

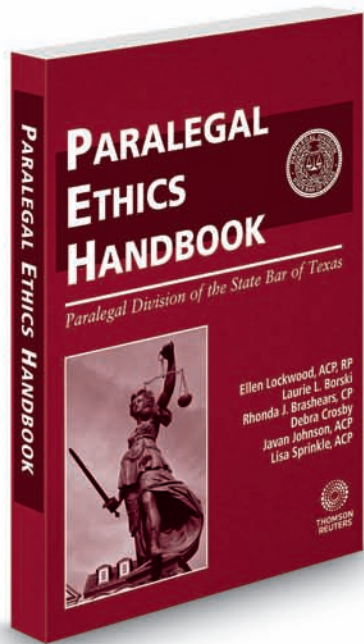
WINTER 2016 VOL. 21 NO.3

TPIJ

*Texas Paralegal Journal*

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# PARALEGAL ETHICS HANDBOOK



*Paralegal Division of the State Bar of Texas*

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

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

This title:

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



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# PRESIDENT'S *Message*

Erica Anderson, ACP

**A**s we welcome 2016, I reflect on my experiences of 2015 and the revolving theme of teamwork and giving back. Any team member can tell you that a team needs goals to be successful. As paralegals, we often work on projects in which the end goal is unknown or that the end product is the only guidance to lead us. How often must we change tactics or choose Plan B in order to reach the finish line? Many of us have experienced that near-heartbreaking moment in which we realize it all depends on us as the team member, and the confidence in ourselves is what is holding us back. A paralegal's ability to handle tough situations and problem-solve while supporting our supervising attorneys is our mantra.

It is an empowering position to be able to assist your team reach their goal in the most efficient way possible, and I am proud to say the Board of Directors is tackling tough and impacting issues for the Paralegal Division. Their steadfastness to carefully consider the weight of their decisions takes me by surprise at each meeting. These Directors put the members before themselves after sacrificing time from family, work demands, and from themselves. I am thankful for the opportunity to lead the Paralegal Division forward, with the Board of Directors never breaking stride and matching my pace. What a great illustration of our roles in the paralegal profession!

By the time this column is published, one of the stationary elements of the Paralegal Division will have stepped back to make way for a new plan. As you will read in this issue, PD Coordinator Norma Hackler, CMP, with bright eyes and ENDLESS new ideas, dedicated twenty-



plus years to a young association. Norma's commitment to the Division will not be soon forgotten or will her willingness to propose new ideas to move the Division towards new objectives, even as she logs off one last time. With Norma's retirement comes the opportunity for the Paralegal Division to evaluate its future goals

and push itself to new limits. One of our own, Rhonda Brashears, TBLS-BCP, CP, is stepping into big shoes and is eager to propel the Paralegal Division forward. With Rhonda's expansive experience as

volunteer in rising through the ranks, her perspective is unique and appreciated to the role of Coordinator.

The Board of Directors agrees it is time for the volunteers to return to their stations and dedicate themselves to the Division in order to make this a forward transition. With Rhonda's insight as a volunteer, her role as a Coordinator will help tie the two together for streamlining, simplicity, solutions, and teamwork, and her notion to give back to the Division that has given so much to paralegals is the epitome of my presidency. It is with great sadness I realize that Norma will not be on the other end of my emails; but I am excited to be part of the Paralegal Division accelerating towards the future, ready to work.

Erica Anderson



## ANNUAL MEETING PARALEGAL DIVISION State Bar of Texas

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**Fort Worth, TX**

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## Texas Paralegal Journal

### Focus on...

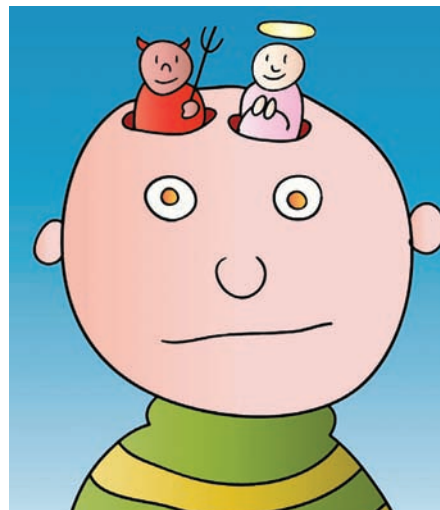
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# EDITOR'S *Note*

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

**A**ppellate courts are reactive, addressing only errors on matters actually ruled upon by a lower court. Preservation of error begins when a plaintiff files a complaint, and continues throughout trial. To ensure that the assigned error is preserved in the record, read Steven K. Hayes' article in this issue.

If you are a notary, by now you should know the changes enacted by HB 1683. Are you compliant? See this issue's article by William D. Pargaman to find out.

How many times have you heard parties to a dispute say, "We can work this out on our own," only to end up in the lawyer's office, with a long list of what was said by the other party in their failed attempts to do so? Hillery R. Kaplan outlines the pitfalls of parties' self-negotiation in this issue.

Andrea Andreacchi, TBLS-BCP, provides an overview of the streamlined bankruptcy forms in this issue. Keep this handy even if bankruptcy is not your employer's area of law—you never know when it will come in handy!

With the end of 2015 came the end of Norma Hackler's affiliation with the PD. Norma served the PD exceptionally well, and leaves us in good standing to move forward as our profession continues to evolve. Fortunately, long-time PD member Rhonda Brashears will be our part-time coordinator, so there will be continuity in the change. We wish Norma the best as she closes the door on this chapter and steps into her future.



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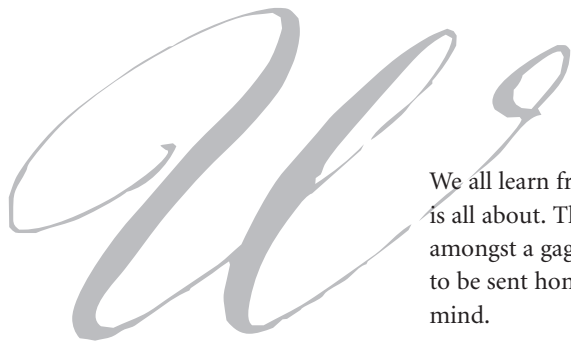






# Error Preservation—Shared Experience Is a Great Teacher

by Steven K. Hayes  
Copyright 2015.



We all learn from the experiences of each other. That's part of what reading the cases is all about. That's also what listening to the audience at CLE seminars is all about—amongst a gaggle of lawyers, you can almost always find someone who does not need to be sent home to find out what to say, and they will generally tell you what's on their mind.

## **The most commonly asked question, with a suggested answer.**

Over the course of the summer, I have had the pleasure of moderating two fine judicial panels concerning error preservation. Following one of those panel discussions, and during the middle of the other one, audience members asked what to do to get trial judges to rule on objections they have made to the other side's summary judgment evidence. In addition to those inquiries, a recent study I did confirms that this may be something of a widespread problem. For merits-based opinions in civil cases from the courts of appeals during the fiscal year ending August 31, 2014, the Summary Judgment area generated the second largest number of error preservation decisions. Error preservation decisions during FYE 2014 involving Summary Judgments and Affidavits (the latter often arising in the context of summary judgments) comprised over 10% of the error preservation decisions that year. Unfortunately, in terms of getting courts to rule on objections to summary judgment evidence, the study indicates that we do 50% worse than we do on error preservation issues in general. Some of that may have to do with an inability to get a trial court to rule on our objections. And some of that inability may have to do with not winnowing down our objections to the important ones, or not making sure that the trial court is aware of our objections.

Let me answer the question of how to get a trial court to rule on your objections to summary judgment evidence, or at least how to preserve error as to the failure of the trial court to rule, by analogizing the answer to a story told by my friend, Mike Henry. Mike is a fine trial lawyer in Fort Worth and a former offensive lineman for the University of North Texas Mean Green. When Coach Hayden Fry sent Mike in for his first collegiate appearance, against the University of Texas Longhorns, he gave Mike this truly wise and universally-applicable admonition: "Son, try not to get hurt, and don't embarrass your parents."





### Try not to get hurt . . .

This means you need to preserve error as to the trial judge's failure to rule on your objections. Tex. R. App. P. 33.1 says that to present "a complaint for appellate review, the record must show . . . (2) the trial court: (a) ruled on the request, objection or motion, either expressly or implicitly; or (B) refused to rule on the request, objection, or motion, and the complaining party objected to the refusal."

So, to preserve error, filed your evidentiary objections, set them for hearing, and discuss them with the trial court *before* it rules on the summary judgment motion. Ask for a ruling on the objections—on the record. Bring a proposed order on your objections to the hearing on your objections, and draft that order so the trial court can mark "sustained" or "overruled" as to each of your objections individually. Such an order gives the trial court something on which to record its rulings as it hears your objections, and gives you a checklist to ensure you've not overlooked something. And putting the order together may help you winnow down the objections you really, really need the court to rule on. If the trial court takes the objections under advisement, remind the judge at the end of the hearing about the need to rule on the objections.

