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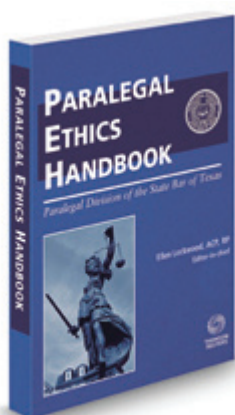
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## The Paralegal Ethics Handbook, 2016 ed.

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

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

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

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

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# PRESIDENT'S *Message*

Megan Goor, TBLS-BCP

**T**he Board of Directors has been working very hard this year focusing on ways to improve membership benefits. There has been a lot of progress that has taken place already this year! Here are just a couple of these remarkable accomplishments:

## **Online Membership Renewals**

Membership renewals will be exclusively online this year! This has been in transition for some time where renewals were offered by mail and then the option to renew online. Having renewals completely online will not only help streamline the membership process, it will reduce the costs associated with mailing, administering, and printing the bulky membership packets (and do not forget -- including those blue envelopes) and the cost of a second reminder mailing, as well. There will be an online membership renewal campaign coming next month to remind you to enter your CLE hours now on the Division website to help you make the renewal process after May 1st even easier. PLEASE NOTE YOU WILL RECEIVE A BRIGHT BLUE POSTCARD IN THE MAIL IN LATE APRIL/EARLY MAY TO RENEW ONLINE AND THIS WILL BE THE ONLY NOTIFICATION.

## **Membership Bar Cards**

Spoiler alert! The 2017–2018 membership bar cards will be in the traditional Paralegal Division dark burgundy/maroon color. In addition, this year will be the final chapter of bar cards being issued annually. Yes, no more compiling the multi-color selection of past membership cards! So when you receive your membership card this year, put it safely away and keep it!

## **That's a Membership Benefit?**

As a “seasoned” paralegal, I have seen changes in the workplace, especially

regarding the tools of the trade. As professionals, we want to be versatile to adapt to evolving needs—especially technology. I never thought that I would be challenged in so many ways, from Bates stamping (with a Bate stamp), to putting together briefs with a GBC binder, to putting together mediation “day-in-the-life” video presentations, to creating websites for class actions— but this is how our profession has evolved and shows how impactful and beneficial it is to take the time to do and learn these other facets to help become a more productive, effective paralegal.

My point—life experiences are what make you who you are. Treasure and embrace those experiences. If you have the opportunity to learn a new skill, attend a CLE on a different area of law or even read about a program tip—try it out. You may be surprised as to how you can put that knowledge to use.

Another resource are your Paralegal Division membership benefits. Are there benefits you have not tried yet? Have you been on the E-Group? To sign up, go to [www.txpd.org](http://www.txpd.org) ->members only->e-group->sign up for e-group->log on. It is one of our most popular benefits!

Have you read the “Paralegal Pulse?” Go to the website and click on “Paralegal Pulse Archive” and watch for them in your inbox. They are emailed to you the 15th of every month.

To check out a CLE in your district or a webinar, Go to the website and click on “CLE Online” or go to <https://txpd.org/calendar/calendar.asp>.



What about giving back? Look at the mentor-protégé program. Go to [www.txpd.org](http://www.txpd.org) ->members only->mentor program->mentor program overview. This is an incredibly easy way to help other paralegals who are new to the field or, as a protégé, to receive assistance.

I encourage you to take one of these ben-

efits and try it out this week.

## **Other Benefits—Our Annual Events**

The Paralegal Division has two annual events for our membership every year:

The 2017–2018 Annual meeting will be held at the Crowne Plaza in Addison on June 23rd. The Annual Meeting committee is planning a great 3-hour CLE event and luncheon. I hope you are able to join us!

Texas Advanced Paralegal Seminar (TAPS) will be October 4th–6th! This is our 3-day advanced CLE event where you can earn up to 14 hours of CLE. We have great speakers and socials lined up! This year's theme is “*TAPS 2017—Unmasked—Knowledge Awaits*” and will be at the Crowne Plaza in Addison.

The Paralegal Division benefits are for you! Remember, you also enjoy the membership benefits of the State Bar. I would encourage you to look over the benefits again and try out one of those you have not tried before! <https://txpd.org/page.asp?p=Benefits>

Thank you for being a PD member!

