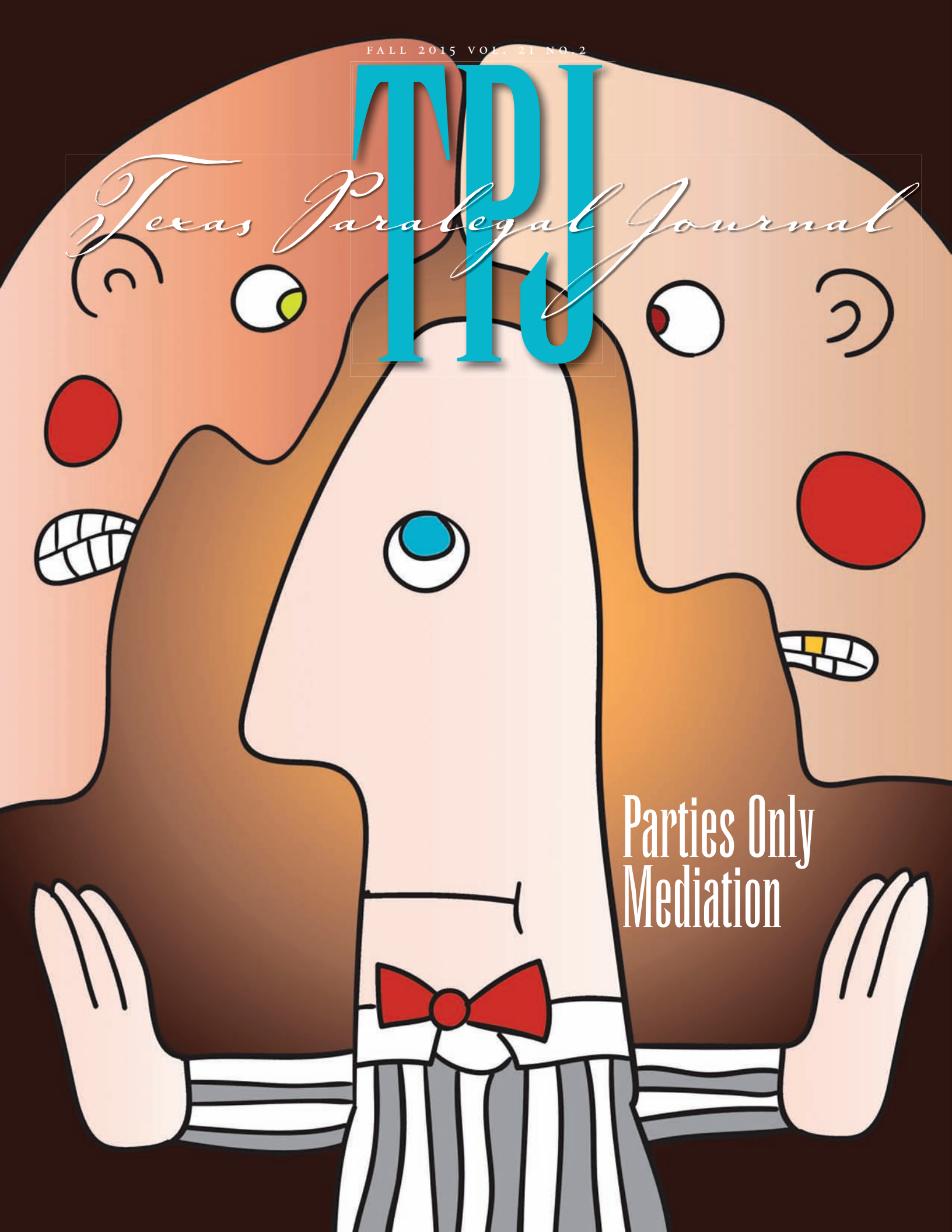


FALL 2015 VOL. 21 NO. 2

TPJ

Texas Paralegal Journal

Parties Only
Mediation





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PRESIDENT'S *Message*

Erica Anderson, ACP

I am honored and humbled by your confidence to serve as President of the Paralegal Division, and I look forward to contributing my chapter to the Paralegal Division's history. Stories and recollections from many past-presidents and district directors have been passed down to me as a rite of history. It's only fair that I share my experience with you along the way.



Each one of us is each similar to a feather and has a distinctive part that helps in the entirety of the performance. There is beauty in the individuality and in the harmonious effort. A portion of my goal this year is nudging the Board of Directors, Committees, and all volunteers to work together and use each other as resources and make the connections

within the PD stronger. I really want to challenge the members to be motivated to not only further their career but also teach and lead others, whether by professional acts or personal ones.

What I want to say is this: We are in a profession of givers, a profession that continuously gains momentum to self-educate, self-lead, and self-motivate. Giving is second-nature to a paralegal and assisting others is part of the job description. Think about it; each one of us can be given the title as a client care-taker. Giving back is a true testament to us, and we should celebrate it by continuing to help our colleagues, leading by example, and volunteering in the community. A small effort on your part can very well make a difference with one person who forwards the good deed to someone else. There is not a small enough deed to go unnoticed by someone, nor should there be. Each effort represents a feather to someone else, a glimpse at the magnificence of the greater good. Own your professionalism and spearhead the movement of looking towards the future by laying the groundwork.

My journey is your journey, which becomes our journey. Eventually it is someone else's journey, the unknown future colleagues who will carry the torch

forward. Why not reach out and contribute to someone else's journey?

As a side note, these are the song titles I mentioned above:

- *Down* by Jason Walker
- *Keep Breathing* by Ingrid Michaelson
- *Awake My Soul* by Mumford & Sons
- *Believing* by the Nashville Cast
- *Imagine* by John Lennon
- *Come Together* by The Beatles
- *I Hope You Dance* by Lee Ann Womack
- *Such Great Heights* by The Postal Service
- *The Luckiest* by Ben Folds
- *The Winner Is* by Mychael Danna (Little Miss Sunshine)
- *Pictures at an Exhibition* by Mussorgsky

Erica Anderson

As the music played, I was reminded of a peacock. How each verse, chord, and measure are different yet brilliantly come together, as if the feathers are creating a visual kaleidoscope. Feathers have many practical uses: display, protection, camouflage, and flight to name a few. Each feather is unique with individual roles, each is precisely positioned to enable the collaborative effort, but the feathers must work collectively as a whole to perfect the function the peacock requires.

TPIJ

Texas Paralegal Journal

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EDITOR'S *Note*

By Heidi Beginski, Board Certified Paralegal, Personal Injury Trial Law, Texas Board of Legal Specialization

As the TPJ starts its 21st year in publication, it does so with the addition of a co-chair/co-editor, Kimberly McDonald from Austin. Kimberly has been a member of the Publications Committee in the past, and is stepping up this year to assist in the timely production of what we endeavor to be a quality informative magazine for PD members.

While this issue has the final half of H. Keith Myers' Medical Torts Update article, those looking for a new topic will enjoy the Parties Only Mediation article, which is a collaboration by a psychologist and an attorney.

As always in the Fall issue, we've got the Annual Meeting Recap, a profile of the Pro Bono Service Award recipient, and an introduction to our new Executive Committee members in the following pages.

If you have any suggestions or sources for articles, please contact Kimberly and/or me at TPJ@txpd.org—we would love to hear from you!

Addendum



The following PD member's award was inadvertently omitted from the Spring 2015 issue of the TPJ:

Toya J. Walker, Senior Paralegal—Employment/Compliance at Sabre GBL, Inc. in Southlake received the NALA Affiliate's Award at the Annual Convention in Tulsa.



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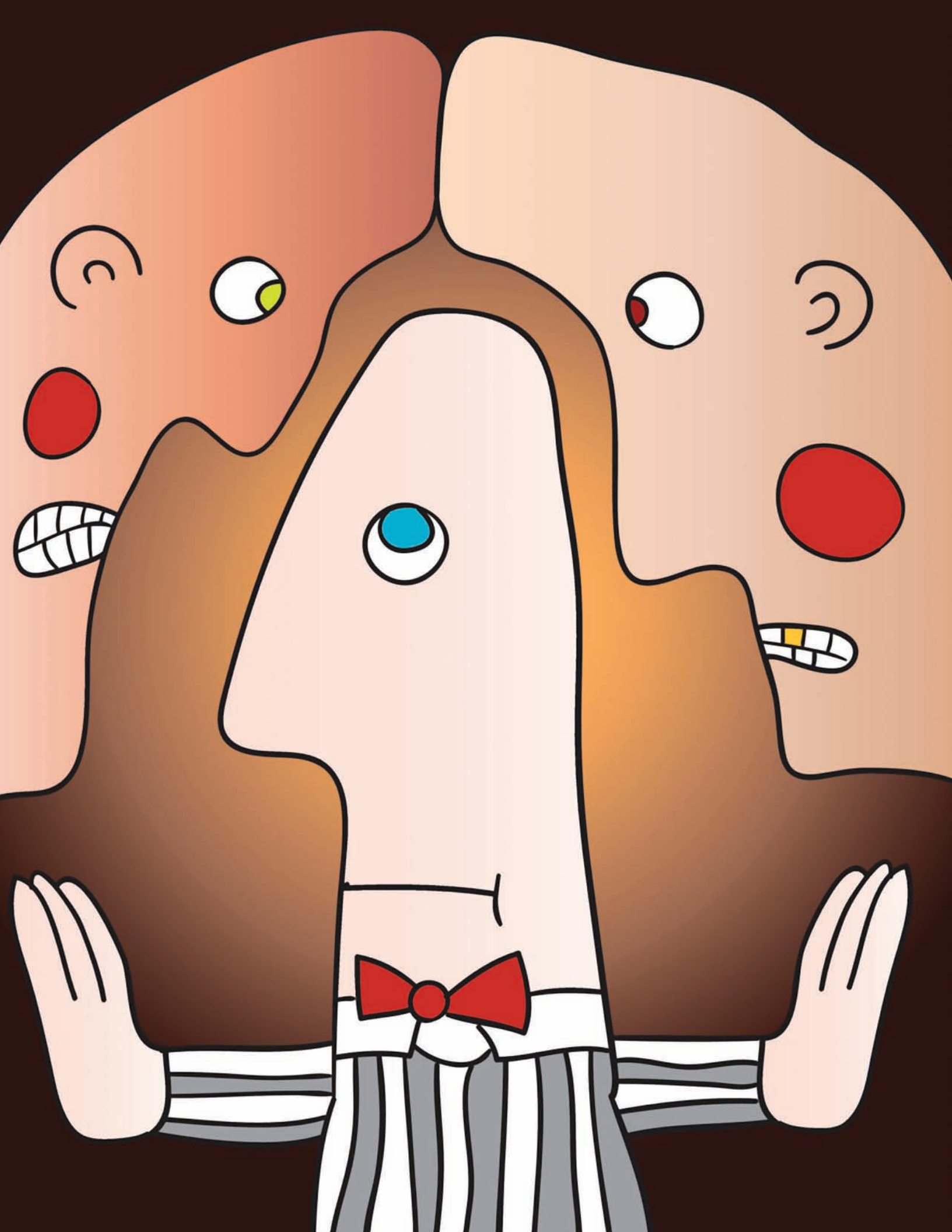
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Parties Only Mediation and the Assistance of Mental Health Professionals in the Decision Making Process

By Sally H. Falwell, Psy.D. and Thomas A. Greenwald



In family cases, attorneys and clients alike benefit from knowing all of the options within the divorce process, including: Parties Only Mediation with a family law mediator; the fact that most judges require mediation at some point; and that a mental health professional (MHP) provides additional support to all involved in the mediation process. There are numerous benefits to using Parties Only Mediation and including a mental health professional in the process. Parties Only Mediation offers parties an affordable way to settle family law disputes. A family law mediator can work with unrepresented parties to resolve their case in an efficient and effective manner. Emotions like anger, perceived imbalance of power, and fear are significant obstacles to an efficient resolution of family law cases. The purpose of this article is to discuss Parties Only Mediation and the use of mental health care professionals in the mediation process to manage emotions and assist parties in the decision making process.