If the trial court announces its ruling on the summary judgment and says nothing about your objections, object *in writing filed with the court* to the lack of a ruling on your objections, and object to the signing of an order on the summary judgment which does not include, or which is not preceded by, an order ruling on your objections. Set your objection as to the refusal of the trial court to rule for a hearing. If the summary judgment order drafted by the other side does not include an order ruling on your objections, then don't agree to that summary judgment order, even as to form, and point out why in writing. All of this helps remind the trial court, faced with a burgeoning docket, that there are a few things it needs to do in order to wrap up the summary

judgment hearing in this matter.

### . . . and don't embarrass your parents.

You can do all the foregoing without being a jackass. So don't be a jackass. Your parents would not want you to embarrass them, and you don't need to do so in order to preserve your complaint. Just set a hearing on your objections, insist on the hearing, give the judge an order to rule on your objections, remind the judge to rule, and (if the trial judge fails to rule before announcing a decision), object, and set that objection for hearing. You may not get a ruling on your objections to the other side's evidence, but you should at least be able to pursue an appellate point about the trial court having failed to rule.

Now, on to a few other things we might want to think about.

### Two wrongs may not make a right, but the documents may get authenticated nonetheless.

The complete failure of a party to authenticate documents is an issue which may be raised for the first time on appeal. *In the Estate of Guerrero*, 2015 Tex. App. LEXIS 4124, 27 (Tex. App.—Houston [14th Dist.] Apr. 23, 2015, pet. filed). That's scary, because that means that you could be dead in the water and not even know it until the other side files its Appellee's Brief. Referring to a document in a motion to compel arbitration as a "true and correct" copy is not enough to authenticate the document, if the motion is not accompanied by an appropriate affidavit or other verification. *Id.* To authenticate the documents at a hearing, the hearing must have an "evidentiary" component, at least as related to the authentication issue. *Id.*

Which begs the question of what would provide that "evidentiary" component, especially if you find yourself at such a hearing, with no "evidence" of authenticity, and no one present who would qualify as what you normally think of as a "witness." Assuming it draws no objection, authenticity can be proven by the attorney's unsworn representations to the

trial court "clearly attempting to prove" that the pertinent documents in question are true and correct copies of the originals (assuming the attorney is shown to know that fact). If no objection as to the lack of an oath is made, then that representation may be enough—and not merely as to the authenticity of documents.

"Normally, an attorney's statements must be made under oath to constitute evidence. *Banda v. Garcia*, 955 S.W.2d 270, 272 (Tex. 1997). This can be waived, however, by failing to object when the opponent of the evidence knows or should know that an objection should be made. *Id.*; see also *Northeast Tex. Staffing v. Ray*, 330 S.W.3d 1, 3-4 & n.3 (Tex. App.—Texarkana 2010, no pet.) (holding attorney's statements regarding mailing of expert report qualified as evidence because no objection was made to attorney not being under oath). In this case, the evidentiary nature of the statements being made by Harlan's attorney was apparent. Harlan's attorney was 'clearly attempting to prove' the expert report was timely served by reciting factual information about the expert report being mailed to the Hospital's attorney."

*Bexar County Hosp. v. Harlan*, 2015 Tex. App. LEXIS 8188, \*10-11 (Tex. App.—San Antonio Aug. 5, 2015).

So do not forget that you may have the opportunity to authenticate documents at a hearing—and do not fail to avail yourself of that opportunity. Conversely, when the other attorney starts to elaborate about authenticity and such, and that attorney does not have the personal knowledge to provide that testimony, make sure to object to the trial court that the other attorney does not have the appropriate personal knowledge, and has not been sworn, and that if an appropriate oath will be administered, that you can prove the lack of knowledge.





**Attorney's Fees can be a jury trial issue—unless you fail to insist on a jury trial on them.**

If it is important to you, remember to insist on a jury trial (assuming you have requested a jury trial) if a party seeks its fees pursuant to a motion to dismiss. If you just let the trial court make the determination on fees pursuant to the motion, without insisting on your right to a jury trial on that issue, you will have probably waived your right to a jury trial. *Breitling Oil & Gas Corp. v. Petroleum Newspapers of Alaska, LLC*, 2015 Tex. App. LEXIS 3209, 14-16 (Tex. App.—Dallas Apr. 1, 2015, pet. denied).

The same waiver of a previously invoked demand for a jury trial can happen with regard to a claim for attorney's fees under 42 U.S.C. 661983, 1988. *Jefferson County v. Ha Penny Nguyen*, 2015 Tex.

App. LEXIS 8052, \*74-75 (Tex. App.—Beaumont July 31, 2015). So if you intend to have the jury determine attorney's fees, and the other side does not ask the jury to find her fees, remember to object to the other side's "post-trial request to have the court decide her attorney's fees." *Id.* Otherwise, the court of appeals may "conclude that [Insert Your Name Here] failed to preserve its argument for appellate review regarding the denial of the right to have attorney's fees decided by the jury."

**Sanctions**

Hopefully, none of us will ever face an order for sanctions; quite frankly, I hope that none of us will ever feel the need to seek the same. But in that unhappy event, if the trial court does order sanctions under Rule 13, keep in mind that it must specify the "particulars of [good cause

for the same] . . . in the sanctions order." Tex. R. Civ. P. 13. But if it does not do so, and if the sanctioned party does not object to that lack of specification, it will have waived its right to complain about that lack of specificity on appeal. *Mann v. Kendall Home Builders Constr.*, 2015 Tex. App. LEXIS 3246, 7-8 (Tex. App.—Houston [14th Dist.] Apr. 2, 2015); *John Kleas Co. v. Prokop*, 2015 Tex. App. LEXIS 3162, 34 (Tex. App.—Corpus Christi Apr. 2, 2015). In the Austin Court, waiting until the motion for new trial to do so may be too late. *Prokop*, citing *Connell Chevrolet Co., Inc. v. Leak*, 967 S.W.2d 888, 895 (Tex. App.—Austin 1998, no pet.) and *Land v. AT & S Transp., Inc.*, 947 S.W.2d 665, 667 (Tex. App.—Austin 1997, no writ).

*Steven K. Hayes is an attorney at the Law Office of Steven K. Hayes in Fort Worth.*

## ***From the Window Up Above<sup>1</sup>: What They See From the Bench***

by Steven K. Hayes<sup>2</sup>. Copyright 2015. Edited by Constance Hall<sup>3</sup>.

Over the last six months or so, I have had the privilege of monitoring some judicial panels which discussed error preservation. Thanks to the fine work done by the judges on those panels, I think I have some collective wisdom to pass long to you. If you ever have a chance to hear them speak, you really should avail yourself of that opportunity. I believe the San Antonio session was filmed by SBOT CLE, and it would be worth your time to listen to that. Before passing on the panels' collective wisdom, I want to give thanks to the folks who served on the panels, in order of the panel presentations:

**San Antonio:**

Justice Rebeca Martinez, Fourth Court of Appeals  
Justice Jason Pulliam, Fourth Court of Appeals  
Former Justice Rebecca Simmons, Fourth Court of Appeals

**Dallas**

Justice David Evans, Fifth Court of Appeals  
Judge Martin Hoffman, 68th District Court  
Judge Tonya Parker, 116th District Court  
Justice Sue Walker, Second Court of Appeals

**Houston**

Judge Joseph "Tad" Halbach, 333rd District Court  
Justice Rebeca Huddle, First Court of Appeals  
Justice Martha Hill Jamison, Fourteenth Court of Appeals  
Judge Sylvia Matthews, 281st District Court

The following suggestions came out of one or more of those panel presentations. This is not to say that all the foregoing judges agreed with all of the following, or that they even agree with my memory on this, but the presentations prompted me to pass along the following things for your consideration:

**The trial court wants to get it right, and appreciates you helping it to do so.** Trial judges all want to make the right decision. They want the best chance you can give them to make an informed, thoughtful decision, and they appreciate it immensely when the attorneys help them do so. They welcome trial briefs, making a record, hashing out the arguments, and all the other stuff that helps focus the issues and lead to making a correct decision. Since one aspect of error preservation is making your complaint with sufficient specificity to make the trial court aware of the complaint, the more you help the trial court to get it right, the more likely you will have preserved error.



**Batson Challenges:** Attorneys do not see these as often in civil cases as prosecutors and defense attorneys do in criminal cases. As a result, attorneys in civil cases are a little rustier on what to do and when to do it in terms of preserving a Batson challenge. You might consider including in your trial notebook the one or two pages from O'Connor's *Texas Civil Practice* which deals with how to make a Batson challenge. Michael Smith of Marshall, Texas, told me that trial notebook usage was exactly what they had in mind when putting together O'Connor's on that topic, so you might as well take advantage of it. As Justice Huddle put it in the Houston presentation (perhaps on another issue, as my memory is not that good), if there is anything you can carry around physically so that you do not have to carry it around in your head, you should do it. This is one of those things.

**Always, always, always prepare an Order for the court to use as a guide and for you to use as a checklist.** No matter whether we talk about a motion, a series of objections to summary judgment evidence, proposed jury questions or instructions, or whatever, prepare an order which disposes of your issue. An order gives the judge a road map, it gives you a checklist to make sure you have covered everything you need to. It is also a good idea for your lawyer—not you—to prepare the order. Having to draft that order gives the attorney a chance to reflect on what things he or she really does want to present to the court and get a ruling on, and what things, in reflection, are not that important.