*Megan Goor, TBLS-BCP, President, is the Senior Paralegal at The Brender Law Firm, Fort Worth, TX.*

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# EDITOR'S *NOTE*

By Kimberly A. McDonald, TBLS-BCP, Board Certified Paralegal, Family Law, Texas Board of Legal Specialization

**T**his is my first message as Publications Co-Chair. Heidi Beginski has been a very hard working member of the TPJ for many years. Thank you, Heidi, for all you have done!

The State Bar of Texas Paralegal Division was created in 1981 so this is our 35th Anniversary! See past President/Charter Member Javan Johnson's article and other well-wishes from different leaders in the legal profession. Districts all over the State of Texas are celebrating in many different ways this year; be sure to join in as many of the festivities that you can. And, check out all the 35th Anniversary goodies at the Paralegal Division online store: <http://www.cafepress.com/paralegaldivision>

Be sure to read about our many award-winning colleagues in this issue and personally congratulate as many of these extraordinary paralegals as you can! Furthermore, did you know that we have 364 Board Certified Paralegals in Texas? This includes the 22 newly certified paralegals in 2016. A list of the new 2016 board certified paralegals was published in the most recent Paralegal Pulse and on page 20 herein.

The time to renew your Paralegal Division membership is almost upon us. This year we are exclusively renewing online. You will be receiving a [blue postcard](#) in the mail as your reminder. Please note this will be your *only* notification to renew. After May 1, go log in to the website ([www.txpd.org](http://www.txpd.org)) and select the Members Only tab and complete the renewal application before July 31 so that you do not miss out on any of the benefits of being a member, including CLE and networking opportunities.

Happy Spring! I hope you enjoy all of the really good articles in this issue.



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# Paralegal Division Celebrates Its 35th Anniversary

By: Javan Johnson, ACP, TBLS-BCP



WE—the Paralegal Division of the State Bar of Texas need to be very proud that we were the very first paralegal group to be a part of a state bar anywhere in the United States. We are the first and still the strongest. We have now withstood 35 years of continuity of professionalism. We adopted the term of “A Division With Vision” 10 years ago and with the ongoing outstanding leadership of our organization, we meet that mission every single year. Kudos to our members and our leadership. Here is a glimpse of what our 35 years have accomplished:

On October 23, 1981, the State Bar of Texas formed the first paralegal division of a state bar in the United States. That is the formal date the Paralegal Division (PD), formerly the Legal Assistants Division, was established. October 23, 2016 marked the **35th Anniversary** of the Division. The official purpose for the PD is “To enhance paralegal’s participation in the administration of justice, professional responsibility and public service in cooperation with the State Bar of Texas.” PD has been a leader, and remains a leader in continuing to establish the parameters of professionalism issues facing our profession.

As is done for any milestone birthday, the Board of Directors of PD thought it appropriate to share a historical overview of the past 35 years for our members. We hope you enjoy seeing the growth and progress PD has made through those years. It is only the highlights—there was a lot more work going on that this history overview has time to reveal!

**1982** The Bylaws, Code of Ethics, letterhead, seal, membership cards and membership certificates were approved, as well as nine standing committees to conduct the work of the Division. Charter memberships were approved during that first year through June 29, 1982. PD had 1013 charter members as of that date. Charter members were given a nice certificate that bore the words “Charter Member” and the date June 1, 1982, and signed by the State Bar President at that time, Wayne Fisher. Kathryn King Richards was the first “Chair” [as it was then known rather than “President”] of the PD. State Bar of Texas [SBOT] President Fisher delivered the luncheon address at the first annual meeting of the PD and shared these words:

Your presence here today confirms my belief that the time has come for the legal profession to recognize the paralegal profession and for us to move forward in cooperation and mutual support to provide better services to the public we serve... Let us assure you that the State Bar is not trying to impose anything on the parale-



gals in Texas, much less the paralegal profession throughout the country. We realize that what we are doing will have an impact, and for that reason we are just as concerned as others may be. We only ask that your Division be a chance to show what that impact will be. Active participation by the membership will have a direct effect on that impact. . . . I challenge you to fight for what you believe in. . . .

The first Texas Forum was held with the PD Board of Directors meeting with the Legal Assistants Committee of the SBOT, as well as paralegal educators and administrators to begin a discussion of standards of paralegal education in Texas, certification or licensing of legal assistants, and problems relating to utilization of legal assistants.

