sunday afternoon in Austin. In Baghdad, it's a good idea to be inside when services let out.

In 1985, Allen joined the Naval Reserve, putting his analytical skills and paralegal training to work in a Naval Intelligence unit. His experience in absorbing complex information, clear concise writing and coordinating the work of a multi-disciplined team of highly qualified professionals enabled him to perform this important and complex role. His paralegal skills of attention to detail, research, drafting documents and working with



Allen Barr, left, and Charles G. Cooper, Commissioner, Texas Department of Banking. Photo by Norma Hackler.

organizational systems served him well.

Shortly after 9/11, Allen Barr, Art Education major turned paralegal, now citizen soldier received a call on his cell phone. This time it wasn't his wife asking him to pick up a few things at the store on the way home. He was being called to serve his country. Allen was ready; and being a patriot with a love for his country, he was willing.

Allen's time in Iraq, like all military, was not a luxury tour. He lived and worked at Camp Slayer (part of Camp Victory) and Basra as well as in the Green

Zone, nicknamed "the Emerald City" by the residents of Baghdad. But, unlike the Wizard of Oz, there were automatic weapons and IEDs. Allen's sanity breaks were the times he was able to have a few hours off to wash clothes and enjoy a short run, but he was always mindful of the times prayer services ended. While he was fortunate enough not to be regularly in the line of fire, the tension of war and seriousness of the mission was ever present. Days were long, often 14 to 18 hours a day, 7 days a week. Every task a rush job, like going to trial seven days a week... for months on end. Many called it "Groundhog Day," each day the same: little rest, no relief.

In this setting Allen's paralegal experience also paid off in a less expected way. It turns out that Iraqis do not pay much attention to rank; they respond to relationships. It is a person-to-person culture. Allen was able to use the people skills learned in his paralegal role to forge valuable bonds with his Iraqi counterparts as well as with the members of the organization he oversaw. His philosophy was to treat everyone as a client. At that time, the Emerald City, Baghdad, Basra and Iraq were under siege and relationships were even more important. Allen's take-away from his time as a paralegal at war is an attitude of gratitude. Grace over meals took on a whole new meaning. He was grateful for each day. He was grateful for things that we typically take for granted: electricity that kept the lights on, the water running and the office bearable.

He is grateful for the personal relationships he formed in Iraq. He is grateful for the Texas Department of Banking holding a job for him, making his transition home far less stressful.

Most of all, he is grateful to be home, back with his wife and family; back with his friends and colleagues; back where, if there is buzzing around your head, it is just bees.

Linda Studer ACP is a paralegal at Jackson Walker, LLP in San Antonio and is a member of the Professional Development Committee.

What Ethics Code Governs Texas Paralegals and What Attorney Ethical Provisions Are Most Relevant to Paralegals?

by Lynn Crossett

I. Introduction

This article asks two seemingly obvious questions. First, what ethics code governs Texas paralegals? Unfortunately, the answer to this first question is that there is no single code of ethics that governs all Texas paralegals. Instead, paralegal conduct is governed indirectly by the Texas Disciplinary Rules of Professional Conduct (TDRPC), the ethics code for attorneys. That, therefore, begs the question of which provisions of the TDRPC are most relevant to paralegals.

To say there is no ethics code that governs all Texas paralegals is not to say that there are no ethics codes that may govern some Texas paralegals. If paralegals are members of the Paralegal Division of the State Bar of Texas (which has approximately 1500 current members), they are governed by its Code of Ethics and Professional Responsibility, which contains ten canons of ethics addressing the unauthorized practice of law, conflicts of interest, confidentiality, competency, and general ethical standards of conduct.¹ If paralegals are members of the National Association of Legal Assistants (NALA), they are governed by the NALA Code of Ethics and Professional Responsibility.² Similarly, if paralegals belong to the National Federation of Paralegal Associations (NFPA), or one of its local affiliates, they are governed by its Model Code of Ethics and Professional Responsibility.³ However, for the paralegals who are not members of any of these professional associations, there is no ethics code that directly governs their conduct. Their conduct is only governed indirectly by the TDRPC because Rule 5.03 provides that lawyers are responsible



for the TDRPC violations of their non-lawyer assistants.⁴

Because Texas paralegals are governed indirectly by the TDRPC, they must be mindful of all of its provisions. However, there are some provisions that are of particular relevance to paralegals. These are the provisions relating to 1) competence and supervision (Rules 1.01 and 5.03), 2) the unauthorized practice of law (Rule 5.05), 3) confidentiality (Rule 1.05), and 4) conflicts of interest (Rules 1.06 – 1.09).

II. TDRPC PROVISIONS MOST RELEVANT TO PARALEGALS

A. Competence and Supervision (Rules 1.01 and 5.03)

Attorneys have an ethical obligation to carry out client representation in a competent and diligent manner and to

provide adequate supervision of their nonlawyer assistants.⁵ Although these obligations are contained in two separate TDRPC rules, they work together because neither rule could be satisfied without complying with the other. The lawyer's obligation to provide competent and diligent representation is contained in Rule 1.01.⁶ It requires the lawyer to not only possess the level of knowledge, skill, and training necessary for the representation but to apply it as well with "reasonable thoroughness" and "reasonable attentiveness."⁷ This necessarily requires adequate direction and supervision of any paralegals who are assisting with the client representation, as is explicitly required by Rule 5.03.

Moreover, because Rule 5.03 makes supervising attorneys responsible for the violations of the TDRPC by their paralegals, paralegals must make certain they

have the competence to carry out matters assigned to them and that they, too, are reasonably thorough and attentive. Nevertheless, even the most competent and skilled paralegals must still have their work reviewed by an attorney. This is required not only by Rule 5.03 but also to prevent any unauthorized practice of law issues.

B. Unauthorized Practice of Law (Rule 5.05)

The unauthorized practice of law issue is governed not only by ethics rules but also by statute, both civil and criminal. However, the focus here will be on the relevant TDRPC provision, Rule 5.05, and the issues of particular relevance to paralegals. Rule 5.05 simply prohibits an attorney from practicing in a jurisdiction in which he or she is not licensed and from assisting another in the unauthorized practice of law.⁸ A paralegal who engages in the unauthorized practice of law while employed by an attorney subjects the attorney to possible discipline under Rule 5.05.

As a general matter, a paralegal may be found to have engaged in the unauthorized practice of law if he or she does any of the following things:

- 1) establishes the attorney-client relationship or the fees for the representation;
- 2) gives legal advice;
- 3) takes a deposition;
- 4) represents a client in court, except as allowed by law to appear before certain administrative agencies; or
- 5) otherwise provides legal services to the public without the supervision and direction of a licensed attorney.⁹

C. Confidentiality (Rule 1.05)

Rule 1.05 places an ethical obligation on the attorney (and through Rule 5.03, indirectly on paralegals) to protect client confidences. This means more than simply preserving the attorney-client privilege. The information protected by Rule 1.05 goes beyond the evidentiary rule protecting confidential attorney-client communications and can include all information relating to the client, both privileged and unprivileged.¹⁰ Therefore,

paralegals must take a very cautious and protective approach to dealing with client information.

D. Conflicts of Interest (Rules 1.06 – 1.09)

Rules 1.06 through 1.09 prohibit attorneys and their staff from having any personal, financial, or professional interests that conflict with the interests of the client. Rule 1.06 prohibits a lawyer from representing opposing parties in the same litigation.¹¹ Rule 1.07 limits the ability of lawyers to act as intermediaries between clients.¹² Rule 1.08 prohibits certain business transactions between a lawyer and a client,¹³ and Rule 1.09 protects former clients against subsequent representation of others whose interests may be adverse to the former client.¹⁴ All of these rules combine to require attorneys and their staff to be ever mindful of any personal, professional, or financial interests that could conflict with those of a present or former client. The particular relevance of these rules to paralegals arises any time paralegals are engaging in any transactions that could create a conflict of interest with any of the firm's clients and when paralegals are changing jobs, potentially disqualifying the new firm from any representation that may be adverse to clients represented by the former firm.

III. CONCLUSION

Although there is no one, single code of ethics that directly governs all paralegals in Texas, to avoid subjecting their supervising attorneys to disciplinary action, all Texas paralegals must make sure their conduct is in compliance with the TDRPC. The areas in which paralegals need to be particularly careful not to violate the provisions of the TDRPC are with respect to competence and supervision, the unauthorized practice of law, confidentiality, and conflicts of interest. Even though it is the lawyer or law firm's obligation to take reasonable measures to ensure compliance with the TDRPC by their nonlawyer assistants, as a practical matter, it is up to each paralegal to develop and maintain professional work habits that ensure compliance with these rules.