Parties Only Mediation

Within Parties Only Mediation, clients work with a family law mediator to control the outcome and settlement of their case. Couples divorce under all kinds of circumstances, many with complicated histories and child custody issues that must be resolved. Protracted litigation increases both financial and emotional expense for the couples and children, carrying with it the potential to destroy any chance the family has of interacting in a cohesive and functional way after divorce. This highlights the reality that divorce is not just a legal issue, but an individual, familial, cultural and societal issue. Any option that lessens the negative impact of a divorce is an option worth researching and pursuing. Parties Only Mediation is one way to decrease the financial expense of a longer litigated divorce and increase the potential of healthy post-divorce relationships. Inclusion of a MHP helps to protect against further emotional and relational damage, as well as protecting the relational family's future.

The Benefit of a Using a MHP

While the involvement of an MHP may increase the cost of mediation in the short term, there are four main benefits to this addition. First, because the expense is folded into the entire process, clients remain aware that multiple professionals are dedicated to avoiding a longer, more expensive divorce. Second, emotional gridlock remains a predominate reason that cases do not settle. Experiencing pain, anger and anxiety can impair good decision-making, especially under pressure. Attention to the emotional process before and during mediation can make the difference in settlement. Third, an MHP supports



the goal of settlement, helping to diffuse difficult or polarized situations. Also, the MHP can help arrange presentation of ideas or options that might engage and encourage the process, lessening the likelihood that a client would feel stuck or trapped. Finally, an attentive MHP can help attorneys and clients focus on the future.

Including an MHP allows the mediator and parties to rely on a knowledgeable professional to handle inevitable emotions that surface during a divorce. This individual has the specific role of supporting the emotional needs of feeling heard and supported, in addition to creating a necessary space to process the

weight and stress of the divorce. Further, the MHP is dedicated first and foremost to the mediation process, and can encourage additional counseling when necessary, preventing the mediation from turning into a counseling session. This way, mediations and settlements are less likely to stall or falter due to emotion.

Summary

In conclusion, awareness of options in divorce is a way to help guide clients to a process that meets their needs. Parties Only Mediation with mental health professionals is a process that attends to both the financial and emotional well-being of the client and affords

clients the opportunity to preserve relational connections for positive family interactions in the future.

Sally H. Falwell, Psy.D. is a Licensed Psychologist with Southwest Clinical & Forensics in Dallas.



Thomas A. Greenwald is a partner at Goranson Bain, PLLC in Plano and has been board certified in family law by the Texas Board of Legal Specialization since 1997.

STATE BAR OF TEXAS PRESIDENT VISITS FORT WORTH!

By Megan Goor, TBLS-BCP, President-Elect, Paralegal Division of the State Bar of Texas

The State Bar of Texas President, Allan DuBois, was the guest speaker at the Tarrant County Bar Association luncheon on Tuesday, July 14th, in Fort Worth.

After the luncheon, Mr. DuBois expressed great appreciation for paralegals and is a staunch advocate for the positive roles that paralegals play in the legal field. "The paralegal is always there to put out the fire, I call them 'first responders.'"

Mr. DuBois' presentation about the state



Allan DuBois and Megan Goor, TBLS-BCP

of the State Bar was engaging and his discussion about his initiatives, including calling for support of the Texas Lawyers' Assistance Program ("TLAP"), pro bono assistance programs, and mentorship programs, was not only motivating, but also, extremely heartfelt.

Mr. DuBois is giving this presentation to various bar associations around the state. As a PD member, you are also a State Bar of Texas member and I encourage you to attend!

Upcoming TexasBar CLE events where Allan DuBois will be speaking:

September 10, 2015	Advanced Civil Appellate Practice Where: Austin Four Seasons	December 4, 2015	Winding Down a Law Practice Course Where: Texas Law Center—Hatton Summers
October 2, 2015	Oil & Gas Where: Westin Galleria, Houston	January 14–15, 2016	Advanced Employment Law Where: Dallas
October 15, 2015	Texas Minority Counsel Program Where: Houston —Westin Memorial City	April 7–8, 2016	Marriage Dissolution Where: Galveston



Medical Torts Update. Part 2

By H. Keith Myers

This paper aims to highlight significant recent decisions from the Supreme Court of Texas and various Courts of Appeal (several of which are presently in the petition-for-review mill) that have broadened, clarified or muddled the principles of medical tort law.

IV. EXPERT REPORTS.

Section 74.351 of the Texas Civil Practice and Remedies Code mandates the early service of expert reports to provide adequate notice to each defendant of the claims being asserted, and to deter the filing of frivolous claims:

- (a) In a health care liability claim, a claimant shall, not later than the 120th day after the date each defendant's original answer is filed, serve on that party or the party's attorney one or more expert reports, with a curriculum vitae of each expert listed in the report for each physician or health care provider against whom a liability claim is asserted. The date for serving the report may be extended by written agreement of the affected parties. Each defendant physician or health care provider whose conduct is implicated in a report must file and serve any objection to the sufficiency of the report not later than the later of the 21st day after the date the report is served or the 21st day after the date the defendant's answer is filed, failing which all objections are waived.
- (b) If, as to a defendant physician or health care provider, an expert report has not been served within the period specified by Subsection (a), the court, on the motion of the affected physician or health care provider, shall, subject to Subsection (c), enter an order that:
 - (1) awards to the affected physician or health care provider reasonable attorney's fees and costs of court incurred by the physician or health care provider; and
 - (2) dismisses the claim with respect to the physician or health care provider, with prejudice to the refiling of the claim.
-
- (l) A court shall grant a motion challenging the adequacy of an expert report only if it appears to the court, after hearing, that the report does not represent an objective good faith effort to comply with the definition of an expert report in subsection (r)(6).
-
- (r) In this section:
 -
- (6) "Expert report" means a written report by an expert that provides a fair summary of the expert's opinions as of the date of the report regarding applicable standards of care, the manner in which the care rendered by the physician or health care provider failed to meet the standard, and the causal relationship between that failure and the injury, harm, or damages claimed.



In *American Transitional Care Ctrs v. Palacios*, 46 S.W.3d 873 (Tex. 2001), and *Bowie Mem. Hosp. v. Wright*, 79 S.W.3d 48 (Tex. 2002), the Supreme Court of Texas spelled out the expert report requirements contained in the predecessor to 6 74.351, which was Tex. Rev. Civ. Stat. Ann. art. 4590i, 6 13.01. In so doing, the Court proffered various maxims that remain incumbent on courts charged with interpreting purported expert reports:

- A. When considering a motion to dismiss, “the issue for the trial court is whether ‘the report’ represents a good-faith effort to comply with the statutory definition of an expert report.” *Palacios*, *supra* at 878.
- B. To constitute a “good-faith effort,” the report must provide enough information to fulfill two purposes: (1) it must inform the defendant of the specific conduct the plaintiff has called into question, and (2) it must provide a basis for the trial court to conclude that the claims have merit. *Id.* at 879.
- C. A conclusory report does not satisfy the requirement for a “good-faith effort,” as a matter of law, if it does not meet the statutory requirements. *Bowie v. Wright*, *supra*, 79 S.W.3d at 53.
- D. The report need not marshal all the plaintiff’s proof, but it must include the expert’s opinion on each of the three elements that the Act identifies: standard of care, breach, and causal relationship. *Palacios*, *supra*, 46 S.W.3d at 878.
- E. A report cannot merely state the expert’s conclusions about the three elements. *Bowie v. Wright*, *supra*, 79 S.W.3d at 52, citing *Palacios*, 46 S.W.3d at 879.
- F. The expert must explain the basis of his statements to link his conclusions to the facts. *Bowie v. Wright*, *supra*, 79 S.W.3d at 52, citing *Earle v. Ratliff*, 988 S.W.2d 882, 890 (Tex. 1999).
- G. A trial court’s decision about whether a report constitutes a good-faith effort to comply with the statutory requirements

must be reviewed under an abuse-of-discretion standard. *Palacios*, *supra*, 46 S.W.3d at 878.

***TTHR Ltd. Partnership v. Moreno*, 401 S.W.3d 41 (Tex. 2013).**

Facts

Plaintiff sued two physicians and a hospital for injuries sustained by her child during birth. Hospital objected to plaintiff’s expert reports for failure to establish a causal relationship between the alleged failures of its nurses and itself to meet applicable standards of care and the injury in question. The trial court granted plaintiff a thirty-day extension to cure deficiencies in the reports pursuant to 6 74.351(c). Plaintiff filed a third report by a pediatric neurologist, to which the hospital objected on the basis that it did not set out any acts of alleged negligence on the part of the hospital or a causal connection between any alleged negligence and the injury. The trial court denied the hospital’s motion to dismiss, finding that the reports of all the experts, read in concert, complied with the expert report requirements of 6 74.351(r) (6). The Court of Appeals affirmed as to the adequacy of the reports regarding the claim that the hospital was vicariously liable for the doctors’ negligence, and adequately addressed the causal connection between the doctors’ breaches and the injury. However, the reports were deemed not to address nursing standards of care or breaches of those standards with regard to the vicarious liability claims based on the nurses’ actions. Therefore the Court of Appeals remanded to the trial court for consideration of a further thirty-day extension to cure the deficiencies found on appeal. Defendant hospital appealed, complaining of the finding that the reports were adequate as to causation.

Issue

Does a finding that the expert reports adequately addressed one of plaintiff’s the-

ories, namely that the hospital was vicariously liable for the doctors’ actions, suffice to salvage plaintiff’s other claims of direct liability against the hospital and vicarious liability for actions of the nurses?