*WOW—how our original founders/leaders had such a vision that has carried our profession and our PD to set the pace for our entire journey these past 35 years!!!!*

**1983** Texas Forum II was held in San Antonio. The meeting focused on sharing ideas on improving formal education and training being offered for legal assistants by various educational institutions. The Standing Rules were established that enhance the work of the Division as to the Bylaws. Questionnaires were mailed to paralegals regarding the issue of voluntary certification. Even at this early date, PD was looking into enhancing the professionalism of paralegals. Kathryn King Richards served her second term as Chair and she received the Award of Excellence in recognition of her service as the Board's first Chair. Gary McNeil was appointed by the SBOT as the PD's staff attorney.

**1984** Texas Forum III was held in Corpus Christi with the Legal Assistants Committee of the SBOT and paralegal educators. A discussion was

held regarding school placement of legal assistants, ethics courses, certification, uniform standards for education, internships, and training of legal assistants. A second questionnaire was sent out to paralegals regarding voluntary certification. Education programs were reviewed and the first Division newsletter was published. Annual Meeting was held in Dallas with a theme of "Unauthorized Practice of Law—The Gray Areas." Sandy Hardin with the SBOT was presented with the Award of Excellence for her many hours of time devoted to assisting in the founding and development of the PD. Elaine Peeples was elected as the President of the PD. A special committee worked to produce a formal definition of "legal assistant" and determined it was a little premature. The first attorney/legal assistant dinner was held in Houston.

**1985** Texas Forum IV was held in San Antonio with a presentation on "Education of Legal Assistants in the Use of Computers." The public hearings regarding voluntary certification began. There were initially two proposals: (1) create a PD exam, or (2) utilize the CLA exam with a Texas substantive law section added. Membership grew to 1500 members. Elaine Peeples remained as Chair for her second term. The second survey regarding voluntary certification was mailed. Annual Meeting was held in Houston. The definition of a legal assistant, as adopted by the Board of Governors of the American Bar Association was adopted by the PD:

"A legal assistant is a person, qualified through education, training or work experience, who is employed or retained by a lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work for the most part, requires a sufficient knowledge of legal con-

cepts that, absent such assistant, the attorney would perform the task."

**1986** A sustaining member category was added for law firms, corporations, and other individuals or entities supporting the Division. It was decided that more fact finding was needed regarding the voluntary certification issues. Public hearings on proposals for voluntary certification were held in seven major cities. Cindy Mankus was elected as Chair for 1986–1987. The *Attorney's Guide to Practicing with Legal Assistant* was published and available for sale by the State Bar. Texas Forum V was held in Dallas. The PD adopted the definition of legal assistant which had been adopted by the ABA.

**1987** A Task Force for Voluntary Certification was established comprised of three legal assistants, one attorney and one attorney-educator and was charged with determining whether a voluntary certification exam would be developed for legal assistants. The Board of Directors resolved to go forward with a Texas exam, although no definitive exam was discussed. Educational programs were created in a list format that offered paralegal training to be available to attorneys and paralegals. Mock grievance procedures were conducted by the Ethics Committee. Jan Soderman served as Chair for 1987–1988.

**1988** Funds were allocated for future implementation of a certification program. Membership increased to 1800. A special committee was formed to determine whether an executive director should be retained. Requests for proposal were sent to test design vendors after which the Board conducted interviews then submitted a proposal to the membership to contract with NALA for the use of the CLE examination as the general component to a test. The vote failed. Cathre Benoit served as Chair for 1988–1989.



**1989** The necessity for hiring an Executive Director became apparent and the Board voted that one would be hired on a contract basis. A look at whether to allow PD to become a non-profit corporation was voted down. A special committee was formed to provide recommendations for processing membership applications. Texas Forum VII was held in Houston. Annual Meeting was held in San Antonio. Gerry Malone received the Award of Excellence in recognition for her extensive work in assisting in the preparation of the *Attorney's Guide to Practicing with Legal Assistants*. Cathrue Benoit remained as Chair for 1989–1990.

**1990** An ad hoc committee was formed to digest the data on voluntary certification. A formal list of benefits was prepared and published to members. The State Bar agreed to keep track of continuing legal education hours and provide a transcript for \$5.00. Norma Hackler was hired as Executive Director. An in-depth look was taken on the recommendations for processing membership applications, including “substantive” and “law related legal work” definitions. Texas Forum VIII was held in San Antonio and Annual Meeting was held in Dallas. Michele Boerder served as Chair for 1990–1991.