**Always be aware of burden-shifting situations.** Motions to exclude evidence under Rule 193.6 (because information was not timely produced during discovery), Special Appearances, and cases involving the Texas Citizens' Participation Act present situations where the burden of proof can shift to the non-moving party. How all these devices play out is beyond the scope of this paper, but just be aware that if your client faces one of these situations, you and your attorney need to carefully study and prepare for what to do and when to do it—especially if your client is the non-movant.

**Preserving Jury Charge Error—prepare your charge early, file your proposed charge, follow the rules, present it to the court, and get a written ruling.** Right now, pick up your Rule book, and re-read TRCP 271-279. Get your attorney to do the same thing. They cover about 2 pages. They tell you the basics, and you must satisfy them:

- present and request *written* questions, definitions, and instructions to the court (Rule 273);
- object to the charge the court proposes to submit (Rule 272), by pointing out distinctly the objectionable matter and grounds of objection, which you cannot do merely by adopt-

ing and applying your objection to another part of the charge (Rule 274); and

- have the court mark any question, definition, or instruction you requested as “Refused” or “Modified,” as the case may be, if the court does not use what you requested.

Boatloads of ink have been spilled on articles dealing with the multitude of issues surrounding the jury charge, none of which will be covered here, but those basic charge Rules are the starting point.

But more than just following the foregoing rules, you and your attorney should start preparing the charge early, because it will give you and your client the road map you will need to follow in developing your case. In a tough case, seriously consider having an early deadline for submitting proposed charges to the court, and have several charge conferences to start working through what will go to the jury. And remember—get written rulings “refusing” or “modifying” the questions, definitions, and instructions you have presented which the trial court does not submit.

**If you find yourself having to ask your attorney “what happened?,” then you need to remind your attorney to make sure the complaint *and* the trial court’s ruling as to the same is on the record, because there is a good chance that it is not.** This is from me. From time to time, you may find yourself having to ask your attorney what happened with regard to a particular complaint or objection. If so, that means there is a good chance that whatever happened—including some part of the argument about it and the trial court’s eventual ruling—is not on the record. And if argument is not on the record, and no ruling is on the record, then there is a really, really good chance that the complaint has not been preserved for appeal. About 11% of error preservation failures occur because lawyers did not get a ruling or make a record. So if you hear yourself asking “what happened?,” when the attorney starts trying to tell you, the next thing out of your mouth should be “put all of that on the record, and get the ruling on the record.”

There are undoubtedly other things that came out of these panel presentations that my notes do not reflect and my memory has let slip away. But I thought the foregoing were at least worth passing along. I hope the holidays have treated you and yours well, and that you look forward to the best year ever.

<sup>1</sup> Though it really has nothing to do with error preservation, or this paper, you might find it entertaining to read about “Window Up Above,” by George Jones, ca 1960.

<sup>2</sup> Steve Hayes practices law in Fort Worth, where he handles civil appeals. He is a SBOT Litigation Section Council member, and is also Chair-Elect of the SBOT Appellate Section.

<sup>3</sup> Constance Hall practices law in Arlington, Texas, handling Business, Estate Planning & Probate, Family Law, and Appeals. She is a member of the SBOT Litigation Section’s Social Media Committee.



# Bonds, Interest Rates, and the Impact of Inflation

Craig Hackler

Branch Manager / Financial Advisor

Raymond James Financial Services, Inc., Member FINRA/SIPC

There are two fundamental ways that you can profit from owning bonds: from the interest that bonds pay, or from any increase in the bond's price. Many people who invest in bonds because they want a steady stream of income are surprised to learn that bond prices can fluctuate, just as they do with any security traded in the secondary market. If you sell a bond before its maturity date, you may get more than its face value; you could also receive less if you must sell when bond prices are down. The closer the bond is to its maturity date, the closer to its face value the price is likely to be.

Though the ups and downs of the bond market are not usually as dramatic as the movements of the stock market, they can still have a significant impact on your overall return. If you're considering investing in bonds, either directly or through a mutual fund or exchange-traded fund, it's important to understand how bonds behave and what can affect your investment in them.

## The price-yield seesaw and interest rates

Just as a bond's price can fluctuate, so can its yield--its overall percentage rate of return on your investment at any given time. A typical bond's coupon rate--the annual interest rate it pays--is fixed. However, the yield isn't, because the yield percentage depends not only on a bond's coupon rate but also on changes in its price. Both bond prices and yields go up and down, but there's an important rule to remember about the relationship between the two: *They move in opposite directions, much like a seesaw.* When a bond's price goes up, its yield goes down, even though the coupon rate hasn't changed. The opposite is true as well: When a bond's price drops, its yield goes up.



That's true not only for individual bonds but also for the bond market as a whole. When bond prices rise, yields in general fall, and vice versa.

## What moves the seesaw?

In some cases, a bond's price is affected by something that is unique to its issuer--for example, a change in the bond's rating. However, other factors have an impact on all bonds. The twin factors that affect a bond's price are inflation and changing interest rates. A rise in either interest rates or the inflation rate will tend to cause bond prices to drop. Inflation and interest rates behave similarly to bond yields, moving in the opposite direction from bond prices.

## If inflation means higher prices, why do bond prices drop?

The answer has to do with the relative value of the interest that a specific bond pays. Rising prices over time reduce the purchasing power of each interest payment a bond makes. Let's say a five-

year bond pays \$400 every six months. Inflation means that \$400 will buy less five years from now. When investors worry that a bond's yield won't keep up with the rising costs of inflation, the price of the bond drops because there is less investor demand for it.

## Why watch the Fed?

Inflation also affects interest rates. If you've heard a news commentator talk about the Federal Reserve Board raising or lowering interest rates, you may not have paid much attention unless you were about to buy a house or take out a loan. However, the Fed's decisions on interest rates can also have an impact on the market value of your bonds. The Fed takes an active role in trying to prevent inflation from spiraling out of control. When the Fed gets concerned that the rate of inflation is rising, it may decide to raise interest rates. Why? To try to slow the economy by making it more expensive to borrow money. For example, when interest rates on mortgages go up, fewer people can afford to buy homes. That tends to dampen the housing market, which in turn can affect the economy.

When the Fed raises its target interest rate, other interest rates and bond yields typically rise as well. That's because bond issuers must pay a competitive interest rate to get people to buy their bonds. New bonds paying higher interest rates mean existing bonds with lower rates are less valuable. Prices of existing bonds fall.

That's why bond prices can drop even though the economy may be growing. An overheated economy can lead to inflation, and investors begin to worry that the Fed may have to raise interest rates, which would hurt bond prices even though yields are higher.

## Falling interest rates: good news, bad news

Just the opposite happens when interest rates are falling. When rates are dropping, bonds issued today will typically pay a lower interest rate than similar bonds issued when rates were higher. Those older bonds with higher yields become more valuable to investors, who are willing to pay a higher price to get that greater

income stream. As a result, prices for existing bonds with higher interest rates tend to rise.

**Example:** Jane buys a newly issued 10-year corporate bond that has a 4% coupon rate—that is, its annual payments equal 4% of the bond's principal. Three years later, she wants to sell the bond. However, interest rates have risen; corporate bonds being issued now are paying interest rates of 6%. As a result, investors won't pay Jane as much for her bond, because they could buy a newer bond that would pay them more interest. If interest rates later begin to fall, the value of Jane's bond would rise again, especially if interest rates fall below 4%.

When interest rates begin to drop, it's often because the Fed believes the economy has begun to slow. That may or may not be good for bonds. The good news: Bond prices may go up. However, a slowing economy also increases the chance that some borrowers may default on their bonds. Also, when interest rates fall, some bond issuers may redeem existing debt and issue new bonds at a lower interest rate, just as you might refinance a mortgage. If you plan to reinvest any of your bond income, it may be a challenge to generate the same amount of income without adjusting your investment strategy.

#### All bond investments are not alike

Inflation and interest rate changes don't affect all bonds equally. Under normal conditions, short-term interest rates may feel the effects of any Fed action almost

immediately, but longer-term bonds likely will see the greatest price changes.

Also, a bond mutual fund may be affected somewhat differently than an individual bond. For example, a bond fund's manager may be able to alter the fund's holdings to try to minimize the impact of rate changes. Your financial professional may do something similar if you hold individual bonds.

**Note:** Bond funds are subject to the same inflation, interest rate, and credit risks as their underlying bonds, and if interest rates rise and bond prices fall, that can adversely affect a bond fund's performance. Before purchasing a mutual fund, you should carefully consider its investment objective, risks, fees, and expenses, which can be found in the prospectus available from the fund. Read it carefully before investing.

#### Focus on your goals, not on interest rates alone

Though it's useful to understand generally how bond prices are influenced by interest rates and inflation, it probably doesn't make sense to obsess over what the Fed's next decision will be. Interest rate cycles tend to occur over months and even years. Also, the relationship between interest rates, inflation, and bond prices is complex, and can be affected by factors other than the ones outlined here. Remember, investments seeking to achieve higher yields also involve a higher degree of risk.

Your bond investments need to be tailored to your individual financial goals and take into account your other investments. A financial professional may be

able to help you design your portfolio to accommodate changing economic circumstances.