Holding

Yes. In *Certified EMS, Inc. v. Potts*, 392 S.W.3d 625 (Tex. 2013), the Texas Supreme Court had held that an expert report satisfying Chapter 74 requirements as to a defendant, even if it addresses only one theory of liability alleged against that defendant, enables the entire suit to proceed. Therefore, while the Act requires a claimant to file a timely and adequate expert report as to each defendant in a health care liability claim, it does not require an expert report as to each liability theory alleged against that defendant. 401 S.W.3d at 45, citing *Certified EMS*, 392 S.W.3d at 632.

***CHCA Woman’s Hosp. v. Lidji*, 403 S.W.3d 228 (Tex. 2013).**

Facts

Plaintiffs filed suit against CHCA on April 2, 2009, seeking damages for their child’s birth injury. One hundred sixteen days later, they nonsuited their claim. Just over two years thereafter, they filed a new lawsuit against CHCA and other providers. That same day, they served CHCA with an expert report. CHCA objected to the report as untimely, alleging that plaintiffs should have served their report within 120 days after filing their original petition in the first lawsuit. [Section 74.351(a) was amended effective September 1, 2013 to provide that the 120-day deadline begins on the date each defendant’s original answer is filed, rather than the date of filing of the original petition]. Plaintiffs contended, and the trial court and Court of Appeals agreed, that the nonsuit tolled the running of the 120-day period, and that plaintiffs still had four days from the date of refiling to serve an expert report.



Issue

Given that the statute neither expressly allows nor expressly prohibits tolling of the expert-report period in the event of a claimant's nonsuit, does such a nonsuit prior to the expiration of the deadline to serve a report suspend the running of that deadline until the refiling of suit?

Holding

Yes. The Court agreed with plaintiffs' contention that construing the expert-report requirement to prohibit tolling in the event of a nonsuit would interfere with their absolute right to nonsuit the claims in the first lawsuit, and that the statute's plain language does not evince such legislative intent. 403 S.W.3d at 233. Acceptance of defendant's argument would require service of an expert report while no lawsuit was pending, which would give rise to a host of procedural complications. Interpreting the statute in favor of tolling encourages plaintiffs to nonsuit voluntarily those claims that appear to lack merit early in the litigation process, without penalizing them for doing so should additional investigation strengthen those claims. Furthermore, a defendant against whom the claim is nonsuited does not incur additional litigation expenses unless and until the claimants refile. *Id.* at 233-34. So long as the period of limitations has not run prior to the filing of suit, a claimant will have the remainder of the 120-day deadline to comply with the expert report require.

Zanchi v. Lane, 408 S.W.3d 373 (Tex. 2013).

Facts

Within the 120-day deadline for serving an expert report after filing suit (under former 6 74.351(a), plaintiffs' counsel sent an expert report and CV by certified mail to the defendant at five different locations. Four of those mailings were returned unclaimed, but, an unknown person signed for the fifth mailing that

was sent to the hospital at which the surgical procedure in issue had taken place. Service of the lawsuit on the defendant was not accomplished until four weeks after the expiration of the 120-day deadline. Defendant moved to dismiss the lawsuit, contending that he did not constitute a «party» until he was actually served with process, so that any transmittal of the expert report before that date failed to satisfy the statutory requirement for service on a «party.» The Court of Appeals affirmed the trial court's denial of the motion to dismiss.

Issue

Did service of an expert report on a defendant who has not yet been served with process comply with the statutory mandate to serve an expert report on a «party»?

Holding

Yes. The Supreme Court of Texas held that the term «party» in 6 74.351(a) simply means one named in a lawsuit, and that «service of an expert report» on such a defendant need not comport with the service requirements of Tex. R. Civ. P. 106, which applies specifically to service of citation. A person can be a «party» to a lawsuit even though, not having been served with process, he has no duty to participate in, and may not be bound by, the proceedings. 408 S.W.3d at 377. Such a person is not subject to having judgment rendered against him or being prejudiced in any way; to the contrary, advance service of the report provides him with advance notice of the pending lawsuit and the alleged conduct at issue. *Id.* at 378.

The precedential value of this decision, of course, has been limited by the 2013 amendment to 6 74.351(a), which changed the running of the expert-report deadline to begin on the date on which the defendant's answers is filed. Said amendment also revised the defendant's deadline to object to the report to 21 days after the later of the date the report is served or the date the defendant's answer is filed.

Patterson v. Ortiz, 412 S.W.3d 833 (Tex. App.—Dallas 2013, no pet.)

This opinion distinguishes prior cases deeming inadequate, under 6 74.351(r)(6), those expert reports that merely stated that a failure to examine, monitor, test and evaluate a patient's condition constituted the cause of the patient's injuries. The report at issue went further, specifying the action that the defendant physician should have taken in response to the results of the examination and testing (prompt hospitalization), which would have, with early, aggressive treatment, saved the patient's life. Such a report adequately explained the causal relationship between the breach and the standard of care and the claimed injury.

Christus Santa Rosa Health Care v. Botello, 424 S.W.3d 117 (Tex. App.—San Antonio 2013, pet. denied).

Facts

Plaintiffs filed suit against two physicians and hospital on July 5, 2012. Under the statute as it then existed, their deadline to serve an expert report was November 2, 2012. They did so timely, and defendant hospital objected to the report as insufficient. Pursuant to an agreement under Tex. R. Civ. 11, plaintiffs withdrew the report, and defendant hospital agreed they could refile the report to no later than October 25, 2012. On October 24, 2012, plaintiffs nonsuited. Five days later, plaintiffs' counsel faxed a copy of two expert reports to the hospital's attorney. On November 19, 2012, plaintiffs filed a new petition against hospital and one of the two doctors originally sued. Plaintiffs served defendant hospital with the petition and the same two expert reports on December 4, 2012, and served a third expert report on January 10, 2013. Defendant hospital claimed the lawsuit against it should be dismissed on the basis that the nonsuit did not toll the 120-day



deadline and that service of an expert report on a nonsuited defendant did not constitute service on a “party or the party’s attorney,” as required by 6 74.351(a).

Issue

Whether, following the Texas Supreme Court’s decisions in *Lidji* and *Zanchi*, *supra*, the 120-day period was tolled until the filing of the second petition, and whether the expert report was timely served on a nonsuited defendant.

Holdings

Per *Lidji*, plaintiffs’ nonsuiting their claims against all defendants nine days before the expiration of the 120-day deadline left them an additional nine days in which to serve the expert report after the second suit was filed. Defendant hospital contended that the service of the reports did not occur until 15 days after the filing of the second original petition. It further contended that because no lawsuit against it was pending on October 29, 2012, serving its attorney with a copy of the expert reports in the interim did not comply with the statute. The Court of Appeals reasoned that following the nonsuit, there were no claims pending against the hospital, and therefore its status as a “party” ended, and it did not again become a “party” to any “case or controversy” until claims were asserted against it in the second original petition. Faxing a copy of the expert reports to the hospital’s attorney in the interim did not satisfy the service requirements. Consequently, plaintiffs’ suit had to be dismissed. 424 S.W.3d at 124-26.

The Supreme Court of Texas denied plaintiffs’ petition for review on October 3, 2014 and denied plaintiffs’ motion for rehearing on November 21, 2014. Plaintiffs’ counsel has filed notice of appeal to the Supreme Court of the United States.

Pickens v. Leytham, 434 S.W.3d 205 (Tex. App.—San Antonio 2014, no pet.).

Facts

Plaintiff’s expert report criticized the defendant physician’s failure to examine the patient, preventing Mr. Pickens from receiving appropriate medication. However, the expert admitted he could not conclude that had the defendant not breached the standard of care, the outcome would have been any different. Because his report failed to “reach the threshold determination that Mr. Pickens’s injuries would not have occurred absent Dr. Leytham’s failures,” it omitted identification of a causal relationship between breach and harm, as required by 6 74.351(r)(6). Accordingly, the trial court did not abuse its discretion in granting the defendant’s motion to dismiss. 434 S.W.3d at 211.

Christus Santa Rosa Health Care Corp. v. Vasquez, 427 S.W.3d 451 (Tex. App.—San Antonio 2014, no pet.).

Facts

Plaintiffs timely submitted their expert report and defendant timely filed its objections and motion to dismiss. A hearing thereon took place 104 days after the filing of the petition. On day 117, the trial court issued its order denying defendant’s objections and motion to dismiss.

Holding

The trial court could rule on defendant’s objections prior to the expiration of the 120-day deadline. However, the trial court could not grant or deny the motion to dismiss during that window. Plaintiffs were entitled to the entire 120 days to fulfill their statutory obligations. Therefore, according to the Court of Appeals, the motion was properly denied. 427 S.W.3d at 455.

Cedar Senior Svcs., L. P. v. Nevarez, 429 S.W.3d 723 (Tex. App.—San Antonio 2014, no pet.).

Facts

Plaintiffs initially filed suit against the current owner of a health care facility. They thereafter amended their petition to add Cedar Senior Services, the prior owner, as an additional defendant, and alleged, “the defendants are the past and current owners of this facility.” Plaintiffs’ expert report only mentioned the prior owner as having committed multiple breaches of the applicable standards of care. Cedar Senior Services moved to dismiss the lawsuit on the basis that the expert report did not mention it by name and therefore failed to explain how it failed to meet the applicable standard of care.

Holding

The expert report did expressly identify the facility as the health care provider, and thereby implicated the conduct of the facility owned by Cedar Senior Services. An expert report need not refer to a defendant by name, so long as it implicates the defendant’s conduct, and thus the report adequately implicated the conduct of Cedar Senior Services. 429 S.W.3d at 726.

Reddy v. Habner, 435 S.W.3d 323 (Tex. App.—Austin 2014, pet. filed).

Facts

Prior to the filing of suit, plaintiffs sent notice letters and an expert report to defendant and his Professional Association. Once they filed their petition, plaintiffs also served defendants with different expert reports, which did not pertain to Dr. Reddy, and did not implicate his treatment. Following the passage of the 120-day deadline, defendants filed a motion to dismiss, without having filed objections to any of the reports, during the 21-day period for doing so, under 6 74.351(a).

Issues

(1) Did defendants waive their motion to dismiss by failing to file objections? (2) Did the mailing of the first expert report



with the pre-suit notice letter satisfy the requirements of 674.351(a)?

Holding

No, on both counts. The 21-day deadline for objecting to the sufficiency of an expert report is only triggered if the report implicates the defendant. *Beckwith v. White*, 285 S.W.3d 56, 62 (Tex. App.—Houston [1st Dist.] 2009, no pet.). Because the four corners of the reports served with the petition did not address the conduct of Dr. Reddy, defendants did not waive their motion to dismiss. 435 S.W.3d at 328.