1 Code of Ethics and Professional Responsibility of the Paralegal Division of the State Bar of Texas, available at <http://txpd.org/page.asp?p=Professional%20Ethics>.

2 NALA Code of Ethics and Professional Responsibility, available at <http://www.nala.org/benefits-code.htm>.

3 Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement, available at http://www.paralegals.org/associations/2270/files/Model_Code_Of_Ethics.pdf.

4 TEX. DISCIPLINARY R. PROF'L CONDUCT 5.03, reprinted in TEX. GOV'T CODE ANN., tit. 2, subtit. G app. A (Vernon 2005). Specifically, Rule 5.03 provides:

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

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

(b) a lawyer shall be subject to discipline for the conduct of such a person that would be a violation of these rules if engaged in by a lawyer if:

(1) the lawyer orders, encourages, or permits the conduct involved; or

(2) the lawyer:

(i) is a partner in the law firm in which the person is employed, retained by, or associated with; or is the general counsel of a government agency's legal department in which the person is employed, retained by or associated with; or has direct supervisory authority over such person; and

(ii) with knowledge of such misconduct by the nonlawyer knowingly fails to take reasonable remedial action to avoid or mitigate the consequences of that persons misconduct.

5 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.01, 5.03.

6 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.01.

7 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.01 cmt. 1.

8 TEX. DISCIPLINARY R. PROF'L CONDUCT 5.05.

9 VICKI BRITTAIN & TERRY HULL, PARALEGAL HANDBOOK 59-60 (2003).

10 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.05.

11 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.06.

12 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.07.

13 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.08.

14 TEX. DISCIPLINARY R. PROF'L CONDUCT 1.09.

Lynn Crossett is the Director of the Legal Studies Program and Assistant Professor of Political Science at Texas State University in San Marcos. He serves on the State Bar of Texas Paralegal Committee and is a graduate of the University of Texas and Texas Tech University School of Law.

How to Pick and Prepare Witnesses for Hearings and Trials

by Amy N. Montgomery and Nan Gibson

Picking and preparing witnesses for hearings and trials can be an intimidating task. It can also be the easiest thing in the world if you just frame it properly. In the majority of cases, the people you will interview are complete strangers to you. They are people you have never seen or spoken to before, and will most likely never see or speak to in the future. It is helpful to bear in mind that the witness is probably much more nervous than you are, because they have absolutely no familiarity with the justice system other than what they have seen on *The Practice* or *L.A. Law*. This article seeks to provide paralegals with practical tips for effectively choosing and preparing witnesses. The terms "he" and "his" as used in this article are meant to be gender inclusive.

Picking Witnesses

As soon as you are aware that a hearing has been scheduled, make an appointment with your client to go over what you are attempting to achieve in court. Have a copy of your pleadings with you at that meeting so that you are certain you do not overlook any of the relief that you have requested. That will give you the target areas you need to address, and the names and contact information for the people that may potentially give you the information you need to meet your client's goals.

When you are meeting with your client, get specific information about each potential witness. It is not sufficient to know that Mary Sue Jones is Johnny's teacher, you need to know what subject she teaches him, how long she has had him in her class, how they interact together, how your client interacts with the teacher, what problems if any have

occurred with Johnny, and what sort of participation your client and the opposing party have had with Ms. Jones.

Question your client to determine whether a witness will provide positive information regarding your client. Obviously, if a potential witness cannot provide positive information about your client, then you do not want to pick that person as a witness. For instance, if the potential witness has only seen your client with the children five times in the past three years, unless something truly significant occurred on one of those occasions, do not waste your time with an interview. However, if your client provides information that a witness might provide negative information regarding your client, and that witness is willing to talk to you, you must interview that witness and determine the substance of his testimony. You cannot counter-attack the unknown, and you never want the attorney to ask a question of any witness on the stand to which he does not know the answer. If the witness is unwilling to be interviewed, consider scheduling that witness' deposition prior to the hearing if at all possible.

In a family law case, specifically a case involving children, the most important witnesses are usually those individuals who have recent, firsthand knowledge regarding your client's positive parenting skills. The best sources for this are usually persons who have daily or weekly contact with the child, such as teachers, coaches, caregivers, and other parents. However, never overlook your intuition. Even a witness with great information can be harmful to your case. If you feel there is more to the story, there probably is. If you have any hesitation about using a witness, do not use the witness.

Interviewing Witnesses

Take a deep breath, relax and just have a conversation. Attached to this paper are Appendices AI -A-6 which contain several suggestions regarding possible questions to use when interviewing various witnesses. The best advice is to listen to the witness and ask the next logical question. You want the witness to tell you a story. By asking an open ended question like, "Tell me what you know about my client," you will get the witness started, and most people will tell you all of the facts they know. Some witnesses are more difficult than others, but generally speaking, particularly when the witness has already told your client he would be happy to help with the litigation, the witness wants to help and feels motivated to provide you information.

Do not forget that it can be just as important to focus on your client's negative aspects as well as the positive traits when interviewing potential witnesses. Your client can appear to be the best parent in the world-the President of the PTA, a Scout Leader and Sunday school teacher-but if he's taking 20 Vicodin a day, you have problems. Do not hesitate to ask your witnesses what is the worst thing they know about your client and always conclude your interview by asking if there is other information (whether good, bad, or indifferent) that the witness may want to tell someone, but has not yet been asked.

Do not get personally involved with a witness, but do not be cold and methodical either. Use the "good old boy/girl" method of being polite, with a smile in your voice, and an unhurried manner. When someone is telling a story, they do not like to think that their listener is in a hurry and does not really want to hear what they have to say. For many people, this is Perry Mason at its finest, and they want you to pay attention. Finally, a witness knows, by the responses you give and questions you ask whether or not you have been listening and will respond accordingly. Do not be married to a "script" of questions, following up with natural questions can result in your receipt of information of which even

your client was unaware.

A bad witness is a bad witness, and you cannot file a motion to change the facts of the case. Hopefully, as you go through the interview process, you will determine which of the potential witnesses has information which is vital for the court to hear and has the ability to relate that information in a way that is a positive experience for those who are listening. There are things that you can do to help prepare witnesses, but you need to keep in mind that opposing counsel may ask how often the witness has spoken with you or someone from your office and the content of those discussions. If a witness gives you bad information regarding your client - information that can do harm to the court's perception of your client - no matter what else they have to say, you probably do not want to call that witness to testify. You can never take the chance that your opposing counsel "might" ask the right question, but must assume that they will.

Preparing Witnesses

Preparation of witness testimony, including preparation of your client and all other witnesses, may actually dilute bad facts or tip the scales when facts are close. You can rarely spend too much time making sure your client and witnesses are confident and ready to testify.

Also, it is important, particularly where professionals such as teachers, psychologists, and pediatricians are concerned, to find a way to accommodate their schedules, if possible. Does the witness need to be subpoenaed? Is it better for the witness to testify in the morning or afternoon? What sort of notification does the witness need? Does the witness have transportation? Does the witness have any particular needs or handicaps which need to be addressed? It is also very important to talk with your witnesses on more than one occasion, particularly those witnesses you have identified as trial witnesses. This will not only set the witness more at ease with you, but with the entire process and will make the witness' testimony more powerful at the time of trial. You can rely on one fact...a witness

is never as strong in the courtroom as he is in your office or on the telephone. Confrontation is not natural for most people, and any individual can become intimidated by having to give unfavorable testimony in the presence of the person to whom they are referring. Working with your witnesses frequently makes you less threatening to them, and helps them relax and remember things that may be extremely valuable to your client's case.

1. Lay Witnesses

During the weeks before trial, consider interviewing each witness in person and going through the specific testimony. Instruct the witness as to proper attire, courtroom demeanor, and appropriate responses on cross examination and how to handle objections. Instruct your witnesses as to "the Rule," Texas Rule of Evidence 614 - and be sure to fully explain the consequences of violating the rule.

It is important to understand the background and motivations of each witness presented, including your own witnesses and the witnesses presented by the opposing party. Therefore, consider spending time fully exploring the biases and backgrounds of the witnesses that you call to present your theme of the case and the witnesses presented by the opposing party.

If you are using a private investigator, be sure to prepare the private investigator for the presentation of his testimony at the hearing or trial. Review the predicates that must be established before the evidence he has obtained can be admitted by the court. Usually the evidence obtained by the private investigator will include videotapes and photographs. The investigator may also have generated a report. Be ready for a hearsay within hearsay challenge as to the private investigator's report and/or file.

Finally, call the witnesses the day before trial. Ask if any new information has come up since your last discussion and confirm that the witness will be at court, on time and in the right place, pursuant to the subpoena.