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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

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## The Pitfalls of Kitchen Table Negotiations

By Hillery R. Kaplan

**B**irthday cakes, craft time, school projects—a lot of really good things can happen around the kitchen table. However, negotiating your divorce is not one of them.

It's tempting to want to negotiate your own divorce. Even though you've hired

an attorney to represent you, somewhere in the back of your mind, you think, "We can work this out on our own." So, you and your spouse start talking about various aspects of your divorce in hopes of having the much sought after amicable divorce. Surely your lawyer will be happy

you guys reached an agreement, right? Unfortunately, that is not always the case. "Kitchen table" agreements made without the benefit of legal advice can make your divorce much more difficult, and here are five reasons why:

#### 1. You may agree to something you later regret, making settlement more difficult.

For divorcing parties who are not in a high conflict situation, it is only natural to have conversations about the issues in



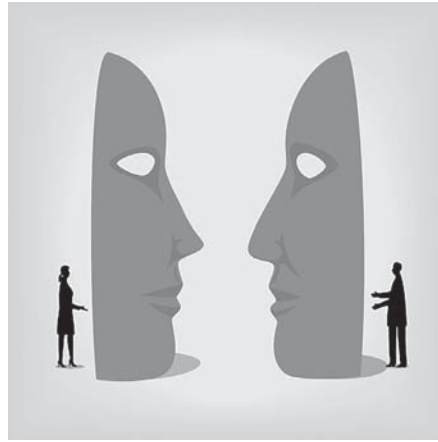
your divorce. Unfortunately, your spouse may bring up things that you have not yet thought about or discussed with your attorney. The conversational nature of the discussion puts you on the spot, leading you to commit to things that, had you talked to your lawyer first, you would never have agree to do. Once you've "agreed" to it verbally, however, it is very hard to convince your spouse that he or she is not entitled to the very thing you agreed to do without the benefit of legal counsel. A party's unrealistic expectations prevent many divorce cases from settling, and agreeing to things before you have had a chance to understand all of the legal implications can create unrealistic expectations in the other party. What sounds "reasonable" when everyone is getting along may not work well when things get less amicable down the road. Your lawyer will know how to put provisions in place that will protect you whether you and your spouse are on good terms or bad. You're paying for your attorney's expertise. Don't let your own actions deny you the benefits of that knowledge.

## 2. You may increase your own attorneys' fees.

If you've made settlement more difficult by agreeing to things verbally that you later regret, your attorney will have to work harder to undo the damage—and you will have to pay him more fees as a result. Your attorney also has a specific legal strategy in mind in order to assist you obtain your goals. Reaching piecemeal agreements jeopardizes that strategy and the goals you hope to reach. It will take more time for your attorney to recraft the entire agreement around these piecemeal agreements than it would for her to design the entire agreement without your "help."

## 3. Your emotional state may work against you.

Even if you are the person who wants the divorce, your emotions are at an all-time high, and you are not thinking as clearly as you would in an arms-length business negotiation. You may have reason to feel guilty that you are wanting the divorce, which may lead you to agree to things that, after the dust settles, you will realize



are unfair to you and not good for your children. You may be hoping to win your spouse back and mistakenly think that, if you just give them what they want, they will love you again and want to come home. You may also be lulled into thinking that the two of you are still a team and can work things out amicably. It's easy to let down your guard and take your spouse's statements at face value. You want to trust that your spouse is being honest with you about his income without any additional verification. You believe her when she tells you what the house is worth without getting an appraisal. You forget that a divorce is actually a lawsuit and that, whether you are on friendly terms or not, you and your spouse have conflicting interests. Agreements revolving around your divorce should not be clouded by emotion. Sitting around the kitchen table in the home the two of you formerly shared is hardly an emotionally neutral setting. Your attorney is not emotionally involved in your case; therefore, her judgment will not be clouded by guilt, emotion or misplaced trust. Plus, she can draw on her experience to both issue spot and weigh the pros and cons of various proposed solutions.

## 4. You don't have the benefit of your attorney's advice.

You wouldn't build a house without hiring an architect; or worse, hire an architect, then proceed to build a house without using his plans. Entering into agreements with your soon-to-be-ex without the benefit of the legal counsel you hired is no different. An architect's job is to design a structurally sound house that is within your budget and that suits your needs both

now and in the future. Similarly, your attorney's job is to structure your divorce in a way that meets the current and future needs of you and your kids. Divorce is something that can impact every aspect of your family's life for the rest of your life. How it is structured and every detail is of the utmost importance. Matters as crucial as this are best handled by an experienced professional.

## 5. Your spouse's request to "work it out on your own" may be a deliberate attempt to deny you the benefit of counsel.

Everyone wants to think that their spouse just wants to be amicable and do what's best for everyone, including the kids. Sometimes this is true, and sometimes it is not. We commonly hear from clients that their spouse is telling them they do not need a lawyer, or that the lawyer just wants to take all their money, etc. Many clients are fooled into thinking that their lawyer is the opposing party, not their spouse. It is critical to understand that, in every divorce, each person has an agenda that he or she is trying to push through, and pressuring a party at the kitchen table when her lawyer is not there to be the voice of reason is a tactic commonly employed by the less scrupulous to pressure the other party into agreeing to what they want.

Don't fall into these traps. While we would rarely tell a client not to talk to their spouse about property issues and what they think is best for the kids, the key is not to agree to anything without the benefit of talking to your lawyer about the specifics first. Do more listening than talking. Your lawyer is waiting in the wings to advise you and guide you in the right direction. Once you have the benefit of that advice, then it's time to come to an agreement.

*Hillery R. Kaplan is an associate attorney at Noelke Maples St. Leger Bryant, LLP in Austin.*



ET *al.*

## Streamlining Bankruptcy Forms

By: *Debbie Andreacchi, TBLS-BCP*

Chair, Committee on Professional Development

**F**or many years, the practitioners in the arena of bankruptcy law have dealt with forms that attempted to use a one-size-fits-all standard. The same forms have been used for both consumer cases and business cases and the result was confusion among debtors as to which questions and portions of the forms were relevant to their individual situation. The Advisory Committee on

Bankruptcy Rules has been working since 2008 to correct these issues and, effective **December 1, 2015**, most of the current Official Bankruptcy Forms will be replaced with revised, reformatted and renumbered documents. The primary purpose is to provide forms that are unique to either consumer or business cases, thereby making it clearer and easier for debtors to complete the forms. For those of us who

assist attorneys in the use of these forms, we need to note which forms have been eliminated, which forms have been revised and which forms are completely new. There are some forms and rule changes that will not take place until 2016. The chart below is designed to clarify what changes have been made to the forms that will take effect December 1, 2015.

### SAVE THE DATE:



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## FORMS BY CATEGORY

## CASE OPENING—INDIVIDUAL

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 1	Voluntary Petition	B101	Voluntary Petition for Individuals Filing for Bankruptcy (Note: Exhibits A, B, C, and D, have been eliminated because the requested information is now asked in the form, or does not relate to individual debtors; the form carves out eviction judgment statement as new forms B101A and B101B)
		B101A	Initial Statement About an Eviction Judgment Against You
		B101B	Statement About Payment of an Eviction Judgment
	Exhibit C	B101	Hazardous Property or Property That Needs Immediate Attention (Note: Incorporated in Form B101)
	Exhibit D	B101	Individual Debtor's Statement of Compliance with Credit Counseling Requirement (Note: Incorporated in Form B101)
B 4	List of Creditors Holding 20 Largest Unsecured Claims	B104	For Individual Chapter 11 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims Against You and Are Not Insiders (individuals)
B 5	Involuntary Petition	B105	Involuntary Petition Against an Individual
B 6	Summary of Schedules (Includes Statistical Summary of Certain Liabilities)	B106Sum	Summary of Your Assets and Liabilities and Certain Statistical Information (individuals)
B 6A	Schedule A – Real Property	B106A/B	Schedule A/B: Property (individuals; combines real and personal property)
B 6B	Schedule B – Personal Property	B106A/B	Schedule A/B: Property (individuals; combines real and personal property)
B 6C	Schedule C – Property Claimed as Exempt	B106C	Schedule C: The Property You Claim as Exempt (individuals)
B 6D	Schedule D – Creditors Holding Secured Claims	B106D	Schedule D: Creditors Who Have Claims Secured By Property (individuals)
B 6E	Schedule E – Creditors Holding Unsecured Priority Claims	B106E/F	Schedule E/F: Creditors Who Have Unsecured Claims (individuals; Use Part 1 for priority claims and Part 2 for nonpriority claims)
B 6F	Schedule F – Creditors Holding Unsecured Nonpriority Claims	B106E/F	Schedule E/F: Creditors Who Have Unsecured Claims (individuals; Use Part 1 for priority claims and Part 2 for nonpriority claims)
B 6G	Schedule G – Executory Contracts and Unexpired Leases	B106G	Schedule G – Executory Contracts and Unexpired Leases (individuals)