Zanchi v. Lane, *supra*, controlled the determination that pre-suit service of the expert report did not comport with the requirement for serving such report under Chapter 74. In that case, the Supreme Court of Texas had determined that Dr. Zanchi had been named as a party in the lawsuit that had been filed and thus service upon him of the report, prior to service upon him of the petition, satisfied the statutory requirements. Citing *Zanchi* and *Poland v. Ott*, 278 S.W.3d 39 (Tex. App.—Houston [1st Dist.] 2009, pet. denied), the Reddy Court concluded that the hard-and-fast deadlines contained in Chapter 74 would be frustrated by allowing service to occur before suit is filed. Such would require individuals to object to such reports prior to being served with suit papers, even if they are not ultimately named in the lawsuit. 435 S.W.3d 329-30. Consequently, plaintiffs did not timely serve Dr. Reddy or the Association with an expert report, and the trial court abused its discretion by failing to grant the motion to dismiss.

Plaintiffs have filed petition for review in the Supreme Court of Texas, No. 14-0593. The Court has recently requested briefing on the merits.

V. STATUTE OF REPOSE.

Tenet Hosp. Ltd. v. Rivera, 57 Tex. S. Ct. J. 1238 (Aug. 22, 2014).

Facts

Plaintiff's child sustained injury during delivery at Providence Memorial Hospital in 1996. In August 2004, plaintiff's attorney sent notice of a health care liability claim to the hospital and the physician who had assessed and discharged her from the emergency room. Six-and-one-half years later, plaintiff (on behalf of her minor daughter) filed suit against the defendants. The trial court granted defendants' motions for summary judgment based on the statute of repose, Tex. Civ. Pract. & Rem. Code

674.251(b), which provides as follows:

A claimant must bring a health care liability claim not later than 10 years after the date of the act or omission that gives rise to the claim. This subsection is intended as a statute of repose so that all claims must be brought within 10 years or they are time barred.

The Court of Appeals reversed, holding that the statute of repose violates the open courts provision of the Texas Constitution, as applied to the minor. Defendants appealed.

Issue

In *Saks v. Votteler*, 648 S.W.2d 661 (Tex. 1983), *Weiner v. Wasson*, 900 S.W.2d 316 (Tex. 1995), and *Adams v. Gottwald*, 179 S.W.3d 101 (Tex. App. - San Antonio 2005, pet. denied), the statute of limitations for medical malpractice claims (674.251(a)) was declared unconstitutional as applied to minors, for preventing their access to open courts. On the other hand, the Supreme Court of Texas held in *Methodist Healthcare Sys., Ltd. v. Rankin*, 307 S.W.3d 283 (Tex. 2010), that the statute of repose, as applied to an adult who could not discover her claim within 10 years of its accrual, did not unconstitutionally violate the open courts provision. In this case, involving a minor, should the statute of repose be treated like the statute of limita-

tions for having extinguished the injured party's claim before she could reach the age of majority? Additionally, because the statute of repose was enacted in 2003, seven years after the medical treatment at issue, was its application in this case unconstitutionally retroactive?

Holdings

Plaintiff's state constitutional challenges fail. Plaintiff could not legitimately contend that she did not have a reasonable opportunity to discover the alleged wrong and bring suit before the repose statute barred her claim, inasmuch as a pre-suit notice letter had been sent on her behalf over six-and-one-half years prior to the filing of suit, and two years before the repose statute actually barred the claim. Moreover, the next friend's lack of diligence can be imputed to the minor. Next friends, like guardians, must use due diligence in bringing suit in order to sustain an open courts challenge. 57 Tex. S. Ct. J. at 1243-44. The Court further observed that had plaintiff exercised due diligence and the repose statute still barred her claim, the reasonableness of the statute of repose would come into play. The absence of due diligence took that issue off the table. *Id.* at 1244.

The retroactive application of the statute of repose does not run afoul of constitutional protection, because the compelling public interest in broadening access to health care by lowering malpractice insurance premiums justifies the legislation. Additionally, plaintiff herein had a grace period of some three years to bring her claim before the statute extinguished it. As evidenced by the first pre-suit notice letter, plaintiff knew of the claim one year into the three-year grace period. Moreover, she actually brought the claim on her daughter's behalf, albeit after the 10-year period had expired. *Id.* at 1246-47. Under these facts, the statute properly applied and barred the claims.



VI. OTHER ISSUES.

A. Prejudgment Interest.

Christus Health Gulf Coast v. Carswell, supra.

This case, which primarily addressed whether post-mortem fraud claims qualify as health care liability claims, is also instructive on the calculation of prejudgment interest.

Facts

Plaintiff initially filed suit, claiming medical negligence, on June 7, 2005. She amended her petition on January 5, 2007 to include post-mortem claims, on which she prevailed at trial. The trial court had calculated prejudgment interest from the date of the initial filing of suit, even though judgment in favor of plaintiff was entered only on the claims filed two and one-half years later.

Issue

Did the trial court abuse its discretion in relating the running of prejudgment interest back to the date of the original filing?

Holding

Yes. Prejudgment interest purposes to encourage and expedite settlement of claims. A defendant cannot attempt to settle a claim until it has notice of the claim. The trial court should have used the date of filing the post-mortem claims to calculate the prejudgment interest award, for judgment based solely on those claims. 433 S.W.3d at 612.

B. Settlement Credits.

Alvarez v. Garcia, No. 04-14-00142-CV (Tex. App.—San Antonio, November 26, 2014).

Hospital settled with plaintiffs prior to trial. Defendant physician elected a settlement credit equal to each person's percentage of responsibility, pursuant to Tex. Civ.

Pract. & Rem. Code 6 33.012(c). The jury assigned 90% responsibility to the hospital and 10% responsibility to defendant physician. The judgment ordered defendant physician to pay 10% of each damage amount plus prejudgment interest.

Facts

In its calculation, the trial court determined prejudgment interest on the total amount of damages awarded from the date of accrual until the date of the hospital's settlement, and added that amount to the total amount of damages; it then deducted 90% of the total amount of damages to determine the "remaining principal"; it then determined that prejudgment interest on the "remaining principal" from the date of settlement until the date of entry of judgment, and added that prejudgment interest amount. Defendant appealed on the basis that such calculation rendered him liable for prejudgment interest on the total amount of damages awarded by the jury, even though he was adjudged only to be 10% responsible for the damages.

Holding

The Court of Appeals characterized the appropriate calculation of percentage settlement credit, and prejudgment interest, as the "declining principal formula." Prejudgment interest should be calculated by multiplying the percentage of interest times the amount of past actual damages from the date of accrual until the day before judgment was entered, then adding the prejudgment interest so calculated to the past actual damages to determine the "amount of damages to be recovered by the claimant." Tex. Fin. Code 6 304.104; *Battaglia v. Alexander*, 177 S.W.3d 893, 908 (Tex. 2005). That figure is then multiplied by a percentage equal to each settling person's percentage of responsibility. That amount represents the percentage settlement credit attributed to the settling party. Each credit applies first to accrued interest and then to the principal, with each credit establishing a new interval at which interest continues to accrue on the remaining

principal. *Brainard v. Trinity Univ. Ins. Co.*, 216 S.W.3d 809, 816 (Tex. 2006).

C. Nurse-Patient Relationship.

Estrada v. Mijares, 407 S.W.3d 803 (Tex. App.—El Paso 2013, no pet.).

Facts

Defendant nurse practitioner worked for Dr. Tan during a period when she was not taking calls and a different pulmonologist, Dr. Hajj, was on-call. Defendant learned that a call had been placed to Dr. Hajj's answering service, and she telephoned him to advise him about the consult and about information contained in plaintiff's chart. She then transcribed his orders onto that chart. Both Dr. Hajj and defendant nurse practitioner signed the orders. Defendant had no further contact with the patient, who died several weeks later of a heart attack. Her family sued the various physicians and the nurse practitioner, alleging that they knew or should have known that the patient was at risk of coronary heart disease and failed negligently to diagnose and treat him properly. Defendant obtained summary judgment on the basis that she had no nurse-patient relationship.

Holding

Affirmed. There was no evidence that the nurse practitioner consented or agreed, either expressly or impliedly, to accept Mr. Estrada as a patient, or that she was asked to evaluate him. Her merely advising Dr. Hajj about the request for a consultation did not constitute consent or agreement to accept Mr. Estrada as her patient. Furthermore, there was no evidence that she reviewed the chart with the purpose of diagnosing him or providing him with treatment. 407 S.W.3d at 808-09.

D. Definition of "Pharmacist."

Randol Mill Pharmacy v. Miller, 413 S.W.3d 844 (Tex. App.—Fort Worth 2013, pet. granted).



Facts

Defendant pharmacy filled a bulk phone order, placed by a physician, for a number of vials of an injectable form of antioxidant for use in the doctor's office. Defendant did not compound the drug for administration to any particular user. The patient suffered severe adverse effects from administration of the drug by the physician, which resulted in her being rendered blind in both eyes. The patient and her husband sued the pharmacy on theories of product liability and breach of warranty. They did not file an expert report under Chapter 74. The trial court denied the pharmacy's motion to dismiss.

Issue

Did the pharmacy's act of filling a bulk order constitute dispensing of a prescription medicine, as required for the pharmacist to qualify as a health care provider under the Texas Medical Liability Act?

Holding

No. While the definition of a health care provider includes a pharmacist, pursuant to Tex. Civ. Pract. & Rem. Code 6 74.001(a)(12)(A)(iv), a qualifying "pharmacist" is more narrowly defined as one who performs those activities limited to the dispensing of prescription medicines which result in health care liability claims, and does not include any other cause of action that may exist at common law, including but not limited to causes of action for the sale of mishandled or defective products.

Id. 6 74.001(a) (22). Because the pharmacy did not compound the antioxidant for delivery to an ultimate user, it was not "dispensing" a prescription drug. 413 S.W.3d at 849, citing Tex. Occ. Code 6 551.003(16). Not meeting the limited definition of a "pharmacist", defendant did not constitute a health care provider with respect to plaintiffs' claims, and no expert report under Chapter 74 was required regarding those claims.

On April 24, 2015, the Supreme Court of Texas reversed the Court of Appeals

decision in *Randol Mill Pharmacy v. Miller*, No. 13-1014, holding that a pharmacist who compounds a drug for office use pursuant to a practitioner's lawful order, as authorized by the Texas Pharmacy Act, is "dispensing" the drug whether or not the order identifies the patients to whom the drug will be administered. Furthermore, the injectable lipoic acid compounded by the pharmacy and administered to the plaintiff was a prescription medicine under the Medical Liability Act. Plaintiff's claim that the defendants were negligent or breached warranties in compounding the medicine constituted a claim of departure from accepted standards of health care. Because the claim constitutes a health care liability claim and plaintiff filed no expert report, the lawsuit must be dismissed.