**1991** The voluntary certification digest was released and the consensus was that PD would support a certification exam along the lines of the Texas Specialty Examinations for Attorneys. A Voluntary Certification Long Range Planning Task Force was created to work with PD. This was the year that student membership category was added. The Division's finances/bookkeeping totally separated from the Bar during this year to allow us to handle our own accounting. Governor Ann Richards officially proclaimed, for the first time, that October 23<sup>rd</sup> would be Legal Assistant's Day in Texas. The Ethics Committee prepared an ethics

brochure entitled “Professional Ethics and the Legal Assistant.” Texas Forum IX was held in Austin and Annual Meeting was held in Houston. The PD celebrated its 10th anniversary. Sharyn Aust Smith served as Chair for 1991–1992.

**1992** The official PD publication was formally named by Betsy Horn of Fort Worth as *Texas Paralegal Journal*. The Joint Task Force on Specialty Certification made significant advances toward establishing a plan toward certification exams for paralegals, and the first look was taken at the TBLS exams as that vehicle. Joint CLE seminars with local associations were sponsored in smaller areas. Texas Forum X was held in Dallas and Annual Meeting was held in Corpus Christi. Awards of Excellence were presented to Judge Linda Thomas and Spencer Relyea for their outstanding commitment to the PD. Sharyn Aust Smith remained as Chair for 1992–1993.

**1993** The Concurrent Resolution No. 69 was signed by Bob Bullock, President of the Texas Senate, and Pete Laney, Speaker of the House, that October 23<sup>rd</sup> of each year would be Texas Legal Assistant's Day. Specialty certification exams were approved by the Texas Supreme Court on May 18, 1993 to be given to paralegals by the Texas Board of Legal Specialization (TBLS). Texas Forum XI was held in Austin, and Annual Meeting was held in Fort Worth. Debra Crosby served as Chair for 1993–1994.

**1994** The *Texas Bar Journal* January issue was dedicated to paralegals. The first specialty exams were given by TBLS on March 26, 1994 to 157 paralegals. Texas Forum XII was held in Austin and Annual Meeting was also held in Austin. The membership application process began making major changes. A member benefits flyer was developed. Gary McNeil of TBLS was presented the Award of Excellence. Debra Crosby remained as

Chair for 1994–1995. The Board voted to change the title of “Chair” to “President,” and Sally Andress was elected as the first President to serve the 1995–1996 term.

**1995** The *Texas Paralegal Journal* became a full magazine. The Long Range Planning Task Force was formed to begin studying future professionalism issues. Texas Forum XIV was held in Austin. Advanced seminars were offered in a few areas of law. TBLS conducted a survey to determine new subject areas for the exams. Annual Meeting was held in Dallas. Melanie Villarreal served as President for a portion of 1996–1997 but had to resign and the remainder of the term was filled by Wendi Rogers.

**1996** The State Bar of Texas made its insurance programs available to PD members. Advanced seminars were planned to coincide with the TBLS specialty exams. A Continuing Legal Education committee was formed to assist local associations in providing CLE to their areas with help from PD. Budgeting was made available for the *Legally Speaking* programs to be taped working with the El Paso Community College. New specialty exams were approved for criminal, probate and real estate law. Texas Forum XV was held in Austin. Wendi Rogers continued as President for 1997–1998.

**1997** The Long Range Planning Task Force (LRPTF) hosted the Fall TAPA meeting to share information regarding the professionalism issues and was charged with preparing a preliminary digest of information. The development of a video on how to utilize paralegals was first discussed. Annual Meeting was held in Houston. Texas Forum XVI was held in Austin. A joint committee was formed with the State Bar for Pro Bono Partners Project for attorney/legal assistant teams. The first Exceptional Pro Bono award was presented to Patricia Hammer. Jim Buchanan was elected as President for 1998–1999.





**1998** The Long Range Planning Task Force (LRPTF) held its first public hearing held in Corpus Christi at the annual meeting. It was determined that the production of tapes regarding the utilization of paralegals would proceed, targeted for law schools. The Executive Director's title changed to PD Coordinator. The Continuing Education Committee was charged with appointing a nine-member committee to plan an annual seminar. The LRPTF set focus group meetings in Corpus Christi, Fort Worth, Amarillo, Lubbock and the Valley. Annual Meeting was held in Corpus Christi. Lisa Sprinkle was elected as President for 1999–2000.