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 6H	Schedule H – Codebtors	B106H	Schedule H: Your Codebtors (individuals)
B 6I	Schedule I – Your Income	B106I	Schedule I: Your Income (individuals)
B 6J	Schedule J – Your Expenses	B106J	Schedule J: Your Expenses (individuals)
		B106J2 (New)	Schedule J-2: Expenses for Separate Household of Debtor 2
B 6 Declaration	Declaration Concerning Debtor's Schedules	B106Dec	Declaration About an Individual Debtor's Schedules
B 7	Statement of Financial Affairs	B107	Your Statement of Financial Affairs for Individuals Filing for Bankruptcy
B 8	Chapter 7 Individual Debtor's Statement of Intention	B108	Statement of Intention for Individuals Filing Under Chapter 7
B 19	Declaration and Signature of Non- Attorney Bankruptcy Petition Preparer	B119	Bankruptcy Petition Preparer's Notice, Declaration and Signature
B 21	Statement of Social Security Numbers	B121	Your Statement About Your Social Security Numbers

#### CASE OPENING -- NON-INDIVIDUAL/BUSINESS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 1	Voluntary Petition	B201	Voluntary Petition for Non-Individuals Filing for Bankruptcy (Note: References to Exhibits B, C, and D, and the Exhibits themselves have been eliminated. Attachment Exhibit A is being replaced with B201A)
	Attachment A	B201A	Attachment to Voluntary Petition for Non-Individuals filing for Bankruptcy Under Chapter 11
	Exhibit C	B201	Hazardous Property or Property That Needs Immediate Attention (Note: Exhibit C is incorporated in Form B201)
B 2	Declaration under Penalty of Perjury on Behalf of a Corporation or Partnership	B202	Declaration Under Penalty of Perjury for Non-Individual Debtors (For petition, schedules, SOFA, etc.)
B 4	List of Creditors Holding 20 Largest Unsecured Claims	B204	Chapter 11 or Chapter 9 Cases: List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders (non-individuals)
B 5	Involuntary Petition	B205	Involuntary Petition Against a Non-Individual
B 6	Summary of Schedules (Includes Statistical Summary of Certain Liabilities)	B206Sum	Summary of Assets and Liabilities for Non-Individuals
B 6A	Schedule A – Real Property	B206A/B	Schedule A/B: Real and Personal Property (Note: combines real and personal property, non-individuals)

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 6D	Schedule D – Creditors Holding Secured Claims	B206D	Schedule D: Creditors Who Have Claims Secured By Property (non-individuals)
B 6E	Schedule E – Creditors Holding Unsecured Priority Claims	B206E/F	Schedule E/F: Creditors Who Have Unsecured Claims (non-individuals; use Part 1 for creditors with priority unsecured claims and Part 2 for creditors with nonpriority unsecured claims)
B 6F	Schedule F – Creditors Holding Unsecured Nonpriority Claims	B206E/F	Schedule E/F: Creditors Who Have Unsecured Claims (non-individuals; use Part 1 for creditors with priority unsecured claims and Part 2 for creditors with nonpriority unsecured claims)
B 6G	Schedule G – Executory Contracts and Unexpired Leases	B206G	Schedule G: Executory Contracts and Unexpired Leases
B 6H	Schedule H – Codebtors	B206H	Schedule H: Codebtors (non-individuals)
B 6 Declaration	Declaration Concerning Debtor's Schedules (Note: Form included Declaration Under Penalty of Perjury on Behalf of a Corporation or Partnership)	B202	Declaration Under Penalty of Perjury for Non-Individual Debtors (For petition, schedules, SOFA, etc.)
B 7	Statement of Financial Affairs	B207	Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy

## APPLICATIONS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 3A	Application and Order to Pay Filing Fee in Installments	B 103A	Application for Individuals to Pay the Filing Fee in Installments
B 3B	Application for Waiver of Chapter 7 Filing Fee	B 103B	Application to Have the Chapter 7 Filing Fee Waived

## CHAPTER 11 FORMS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 12	Order and Notice for Hearing on Disclosure Statement	B312	Order and Notice for Hearing on Disclosure Statement (No change to form name)
B 13	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof	B313	Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof (No change to form name)
B 14	Class [ ] Ballot for Accepting or Rejecting Plan of Reorganization	B314	Class [ ] Ballot for Accepting or Rejecting Plan of Reorganization (No change to form name)



2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 15	Order Confirming Plan	B315	Order Confirming Plan (No change to form name)
B 25A	Plan Of Reorganization (In Small Business Case Under Chapter 11)		No change at this time. Targeted for change in 12/2016
B 25B	Disclosure Statement (In Small Business Case Under Chapter 11)		No change at this time. Targeted for change in 12/2016
B 25C	Small Business Monthly Operating		No change at this time.
	Report (Small Business Case under Chapter 11)		Targeted for change in 12/2016
B 26	Periodic Report Regarding Value, Operations and Profitability Of Entities In Which The Estate Of [Name Debtor] Holds a Substantial or Controlling Interest		No change at this time. Targeted for change in 12/2016

#### CHAPTER 15 FORMS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
None	None	B401(New)	Chapter 15 Petition for Recognition of a Foreign Proceeding

#### MEANS TEST

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 22A-1	Chapter 7 Statement of Your Current Monthly Income	B122A-1	Chapter 7 Statement of Your Current Monthly Income (No change to form name)
B 22A-1Supp	Statement of Exemption from Presumption of Abuse Under 6 707(b)(2)	B122A-1Supp	Statement of Exemption from Presumption of Abuse Under 6 707(b)(2)
B 22A-2	Chapter 7 Means Test Calculation	B122A-2	Chapter 7 Means Test Calculation (No change to form name)
B 22B	Chapter 11 Statement of Your Current Monthly Income	B122B	Chapter 11 Statement of Your Current Monthly Income (No change to form name)

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 22C-1	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period	B122C-1	Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period (No change to form name)
B 22C-2	Chapter 13 Calculation of Your Disposable Income	B122C-2	Chapter 13 Calculation of Your Disposable Income (No change to form name)

## OPERATIONS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 23	Debtor's Certification of Completion of Instructional Course Concerning Financial Management	B423	Certification About a Financial Management Course
B 27	Reaffirmation Agreement Cover Sheet	B427	Cover Sheet for Reaffirmation Agreement

## PROOFS OF CLAIM

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 10	Proof of Claim	B410	Proof of Claim (No change to form name)
B 10A	Attachment A (Mortgage Proof of Claim Attachment)	B410A	Mortgage Proof of Claim Attachment
B 10S-1	Notice of Mortgage Payment Change (Proof of Claim, Supplement 1)	B410S-1	Notice of Mortgage Payment Change (Proof of Claim, Supplement 1)
B 410S-2	Notice of Postpetition Mortgage Fees, Expenses, and Charges (Proof of Claim, Supplement 2)	B410S-2	Notice of Postpetition Mortgage Fees, Expenses, and Charges (Proof of Claim, Supplement 2)

## APPEALS

2014 Form Number	2014 Form Name	2015 Form Number	2015 Form Name
B 17A	Notice of Appeal And Statement Of Election	B417A	Notice of Appeal And Statement Of Election (No change to form name)

*Debbie Andreacchi, TBLS-BCP is a paralegal at Dykema Cox Smith in Dallas and is a board certified paralegal by the Texas Board of Legal Specialization in bankruptcy law.*

# Scruples

## Seven Deadly Sins of Ethics and Professionalism

Ellen Lockwood, ACP, RP

Most of us are familiar with Christianity's seven deadly sins: Pride, Envy, Gluttony, Lust, Anger, Greed, and Sloth. However, most paralegals aren't aware of the corresponding seven deadly sins of ethics and professionalism.

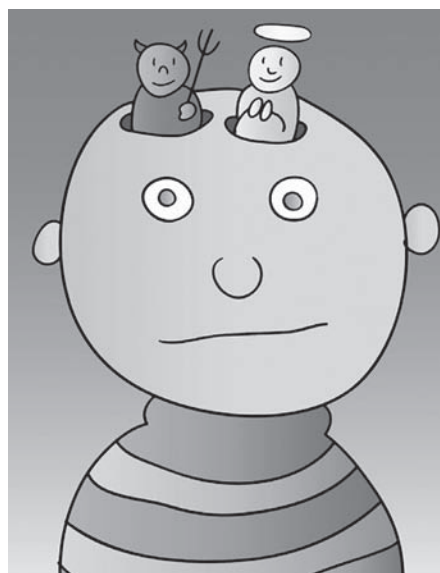
### Pride

Pride, which may be a virtue in some circumstances, may also take the form of conceit, egotism, vanity, and arrogance. Paralegals who are guilty of Pride may have a lofty view of their superiority to others, are overconfident, have an exaggerated opinion of their own abilities of accomplishments, are overly preoccupied with themselves, or have an excessive need to be admired by others and exhibit symptoms of self-admiration.

Most of us are familiar with the expression "pride goeth before a fall." The source of this idiom is from Proverbs and means that those who are guilty of one of the forms of Pride will likely make mistakes that will lead to their downfall.

The negative type of Pride often stems from feelings of inadequacy or fear. The risk is that a paralegal will rush, not review the rules or statutes, follow procedures, conduct the appropriate research, and take advantage of available resources to ensure the job is done correctly and well.

Professional paralegals recognize they don't know everything and have no problem admitting they don't the answer or how to do something while expressing confidence in being able to find the answer or learn new information and skills. Rather



than coming across as inexperienced or weak, paralegals who seek to improve their knowledge and skills and utilize their resources to gather information are viewed as valuable employees.