E. "Good Samaritan" Heightened Standard of Proof for Emergency Care Providers.

Gardner v. Children's Medical Center,
402 S.W.3d 888 (Tex. App.—Dallas 2013,
no pet.)

Facts

Under Subchapter D of Chapter 74, a person who in good faith administers emergency care is not liable for an act performed during the emergency unless the act is willfully or wantonly negligent, unless the care was provided for or in expectation of remuneration, or by a person whose negligent act or omission was a producing cause of the emergency for which the care was being administered. Tex. Civ. Pract. & Rem. Code 6 74.151.

In a lawsuit involving a health care liability claim against a physician or provider arising from the provision of emergency medical care in a hospital emergency department or obstetrical unit or surgical suite following evaluation or treatment in an hospital emergency department, the claimant must prove by a preponderance of the evidence that the physician or provider, with willful and wanton negligence,

deviated from the degree of care and skill reasonably expected of an ordinarily prudent physician or health care provider in the same or similar circumstances. *Id.* 6 74.153.

Plaintiffs sued Children's Medical Center for damages arising from care provided to their minor child by a transport team transporting the patient to the hospital. Plaintiffs objected to the submission of a jury question that tracked the provisions of Tex. Civ. Pract. & Rem. Code 6 74.154, which provides as follows:

(a) In an action for damages that involves a claim of negligence arising from the provision of emergency medical care in a hospital emergency department or obstetrical unit or in a surgical suite immediately following the evaluation of treatment of a patient in a hospital emergency department, the court shall instruct the jury to consider, together with all other relevant matters:

- (1) whether the person providing care did or did not have the patient's medical history or was able or unable to obtain a full medical history, including the knowledge of preexisting medical conditions, allergies, and medications;
- (2) the presence or lack of a preexisting physician-patient relationship or health care provider-patient relationship;
- (3) the circumstances constituting the emergency; and
- (4) the circumstances surrounding the delivery of the emergency medical care.

(b) The provisions of Subsection (a) do not apply to medical care or treatment:

- (1) that occurs after the patient is stabilized and is capable of receiving medical treatment as a



- nonemergency patient;
- (2) that is unrelated to the original medical emergency; or
- (3) that is related to an emergency caused in whole or in part by the negligence of the defendant.

Plaintiffs contended that the imposition of a heightened standard of proof violated the equal protection clauses of the Texas and United States Constitutions. The jury found that the emergency medical care was not performed with willful or wanton negligence. Plaintiffs appealed the take-nothing judgment.

Issue

The statutory scheme, expanding the former Good Samaritan statute to include physicians in, or immediately after transfer

from, hospital emergency departments, purposes to encourage physicians and other health care providers to provide emergency medical care. 402 S.W.2d at 893. Consequently, only those persons who receive emergency medical care in certain settings must fulfill the heightened standard of proof. Because plaintiffs challenged the constitutionality of the statute, they bore the burden of negating every conceivable basis that might support the rationality of bifurcated classification. Was there a reasonably conceivable state of facts that would provide a rational basis for the classification?

Holding

Yes. The legislative history of the statute indicated that some physicians resisted providing on-call care in hospital emer-

gency departments, due to increasing liability exposure. *Id.* at 893. Because the statute bears a rational relationship to the State's legitimate interest in ensuring the provision and availability of emergency medical care to its citizens, it does not violate the equal protection clauses of the Constitutions, even if in practice it results in some inequity. *Id.* at 894.



H. Keith Myers is a shareholder at Mounce, Green, Myers, Safi, Paxson & Galatzan in El Paso.

MENTORS & PROTÉGÉS

Did you know that the Paralegal Division has an excellent mentorship program? If you are new to the profession or an experienced paralegal venturing into a new field, our mentors would be happy to assist you in your transition. Mentoring knows no bounds, including geography! Be paired up with someone in the State of Texas and communicate by phone, email or face-to-face. We are currently accepting new applications, if you wish to become a mentor or a protégé. Please see the following criteria:

Mentors—Voting, active members in good standing, with at least seven (7) years of paralegal experience, are qualified to serve as Mentors. Mentors must complete the requisite application acknowledging Mentor has read and agrees to follow the Mentor Program Guidelines.

Protégés—Protégés must be Division student members in good standing, or active or associate paralegal members of the Division in good standing, with two (2) years or less of paralegal experience. Protégés must complete the requisite application acknowledging Protégé has read and agrees to follow the Mentor Program Guidelines.

Please fill out the Mentor and/or Protégé request form under the **members-only area of the Paralegal Division website (www.txpd.org)**. Once completed, submit them to Deb Pointer at MentorProgram@txpd.org. If you have recently submitted an application but have not been contacted by anyone, please forward it to Deb so it can get processed promptly.

How Much Annual Income Can Your Retirement Portfolio Provide?

Craig Hackler

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Your retirement lifestyle will depend not only on your assets and investment choices, but also on how quickly you draw down your retirement portfolio. The annual percentage that you take out of your portfolio, whether from returns or the principal itself, is known as your withdrawal rate. Figuring out an appropriate initial withdrawal rate is a key issue in retirement planning and presents many challenges.

Why is your withdrawal rate important?

Take out too much too soon, and you might run out of money in your later years. Take out too little, and you might not enjoy your retirement years as much as you could. Your withdrawal rate is especially important in the early years of your retirement; how your portfolio is structured then and how much you take out can have a significant impact on how long your savings will last.

Gains in life expectancy have been dramatic. According to the National Center for Health Statistics, people today can expect to live more than 30 years longer than they did a century ago. Individuals who reached age 65 in 1950 could anticipate living an average of 14 years more, to age 79; now a 65-year-old might expect to live for roughly an additional 19 years. Assuming rising inflation, your projected annual income in retirement will need to factor in those cost-of-living increases. That means you'll need to think carefully about how to structure your portfolio to provide an appropriate withdrawal rate, especially in the early years of retirement.

Conventional wisdom

So what withdrawal rate should you expect from your retirement savings? The answer: it all depends. The seminal

Current Life Expectancy Estimates

	Men	Women
At birth	76.4	81.2
At age 65	82.9	85.5

Source: NCHS Data Brief, Number 168, October 2014



study on withdrawal rates for tax-deferred retirement accounts (William P. Bengen, "Determining Withdrawal Rates Using Historical Data," *Journal of Financial Planning*, October 1994) looked at the annual performance of hypothetical portfolios that are continually rebalanced to achieve a 50-50 mix of large-cap (S&P 500 Index) common stocks and intermediate-term Treasury notes. The study took into account the potential impact of major financial events such as the early Depression years, the stock decline of 1937-1941, and the 1973-1974 recession. It found that a withdrawal rate of slightly more than 4% would have provided inflation-adjusted income for at least 30 years.

Other later studies have shown that broader portfolio diversification, rebalancing strategies, variable inflation rate

assumptions, and being willing to accept greater uncertainty about your annual income and how long your retirement nest egg will be able to provide an income also can have a significant impact on initial withdrawal rates. For example, if you're unwilling to accept a 25% chance that your chosen strategy will be successful, your sustainable initial withdrawal rate may need to be lower than you'd prefer to increase your odds of getting the results you desire. Conversely, a higher withdrawal rate might mean greater uncertainty about whether you risk running out of money. However, don't forget that studies of withdrawal rates are based on historical data about the performance of various types of investments in the past. Given market performance in recent years, many experts are suggesting being more conservative in estimating future returns.

Note: Past results don't guarantee future performance. All investing involves risk, including the potential loss of principal, and there can be no guarantee that any investing strategy will be successful.

Inflation is a major consideration

To better understand why suggested initial withdrawal rates aren't higher, it's essential to think about how inflation can affect your retirement income. Here's a hypothetical illustration; to keep it simple, it does not account for the impact of any taxes. If a \$1 million portfolio is invested in an account that yields 5%, it provides \$50,000 of annual income. But if annual inflation pushes prices up by 3%, more income--\$51,500--would be needed next year to preserve purchasing power. Since the account provides only \$50,000 income, an additional \$1,500 must be withdrawn from the principal to meet expenses. That principal reduction, in turn, reduces the portfolio's ability to produce income the following year. In a straight linear model, principal reductions accelerate, ultimately resulting in a zero portfolio balance after 25 to 27 years, depending on the timing of the withdrawals.

Volatility and portfolio longevity

When setting an initial withdrawal rate, it's important to take a portfolio's ups and

downs into account—and the need for a relatively predictable income stream in retirement isn't the only reason. According to several studies done in the late 1990s and updated in 2011 by Philip L. Cooley, Carl M. Hubbard, and Daniel T. Walz, the more dramatic a portfolio's fluctuations, the greater the odds that the portfolio might not last as long as needed. If it becomes necessary during market downturns to sell some securities in order to continue to meet a fixed withdrawal rate, selling at an inopportune time could affect a portfolio's ability to generate future income.

Making your portfolio either more aggressive or more conservative will affect its lifespan. A more aggressive portfolio may produce higher returns but might also be subject to a higher degree of loss. A more conservative portfolio might produce steadier returns at a lower rate, but could lose purchasing power to inflation.

Calculating an appropriate withdrawal rate

Your withdrawal rate needs to take into account many factors, including (but not limited to) your asset allocation, projected inflation rate, expected rate of return, annual income targets, investment horizon, and comfort with uncertainty. The higher your withdrawal rate, the more you'll have to consider whether it is sustainable over the long term.

Ultimately, however, there is no standard rule of thumb; every individual has unique retirement goals, means, and circumstances that come into play.

This information, developed by an independent third party, has been obtained from sources considered to be reliable, but Raymond James Financial Services, Inc. does not guarantee that the foregoing material is accurate or complete. Raymond James Financial Services, Inc. does not provide advice on tax, legal or mortgage issues.



These matters should be discussed with the appropriate professional.

Craig Hackler holds the Series 7 and Series 63 Securities licenses, Series 9/10 Supervisory

licenses, as well as the Group I Insurance License (life, health, annuities). Through Raymond James Financial Services, he offers complete financial planning and investment products tailored to the individual needs of his clients. He will gladly answer any of your questions. Call him at 512.391.0919 /800.650.9517 or email at Craig.Hackler@RaymondJames.com. Raymond James Financial Services, Inc., 3345 Bee Caves Road, Suite 208, Austin, TX 78746

Texas Title Insurance Mineral Coverage

By Scott Alagood

Since the early to mid-90's the importance and value of minerals in North Texas has become clear. Where the surface of a property has been severed from the minerals underlying that property, serious problems can arise. The majority of purchasers of real estate want to utilize the surface of the property for a particular residential or commercial purpose. Because the minerals only have value when extracted from the land under which they sit, the rights of the mineral owner must supersede the rights of the surface owner. The mineral owner has a right to reasonably use the surface of land to develop its minerals. That right can easily interfere and come into conflict with the rights of the surface owner.