**1999** “Legal Assistant University” (LAU) was first held in San Antonio with 270+ paralegals coming together for a three-day seminar covering a wide variety of topics. This was just the beginning of an annual three-day multi-track seminar that will become a much demanded event every year. The March 2000 *Texas Bar Journal* issue was dedicated to paralegals. Public hearings were continued throughout the state by the LRPTF. *Legal Speaking* had taped 40 episodes and were being marketed. Texas Forum XVII was held in Austin. Annual Meeting was held in Fort Worth. Javan Johnson was elected as President for 2000–2001.

**2000** The public hearings were completed and the information was digested by the LRPTF. A Joint Task Force was formed with the Paralegal Committee to continue examining the issues of professionalism. For the first time the The LAU Scholarship was named for Nancy McLaughlin, our TPJ editor who we lost in a car accident. A five-year review was conducted of the *Attorney's Guide to Practicing with Legal Assistants*. The State Bar of Texas asked each section and division to appoint a liaison to the Unauthorized Practice of Law Committee, and the PD complied. LAU was held in Austin and Texas Forum XVIII was also held in

Austin. Annual Meeting was held in San Antonio. Kristine Farmer was elected to serve as President for 2001–2002.

**2001** The State Bar College began offering Associate membership for paralegals. TYLA endorsed the “Profiling the Paralegal Profession” video. LAU was held in Austin. PD celebrated its 20th Anniversary beginning in 2001. LAU was held in Dallas. Texas Forum XIX was held in Austin. State Bar College was approached about making a membership category for legal assistants. The PD e-group began to be set up through the website. The Board approved the formation of a joint task force with the State Bar, consisting of attorneys, legal assistants and judges to further research the possibility of more formally defining the paralegal profession in Texas. That committee began its work by discussing what other states are doing with regard to regulation and the different types of regulation. A salary survey was approved to be conducted to the membership. Rhonda Brashears was elected to serve as President for 2001–2002.

**2002** Charter members of the PD were located to join in the 20th Anniversary celebration at Annual Meeting, and approximately 20 were able to attend the Annual Meeting luncheon and were presented with corsages and 20-year lapel pins, and were mailed a 20-year certificate. LAU was held in Houston with the theme “2002 LAU, It's a Tradition.”. The Joint Task Force sought clarification of the definition of “legal assistant.” MytexasBar.com was made available to PD members for updating membership information. Texas Forum XX was held in San Antonio. The salary survey was completed and published in the *TPJ*. The Long Range Task Force continued gathering information from other states. The Award of Excellence was awarded to Debra Crosby as editor of the *Texas Paralegal Journal*. Melissa Sherman was elected to serve as President for 2003–2004.

**2003** A public relations ad was developed for PD. LAU was held in San Antonio and Annual Meeting was held in Houston. An online survey was conducted by the Joint Task Force regarding the preferred term “legal assistant” or “paralegal.” An ad hoc committee was formed to review all that would need to be done for a name change to include “paralegal.” The online CLE program began being developed. A job bank was added to the PD website. The Joint Task Force proposed a new definition of “paralegal.” The Board voted that individuals who have been convicted of a felony were ineligible for membership in the PD. A dues increase was implemented by the PD for the first time in a number of years. Redistricting of a couple of districts was addressed because of low membership and no director leadership. State Bar College began offering associate membership to paralegals. Mandatory CLE began to be addressed for membership in the PD. The Long Range Task Force reported that the overwhelming preference from the survey conducted was for the use of the title of “paralegal” as opposed to “legal assistant.” Kim Cantu was elected to serve as President for 2004–2005.

**2004** An emeritus membership category was added, and other categories were restructured. PD introduced the Ambassador program comprised of past presidents of PD to travel and speak on behalf of PD. Annual Meeting was held in San Antonio, and LAU was held in Fort Worth. The first class of TBLS board certified paralegals were given 10-year certificates at Annual Meeting. The Long Range Planning Task Force began the work of re-defining the term “legal assistant” to “paralegal.” Texas Forum XXIII was held in Austin. The online CLE program was fully implemented, and mandatory CLE for membership in PD was also implemented. The PD entered into a contract with LegalSpan to offer online CLE. The Award of Excellence was presented to Javan Johnson. Ellen Lockwood was elected



to serve as President for 2005–2006.