Prideful paralegals also run the risk of having their attitude be off-putting to coworkers and supervisors, which may have negative effects on their performance reviews.

### Envy

Envy is the desire for the achievements, status, skills, and similar attributes of others, usually associated with feelings of discontent. Negative effects of Envy may include a tendency to try to downplay or minimize the attributes and accomplishments of others. Professional paralegals are aware that achievements by and skills of fellow paralegals reflect positively on

our entire profession, as well as strengthen the workplace team.

A positive effect of Envy would be if it motivates a paralegal to become certified, develop new skills, and otherwise increase her professionalism.

### Gluttony

For paralegals, Gluttony manifests as hoarding work, information, or access. While it may seem to some paralegals that controlling these things will make them more valuable, elevate their status, or provide job security, they are mistaken. Such actions make it appear the paralegal is insecure, arrogant, and more interested in himself than assisting the team in doing the best job.

### Lust

For paralegals, Lust manifests as an inappropriate desire or craving and is closely related to Envy. Lust may include such a strong desire to be considered the best by some measure, that the paralegal may almost completely disregard other considerations and even other responsibilities. For example, a paralegal who has a Lust to be viewed as the hardest worker in the office may disregard her health in order to get to the office first and stay late, bill more hours, and complete more projects. Professional paralegals know they cannot do their best without maintaining a work-life balance, and taking care of their own health and wellbeing.

### Anger

Anger may be frustration, indignation, or resentment. It may begin with a perceived injury or injustice, or a feeling of not being valued, validated, or having the paralegal's opinions considered. Unfortunately, Anger in any form is often not a productive way to effect change in policies or procedures, or to convince others to consider that paralegal's view. Even if the paralegal's position is justified, Anger is usually met with resistance and frequently results in



the paralegal being perceived as difficult, demanding, or unreasonable.

Although Anger is often an understandable reaction to certain situations, paralegals should focus on working within the system to effect change, taking into consideration the best approaches given the personalities of the parties involved, and office politics.

#### **Greed**

For paralegals, Greed is the desire for recognition, work, status, or control, without considering the broader needs of the project, the team, and even the paralegal's own professionalism. Greed may be related to Pride or Gluttony if the paralegal has feelings of inadequacy. Greed may also manifest as one-upmanship.

Greed may cause the paralegal to be viewed as insecure, egotistical, and controlling, especially if the paralegal makes a regular effort to be sure others are aware of the paralegal's role and status.

Professional paralegals realize that those who do a good job in a professional manner will most likely be acknowledged for their work. Paralegals who compliment others and strive to improve their own knowledge and skills will not feel the need to be greedy.

#### **Sloth**

While one characteristic of Sloth is laziness, for paralegals it may also take the form of taking credit or billing for another's work, only doing a job halfway, or taking ill-advised shortcuts. Professional paralegals always do the best job possible and are ethical in their billings practices.

Ethical and professional paralegals are always working to improve their skills and abilities, take pride in their work, and consider the ethical issues of their assignments. They also acknowledge and praise the accomplishments of others, do what is best for the project and the team, and encourage and assist others in increasing

their professionalism, thus serving as role models and improving the paralegal profession.



*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](http://www.twitter.com/paralegalethics). She may be contacted at [ethics@txpd.org](mailto:ethics@txpd.org).*

## *Notice of Nominations/Election of President-Elect*

Pursuant to Standing Rule XIV of the Paralegal Division of the State Bar of Texas, notice is hereby given of an election for the office of 2016-2017 President-Elect. This election will be held by mail during the month of January 2016 by the Board of Directors.

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

#### **XIV. OFFICERS**

##### **B. ELIGIBILITY**

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

Any qualified individual who is interested in running for office of President-Elect should forward a one-page resume, together with a letter of intent to run, to the nominations committee chair at the following address **TO BE RECEIVED NO LATER THAN JANUARY 15, 2016.**

Misti Janes, TBLS-BCP  
Chair, President-Elect Nomination Committee  
Noelke English Maples St. Leger Blair, LLP  
901 S. Mopac Expressway  
Barton Oaks Plaza II Suite 200  
Austin, Texas 78746  
512.480-9777 (o)  
[mjanes@nmsb-law.com](mailto:mjanes@nmsb-law.com)

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

# 2015 TAPS—SADDLE UP FOR CLE

By Clara Luna Buckland CP, 2015 TAPS Chair, with contributions from Roving Reporter Katrina Lee, and session and conference reviews by Deborah Andreacchi, TBLS-BCP, Jennifer Barnes, CP, Debbie House, TBLS-BCP, Deb Pointer, and Cheryl Bryant, TBLS-BCP.

The definition of “convention” in part is, “a large meeting of people who come to a place for usually several days to talk about their shared work or other interest . . .” That is exactly what the Texas Advanced Paralegal Seminar (“TAPS”) is! Aside from it being a fellowship forum for Texas paralegals to get together, see old friends and make new ones, it is the Division’s yearly, multitrack continuing legal education three-day conference, and as in previous years, TAPS 2015 was another great success!

This year, TAPS was in Cowtown, themed accordingly, and it was held at the Sheraton Fort Worth Hotel, September 30 through October 2. There were 68 speakers who presented advanced topics on various areas of the law, with 217 paralegal attendees, and 32 vendors who joined us. The TAPS app was again offered, and very well received. The app had a lot of valuable information such as our vendors’ contact information including the type of services they offer, and a directory of attendees, just to name a few. Attendees were also able to upload the daily schedule and bookmark the sessions they were planning on attending which were automatically placed into attendees’ personalized daily schedules plus, they were able to call up speakers’ papers and follow along on their handhelds. The app’s fun and engaging *Click* game was offered again this year. The game is a scavenger hunt of sorts in which participants are tasked with searching specific convention themed items/persons, taking applicable pictures and submitting them for points.



*Grand Prize Winners & Sponsors—Nancy Strack, David Keltner, Debbie House, Michele Rayburn, Lori Tiner, Julie Sherman*



The first two participants who successfully submitted all corresponding photos and completed the challenge won prizes. It was a lot of fun, and a way for attendees to engage one another. I tell you what, there is nothing like seeing the competitiveness come-out in some of our fellow Texas paralegals!

The energy was contagious Wednesday morning as attendees arrived at the registration table, collecting their packets, t-shirts, social bracelets, and welcome goodies, specifically a tan colored bandana, a gift from District 3 (Fort Worth) members, and a white chocolate treat in

the shape of the State of Texas compliments of Hollerbach & Associates, Inc. The first round of CLE sessions began at 9:00 a.m., continuing throughout the day with the last session ending at 4:50 p.m. Then it was on to the evening’s social, Cowtown Roundup. Attendees formed teams and participated in a word game. The first two teams to correctly identify the words won prizes. There were delicious hors d’oeuvres, a cash bar and door prizes.

Thursday’s CLE sessions began at 8:00 a.m., and continued throughout the

day. This day was the day the exhibit hall was open allowing attendees not only to meet and interact with our sponsors, but to personally learn about their services. After the last session ended at 3:40 p.m., attendees had an opportunity to freshen up and get their best cowboy/cowgirl wear on. Thursday was capped off with a bus ride to the Boot Scootin BBQ social at the River Ranch, so as you can imagine, the party started on the bus. A delicious barbeque dinner was served, line dancing lessons were offered and a costume contest was held. The food was delicious, the entertainment top notch, and everyone had a lot of fun. There were fire pits outside with condiments for making s’mores, horseshoe toss, a traveling guitar player, a photo booth and many door prizes.

The morning on Friday began with an ethics presentation by PD Ambassador Ellen Lockwood, in the form of skits with several paralegals serving as “actors.” To end the convention attendees enjoyed the Happy Trails luncheon with keynote





speaker David Keltner, on *Appellant Arguments: the Good, the Bad, and the Ugly*. Mr. Keltner was an engaging and entertaining speaker, with interesting, valuable insight into something very few have the privilege of experiencing—arguing before the Texas and United States Supreme Courts! Many door prizes were given out, with a brief special recognition given in honor of Ms. Norma Hackler, Paralegal Division Coordinator who will be retiring in January 2016 after 25 years of service. The 2015 TAPS Scholarship Recipient, Ms. Mona Hart-Tucker, ACP, was recognized, and the Click game winners were announced. Mr. Keltner assisted us in closing the luncheon by drawing the names of the \$500 grand prize winners: Nancy Strack of Grapevine; Michele Rayburn of Fort Worth; and, Lori Tiner of Carrollton, Texas.