Owners and lenders must be aware of the potential interference of the surface by the mineral owner. State laws, local



ordinances, specific mineral lease terms, and court rulings may provide some protection against interference with the use of the surface estate by the mineral owner. Recently, Texas title insurance has changed to also provide some protection in certain specific situations.

Where the surface use is paramount to the value of the land, such as an office building, retail center, single family residence, apartment complex, warehouse, manufacturing plant, or other surface intensive use, a prospective purchaser or lender may want to consider utilizing one of the T-19 endorsements to insure potential damage to the surface resulting from the development of the mineral estate. The T-19 endorsements consist of four separate endorsements.

The T-19 Restrictions, Encroachments, Minerals Endorsement may be utilized by a lender. The T-19 provides other coverages beyond interference by the mineral estate. With respect to the mineral estate, it insures the lender against loss sustained by reason of damage to an "Improvement" located on the property on the date of the policy or existing thereafter resulting from the exercise of a right to use the surface of the property for the extraction or development of minerals. The term "Improvement" is defined as an improvement that constitutes real property and includes landscaping, lawn,

shrubbery, or trees which are affixed to the insured property. The T-19 endorsement cost is five percent of the basic premium for residential property and 10 percent for commercial property, but will not be less than \$50.00.

The T-19.1 Restrictions, Encroachments, Minerals Endorsement may be obtained by an owner. As with the T-19 endorsement, it also protects against matters other than interference by the mineral estate. With respect to the mineral estate, it insures the owner against loss sustained by reason of damage to an "Improvement" located on the property on the date of the policy or existing thereafter resulting from the exercise of the mineral owner's rights (same as the T-19). However, the definition of "Improvement" in the T-19.1 is different than that in the T-19. The T-19.1 provides coverage for buildings, structures, roads, walkways, driveways, or curbs which constitute real property, but excludes crops, landscaping, lawns, shrubbery or trees. The T-19.1 endorsement cost is 10 percent for a residential property or five percent if purchased along with the survey exception amendment (which is five percent

for a residential policy, and 15 percent for a commercial property) or 10 percent if purchased along with the survey exception amendment (which is 15 percent for a commercial policy). As with the T-19, the minimum premium for the endorsement is \$50.00.

If an owner or lender is not interested in the additional coverages provided by the T-19 and T-19.1 endorsements (beyond that provided by the mineral estate) or if the price tag for those endorsements is too steep, then a T-19.2 or T-19.3 endorsement may be the way to go. These two endorsements both generally insure against damage resulting from the development of the mineral estate. However, they differ in a few ways.

The T-19.2 insures against damage to "permanent improvements (excluding lawns, shrubbery, or trees)", while the T-19.3 insures against damage to "permanent buildings". In essence, the T-19.2 will provide more coverage for damage to "improvements" which includes "permanent buildings" and other "improvements", where the T-19.2 will only insure damage to "permanent buildings".

Additionally, the T-19.2 may only be

issued for real property of one acre or less improved or intended to be improved for one-to-four family residential use or for real property improved or intended to be improved for office, industrial, retail, mixed use, or multifamily purposes. Where the property is not of the type allowed under the T-19.2, the T-19.3 may provide mineral coverage for permanent buildings.

Both the T-19.2 and T-19.3 endorsements may be issued for either an owner or lender's policy. For a residential or commercial owner's policy, the endorsement cost is \$50.00. There is no cost to include either endorsement in a lender's policy.

While a title insurance underwriter is not legally required to issue these endorsements, in most situations they will. So don't be afraid to ask for the additional coverages provided by these endorsements where it may be appropriate.

Scott Alagood is with Alagood Cartwright Burke PC in Denton and is board certified by the Texas Board of Legal Specialization in both Commercial and Residential Real Estate Law.

ET *al.*

Why Paralegals Should be Members of the PD

by Clara Buckland, C.P.

As of May 5, 2015, the PD has 1,763 members. In 2014, the Paralegal Division ("PD") conducted a salary survey, and based on the results 71 percent of employers pay for CLE, with 63.4 percent paying associated travel/expenses. Further, in 2014 participants reported that 67.3 percent of their employers pay their membership dues.

By way of history, PD (formerly known as Legal Assistants Division) was established in 1981 and among the stated pur-

poses for its creation was the enhancement of paralegals' professional participation. Since its inception the PD has worked diligently to do just that—hold its members to the highest professional and ethical standards, and established early on the Professional Development, Professional Ethics, and Continuing Legal Education Committees, just to name a few. In furtherance of its goals, in 2003, the sitting board voted to adopt the added criterion that its members complete six hours of

CLE per year for membership renewal, self-regulating the profession.

On April 21, 2006, through the efforts of a joint task force comprised of PD members and attorney members of the Paralegal Committee of the State Bar of Texas ("SBOT"), the SBOT Board of Directors approved "standards" for the paralegal profession with the intent of assisting "... the public in obtaining quality legal services, assist attorneys in their utilization of paralegals, and assist judges in determining whether paralegal work is a reimbursable cost when granting attorney fees."

Also, in April 2009 Texas paralegals were honored by the Texas Senate, when by Proclamation No. 1144, it recognized October 23 each year as Texas Paralegal

A complex, stylized graphic resembling a brain or neural network. It is composed of various icons representing technology, communication, and business concepts. The central part features a large eye icon, surrounded by numerous smaller elements such as gears, arrows, clouds, a hand pointing, a smartphone, a Wi-Fi symbol, a dollar sign, a star, a film strip, a magnifying glass, a water tap, a lightbulb, a Twitter bird, a plus sign, a minus sign, a multiplication sign, a division sign, a percentage sign, a hash sign, an at-sign, a registered trademark symbol, a copyright symbol, a trademark symbol, a service mark symbol, a patent symbol, a pending symbol, a provisional symbol, a temporary symbol, a permanent symbol, a final symbol, a complete symbol, a finished symbol, a done symbol, a ready symbol, a available symbol, a free symbol, a vacant symbol, an empty symbol, a blank symbol, a clear symbol, a clean symbol, a fresh symbol, a new symbol, a recent symbol, a latest symbol, a current symbol, a modern symbol, a contemporary symbol, a trendy symbol, a fashionable symbol, a stylish symbol, a chic symbol, a classy symbol, a sophisticated symbol, a refined symbol, a polished symbol, a sleek symbol, a smooth symbol, a seamless symbol, a flawless symbol, a perfect symbol, a pristine symbol, a pure symbol, a spotless symbol, a immaculate symbol, a faultless symbol, a blemish-free symbol, a defect-free symbol, a flawless symbol, a picture-perfect symbol, a flawless symbol, a perfect symbol, a pristine symbol, a pure symbol, a spotless symbol, a immaculate symbol, a faultless symbol, a blemish-free symbol, a defect-free symbol, a flawless symbol, a picture-perfect symbol.

the assistance of experienced paralegals who help us with what works and what does not. Especially in situations where a case/matter is pending in another jurisdiction. When you have someone in that jurisdiction to assist you, more often than not, whatever the situation, it is made manageable/doable because of those contacts. Paralegals take great pride in helping others. Plus, there have been instances when paralegals have referred clients to fellow paralegals' firms who work in a particular area of law in other jurisdictions based on the paralegals working relationship.

(TBLS) which can be proffered as a professional advantage when pitching to clients: having certified paralegals doing the client's work for a fair price is a win/win for everyone.

Membership allows paralegals to use statewide networks (such as PD's E-group) as problem solving tools for the law firm.

While the legal landscape is changing dramatically before our eyes, an educated workforce is infinitely more valuable than the alternative...forcing at least six hours of CLE on a yearly basis of our members may be the one way that the firm may be exposed to, or aware of an important shift in the profession. Having a paralegal learn something new at a seminar might be the only way that the firm can get ahead of the competition. But more importantly, the ways in which law firms engage clients, and differentiate themselves from other firms, are becoming narrower every day. Any way that a firm can identify themselves from the herd may be the decision point for a client, but striving for excellence in whatever manner available is clearly a worthwhile talking point.

The PD also has a Mentorship Program for experienced paralegals to share their knowledge with less experienced paralegals. Whether a paralegal is a mentor or a protégé, through their participation in the program, paralegals grow and learn together.

For many employers, membership in the PD is part of their paralegals' benefits package as they consider membership in professional organizations part of their professional development. Failure to offer this type of benefit to its paralegals is a way of pigeonholing their paralegals' profession. Since the law and times are constantly changing, by not allowing this type of benefit, they are not allowing them to grow—how can setting anchor make sense? Paralegals take pride in staying ahead of the curve and learning as much as possible and want to be an asset to our supervising attorneys and their clients.

Clara Buckland is a NALA Certified Paralegal and EEO Legal Investigator with the office of the General Counsel of the El Paso Electric Company. Clara is the immediate Past President (2014-2015) of the Paralegal Division and is the 2015 Chair of the Texas Advanced Paralegal Seminar (TAPS).

Scruples

Ethics of Utilizing Home Computer for Work

Ellen Lockwood, ACP, RP

If you are one of the fortunate few who work from home on a regular basis, or even occasionally, then you likely do your work on your personal computer. Using a personal computer requires the paralegal to find a method for keeping work files and emails from being comingled with the paralegal's personal documents and emails.

Most paralegals who work from home, especially those that work for larger firms or companies, likely use a virtual private network (VPN) connection to access their work files. A VPN connection is established over the Internet with the user then logging into a server at the office with their credentials. Once the VPN connection is made, the user has access to his computer desktop as well as all documents, databases, files, networks, and software, as if the user was sitting at his work computer.

Using a VPN connection has several benefits including being relatively secure, requiring the use of login credentials, and allowing the user access to all of his files and other information. However, if the user does not have a reliable, fast Internet connection, then access will be slow and may drop frequently.

Some paralegals may be issued a work laptop. The laptop may be used both at work and at home or strictly for home use. With a work laptop, the paralegal has the option of connecting to the office network via VPN, or using the computer without any Internet connection. If the laptop is also the paralegal's work computer, then it must be taken back and forth between work and home which can be inconvenient,



especially when an unexpected work project comes up after hours and the paralegal has not brought her laptop home. Additional issues may arise when the work laptop is also used as the paralegal's personal computer. Those issues include downloading unauthorized software, saving large personal files to the computer, perhaps using up much of the memory, and comingling personal and work files. If the paralegal's employment ends suddenly, it may be difficult to retrieve the laptop quickly. There is also the possibility that the paralegal's computer will need to be mined for data that is responsive to an e-discovery request which may be inconvenient for the paralegal and the employer, as well as running the risk of violating the employee's privacy.