2. Expert Witnesses

Review the information regarding your expert witnesses and make sure a resume or CV has been provided for each expert. Carefully review the subject matter and mental impressions as set out in your discovery responses. Many times an expert's testimony will evolve during the case, so while he may initially have been identified as testifying on a particular subject matter, his testimony may have expanded to include other areas.

In preparing your expert to testify, it is imperative that you work with him one-on-one. Tell your expert you want the truth. Read your expert's report well in advance of trial. If there are aspects of the report that you do not understand make your expert explain those sections to you. This is especially important when dealing with medical tests and diagnostic evidence which may be more complicated than even the most sophisticated practitioners fully understand.

Begin working with your expert several weeks prior to trial. Work with your expert in person. Have your expert walk you through what he believes are the most salient points of their report and the strongest factors for supporting the positions he has taken. You have to understand the terminology - if you do not follow the expert witness' explanations, chances are neither will the trier of fact.

Just because you call an expert to the stand does not mean you must spend hours on direct. Sometimes expert testimony can be very succinct and to the point and should be. Do not "over examine" giving opposing counsel time to think and prepare a cross examination for which they may otherwise be ill-prepared.

When using a psychologist and/or psychiatrist as an expert witness, it is important to select a psychologist or psychiatrist who will appeal to the court and fit the circumstances in which you are trying your case, as well as work effectively with the client and the children, if applicable. Does this expert have a specialty area, such as abuse and addiction? What percentage of the expert's practice is devoted to that area? For example if addiction is an issue in the case, the more familiarity the expert has with addiction and those

types of issues, the more weight his testimony will carry.

Remember also that cross-examination of an expert can be difficult. Quit while you are ahead. Hit the few points that are salient and move on. Use your own expert to develop a critique of the opposing expert's report. Your expert can be the best person to assist you in developing the direct examination, anticipating the cross-examination that will be asserted by opposing counsel, and preparing you to cross-exam the opposing expert.

3. Court-Appointed Experts

A court-appointed mental health evaluator such as a psychiatrist or psychologist or the amicus attorney can have the biggest impact on the fact-finder. These professionals are often viewed as unbiased, neutral individuals who can provide insight into the true interests of the child or the motivation of the parties. Instead of using a *Daubert* challenge to strike unfavorable testimony by a court-appointed psychiatrist or psychologist, read through the expert's report carefully. Compare what the expert actually did to the order that was entered appointing them. Craft your questions accordingly, for example:

- How did you define the developmental needs of each child under scrutiny?
- Show me where in your notes you gathered information about this specific factor for each child.
- Are there reliable psychological tests that measure this specific child development factor?
- What psychological measure (test) did you employ to assess this specific child development factor?

See Gould, Jonathan W., *Scientifically Crafted Child Custody Evaluations*, 37 FAM. & CONCILIATION CTS. REv. 64-73 (Jan. 1999).

When preparing an expert for their testimony you should first do a thorough review of the expert's report, if it is available. If a report has not yet been generated, make arrangements for counsel for the parties and the amicus attorney to participate in a telephone conference with

the expert, to get a verbal report, once the expert indicates that all interviews and testing have been completed with the subject family.

Once you have that information, in some cases, you will know what needs to be done regarding preparation of your client and any additional witnesses which may become necessary. For example, in a custody case if you are fortunate enough to represent the parent that the expert has recommended to have the right to determine the primary residence of the children you can anticipate that you may have to focus on *Daubert* issues because the opposing party may challenge that specific expert. If the expert comes out against your client, the first course of business is to establish with the expert exactly when you are going to get your report in writing. Step two is locating an expert who can refute the testimony provided by the court-appointed expert. This will most likely include asking the court to grant your client permission to take the children to another psychologist or psychiatrist, in order to obtain an independent expert opinion. Once that is concluded, and you have your additional report, you can begin to prepare for examination of the court-appointed expert. Your most valuable asset in this endeavor could be a retained expert. Once the retained expert has the opportunity to review the written report, he can be invaluable in assisting you prepare questions for the court-appointed expert. The main thrust of your examination should undermine the court-appointed expert's facts, data, testing interpretation, and possible alliances with opposing counsel.

If you have access to the Harris County District Clerk Office's JIMS system, you can go into the system, enter an attorney's name or bar number, click on the attorney's name, and a list will appear of every case that attorney has ever been associated with in Harris County. Once you determine which one of those cases involve children (we didn't say it wouldn't be time consuming), you can go to the category named "Case Chronological History" and find out whether a Psychological Evaluation was

ordered in that case. You can then check the court's file to see who was appointed to do the evaluation. It is time consuming, but if you are trying a case that will ultimately determine whether children will be protected, it is certainly worth the effort to know whether opposing counsel is the mental health evaluator's best friend and has done 100 evaluations with that attorney in the past.

Conclusion

In conclusion, remember that one of the most important parts of choosing and preparing a witness to testify is to listen. This is not the forum to share your life history, or compare your story to that of the witness. It is your time to listen—both with your ears and your intuition. If your intuition tells you something is just not right about someone, LISTEN. Nine times out of ten, your intuition is telling you what the witness is saying between the lines. During the preparation process, LISTEN. You may miss information that is vital to your case if you do not listen carefully to what the witness is saying. Solid, insightful preparation will allow you to be successful in the relief you are requesting from the court almost every time.

A-1 Sample Questions for a Lay Custody Witness

1. Name, address and telephone number;
2. How long they've known your client;
3. How they met your client;
4. How frequently are they around your client;
5. Have they been around your client and their children;
6. How frequently are they around your client with their children;
7. What are some of the activities they have participated in with your client and their children?
8. Have they ever witnessed your client discipline the children?
9. On one or more than one occasion?
10. What method of discipline was routinely used?
11. Did the children respond to that method?

12. Have they ever seen the other parent discipline the children?
13. Did the other parent's method of discipline work with the children?
14. What sort of person is your client?
15. What sort of person is the opposing party?
16. What sort of parent is your client?
17. What sort of parent is the opposing party?
18. Has the witness ever observed any behavior from your client in the presence of the children that caused them concern?
19. If yes, what was the incident(s) IN DETAIL, and if it was resolved, how was it resolved?
20. Has the witness ever observed any behavior from the opposing party in the presence of the children that caused them concern?
21. If yes, what was the incident(s) IN DETAIL, and if it was resolved, how was it resolved?
22. Have they been in your client's home?
23. Is the home clean? Child friendly?
24. Ever seen your client at the child's school, doctor's office, dentist's office, baseball field, extracurricular activities, church?
25. If yes, what did they observe.
26. Have you ever seen my client under the influence of any mood-altering substance, including alcohol?
27. If yes, when, how often, were the children present, etc.
28. Have you ever seen the opposing party under the influence of any mood-altering substance, including alcohol?
29. If yes, when, how often, were the children present, etc.
30. From your personal observations, what sort of relationship do the children have with our client? Ask the same thing about the opposing party.
31. Is there anything else you feel like I need to know about my client that I haven't been intelligent enough to ask? Ask the same thing for opposing party.
32. Have you ever observed or discussed with either of the parties, any extra-

- marital affairs they have had?
33. Have you ever ridden in an automobile with (ask for both parents) and the child/children?
34. Were the children properly secured in the vehicle?
35. Was a safe driver while transporting the children?
36. If not, what happened?
37. Has either party ever talked to you about any incidents of family violence which have occurred in the presence of the children?
38. Which parent spoke with you about that?
39. What did they say occurred?
40. Have you ever addressed that incident with the other parents?
41. What did the other parent say?
42. Were the police involved in this incident?
43. To your knowledge, has CPS ever been involved with this family?
44. If yes, what was their involvement?
45. How was it resolved?
46. Is there any other significant information you think I need that we haven't discussed?

A-2 Sample Questions for a School Teacher In a Custody Case

1. Their qualifications
2. How long they have been teaching the client's child?
3. What subjects they teach the child?
4. Has the child had any problems they've observed?
5. Does the child attend class in a timely manner?
6. Has the child had an excessive number of tardies or absences?
7. Does the teacher have any concerns about the child's behavior?
8. If there has been a problem with homework not being turned in, or assignments being incomplete, is there a pattern to those problems? (In other words, is it happening historically during mom's possession or dad's?)
9. Do you have parent/teacher meetings?
10. Have both parents attended those

- meetings?
11. If no, which parent historically attends the meetings?
12. When you have a problem with the child, how do you address the problem.
13. Are the parents responsive to your needs when you attempt to address a problem regarding their child?
14. Have you had any difficulties with either of the parents?
15. Have you observed any behavior on the part of either parent that causes you concern?
16. Has the child said anything to you regarding their home life that causes you concern? If "yes," what action did they take regarding that concern?
17. Have they ever felt it necessary to communicate with their superiors regarding any issues with the child? If yes, what were the issues you addressed?
18. How were those issues addressed?
19. Have you observed which parent brings the child to school?
20. If yes, which parent have you observed bringing the child to school?
21. If it's both parents, ask which parent they've observed bring the child to school more frequently?
22. Ask the same questions in No. 21 through 23 for which parent picks the children up from school
23. To their knowledge, do the children participate in any school-sponsored extracurricular activities? If yes, what are they?
24. Has the teacher been present to observe the child's participation?
25. Where the parents present to observe the child's participation? (Follow up with clarifying questions regarding whether it was one parent or the other, or if one parent was present more frequently than the other.)
26. Have you ever had an incident with this child involving your contacting CPS? What happened?
27. How did you address the issue with the parents?
28. Were the parents cooperative?
29. Is there anything you think the Court

should know about this situation that I have not been smart enough to ask you?