This year we also wanted to involve more attendees in TAPS and to hear their voices—their opinion on the convention, so we sought out five attendees willing to share their thoughts to include their favorite sessions. Debbie Anreacchi (Dallas) wrote, “I have been privileged to be able to attend every TAPS seminar since 2010 and I can honestly say that in five years, I have only attended one session that was poorly presented and which did not provide educational information. This outstanding quality from our seminar planners makes it particularly difficult

to choose just one session as my favorite from TAPS 2015. However, this year one session did stand out as better than most. It was actually my first session at 9:00 on Wednesday morning. It was entitled *What Happens After Representation: The Common Problems Clients Have with Final Decrees, Trust Agreements, Garnishments, Powers of Attorney, and Bankruptcy When Dealing with Financial Institutions*. The speaker was Aaron Young and he was very good. He provided some interactive tasks (creating pipe cleaner art and handing out candy for correctly answered questions). He did not read from a script, but rather spoke “off the cuff” on a variety of issues financial institutions face with their clients. He was energetic, funny, very approachable and extremely informative. One tidbit he passed on was that 95% of the information attorneys provide to their clients gets forgotten! No wonder we have



communications issues with the clients. He provided a copy of his paper for future reference and encouraged questions and/or comments during the course of his presentation. All in all, an enlightening, and fun session. I hope Mr. Young will agree to speak at TAPS again in the future.”

Jennifer Barnes (Houston) expressed that, “Ms. Carole Cross gave an excellent presentation on *Handling Military Divorces*. My office does not handle a lot of military divorces, but every once in a while we get one. I learned a lot about



how to read Leave and Earning Statements (pay stubs for the military) which is very important when calculating child support. Ms. Cross gave us a lot of hints and pointers above and beyond what were included in her paper. She also provided many places on the internet to help us to obtain information regarding military retirement and benefits. Knowing ahead of time what benefits your client may or may not be entitled to with the military, is crucial. Most important to me was the way Ms. Cross took us from the beginning of a military divorce case to the end and provided pointers, reminders and deadlines for a military divorce. I took more notes in this presentation than I have taken in a long time. I think even the ‘seasoned’ paralegals, who handle military divorces all the time, walked out of there with great information.”

Another attendee, Debbie House (Fort Worth) asked if she could write about her two favorite sessions—she could not decide on just one which is great, and had this to share: “I have attended TAPS several times and we have always had good speakers. This year was certainly no exception – the speakers were outstanding. I am Board Certified in Real Estate law and the speakers in this area of law this year were all highly knowledgeable and entertaining, but two stand out in my mind – Phillip Mack Furlow and Zollie C. Steakley. Phillip Mack is always entertaining with his stories and his singing. This year he was funnier than ever. He spoke about the boom and bust times of the oil and gas





industry. He wrote a song and sang it to get us started. In times of bust, there are always multitudes of lawsuits as people really start to read the fine print of their leases. Mr. Steakley travelled all the way from Sweetwater to speak about wind rights. This is an extremely hot topic in rural counties. As we are all aware, wind turbines are everywhere now and understanding the aspects of the leases behind them was very interesting, along with hearing the other side of the story concerning representing the landowners. Many farm and ranch owners are receiving large royalties, especially if an actual turbine is placed on the property. I learned a lot from these two gentlemen on a legal basis and for my own personal edification."

Cheryl Bryan (Beaumont) also agreed to review and share her thoughts on her favorite session, and wrote, "When Clara Buckland first asked me if I would be willing to write a short report of my favorite presentation from TAPS, I didn't think that would be any big deal – I was sure it would be easy to find my favorite presentation. This year's line-up of speakers and topics, though, was really so great and timely that I found myself really appreciating one presentation after another. I began to realize that my favorite was going to be the answer to a multiple choice question. I did find, after really thinking about it, that there was one presentation that caused me to dwell on it more and more and repeat my interest to several of my friends over the course of the event. My choice is 'Communicating With Your Jurors from Baby Boomers to Millennials.'"

"I am a Baby Boomer. Over the last several years, I have heard later generations called Generation X or Generation Y, and much more recently, have heard the term Millennials. I wasn't really sure what they all meant and, frankly,

didn't really pay that much attention. I have friends in all of the groups and was not totally clueless about the people around me. I began to recognize after a little while that some of it, anyway, had to do with the behavior of these younger adults."

"It had not really occurred to me that certain behavior in people might be of



interest when picking a jury. It may be that many attorneys are trying fewer and fewer cases so my interest in the makeup of a jury was not as pronounced as it once was. For example, my eldest niece is, I discovered, a Millennial and the very definition of the word 'narcissism.' I did not realize, however, that this whole generation is full of narcissistic persons. People who have an exaggerated sense of their abilities and achievements, have a constant need

for attention and praise, believe they are unique or 'special,' have a sense of entitlement and an expectation of special treatment, have a lack of empathy for others, as well as some other character traits, are generally thought of as being narcissistic. I did not realize that many of the people in this group are Millennials or that any of these characteristics have to be taken into consideration when picking members of a jury."

"According to the speaker, John Proctor, Millennials are increasingly volunteering for the role of foreperson of the jury. They want to be the ones who 'teach' the rest of the jurors. Also, when presenting evidence to a jury, if the makeup of the jury includes a number of Millennials and Generation Xers, you have to remember how to present the evidence. Millennials have grown up in an era of constant technology, while Baby Boomers did not and some of them have had difficulty learning about it. 'Generation Xers are the first generation to grow up adapting to learning via multiple forms of media.' Communicating with Gen Xers and Millennials involves using technology, visual communication, and getting to the point quickly. Millennials tend to have short attention spans and get bored quickly. To Gen Xers, 'first impressions are very important,' and they do not want to listen to long stories. Their best retention is by using a combination of information that is both seen and heard. A lawyer has to use and be comfortable with technology to be successful in reaching these two groups."

"Based on a chart from Mr. Proctor's PowerPoint presentation, there are considerable differences between the values of Baby Boomers, Generation Xers, and Millennials. Baby Boomers believe in hard work; they challenge authority; have corporate loyalty; have waning confidence in government; many are self-made, believe in teamwork and perseverance. Generation Xers believe in personal responsibility and entrepreneurship; they distrust authority and grew up during a period of corporate scandals; they are suspicious of government; they are self-sufficient, independent, and believe in accountability. Millennials have a sense of entitlement and are resourceful; believe in no authority and



corporate transparency; have high expectations of government; are very self-confident, believe in teamwork and fairness. They do not necessarily think of the lawyer and the expert witness as the authorities; they believe they are the authorities and want you to 'educate them into becoming the expert.' There are other differences, as well, in politics and religion."

"These characteristics are shown in the three generations that are most likely to make up any jury. 'Generation Xers and Millennials comprise more than half of the adult population in the U.S. and more than 60% of the nationwide jury pool. Millennials alone comprise over one-third of the jurors who show up for jury duty.' So, it is very important to consider the characteristics of the people who may be on your jury. You cannot consider that all you want is people who will be fair – you must consider what other characteristics the people sitting on your jury may have and how you incorporate those characteristics into a jury who will make a finding in your favor."

"I went away from this presentation with a lot to think about. I hadn't really considered the different personality traits in the people who might make up a jury these days. I will not forget this presentation in the future because it points out so many important things to consider when

you are choosing the makeup of a jury."

Deb Pointer (Fort Worth) contributed her take on TAPS: "I attended TAPS for the first time this year. The theme "Saddle Up for CLE" was very appropriate for the Fort Worth location. My experiences were all positive and I was glad that I chose to attend. It was good to be able to mingle with other paralegals from the state, as well as learn so much from the various CLE topics. The caliber of the speakers and variety of topics were well-planned and the materials were very helpful. Although my field is in municipal law, including eminent domain and other real estate matters, I was able to find knowledgeable information from the variety of topics. Two sessions specifically come to mind when I recall the caliber of the speakers. The first one was presented by Philip Mack Furlow entitled "Riding the Wave: Handling Oil and Gas Matters in a Boom or Bust Economy". Not only did Mr. Furlow serenade us, but he was able to speak candidly about the present-day situation regarding leases, prices and the economy, as well as upturns and downturns in the industry. The second session was by Ross G. Griffith on the "Importance of Beneficiary Designations". His knowledge and insight on the subject was not only thought-provoking, but raised many questions during the Q&A session at the end. Both presenters were well-prepared, knowledgeable about their subject and provided information which was pertinent to our profession. Also, the opportunity to use the TAPS app proved beneficial in planning which session to attend, as well as reading the materials ahead of time. We owe the TAPS planning committee a huge Texas "yee-haw" for a well-planned and well-executed event. I am so looking forward to attending TAPS 2016 in San Antonio.

Finally, Katrina Lea (Fort Worth), came up with the excellent suggestion of having a TAPS roving reporter, and agreed to serve as such, and has the following to share:

Interviewee: Deb Pointer, Fort Worth (First-time attendee)

Question: Can you describe TAPS in one word?

Response: "Wonderful!!"

Interviewee: Melody Gordon, Dallas (First-time attendee)

Question: Why did you come to TAPS?

Response: "1) The CLE opportunities, 2) Heard the buzz on the eGroup and wanted to see what it was all about, 3) Increasing diversity at TAPS."

Interviewee: Many Sherman, Fort Worth

Question: Can you describe TAPS in one word?

Response: "Networking"

Interviewee: Ann Zdansky, The Common Source, LLP, Houston, TX

Question: What do you hope to gain from TAPS?

Response: "Meet new people and meet clients I've never met."

Interviewee: Alicia Richeson, Fort Worth

Question: What was your favorite session and why?

Response: "Importance of Beneficiary Designations, the speaker [Ross P. Griffith, Attorney at Law] was funny and interesting. I didn't sleep in any session, they were ALL really good!"