If a paralegal must use her personal home computer for work and a VPN connection is not available, the paralegal may keep work documents on a dedicated flash drive or portable external hard drive. Another option would be to link documents

to a secure cloud server such as Goggle Drive, Microsoft OneDrive, Apple iCloud Drive, or Dropbox. For emails, it would be safest to use a remote method to access work emails, whether through the firm or company server, or by utilizing third-party cloud software. It is not recommended to add the paralegal's work email account to whatever email program the paralegal uses for home email as it would be much more difficult to maintain a separation between personal and work email accounts.

Whether at the office, or accessing work documents, emails, software, files, and databases, from home or another remote location, it is the paralegal's responsibility to ensure confidentiality and privilege are maintained.



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 at www.twitter.com/paralegalethics. She may be contacted at ethics@txpd.org.

2014–2015 PD Exceptional Pro Bono Service Award

Allen Mihecoby, ACP, RP

By Constance Nims

Allen Mihecoby's nomination for the Paralegal Division's Exceptional Pro Bono Service Award began with a simple statement: "This person has demonstrated exceptional dedication to the performance of *pro bono* services and is worthy of receiving this award."

Allen has been a member of the Paralegal Division of the State Bar of Texas (PD) since 1997. During that time, he served as Director of District 3, Parliamentarian, Chair of the Professional Development Committee, Member of the Texas Alliance of Paralegal Association Planning Committee in District 2, and CLE Sub-Chair for District 3. His service work includes various positions with Dallas Area Paralegal Association (DAPA), Fort Worth Paralegal Association (FWPA), North Texas Paralegal Association (NTPA), Metroplex Association of Corporate Paralegals (MACP), National Federal of Paralegal Association (NFPA), State Bar of Texas, and the American Bar Association. This list is not all inclusive. Clearly, Allen has a love for his profession, and a desire to volunteer a most precious possession, his time.

Not only does Allen give his time to his profession, and its numerous related associations, he currently volunteers with the Dallas Volunteer Attorney Program (DVAP), conducted under the auspices of Legal Aid of Northwest Texas (LANWT). LANWT holds monthly legal clinics in the Dallas area in order to provide free legal services to area residents who could not otherwise afford them. Allen attends at least two clinics per month, interviewing applicants to determine if they are eligible for services. These clinics can process up to 35 applicants per clinic, and it is only with the help of paralegals like Allen that LANWT is able to get through all of the



Allen Mihecoby and Clara Buckland

applications. Seeing a need, Allen has actively recruited other paralegals to assist in staffing these clinics as well.

"As a paralegal professional, we have a moral imperative to give back to our local communities. I enjoy the time spent at the various legal aid clinics I attend. The clients that attend these clinics fall well below the federal poverty level and are in desperate need of the clinic's services. There's such a sense of accomplishment in using your paralegal skills to assist those in need. When a client says 'Thank you,' it's one of the best gifts one can receive. For many of these clients, it's all they have. And they chose to give that gift to you," said Allen.

In October of 2004, Allen helped coordinate a joint Wills Clinic between the Dallas Association of Young Lawyers, and the local paralegal association. He also assisted in developing an MCLE course on drafting wills which was presented to the volunteers at this clinic. He went on to assist in a joint effort with the Tarrant County Young Lawyers and LANWT, to develop a Wills Clinic in Tarrant County. He has also continued, over the past four years, to volunteer at an all-day Wills Clinic sponsored by ACT, a Community

Development organization, in addition to preparing wills and estate planning documents for clients of Dallas Legal Hospice. Allen conducts the intake interview, prepares the estate planning documents, and provides them to the supervising attorney.

Asked why he seems to give so much of his time to individuals in need of wills and estate planning, Allen said, "In the DFW Metroplex, there seems to be a greater need for wills and estate planning. Our clients are primarily elderly, veterans, or those in hospice care. For these clients, it's a privilege for me to visit with them. They appreciate a sympathetic ear and someone to listen to their life's stories. End of life planning can be sad, but knowing that you're helping ease the client's burdens is a bright spot in this type of work."

Allen enjoys doing *pro bono* work so much he assisted in developing a Pro Bono Partner program to encourage other paralegals to step-up. This program partners two paralegals for one year with the focus on community service and *pro bono* projects. The partners agree to meet the goal of a certain number of volunteer hours for that year.

Allen doesn't restrict himself to just *pro bono* work: in 2014, he participated in a challenge to break the World's Record for the most individuals making sandwiches at the same time. He—along with more than 1,000 others—broke that record, and the sandwiches were donated to three local charities.

Allen serves as an example of not just an exceptional paralegal, but as an exceptional human being.

Constance Nims is a paralegal at Carrington, Coleman, Sloman & Blumenthal, L.L.P. in Dallas.

2015 Annual Meeting Recap

The Paralegal Division held its 2015 Annual Meeting in San Antonio, TX on June 19, 2015 at the Marriott Plaza Hotel. Clara Buckland, C.P., 2014–2015 President of the Paralegal Division, presided over the meeting. President Buckland introduced the 2015 Annual Meeting Committee and the 2014–2015 Board of Directors.

Ellen Lockwood, ACP, RP, Annual Meeting Chair, introduced Keynote Speaker Michelle Garza, Refugee and Immigrant Center for Education and Legal Services (“RAICES,” raicestexas.org). Ms. Garza’s presentation was entitled “Helping Attorneys to Help Others: How you can Make Pro Bono Work.” The presentation focused on the work of RAICES and volunteers assisting immigrants held in detention centers and how others can assist with their efforts.

The 2014–2015 President’s Report was presented by outgoing President Buckland. President Buckland reported that the Division is strong and that it has approximately 1,795 members. This number represents the largest member base since 2003. President Buckland spoke on the Ambassador Program, CLE and Webinars, TBLS Helpful Hints Guide, Mentor Program and the e-Newsletter, just to name a few. President Buckland stated that the Paralegal Division was invited to participate in the State Bar of Texas’ Legal Access Division’s Care Campaign and member Patricia (Patti) Giuliano has represented the Paralegal Division at these meetings. President Buckland recounted other items such as the Council



Award of Excellence: Patti Giuliano with Clara Buckland



Committee Chair of the Year: Sheila Posey with Clara Buckland

of Chairs meetings she attended, the Salary and Compensation Survey, the SBOT Executives became “complimentary” Paralegal Division members at their request, the dissolution of District 13, the incorporation of those members into District 1, and the establishment of Seat 1 and Seat 2 in District 1. President Buckland further reported on her continued efforts on behalf of the Paralegal Division that the SBOT MCLE Rules and Regulations be revised to allow teaching credits to attorneys who present substan-

tive continuing legal education to paralegals. President Buckland also announced the appointment of Past President Susan Wilen, R.N. to the State Bar of Texas’s MCLE Ad Hoc Committee by SBOT President Allan K. Dubois.

The 2015 Award of Excellence was presented to Patti Giuliano of San Antonio, Texas. This award is the highest honor that can be bestowed upon a Paralegal Division member and is conferred by the Board of Directors to recognize an individual who has made a substantial contribution to the paralegal profession. Patti has volunteered in various roles for the Division since 2003. Among those are: President of the Paralegal Division, District Director from San Antonio, Chair of the TAPS Planning Committee, Chair of the Paralegal Division Ambassador Committee, Paralegal Division Representative to the State Bar of Texas Pro Bono Work Group, Paralegal Division Representative to the State Bar Access to Justice Committee, as well as various other committees. Patti is that paralegal we all strive to become; she is professional and gives willingly to her profession through both the Paralegal Division and her local paralegal associations. Patti works for Dykema Cox Smith as an intellectual property paralegal.

President Buckland presented the 2015 Exceptional Pro Bono Service Award to Allen Mihecoby, ACP, RP. Allen volunteers with the Dallas Area Volunteer Program, which operates under the Legal Aid of Northwest Texas’ umbrella, and with several community programs in the Dallas-Fort Worth Metroplex. His leadership skills are utilized at East Dallas and West Dallas Legal Clinics to train new



Erica Anderson and Clara Buckland—exchanging the PD gavel

volunteer paralegals and appropriately staff pro bono events. Additionally, his services have resulted in developing Wills Clinics, Pro Bono Partner program, and a multitude of “good works” through other legal assistance agencies and community development programs. Allen and his pro bono service are featured in an article on page 20. Allen works for Kimberly-Clark in Dallas.

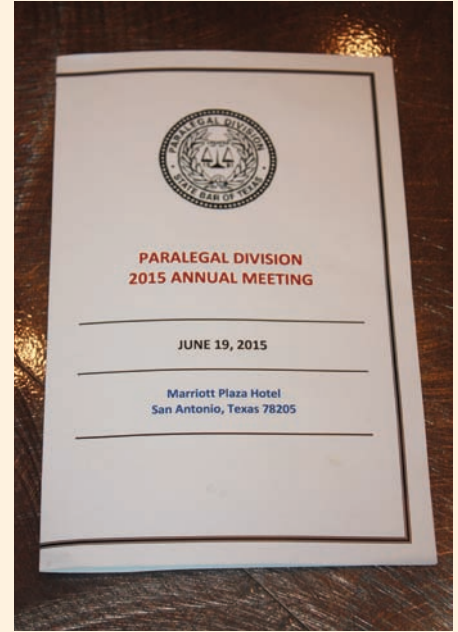
During the Annual Meeting, the Paralegal Division’s Outstanding Committee Chair Awards were presented to Sheila Posey, TBLS-BCP, of Conroe, and Gabriel Warner of Spring, Co-Chairs of the Paralegal Division e-Newsletter, *The Paralegal Pulse*, as well as Heidi Beginski, TBLS-BCP, of El Paso, Chair of the Publications Committee.

The outgoing 2014–2015 Directors were presented with plaques for their service as a District Director.

These directors are Clara Luna Buckland, C.P., El Paso—Outgoing 2014–2015 PD President; Christine Cook, Houston—District 1 Director; Allison C. Seifert, San Antonio—District 5 Director; and Martha C. Ramirez, TBLS-BCP, McAllen—District 15 Director.

At the end of the Annual Meeting, the new incoming 2015–2016 Paralegal

Division officers and directors were installed. Erica Anderson, ACP, from Amarillo was inducted as the 2015–2016 President, and Megan Goor, TBLS-BCP, from Fort Worth was inducted as the 2015–2016 President-Elect.



2015 Annual Meeting Program

The Paralegal Division would like to express its sincere thanks to the sponsors of the 2015 Annual Meeting as listed below:

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TAPS 2015 Scholarship Recipient Announcement

Congratulations to Mona Hart-Tucker, ACP, District 14 Director who was selected as this year’s winner! Mona went to task and wrote an excellent essay in support of this year’s prompt, “Never Do a Wrong Thing to Make a Friend or to Keep One.”

When Mona was informed of her win, she wrote in part, “I’d just like to encourage others to apply next year. I was thinking about the scholarship a few days ago . . . I’m looking forward to seeing everyone again - so many friends I only see that one

time a year. I know there will be a great line-up of speakers and vendors. A great experience for all of us, and not something to be taken for granted.”