A-3 Sample Questions for Court-Appointed Mental Health Evaluator

1. Qualifications
2. Number of custody evaluations performed in the past
3. Number of custody evaluations performed in the past involving opposing counsel
4. Number of custody evaluations performed in the past where the expert found mother should be the parent with the exclusive right to determine the residence of the children.
5. Number of custody evaluations performed in the past where the expert found mother should be the parent with the exclusive right to determine the residence of the children.
6. If there were any elevations in the MMPI regarding your client (only ask this question if your expert or the court-appointed expert, has already told you the answer to that question is "No.")
7. If there were any elevations in the MMPI regarding the opposing party.
8. If yes, what do those elevations imply?
9. Would a person with elevations similar to those be considered someone who could successfully parent children?
10. What do those elevations mean in terms of personality abnormalities?
11. What do those elevations mean in terms of personality disorders?
12. Does the elevation of mom/dad indicate a personality disorder?
13. If it does not reach the level of a personality disorder, what likely effect would this elevation have on the personality of an average person?
14. Have you observed those characteristics in the client?
15. Pick apart the report. Particularly regarding any collateral witnesses that your client requested the expert to contact. If those people were not contacted, why not?

16. How much time did the expert spend with your client?
17. How much time did the expert spend with the opposing party?
18. How much time did the expert spend with the children?
19. Which specific collateral sources did the expert contact?
20. Take them source by source, and make them recall what facts and data were gathered from each witness.
21. After testimony is given regarding what a specific collateral source said, follow that up with, "Did that information, provided by Jane Doe, help you reach your decisions in this case."
22. How did that information influence your decision that mom/dad should be awarded the exclusive right to determine the residence of the children.

If there are significant facts which the court-appointed expert has not addressed in his report, ask the following questions:

1. If I told you that mom had beaten dad with a golf club in the presence of the children, would that alter your decision that mom should be the parent with the exclusive right to determine the primary residence of the children? If not, why not? If yes, how would it alter your decision?

Repeat this question as often as necessary to establish for the Court/jury that the evaluator had numerous other sources of information that remain untapped. This is basically the only way you are going to get a Judge or a Jury to give less weight to a court-appointed evaluator than they would normally give. Generally speaking, the public as a whole views a court-appointed mental health evaluator as an extension of the Court, and someone whose recommendations are sacrosanct. The only way to overcome that assumption is to slowly and convincingly provide evidence that the evaluator did not do as thorough a job as he/she should have, and had they done so, their results might have been quite different.

A-4 Sample Questions for Daubert Challenge

PRONG ONE—QUALIFICATIONS

1. Name
2. Address
3. Occupation
4. Present employment
5. Past employment
6. Education—formal and continuing
7. Current professional involvement
8. Field of experience and expertise
9. Purpose and nature of this evaluation
10. Purpose of today's appearance
11. Are you familiar with the American Academy of Child and Adolescent Psychiatry's Guidelines for Custody Evaluations?

Example: I was Court appointed to do an evaluation of parties, their spouses and child; to testify about child's best interest with regard to access by Dad and make recommendations regarding child and her visitation with dad.

If challenging—Do you know what those factors are? Can you name even one? Did you follow these guidelines in this evaluation? (to the extent possible given that did not appear for his clinical interviews)

If defending against a challenge ask if the failure to follow guidelines is due to bad conduct of other party.

12. Despite the fact that you are not giving a "custody evaluation" per se, did you follow the guideline as they applied to this case?

PRONG TWO—RELIABILITY OF THE UNDERLYING METHODOLOGY USED AND GENERAL ACCEPTANCE IN THE PSYCHOLOGICAL COMMUNITY

1. Are your conclusions and recommendations today based on any particular theory?
 2. What methodology did you?
- Examples: Testing—which tests and who was tested? Clinical interviews—when and with whom? Other data reviewed? Input from teachers?

Was this information sufficient

- to corroborate information to you?
Observations of the child?
3. What amount of "cross checking" did you do to corroborate testing data?
4. How often do you rely on this methodology?
5. Is this methodology commonly relied upon in clinical and forensic practice?
6. Does the technique you use require subjective and/or objective interpretation?
7. Do you feel that another person in your field would have come to similar conclusions given the facts of this case and the techniques used?
8. Does this technique have a known rate of error?
9. What is that rate of error?
10. How did you arrive at that rate of error?
11. Is that rate of error common for the techniques used?
12. Is there any other accepted methodology to use in these kinds of cases?
13. Is there any more reliable methodology to use in these kinds of cases?
14. Is this methodology accepted by the psychological community?
15. Is it generally accepted and relied upon?
16. For how long has it been generally accepted?
17. Has this methodology been used in non-forensic situations?
18. Do you know the purpose for which this particular "test" was originally designed? Or what it was originally designed to measure?
19. Was it or was it not designed to measure or evaluate parenting skills or abilities?
20. If not, why did you choose to include this particular test in your evaluation process?
21. What do you expect a test not designed to measure or evaluate parenting skills to really tell you about a person's ability to be a good parent?
22. Are there specific psychological studies or article which establish an acceptable margin of error in using

- the results of this test to draw conclusions about parenting skills or abilities?
23. Does it cause you concerns that you are drawing conclusions about a person's parenting skills or abilities based on the results of a test not designed to provide measurements or information about parenting?
24. Is this methodology relied upon in the psychological community in non-forensic situations?
25. Have you followed your normal and customary procedure and methodology in this case?

PRONG THREE-SPECIAL
KNOWLEDGE THAT WILL AID THE
TRIER OF FACT

1. What does your testimony concern?
2. In your opinion, how does your testimony relate to the nature of this suit and its underlying issues?
3. Do you believe that a person without your training and experience could have conducted the clinical interviews in this case and followed the same methodology?
4. Do you think that your findings and the methodology you followed are decipherable by the ordinary lay person?
5. Do you believe that your testimony will aid the finder of fact in understanding the work you have done and will present?
6. Do you believe that your testimony will aid the finder of fact in making a ruling in the best interests of the child?

AMERICAN ACADEMY OF CHILD
AND ADOLESCENT PSYCHIATRY
GUIDELINES FOR CUSTODY
EVALUATIONS

1. Continuity and quality of attachments
2. Preference
3. Special needs
4. Education
5. Sibling relationships

6. Physical and psychological health
7. Parents' work schedules
8. Finances
9. Styles of parenting and discipline
10. Conflict resolution
11. Domestic violence
12. Social support systems
13. Cultural and ethnic issues
14. Ethics and values
15. Religion
16. Special issues

A-5 Sample Questions for a Financial
Expert

1. What does it take to become a CPA?
2. What is your employment history?
3. What is the purpose of valuating a business? If this is not your sole area of expertise, why would you be the person to perform the valuation?
4. Do you have support staff?
5. Did your support staff work on the valuation? If so to what degree?
6. What is your educational background?
7. Do you have any honors or special recognition you have received in your field?
8. What are the CLE requirements for a CPA?
9. Have you met those requirements consistently?
10. Review vitae with witness. Is it accurate and updated?
11. Have you testified in other cases regarding valuation?
12. Have you ever been limited or excluded in other valuation cases?
13. To which online services and databases do you subscribe?
14. Did you consult with any other professionals in order to complete your valuation?
15. Are your opinions based on empirical research, authoritative, reliable, and subjected to peer review?
16. What research did you utilize to form your opinions?

Then move into discussion of the actual valuation with:

1. What is your opinion as to the value?

2. What makes the basis of your opinion?
3. What documents did you review?
4. Did you do a site visit?
5. Why or why not?
6. What impact did the site visit have on your valuation?
7. What was the trend of revenues and income related to this specific valuation?
8. Explain what valuation method was used.
9. Did you use a discount rate?
10. If so, what discount was given, and why?
11. Did you consider using other valuation methods?
12. If yes, why did you reject their use?
13. What method did the opposing valuation expert use?
14. Why are your numbers different from the opposing valuation expert?
15. Why are your discount rates different?
16. Is your discount reasonable? Why or why not?
17. Is the opposing valuation expert's discount rate used reasonable? Why or why not?
18. Why is the method you used to perform the valuation more accurate than the method used by the other expert?