**2005** On April 8, 2005 the State Bar approved the name change from Legal Assistants Division to the Paralegal Division as a result of the bylaw election by the PD membership. A PD representative was appointed to serve on the Board of Directors of the State Bar College. PD made its first overseas travel to London. LAU was renamed the Texas Advanced Paralegal Seminar (TAPS), and was held in Austin. The State Bar approved the definition of “paralegal,” and the Division changed its name to Paralegal Division. PD members were included for the first time in the Texas Legal Directory. Pamela Horn was awarded the Award of Excellence. Javan Johnson was elected to serve as President for 2006–2007.

**2006** PD celebrated its 25th Anniversary on October 23, 2006 with a special event during TAPS in Dallas at Delaney Vineyards with a theme of “Putting on the Ritz.” An online salary survey was conducted and the results tabulated. PD traveled to Paris in April. New “paralegal standards” were approved by the PD and the State Bar, and began to be marketed after the PD issued a press release to the State Bar. The paralegal standards were a huge milestone for the PD after many years of work to obtain a formal definition for the term “paralegal.” A charter member Michele Boerder gave a history of the Division’s 25 years at Annual Meeting in Austin and introduced past presidents in attendance, as well as special guests Tom Hanna, Sandy Hardin and Bob Towery who were instrumental in the formation of the Division. Information regarding the Paralegal Standards was also presented. Kim Cantu was awarded the Award of Excellence. Patricia Giuliano was elected to serve as President for 2006–2007.

**2007** Work began for an ethics handbook which was written by six PD members—Ellen Lockwood,

Lauri Borski, Rhonda Brashears, Debra Crosby, Javan Johnson, and Lisa Sprinkle. TBLS issued new certificates to Board Certified Paralegals to adopt the term of “Paralegal” to those previously certified Legal Assistants. The beginning of the Mentor Program began this year. The PD worked with the SBOT MCLE department to allow paralegals to obtain their MCLE records with the SBOT through the PD website, and a new area was developed on the PD website to allow the PD members to upload their CLE hours to create their own depository. The previous Legal Assistant’s Day House Bill for “Legal Assistant’s Day” was obsolete due to the change in terms, and a new bill was passed setting October 23rd at “Paralegal Day.” The PD took its third trip to Florence, Italy in April. Annual Meeting was held in San Antonio in June. TAPS 2007 was held in Dallas and the theme was “It’s a Perfect Score! TAPS 2007—CLE and More!” Rhonda Brashears was elected to serve as President for 2007–2008.

**2008** The *Paralegal Ethics Handbook* was completed and published by West Publishing and became available for sale in the Fall. The theme of “*A Division With a Vision*” was adopted and is still used today. Surveys were conducted in 4 districts for consideration of redistricting for better representation. The prior PD Bulletin was renamed Paralegal Division QuickNotes (PDQ). The annual paralegal trip in the Spring 2008 was to Ireland. The *Profiling the Paralegal Profession* video was completed and was passed out to attorneys at the 2008 State Bar of Texas Annual Meeting. One-half hour of eligible MCLE credit was obtained for those that view the video. The *Paralegal Ethics Handbook* went into its first revision and royalties were received by the PD from ThompsonWest from sales of the book. Stephanie Hawkes was elected as President for 2009–2010.

**2009** The European trip took the travelers to Greece. The TAPA meeting was held in Texarkana. The Mentor Program was first discussed and a questionnaire was offered during the TAPS seminar to inquire of interest. TAPS was held in League City with the theme “TAPS 2009—Chart Your Course—Sharpen Your Mind.” A PD Member Services Coordinator was hired to assist with membership. The Award of Excellence was presented to Ellen Lockwood for her work on the *Paralegal Ethics Handbook*. Debbie Oaks was elected as President for 2010–2011.

**2010** Texas Forum XXVII was held in Dallas. The PD European travelers went to Spain. An ad hoc committee was appointed to define language on “Crimes of Moral Turpitude” and a definition was adopted. TAPS was held in Austin with the theme “Capitalizing on CLE—TAPS 2010. A Community Service initiative was started. Susan Wilen was elected as President for 2011–2012.

**2011** The PD increased social media presence including LinkedIn and the PD Blog. Texas Forum XXVIII was held in Dallas. PD sponsored a booth at the NALA convention held in Dallas/Plano. The online CLE library continued to grow. The PD European travelers enjoyed a trip to Germany and Austria with a CLE event at the Palace of Justice. Annual Meeting was held in San Antonio with keynote speaker Jeanne C. “Cezy” Collins who presented “Practicing Accessible Justice.” TAPS was held in Fort Worth with the theme “TAPS 2011—Pearls of Wisdom.” This was the 30th celebration of the PD. Joncilee Davis was elected as 2012–2013 President.