Interviewee: Joelle Taylor, Fort Worth

Question: What was your favorite session and why?

Response: "A View from the Bench: The Use of Medical Records in Litigation and Trial [Speaker: Honorable Susan Heygood McCoy, Judge]. She had great case examples. Also Awesome App!"

Interviewee: Sam Beaman, Veritext, Fort Worth (First-time attendee)

Question: What do you hope to gain from TAPS?

Response: "Really excited to be here! Making new connections with area paralegals. Getting our name out there and to educate everyone that although we are no longer Merit, we are the same people. We have a brand new, gorgeous office in Downtown Fort Worth, two blocks from the Courthouse with four big conference rooms and beautiful views."

Interviewee: Kim Baldrige, Austin



Question 1: What was your favorite session?

Response: “2015 Legislative Changes in Family Law [Speaker: Cindy V. Tisdale, Attorney at Law]”

Question 2: What areas of law would you like to see more represented at TAPS?

Response: “Tax and Real Estate. I really enjoy learning other areas than mine, which is Tax and can be monotonous. Coming to TAPS reminds me I am a professional and I may not always be doing this [Tax]. It allows me to keep up, a little bit, with everything. Also, I liked the Criminal Justice panel from a few years ago.”

Question 3: How is TAPS 2015 different from other TAPS?

Response: “This is my 7<sup>th</sup> TAPS, and it seems not as many people are attending.”

Interviewee: Jay Williams, Dallas

Question: Can you describe your 2015 TAPS attendance?

Response: “Out of the four TAPS I’ve attended, this is the best because of the quality of the programs – they are top notch!”

Interviewee: Doris Jackson, Fort Worth (First-time attendee)

Question: What made you decide to want to attend TAPS 2015?

Response: “Opportunity to meet new people, speakers, topics, socials. TAPS is on my schedule from now on – I had a fun, great time! One of my attorneys was a speaker [William S. Harris] and he was amazed at how well put together our seminar is – which is more evidence and support for my future attendance, LOL!”

We want to acknowledge and thank all attendees for joining us, as well as our invaluable and supportive sponsors, specifically, **Title Sponsor** Innovative Legal Solutions; **Platinum Sponsors** Esquire Deposition Solutions and Hollerbach & Associates; **Gold Sponsors** Compex Legal Services, DTI Knowledge Solutions, Kim Tindall & Associates Court Reporting and Litigation Support, U.S. Legal Support,



Inc., and Written Deposition Service, LLC; **Silver Sponsor** [Click game sponsor], The Common Source; **Internet Access Sponsor** Thomson Reuters; **Grand Prize Sponsors** Beadles, Newman & Lawler, Cantey Hanger, LLP, and the Tarrant County Bar Association; **Lanyard Sponsor** Underwood Law Firm; **Friday Attendee Luncheon Sponsors** Capital Area Paralegal Association, Dallas Area Paralegal Association, El Paso Paralegal Association, Fort Worth Paralegal Association, Houston Paralegal Association, and Southeast Texas Association of Paralegals, **Tier I Door Prize Sponsors** Denton County Paralegal Association, Door Devil, Dykema Cox Smith, Express Records Retrieval Service, Falcon Document Solutions, Hayes, Berry, White & Vanzant, LLP, Inventus, Law Office of Cindy V. Tisdale, Lockwood & Associates Court Reporters, LLC, Noelke Maples St. Leger Bryant, LLP, Randy White Real Estate Services, Rivers McNamara PLLC, and Tony Lama Store, **Tier II Door Prize Sponsor** The Washington Firm.

In addition to the above sponsors, we had the following exhibitors showcase in the Exhibit Hall: Attorney Resource, Blue Ribbon Legal, Capital Services, Inc., Champion Records Service, LLC, DepoTexas, Inc., easy-serve, Elite Deposition Technologies, Elite Document Technology, elumicor, File & ServeXpress (now known as Mozato), Haag Engineering Co., ISIS Investigations, Inc., NALA—The Association of Legal Assistants 0 Paralegals, North American Consultants, Inc., Paronet Corporation, Parasec, Professional Civil Process, Research & Planning Consultants, L.P.,

Rimkus Consulting Group, Inc., Second Image National, The Common Source, The Legal Connection, Trial Director®, and Veritext Legal Solutions.

Plus the Wednesday Cowtown Roundup social was sponsored by U.S. Legal Support, Inc. Thursday’s Boot Scoot’n BBQ social was sponsored by Innovative Legal Solutions, Esquire Deposition Solutions, Hollerbach & Associates, Compex Legal Services, DTI, Kim Tindall & Associates and Written Deposition.

As always, this undertaking was made possible through the patronage of our TAPS attendees, the monetary support of all our vendors and/or exhibitors listed above, the efforts of the many onsite volunteers and finally, the TAPS Planning Committee.

In closing I want to acknowledge the contributions of this year’s TAPS Planning Committee. The Committee began its work in January and worked diligently up through to the end of the conference. They are Board Advisor Erica Anderson, current PD President; Vendors Co-Chairs former PD Presidents Patti Giuliano and Rhonda Brashears—Rhonda also served as the Online CLE Chair; Conference App Chair former PD President Misti Janes; Speakers Co-Chairs Star Moore and Julie Sherman; Socials Co-Chairs Pam Snavelly and Sunnie Palmer; Marketing Chair Megan Goor, current President-elect; Door Prizes Co-Chairs Katrina Lea and Ginger Smith; Registration Chair former PD President Susan Wilen; vendors who served as public members, Frank Hinnant, Innovative Legal Solutions, Melissa Spivey, Esquire Deposition Solutions, and Dean Shaw Kim Tindall & Associates; and last but not least, TAPS meeting planner, Norma Hackler, PD Coordinator. Thank you all for an excellent job!

And finally, to our members, I hope you will mark your calendar and plan on joining us September 28 through September 30 in San Antonio for TAPS 2016, and that you will apply for the TAPS scholarship! Be on the lookout for more information coming soon!



# PARALEGAL DIVISION

## *Notice of 2016—District Director Election*

The Paralegal Division's DIRECTOR ELECTION for District Directors in even-numbered districts (Districts 2, 4, 6, 8, 10, 12, 14, and 16) and District 1, Place 2 will take place **March 25 through April 13, 2016**.

**Note:** District 1 includes Place 1 and Place 2; therefore election for Place 2 Director will be held for District 1.

Beginning on **February 1, 2016** each Elections Subcommittee Chair shall prepare and forward, upon request, the following materials to potential candidates for director in their respective district at any time during the nominating period:

- A copy of the List of Registered Voters for their district;
- A sample nominating petition; and
- A copy of Rule VI of the Standing Rules entitled "Guidelines for Campaigns for Candidates as Director."

Each potential candidate must satisfy the following requirements:

- Eligibility Requirements.** The candidate must satisfy the eligibility requirements of Article III, Section 3 and Article IX, Section 1 A and Section 4 of the Bylaws and Rule V B, Section 5c of the Standing Rules.
- Declaration of Intent.** The candidate must make a declaration of intent to run as a candidate for the office of director through an original nominating petition declaring such intent that is filed with the Elections Subcommittee Chair in the candidate's district pursuant to Rule V B, Section 5 of the Standing Rules.
- Nominating Petition.** The original nominating petition must be signed by the appropriate number of registered voters and must be submitted to the Elections Subcommittee Chair in such district, on or before **February 23, 2016**.

If you are interested in running for District Director, or need further information regarding the election process, contact the Elections Committee Sub-Chair in your District, or the Elections Chair, Shandi Howard, at [Elections@txpd.org](mailto:Elections@txpd.org).

### 2015–2016 District Election Committee Sub-Chairs:

District 1: Ruth Conely, ACP—[ruthconley@andrewskurth.com](mailto:ruthconley@andrewskurth.com)  
District 2: Meyon Lawson, CP—[Meyon.Lawson@hanson.biz](mailto:Meyon.Lawson@hanson.biz)  
District 4: Jenifer Rogers, CP—[Jennifer.rogers@haysowens.com](mailto:Jennifer.rogers@haysowens.com)  
District 6: Jan Bufkin, CP—[jbufkin@bustoslawfirm.com](mailto:jbufkin@bustoslawfirm.com)  
District 8: Shandi Howard, CP—[elections@txpd.org](mailto:elections@txpd.org)  
District 10: Angie Laird, ACP, TBLS-BCP—[alaird@obt.com](mailto:alaird@obt.com)  
District 12: Sunnie Palmer—[sunnie@zellmerlaw.com](mailto:sunnie@zellmerlaw.com)  
District 14: Javan Johnson, ACP, TBLS-BCP—[jj@texasparalegal.us](mailto:jj@texasparalegal.us)  
District 16: Peggy Dieter—[pdie@kempsmith.com](mailto:pdie@kempsmith.com)

### NOTICE OF VOTING—March 25–April 8, 2016

All Active members of the Paralegal Division in good standing as of March 25, 2016 are eligible to vote. **All voting must be completed on or before 11:59 p.m., April 8, 2016.**

All voting will be online and no ballots will be mailed to members.

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

- Between **March 25th and April 8, 2016** go to [www.txpd.org](http://www.txpd.org)
- In the Member-Only section, click on "Vote"
- Follow the instructions to login and vote



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