For Cross-Examination

1. Discuss the conflicting discount rates and how that information was derived.
2. Explore the scope of the work performed, i.e. site visits and the scope and nature of the information reviewed, etc.

A-6 Sample Questions for a Visitation Supervisor in Child Custody Case

1. How long have you worked as a supervisor?
2. What credentials do you hold that qualify you to serve as a supervisor?
3. When did you first begin supervising this family?
4. Who made the initial contact?

5. Have you had contact with both conservators of the children?
6. How frequently does that contact occur?
7. How many visits have you supervised?
8. Do you have notes you prepared as a result of each of those visits?
9. Are these the notes you prepared?
10. Review each visit with the supervisor, and make certain that you ask if there are any incidents which occurred during any periods of supervised visitation overseen by that supervisor that would not be reflected in the notes.
11. Have you had any personal interaction with either of the children's conservators? (i.e. been to dinner, movies, etc.?)
12. If yes, what?
13. Do you not think that constitutes a conflict in this situation?
14. Please describe mom's interaction with the children.
15. Please describe dad's interaction with the children.
16. Describe mom's interaction with you.
17. Describe dad's interaction with you.
18. Have you ever been in trouble with the law?
19. If yes, for what, when, what was the outcome of that situation?
20. Do you have children?
21. If yes, how many, and their current ages.
22. Have you ever been involved in an abusive situation?
23. If yes, what?
24. Do you think your own personal experiences tend to color your reaction to situations where abuse has been alleged?
25. Do you have an opinion regarding whether or not the allegations against mom/dad which made the supervised visitation necessary are true or false?
26. What do you base that opinion on?
27. Have you ever heard either parent/conservator make statements in the presence of the children that you felt were inappropriate?

28. Would those comments be reflected in your notes?
29. If not, why not?
30. Have you ever seen either parent/conservator take any action toward any child or the children which you felt was inappropriate?
31. Would those actions be reflected in your notes?
32. If not, why not?
33. Have you ever had to cut the visitation short?
34. If yes, why?
35. What was the supervised parent/conservator's reaction to having to end the possession?
36. Was the parent with primary conservatorship of the children available to come and pick the children up immediately?
37. If not, why not?
38. In your opinion, should these periods of possession continue to be supervised?
39. If not, why not? If so, why?

Ann Montgomery graduated cum laude from Southwestern University in 2000 and received her Doctorate of Jurisprudence from the University of Houston Law School in 2004. She was a finalist in the Interscholastic Mock Trial competition in law school in 2002 and a Champion in 2003. She is a member of the Houston Bar Association, Conroe Bar Association, The Woodlands Bar Association and the Burta Rhoads Raborn Inns of Court and has authored several articles presented at Texas Bar CLE Seminars. Amy currently practices family law at the law firm of Price and Price in Conroe, Texas

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Legal Nurse Consulting:

A Specialty Practice of Nursing

By Connie Fletcher-Powell MN, RN, LNCC

Introduction

Since the early 1980s—and probably before that—nurses have been collaborating with attorneys to evaluate and analyze healthcare delivery and the resulting outcomes in order to render informed opinions that educate the legal team. This practice has led to development of the nursing specialty practice of Legal Nurse Consulting. The American Association of Legal Nurse Consultants [AALNC], the professional nursing specialty organization for Legal Nurse Consultants, defines legal nurse consulting as the evaluation and analysis of facts and the rendering of informed opinions related to the delivery of nursing and healthcare services and outcomes. The legal nurse consultant is a licensed registered nurse who performs a critical analysis of clinical and administrative nursing practice, healthcare facts and issues and their outcomes for the legal profession, healthcare professions, consumers of healthcare and legal services, and others as appropriate. [AALNC Position Statement: The Specialty Practice of Legal Nurse Consulting 2005, www.aalnc.org]

Legal Nurse Consulting

Nursing education and healthcare experience are what distinguish Legal Nurse Consultants from Paralegals and Legal Assistants. Legal nurse consultants are uniquely qualified to recognize, interpret and analyze all relevant medical information in a claim or case. As licensed registered nurses, Legal Nurse Consultants bring specialized knowledge and clinical experience to the medically-related issues of the litigation process. As they review medical cases, Legal Nurse Consultants can assess adherence to standards and guidelines of healthcare practice as these standards and guidelines apply to nursing

and other healthcare professionals.

As a specialty practice of nursing, Legal Nurse Consulting requires licensure as a registered nurse [RN] and a strong educational and experiential foundation. These special attributes provide the foundation for their unique and valuable role as members of the litigation team.

American Association of Legal Nurse Consultants

During the 1980s small regional groups of nurses who were working with local attorneys banded together in special-interest groups to share their knowledge and experiences. As these groups from several different states began to share their knowledge, goals and aspirations, the seeds of a specialty nursing organization were born. By 1989 several state groups came together, and the American Association of Legal Nurse Consultants was born. 2009 marks the 20-year anniversary of this organization. The first national conference was held in Phoenix in 1990 and the 20th Anniversary 2009 National Educational Conference will also be held in Phoenix in April. From this small group of like-minded nurses in a few states, the organization has grown to over 3500 members and 52 local chapters, including a brand-new "Virtual Chapter." The virtual chapter concept takes advantage of 21st century communication methods to connect Legal Nurse Consultants from all over the US who are unable to access local chapter meetings.

What do LNCs do?

Legal Nurse Consultants practice in a variety of settings where their unique education and experience provide an advantage to the legal teams and healthcare providers alike. A Legal Nurse Consultant [LNC] may practice as an

Expert Witness to evaluate the essential elements of a medical malpractice claim. This LNC expert will be a registered nurse who is clinically active (or was at the time of the alleged incident) in the subspecialty in question, and may be required to write a report and testify to his or her opinions in deposition and/or trial. The LNC may also work in a "consultant" capacity, assisting with medical research, evaluating documents, educating the attorney in the clinical issues involved in the situation, and participating in all manner of case analysis and preparation. These duties require collecting all the data necessary to thoroughly assess all the healthcare issues involved in the delivery of care, organizing it into a logical format, understanding the problems inherent in the healthcare delivery system, and helping the attorney to paint a thorough and accurate picture. In this role, LNCs work with both plaintiff and defense firms, either as Independent Consultants or as full-time or part-time in-house employees. In addition to working with attorneys in law firms, LNCs may work in Risk Management and Quality Improvement, Case Management, Insurance Companies, and as Life Care Planners. As Risk Managers, the LNC performs critical analysis of incidents in which an injury, near miss, or preventable injury has occurred. Case Managers use their LNC skills to assist clients to access and maneuver through the complex healthcare system, to achieve the best possible outcomes and avoid harm. Case Managers may work in Insurance Companies, hospitals, home care agencies, and with other providers of healthcare. LNCs may also be certified as Life Care Planners. The Life Care Planner is able to take apart the case, assess the many health issues, and use specific formulas and data to place a dollar value on what it will cost to care for an injured party for the remainder of their lives. Not all Life Care Planners are nurses, but nursing skills and experience provide a unique and valuable foundation for this role. So whether employed within a law firm, hospital, clinic, insurance company, or independently, Legal Nurse Consultants use their nursing education, experience, and

analytical skills to assist legal teams with research, analysis, education, and dissection of healthcare situations.

Medical Records Analysis

Legal Nurse Consultants provide valuable assistance to the legal team by reading and interpreting medical records. Nurses have a great deal of experience, and a special gift, for reading "poor penmanship." They also have a thorough understanding of what should be in the records, what might be missing, where this missing information might be, and how it might be located. Nurses are familiar with electronic medical records, where all the events of one day may be found on ten different pages in ten different sections of the printed record. The nurse can smoothly and skillfully find all that information and mesh it into a succinct and easy-to-read chronology of events with references to the specific pages, and related comments to help the non-medical person understand the nuances and significance of minor events or specific data. Nurses, with their knowledge of medications, normal anatomy and physiology, pathophysiology, biochemistry, and biology, as well as the psychosocial impact of illness, can make a complex and essentially illegible medical record make sense—and can find those "pearls" which may be the key to winning a case.