Well done Mona! We’ll see you in October!

PD EXECUTIVE COMMITTEE OFFICERS 2015–2016



President

Erica Anderson, ACP

A member of the Paralegal Division since 2004, Erica served as Membership Chair for three terms (2008–2011) prior to being elected as District 7 Director, and served as President-Elect in 2014–2015. She has served in several different positions to the Texas Panhandle Paralegal Association, including Public Relations Chair, Professional Development Chair, TAPA Chair and President. With her memberships in these associations and in NALA, Erica is able to participate in a variety of ways to help develop the paralegal profession. Most recently, Erica was invited to Chair the Advisory Committee to Amarillo College's Paralegal Studies program.

Erica began her career as a file clerk and worked diligently to become the lead paralegal on several matters at Mullin Hoard & Brown LLP. In January 2006, she earned her Certified Paralegal status from NALA, and in 2009, received notice that she had achieved the designation of Advanced Certified Paralegal in Trial Practice. In 2010, Erica was invited to be a CLE speaker at TAPS and continues to speak to other audiences.

Erica volunteers with several different organizations including the Tascosa Band & Orchestra Parents Association, Tascosa Football Booster Club, Amarillo Youth Choirs, Girl Scouts, Snack Pack

4 Kids, and Legal Aid Northwest Texas. She is currently studying finance and decision management at West Texas A&M University. Erica and her husband, Rich, are raising two children, Rich and Libby. Erica is a paralegal at the Underwood Law Firm in Amarillo, Texas.



President-Elect

Megan Goor, TBLS-BCP

Megan obtained her B.A. from the University of Texas at Arlington. Megan's current work experience includes handling personal injury, product liability, insurance bad faith, criminal, civil rights, probate, medical negligence, mass torts, class actions, sexual harassment, and employment discrimination cases from intake through trial and appellate litigation. Megan is a board certified paralegal in Personal Injury Trial Law by the Texas Board of Legal Specialization (2008). Megan was elected as the Paralegal Division Director of the State Bar of Texas for District 3 in 2013 after her appointment in November 2012. Megan has recently served as PD Parliamentarian (2014–2015), Board Advisor for the PD's Pro Bono Committee, and Liaison to the Texas Young Lawyers Association. She is a former Board Advisor-Annual Committee; former Board Advisor-Vendor Liaison; and former Liaison-ABA. Megan currently serves as the Fort Worth Paralegal Association's Professional Development Chair and formerly as the SBOT Liaison

to the PD. Megan was recently awarded the Fort Worth Paralegal Association's Paralegal of the Year 2014 Award. Professional affiliations: Active Member of the Paralegal Division of the State Bar of Texas, Active Member of the Fort Worth Paralegal Association; member of The College of the State Bar of Texas; Paralegal Affiliate Member of AAJ; and an Associate Member of the Tarrant County Bar Association.

She served as Advancement Chair and Committee Member of Boy Scouts of America, Cub Scouts, Pack 9 (2008–2013), and Committee Member on the Vision Committee 2013 of St. Paul Lutheran Church.

Megan is the Senior Paralegal and Office Manager of The Brender Law Firm, located in the medical district of Fort Worth. Megan has worked for Art Brender since 1983, after starting her career in the legal field as a legal secretary in 1982 for another law firm.



Treasurer

Jay M. Williams, TBLS-BCP

Jay M. Williams, TBLS-BCP received his paralegal certificate from ESS College of Business in Dallas in September 1990 and began his legal career at the Federal Public Defender's Office in Fort Worth in December 1990. Since then he has accumulated a diverse legal background, gaining experience in federal criminal defense, real estate, tax, wills and estate planning, mergers and acquisitions, employment,

probate, business and commercial litigation, bankruptcy, and homeowners' association representation. Since 2000, Jay has focused his career on plaintiff personal injury litigation cases. He currently handles cases involving injuries as a result of product liability issues nationwide.

Jay joined the Dallas Area Paralegal Association (DAPA) in 2003 and was appointed Professional Development Director in 2004. He was reelected Professional Development Director for the 2005 term, and then took over as Programs Vice President. Jay was then elected to a full term as Programs Vice President in 2006, and elected President-Elect in 2007. In 2008, Jay had the honor and pleasure to serve as President of DAPA. He then served again as Programs Vice President in 2010. Jay has served on numerous committees, including the Holiday Lunch Committee in 2005–2008 (Chair in 2005 and 2006), the Paralegal Day Celebration Committee in 2006–2008, 2010–2012, and 2014 (serving as emcee for the 2010 and 2011 events), a member of and emcee/speaker at the Career Day Event in 2007, speaker at the 2013 Career Day Event, and a member of the Elections, Rules & Bylaws, NFPA Committees, and the NFPA Convention Planning Committee for the 2014 NFPA Convention. He also participated in Dallas Volunteer Attorney Program Pro Bono clinics in 2005. In 2008, he spearheaded the first Joint CLE Event with the North Texas Paralegal Association (which has since become Diversity University).

Jay rejoined the Paralegal Division of the State Bar of Texas in 2012 and served as Public Relations Committee Sub chair, Co-Chair of the 2013 Annual Meeting Committee, and Chair of the Professional Development Committee in 2013–14. He was elected District 2 Director in 2014, and was elected to serve as Treasurer in 2015. Jay became a Board Certified Paralegal in Civil Trial Law through the Texas Board of Legal Specialization in 2013.

Jay has served in various capacities in NFPA, including Legislative Committee 2007, Legislative Coordinator 2008, 2011, Budget Committee 2010–2012, Legislative Review Committee 2014, and in July 2009 was voted to fill the unexpired term as

Vice President and Director of Professional Development in 2009. Jay has also been a member of the American Association for Justice (formerly American Trial Lawyers Association) since 2005.

Jay is an avid bowler and sings at various opries and clubs around the Dallas area.

Jay is employed at Heygood, Orr & Pearson.



Secretary

Michelle Beecher

Michelle has more than 20 years' experience in the legal field and practices in the area of real estate and civil litigation. Michelle has been with the law firm of Alagood & Cartwright for the past 10 years.

In 1992, Michelle received her certificate in Paralegal Studies from the University of North Texas.

Michelle joined the Paralegal Division of the State Bar of Texas in 1990. In 1992, Michelle was elected as the District 12 Director, served one year and resigned due to a family emergency. Michelle was recently elected to serve as the 2014–2016 District 12 Director of the Paralegal Division. Michelle is also serving as the 2014–2015 Secretary of the Paralegal Division.

Michelle is a charter member of the Greater Denton Legal Assistants Association (GDLAA). She is currently CLE Chair of the Denton County Paralegal Association. In 2013 she was

the Fundraising Chair for the Denton County Paralegal Association and in 2010–2011 was the Association's CLE Chair. In 2013 and 2014, she has served on the Denton County Bar Association Wills for Heroes Committee and in 2014 will serve on the Denton County Bar Association's Courthouse Appreciation Day Committee.

Michelle is the Treasurer for the Tarrant Tiger Alumni Association (LSU) and a member of the Cross Timbers Chapter of the Daughters of the American Revolution. Michelle is the French Specialist for the Spanish Task Force Committee for National Daughters of the American Revolution. Michelle currently serves on the Project Patriot Committee for the Cross Timbers Chapter of the Daughters of the American Revolution. Michelle is also a member of the Denton Benefit League and serves on their Bylaws Committee, Invitations Committee and served as a Team Leader for the DBL Jazz Festival Committee.

Michelle has been married to Raymond for 30 years and has two children Amy who is getting her masters in Health Administration at LSU and Raymond who is in the Coast Guard stationed in Puerto Rico.

Michelle is a paralegal and office manager with the law firm of Alagood Cartwright Burke PC., located in Denton.

Parliamentarian

Stephanie Sterling

Stephanie is a seasoned litigation paralegal with over 16 years of experience. Stephanie earned her Associate of Applied Science Degree in Paralegal Studies from Lamar University and went on to graduate with a Bachelor's of Science Degree in History from West Texas A&M University. While obtaining her degrees, she was on the Dean's List and President's List, a member of Alpha Beta Gamma Business Honor Society, Phi Alpha Theta History Honor Society and Pi Gamma Mu Social Science Honor Society.

Stephanie has been a Paralegal Division member since 2003 and was elected as District 4 Director in 2014. In addition



to being District 4 Director, Stephanie is currently serving the Paralegal Division as Parliamentarian for 2015–2016. She is also a member of Capital Area Paralegal Association (CAPA), the Texas Bar College, and Women in eDiscovery—Central Texas Chapter as well as National Association of Legal Assistants-Paralegals (NALA). Stephanie also currently serves as CAPA's Public Relations Chair.

Stephanie has served the paralegal

profession in many capacities over the years. She has served the Paralegal Division as District 4's Public Relations Committee Sub-Chair (2009–2013), Pro Bono Ad Hoc Committee Sub-Chair (2009–2014), Professional Development Committee Sub-Chair (2014–2015), and served as Marketing Chair on the TAPS 2014 Planning Committee. Stephanie has also served CAPA in many roles over the years such as Immediate Past President (2014–2015), President/Ethics Officer/TAPA Liaison (2013–2014), President-Elect/NALA Liaison/Public Relations Liaison (2012–2013), Sustaining Member Liaison (2010–2012), Pro Bono Service Award Chair (2010–2012), Paralegal of the Year Award Committee Chair (2010–2011 & 2014–2015), and served on CAPA's 35th Anniversary Planning Committee leading two sub-committees in 2012–2013. In addition to serving CAPA on several board and chair positions, Stephanie has served as a committee member on the Publications Committee, Web Team, Pro Bono Award Committee and CLE Seminar Committee as well as assisted CAPA in re-establishing its Paralegal of the Year Award

in 2010. She has also authored several guidelines and committee procedures for CAPA. Stephanie has served as an ex officio member and CAPA representative of the Austin Bar Association in 2013–2014 and has served on the Virginia College at Austin's Paralegal Studies Advisory Board. Prior to moving to Austin, she served as Treasurer for Southeast Texas Association of Paralegals (SETAP) in 2007–2008.

Stephanie was CAPA's Paralegal of the Year in 2013. She was also awarded with CAPA's Volunteer of the Year Award for 2010–2011 and again in 2013–2014. She was also awarded with the NALA Affiliates Award in 2013 for her contribution and dedication to the advancement of the paralegal profession. In 2015, CAPA awarded Stephanie with their Nancy McLaughlin Scholarship for her essay titled "Professional Development Opportunities for Paralegals and Why is it Crucial to Advance Your Career?"

Stephanie is with the law firm of DuBois, Bryant & Campbell, LLP in Austin in the practice area of civil litigation handling complex commercial litigation matters.



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