Education, Training, Certificates, and Certification

There are many paths to becoming a Legal Nurse Consultant involving different amounts of commitment, time and money. However all LNCs will agree that the most valuable skill brought to the table is several years of clinical experience as a Registered Nurse. A search of the Internet will reveal many online courses offered by colleges and individual LNCs, as well as an independent-study series offered by the American Association of Legal Nurse Consultants. Some courses even include hands-on practice and internships. The confusion of certificates vs. certification is not unique to the Paralegal group (TPJ, Spring 2008, 13:4,

p 12-14). Most LNC courses now provide their graduates with a Certificate of Completion and some courses encourage using the term "certified" in marketing the LNC role. As in other specialties, this has created some confusion and muddies the water for attorneys, paralegals, and other legal professionals when evaluating whether to hire a Legal Nurse Consultant. Legal Nurse Consultant Certified [LNCC] is the only certification program accredited by the American Board of Nursing Specialties and endorsed by the American Association of Legal Nurse Consultants, the industry's not-for-profit professional society. This certification requires an applicant to have a current, unrestricted RN license in the US or its territories, a minimum of five years experience as a RN, AND evidence of 2,000 hours in Legal Nurse Consulting practice ["billable hours"] within the past three years. Recertification requires continuing education and current practice. So the LNCC designation is a sign of an experienced LNC, and an assurance that they have met the high standards established by the American Legal Nurse Consultant Certification Board.

Other Resources

The American Association of Legal Nurse Consultants [AALNC] is a nonprofit organization dedicated to the professional advancement of registered nurses practicing in a consulting capacity in the legal field. Founded in 1989, AALNC serves as a resource to its members and provides a forum for education and the exchange of information. AALNC works to advance the profession in many ways. In 2006, AALNC achieved a milestone when the American Nurses Association (ANA) officially recognized legal nurse consulting as a specialty practice of nursing with the publication of Legal Nurse Consulting: Scope and Standards of Practice. AALNC provides guidelines for professional performance and behavior through the publication of AALNC Code of Ethics. They provide educational advancement through publication of the basic textbook for Legal Nurse Consulting used by most

community colleges and other programs: Legal Nurse Consulting: Principles and Practice, 2nd Edition, and the peer-reviewed journal The Journal of Legal Nurse Consulting.

Local resources, education, and networking are provided by AALNC chapters in many cities across the US including Houston and Dallas, Texas, and a Virtual Chapter for those who live too far away from local chapters. This new Virtual Chapter will hold its first meeting via teleconference and webinar in April 2009. Many chapters provide regular educational meetings, annual educational conferences, and other activities. The national organization provides a three-day National Education Conference every spring, this year to be held in Phoenix in April.

Summary

Nurses, with their unique knowledge of the biopsychosocial impact of health and illness, can make complex medical situations easier to understand—for everyone involved. Legal Nurse Consultants can help a legal team learn about healthcare issues through working with them on cases, providing training to attorneys and staff, speaking at professional events, and writing articles for professional journals. As knowledge-based professionals, Legal Nurse Consultants use information learned in the research and development of a case to improve future health care for patients, to advocate for remedies for patients who have received inadequate care, and to provide education to clients, patients, health care providers, and the public as appropriate.

To find a Legal Nurse Consultant in your area: go to www.aalnc.org to look for the LNC Locator, and links to a chapter in your city.

Houston chapter: www.aalnc-houston.com

Dallas chapter: www.aalncdallas.org

Connie Fletcher-Powell is currently an Independent Legal Nurse Consultant practicing in the Greater Houston area.

Roth IRA Conversions— Planning for New Opportunities

Craig Hackler Financial Advisor, Raymond James Financial Services, Inc., Member FINRA/SIPC

With the lure of tax-free distributions, Roth IRAs have become popular retirement savings vehicles since their introduction in 1998. But if you're a high-income taxpayer, chances are you haven't been able to participate in the Roth revolution. Well, that's about to change.

What are the current rules?

There are currently three ways to fund a Roth IRA—you can contribute directly, you can convert all or part of a traditional IRA to a Roth IRA, or you can roll funds over from an eligible employer retirement plan (more on this third method later).

In general, you can contribute up to \$5,000 to an IRA (traditional, Roth, or a combination of both) in 2008 and 2009. If you're age 50 or older, you can contribute up to \$6,000 in 2008 and 2009. (Note, though, that your contributions can't exceed your earned income for the year.) But your ability to contribute directly to a Roth IRA depends on your income level ("modified adjusted gross income," or MAGI), as shown in chart 1.

Regardless of whether you contribute directly to a Roth IRA, if your MAGI is \$100,000 or less, and you're single or married filing jointly, you can convert an existing traditional IRA to a Roth IRA. (You'll have to pay income tax on the taxable portion of your traditional IRA at the time of conversion.) But if you're married filing separately, or your MAGI exceeds \$100,000, you aren't allowed to convert a traditional IRA to a Roth IRA.

What's changing?

In 2006, President Bush signed the Tax Increase Prevention and Reconciliation Act (TIPRA) into law. TIPRA repeals the

\$100,000 income limit for conversions, and also allows conversions by taxpayers who are married filing separately. What this means is that, regardless of your filing status or how much you earn, you'll be able to convert a traditional IRA to a Roth IRA. The bad news? This provision of the new law doesn't take effect until 2010.

So why concern yourself with this now?

Even though the new rules don't take effect until 2010, there are steps you can take now if you want to maximize the amount you can convert at that time. If you aren't doing so already, you can simply start making the maximum annual contribution to a traditional IRA, and then convert that traditional IRA to a Roth in 2010.

Your ability to make deductible contributions to a traditional IRA may be limited if you (or your spouse) is covered by an employer retirement plan and your

income exceeds certain limits. But any taxpayer, regardless of income level or retirement plan participation, can make nondeductible contributions to a traditional IRA until age 70½. And because nondeductible contributions aren't subject to income tax when you convert your traditional IRA to a Roth IRA, they make sense for taxpayers contemplating a 2010 conversion even if they're eligible to make deductible contributions.

And don't forget that SEP IRAs and SIMPLE IRAs (after two years of participation) can also be converted to Roth IRAs. You may want to consider maximizing your contributions to these IRAs now, and then converting them to Roth IRAs in 2010. (You'll need to set up a new IRA to receive any additional SEP or SIMPLE contributions after you convert.)

But there's a taxing problem

If you've made only nondeductible contributions to your traditional IRA, then only the earnings, and not your own contributions, will be subject to tax at the time you convert the IRA to a Roth. But if you've made both deductible and nondeductible IRA contributions to your traditional IRA, and you don't plan on converting the entire amount, things can get complicated.

That's because under IRS rules, you can't just convert the nondeductible contributions to a Roth and avoid paying tax at conversion. Instead, the amount you

Chart 1

If your federal filing status is:	Your 2009 Roth IRA contribution is reduced if your MAGI is:	You can't contribute to a Roth IRA for 2009 if your MAGI is:
Single or head of household	More than \$105,000 but less than \$120,000	\$120,000 or more
Married filing jointly or qualifying widow(er)	More than \$166,000 but less than \$176,000	\$176,000 or more
Married filing separately	More than \$0 but less than \$10,000	\$10,000 or more



convert is deemed to consist of a pro-rata portion of the taxable and nontaxable dollars in the IRA.

For example, assume that in 2010 your traditional IRA contains \$350,000 of taxable (deductible) contributions, \$100,000 of taxable earnings, and \$50,000 of nontaxable (nondeductible) contributions. You can't convert only the \$50,000 nondeductible (nontaxable) contributions to a Roth. Instead, you'll need to prorate the taxable and nontaxable portions of the account. So in the example above, 90% (\$450,000/\$500,000) of each distribution from the IRA in 2010 (including any conversion) will be taxable, and 10% will be nontaxable.

You can't escape this result by using separate IRAs. The IRS makes you aggregate all your traditional IRAs (including SEPs and SIMPLEs) when calculating the taxes due whenever you take a distribution from (or convert) any of the IRAs.

But for every glitch, there's a potential workaround. In this case, one way to avoid the prorating requirement, and to ensure you convert only nontaxable dollars, is to first roll over all of your taxable IRA money (that is, your deductible contributions and earnings) to an employer retirement plan like a 401(k) (assuming you have access to an employer plan that accepts rollovers). This will leave only the nontaxable money in your traditional IRA, which you can then convert to a Roth IRA tax free. (You can leave the taxable IRA money in the employer plan, or

roll it back over to an IRA at a later date.)

But even if you have to pay tax at conversion, TIPRA contains more good news--if you make a conversion in 2010, you'll be able to report half the income from the conversion on your 2011 tax return and the other half on your 2012 return.

For example, if your only traditional IRA contains \$250,000 of taxable dollars (your deductible contributions and earnings) and \$175,000 of nontaxable dollars (your nondeductible contributions), and you convert the entire amount to a Roth IRA in 2010, you'll report half of the income (\$125,000) in 2011, and the other half

(\$125,000) in 2012.

And speaking of employer retirement plans...

Before 2008, you couldn't roll funds over from a 401(k) or other eligible employer plan directly to a Roth IRA unless the dollars came from a Roth 401(k) account or a Roth 403(b) account. In order to get a distribution of non-Roth dollars from your employer plan into a Roth IRA you needed to first roll the funds over to a traditional IRA and then (if you met the income limits and other requirements) convert the traditional IRA to a Roth IRA. And, as described earlier, you needed to aggregate all your traditional IRAs to determine how much income tax you owed when you converted the traditional IRA.

PARALEGAL ETHICS HANDBOOK 2009 EDITION

BY ELLEN LOCKWOOD, LAURIE L. BORSKI, RHONDA J. BRASHEARS, DEBRA CROSBY, JAVAN JOHNSON, LISA SPRINKLE, AND OTHER MEMBERS OF THE PARALEGAL DIVISION OF THE STATE BAR OF TEXAS

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

One softbound volume - \$57

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The product focuses on providing paralegals with the information, guidelines and tools necessary to assure they are always performing in an ethical manner. Paralegals must always take care to be sure they are not crossing any ethical lines. Ethical guidelines for paralegals and attorneys, vary from state to state, however, the professional paralegal needs to be familiar with them.

Answers to a myriad of ethics questions can be found in this handbook including:

- Defining ethics and ethical obligations
- Remaining ethical
- Ethical considerations for a variety of functional areas including corporations, freelance, and as administrative, governmental, regulatory law paralegals, and alternative dispute resolution
- State Information
- Includes paralegal association ethics canons and related information

In addition, this handbook covers ethical considerations in practice areas including:

- | | |
|--|---|
| • Banking | • Immigration |
| • Finance, and Investment | • Intellectual Property |
| • Bankruptcy | • Labor and Employment |
| • Civil Litigation and Personal Injury Law | • Estate Planning |
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| • Family | |



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The Pension Protection Act of 2006 streamlined this process. Now, you can simply roll over a distribution of non-Roth dollars from a 401(k) or other eligible plan directly (or indirectly in a 60-day rollover) to a Roth IRA. You'll still need to meet the \$100,000 income limit for 2008 and 2009. And you'll still need to pay income tax on any taxable dollars rolled over.

One benefit of this new procedure is that you can avoid the proration rule, since you're not converting a traditional IRA to a Roth IRA. This can be helpful if you have nontaxable money in the employer plan and your goal is to minimize the taxes you'll pay when you convert.

For example, assume you receive a \$100,000 distribution from your 401(k) plan, and \$40,000 is nontaxable because you've made after-tax contributions. You can roll the \$60,000 over tax free to a traditional IRA, and then roll the after-

tax balance (\$40,000) over to a Roth IRA. Since only after-tax dollars are contributed to the Roth IRA, this rollover is also tax free. (Both your plan's terms and the order in which you make the rollovers may be important, so be sure to consult a qualified professional.)

Is a Roth conversion right for you?

The answer to this question depends on many factors, including your income tax rate, the length of time you can leave the funds in the Roth IRA without taking withdrawals, your state's tax laws, and how you'll pay the income taxes due at the time of the conversion. And don't forget—if you make a Roth conversion and it turns out not to be advantageous, IRS rules allow you to "undo" the conversion (within certain time limits).

A financial professional can help you decide whether a Roth conversion is right for you, and help you plan for this exciting new retirement savings opportunity.

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UNITED STATES POSTAL SERVICE® (All Periodicals Publications Except Requester Publications)	
1. Publication Title Texas Paralegal Journal	2. Publication Number 11087911633
3. Issue Frequency Quarterly	4. Filing Date 10/6/09
5. Number of Issues Published Annually Four (4)	6. Annual Subscription Price \$15.00
7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4®) 3505 Black Mesa Hollow Austin TX 78739	
8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) PO Box 1375 Manachaca TX 78652	
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank) Publisher (Name and complete mailing address) Publications Committee, Paralegal Division PO Box 12487, Austin TX 78711 Editor (Name and complete mailing address) Heidi Beginski, Lucky, Enriquez, Piacenti & Smigiel, PC 300 E Main, Ste 630, El Paso, TX 79901 Managing Editor (Name and complete mailing address) N/A	
10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)	
Full Name Paralegal Division	Complete Mailing Address 3505 Black Mesa Hollow Austin TX 78739
11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box <input checked="" type="checkbox"/> None	
Full Name	Complete Mailing Address
12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one) The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes: <input checked="" type="checkbox"/> Has Not Changed During Preceding 12 Months <input type="checkbox"/> Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)	

13. Publication Title Texas Paralegal Journal		14. Issue Date for Circulation Data Below 10/6/09	
15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		1650	1500
(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)		1373	1233
b. Paid Circulation (By Mail and Outside the Mail)		162	145
(2) Mailed In-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)			
(3) Paid Distribution Outside the Mails Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®			
(4) Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-Class Mail®)			
c. Total Paid Distribution (Sum of 15b (1), (2), (3), and (4))		1535	1378
d. Free or Nominal Rate			
(1) Free or Nominal Rate Outside County Copies Included on PS Form 3541			
(2) Free or Nominal Rate In-County Copies Included on PS Form 3541			
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(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)			
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3), and (4))		110	
f. Total Distribution (Sum of 15c and 15e)		110	1378
g. Copies not Distributed (See Instructions to Publishers #4 (page #3))		5	122
h. Total (Sum of 15f and g)		1650	1500
i. Percent Paid (15c divided by 15f times 100)		100%	100%
16. Publication of Statement of Ownership <input checked="" type="checkbox"/> If the publication is a general publication, publication of this statement is required. Will be printed in the Spring 2010 issue of this publication. <input type="checkbox"/> Publication not required.			
17. Signature and Title of Editor, Publisher, Business Manager, or Owner Norma Hackler Business Manager		Date 10/6/09	

Scruples

The Ethics of Discovery

by Ellen Lockwood, ACP, RP

Discovery once only included hard copies of document. Now discovery includes electronic files. The Federal Rules of Civil Procedure defines “documents or materials” as “electronically stored information” or ESI.

Because electronic materials may be inadvertently changed, extra care must be taken with them. Most firms and companies use e-discovery software to harvest, search, and separate the materials to be produced. Most e-discovery software also removes duplicates. There have been some cases where a party that did not remove duplicates from e-discovery was fined.

Paralegals tracking production should note drastic differences between the volume of materials produced by different parties and whether outside vendors are charging a fair rate for their services. Such issues should be brought to the attention of the supervising attorney.

Paralegals may also be responsible for documenting the source and content of materials produced as authentication is an important part of the discovery process.

E-discovery is even more likely than traditional discovery to create issues regarding reasonableness and relevance. Paralegals should refrain from offering their personal opinions on those topics to the client, and should pass along the attorneys’ instructions regarding the necessity of searching every reasonable source. Questions regarding limiting

search categories or sources should be brought to the attorney for a decision. It is unethical for a paralegal or vendor to make those decisions.

Paralegals should have a good knowledge of the rules of evidence and procedure that are applicable to e-discovery. These rules include limitations on discovery, process and procedures for claims regarding undue burden and cost, admissibility, privileged materials, and the overall discovery process. This area of law also requires some familiarity with issues regarding the scope of e-discovery including the following:

- Need for production of ESI in multiple formats
- Sources of ESI that due to undue cost or burden, are not considered reasonable
- Procedures for making claims regarding privileged material produced inadvertently (claw-back provisions)

Since electronic evidence may be inadvertently changed or damaged, it is important to use the proper software and hardware to gather data. If a paralegal is not confident in his abilities to harvest the data appropriately, an IT professional or e-discovery vendor should be used. However, be sure the people engage are experienced in e-discovery.

When issuing a litigation hold, discuss with your attorney whether the hold should include a prohibition on manual

or automatically scheduled defragging. Defragging may destroy evidence of hard drive wiping and could be considered spoliation of evidence.

Redaction done by technology still should be checked to ensure the appropriate info has been redacted and that the redacted info cannot be determined by counting spaces or the surrounding text. It may be necessary to redact a few words before or after the redacted term in order to maintain integrity of redaction. Hold hard copy docs up to the light to be sure redacted info is not visible.

Paralegals should also be mindful of the prohibitions against altering, concealing, or destroying evidence and not participate in any such activities, even at the direction of a client or attorney. Doing so may be considered a criminal, as well as ethical, offense.

Because this area is constantly changing due to court decisions and technology updates, paralegals should attend CLE on this topic at least annually and keep up with other sources of information on e-discovery.



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 West Legalworks. You may follow her on Twitter @paralegalethics and her blog at <http://paralegal-ethics.blogspot.com>. She may be contacted at ethics@txpd.org.

Texas Advanced Paralegal Seminar 2009

South Shore Harbour Resort

League City, TX

Two hundred, fifteen (215) attendees descended upon League City (Texas) to attend TAPS 2009; it was a resounding success. Of course, none of this could have happened without our very dedicated committee. A very special THANK YOU to Rhonda Brashears (Amarillo), Chair; Stephanie Hawkes (Irving) Board Advisor and Volunteer Coordinator; Gloria Porter (Lewisville) and Mel Glina (Houston) Marketing; Patti Giuliano (San Antonio) and Nan Gibson (Houston) Door Prizes; Javan Johnson (Longview) Socials; Jennifer Barnes (Houston) Speakers; Rosemary Buchanan (Austin) Registration; Debbie Oaks Guerra (Flower Mound) Vendors; Frank Hinnant (Innovative Legal Solutions, Houston) Special Advisor; and Norma Hackler (Austin) PD Coordinator and Meeting Planner. Thanks so much to the TAPS Planning Committee for working so hard to bring the attendees this wonderful benefit everyone enjoys each year. In

addition, the committee was assisted by an army of volunteers, about 60 others helped to make this a very successful event. Thanks to those unnamed individuals.

All in all, TAPS was, once again, the best of the best CLE made available anywhere, and cannot be beaten for the cost. The facility was lovely, the socials were so much fun and the networking is something you absolutely cannot obtain anywhere but at TAPS. It was, once again, FANTASTIC.

Educational Presentations:

Jennifer Barnes, who was the Speaker Chair, did a fabulous job of locating speakers who were both entertaining and informative. Across the board we have received very favorable comments about our speakers. Keith Fletcher (Houston attorney) offered this in his letter to the Paralegal Division: "It is truly an honor and privilege to speaker to so many dedicated, hardworking and essential parale-

gals as I spoke to."

Deborah Wright, standing in for Joan Jenkins who had a last-minute conflict, provided us all of the family law legislative revisions and updates in an entertaining and informative manner. In spite of running for a family law bench this year, Deborah stepped up when Joan Jenkins called for help due to a last minute Court date, and updated everyone on the most recent legislative changes.

Ellen Lockwood, Paralegal Division Ambassador and past President's topic was "Paralegal Ethics in the Digital Age" and it was very on point. She covered several relevant topics such as a reminder to keep up with technology, how to ethically handle electronic filing and electronic discovery, and to remember to use caution when communicating by email.

Immy Papadopoulos' presentation regarding Grandparent's Rights was also timely and insightful, particularly since the law regarding these issues has recently been revised in a major fashion. Immy





also provided information regarding useful contacts regarding elder law that I am certain we will all at some point have an opportunity to use, if not professionally, then personally.

Sallee Smyth did not disappoint. Sallee is truly one of the brightest litigators in the city. Her "Death by Deadlines" presentation was, and always is, inclusive of the latest legislative updates and tips for dealing with deadlines.

Jonathan Gould, Ph.D., and Jay Flens, Ph.D., who traveled across the country (North Carolina and Florida) to make their two-session presentation to us, were outstanding. Drs. Gould and Flens also presented at the State Bar's Advanced Family Law Seminar this past summer in Dallas, and are considered

to be the "gurus" of child custody, having devised the 2.2.5 visitation schedule. Their presentations were informative and entertaining. It truly says something regarding the quality of information we are presenting, when renowned speakers from across the country are willing (at their own cost) to appear and present to the Paralegal Division. Jonathan commented afterwards that they were in a room full of bright women and men, and our participation regarding exchange of information was exceptionally insightful, and truly made them feel as if they were able to provide us information that would be useful in the future.

Elaine Lowenkron of Attorney Resource traveled to League City to provide the attendees with very much needed

classes on Power Point and Excel for 2007. The classes were very helpful and gave numerous tips and tricks to the paralegal for tweaking their use of these two programs for optimal use in their firm's legal practice.

There were so many quality, substantive CLE courses to choose from. One of the best was "Going Green: Implementing Environmentally Friendly Leases" as a most progressive, deftly delivered, useful unit that was attended this year.

Socials:

The TAPS socials were outstanding and enjoyed by all. The Wednesday evening "Welcome" social, Lounge by the Bay – Come Network and Play!, was held at the South Shore Harbour Resort. Many





attended the social dressed in PJs conforming to the theme – pajama party. A networking game and “What’s in your purse” brought roars of laughter from the attendees. The Thursday night off-site social, Anchors Aweigh – We’re Cruisin’ the Bay (on a cruise ship), was also a great success with people enjoying a fabulous buffet, an evening cruise on the bay, and many door prizes. The weather really cooperated and it was a beautiful evening to be outdoors.

The Friday luncheon, Back to Shore for the Final Course, was again our culminating event. JUDGE KEN WISE of the LAW FIRM OF FRIDGE, RESENDEZ & WISE LLC was a very entertaining keynote speaker with his ORDER IN THE

COURT...OR NOT presentation topic. The topic was both educational and humorous as he entertained us with stories from his view behind the bench.

The Grand Prize (\$1,500), sponsored by UHY ADVISORS TX, LLC, THE COOLE COMPANY, NC and JENKINS & KAMIN, L.L.P., was awarded at the end of the luncheon. Attendees make themselves eligible for the grand prize by visiting all the vendors in the Exhibit Hall. While the information distributed by the vendors is for the attendees’ benefit, the vendors like it equally as well since they get to meet the attendees, and their potential customers, face to face. It’s a win-win for everyone.

Last but not least, the TAPS 2009

Vendor Exhibit Hall was superb. There were a total of 43 exhibiting legal service companies, 8 social sponsors, various sponsorships for TAPS attendees’ giveaways, and three a grand prize sponsors. The sponsors are listed at the end of this article. The Paralegal Division thanks each sponsor that made this year’s event a great success. If at all possible, the Division is asking each PD member to use these companies as a special thank you for their support.

Save the date and plan to attend TAPS 2010. The Division will celebrate TAPS 12th anniversary– and it will be held in Austin at the DoubleTree Hotel on September 29, 30 and October 1, 2010.



TAPS 2009 Sponsors and Exhibitors

Wednesday Social

Center for Advanced Legal Studies – www.paralegal.edu
Esquire Litigation Solutions – www.esquiresolutions.com

Thursday Social

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If you are interested in exhibiting or sponsoring at TAPS 2010 spaces are filling up quickly. To reserve your spot contact our Vendor Chairs, Patti Giuliano and Rhonda Brashears at tapsvendors@txpd.org

PARALEGAL DIVISION

STATE BAR OF TEXAS

EXCEPTIONAL PRO BONO SERVICE AWARD

The Paralegal Division 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 and to encourage Division 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 and to provide assistance to established pro bono programs, work closely with attorneys to provide unmet legal services to poor persons. This award will go to a Division member who has volunteered his or her time and special skills in providing uncompensated services in pro bono assistance to their community. The winner of the award will be announced at the Annual meeting, his/her expenses to attend the Annual Meeting will be incurred by the Division, and a profile of the individual will be published in the *Texas Paralegal Journal*.

Please complete the following nomination form, and return it **NO LATER THAN MARCH 31, 2010** to the following:

Jodye L. Kasher, CP
Board Certified Paralegal - Personal Injury Trial Law
Texas Board of Legal Specialization
Fulbright & Jaworski L.L.P.
300 Convent St., Ste. 2200
San Antonio, TX 78205
210-270-9373 (d)
210-270-7205 (fax)
PDC@txpd.org

Individual's Name: _____

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 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.

PARALEGAL DIVISION
VOTE 2010
District Director Elections



District Director Elections:

The PD's ONLINE ELECTION will take place April 2 through April 17, 2010. The election of district directors to the Board of Directors will be held in even-numbered districts (Districts 2, 4, 6, 8, 10, 12, 14, and 16).

All Active members of the PD in good standing as of February 1, 2010 are eligible to vote. All voting must be completed on or before 11:59 p.m., April 17, 2010.

Please take a few minutes to logon to the PD's website and cast your vote for your district's director (only even-numbered districts vote in 2010). The process is fast, easy, anonymous, and secure.

- Between April 2nd and April 17, go to www.txpd.org
- In the Member-Only section, click on "Vote"
- Follow the instructions to login and vote (you will need your bar card number in order to vote).

If you do not have access to the Internet at home or the office, you can access the TX-PD website at your local library. No ballots will be mailed to members as all voting will be online. A postcard will be mailed to each Active voting member in April giving notification of the voting period. If you need any further information, contact the Elections Chair, Melanie Langford, at Elections@txpd.org.

TAKE THE TIME, MAKE YOUR VOICE HEARD!



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