**2012** Texas Forum was held in Irving. The PD Annual Trip was in April and the travelers went to Italy. TAPA was in April in El Paso. TAPS was held in Addison with the theme “A Direct Flight to First Class CLE.” The attendees



assembled bicycles for the Texas Scottish Rite Hospital for Children's Bike Rodeo. A TBLS Helpful Hints Guide committee was formed and was written to assist PD members who were studying for the TBLS exams—the guide was written to cover every area of law for the TBLS specialty exams. Misti Janes was elected as 2013–2014 President.

**2013** The 32nd Texas Forum was held in Dallas and TAPS was held in San Antonio with the theme “TAPS 2013: Spectacular CLE.” PD's social media traffic increased. A felony application for applicants that had been convicted of a felony NOT involving a crime of moral turpitude was approved. District 13 was dissolved and merged with District 1 in Houston due to a small number of members. Annual Meeting was in Dallas with a theme of “Paralegals Evolve Into Success.” Julie Sherman of Fort Worth won the Exceptional Pro Bono Service Award. A TBLS Helpful Hints Guide was appointed to prepare a guide for applicants taking the TBLS exam and the guide was approved by the Board and made available on PD's website for PD members taking the exam. Clara Buckland was elected as 2014–2015 President.

**2014** Annual Meeting was held in Fort Worth and was the theme was “The Paralegal Express: Your Train to Success.” The Exceptional Pro Bono Award was presented to Susan Wilen. TAPS 2014 was held in Austin and the theme was “TAPS 2014: The Beat Goes On!” The new TAPS app for the event was rolled out thanks to Misti Janes who took on that task. A salary survey was conducted. The PD's annual trip was to Vienna and Prague. Erica Anderson was elected as 2015–2016 President.

**2015** TAPS was held in Fort Worth with a theme of “Saddle Up for CLE.” Texas Forum was held in Dallas with the theme of “Ethics in the Lone

Star State: Supervisory Responsibilities of Legal Counsel.” TAPA was held in Denton. Norma Hackler, PD Coordinator of 25 years submitted her letter of resignation to retire from the PD. A PD Coordinator Search Committee was formed to begin to work through the transition of Norma's retirement and the hiring of a new PD Coordinator. Annual Meeting was held in San Antonio. Megan Goor was elected to serve as President for 2016–2017.

**2016** Although the complete history of this 35th year for the Division has not yet been written, it was a milestone year with the retirement of Norma Hackler as the PD's first Coordinator who served us for the past 25 years. A retirement celebration was held in Austin in February in her honor. The search committee interviewed several applicants for Norma's position, but the Board hired our own Past President Rhonda Brashears to serve as PD's second PD Coordinator. Rhonda has done a seamless job in handling the transition and the Paralegal Division has continued to grow under her leadership. TAPS 2016 was held in San Antonio with the theme of “TAPS on Track—Journey to Excellence.” We partnered with the San Antonio Food Bank to raise money throughout the event to donate to provide meals to families in the Southwest area. Numerous 35th Paralegal Day celebrations were held across the state, and PD merchandise was made available online which included many items with the 35th Anniversary logo. Mona Hart Tucker has been elected to serve as President for 2017–2018. TAPS 2017 will be in Addison Texas with the theme “TAPS Unmasked—Knowledge Awaits” to be held October 4–6, 2017 in Dallas/Addison at the Crowne Plaza Hotel.

While the work of the Division has been vast over the past 35 years, this is a small sketch of what we have accomplished. We continue to grow and move forward, enabling Texas paralegals to stay empow-

ered, and to continue to advance in the legal profession and be the leaders across the nation with *Vision* to stay the leader across the country as we always have been!

We should each be empowered to reach out to every paralegal we know to become a part of this wonderful organization.



*Javan Johnson currently serves as the District 14 Director of the Paralegal Division and well as a Past President for two terms, and is a charter member of the Division. She is a NALA Advanced Certified Paralegal in Civil Litigation, and a Board Certified Paralegal in Civil Trial Law by the Texas Board of Legal Specialization. Javan is a freelance paralegal in Longview. She has taught paralegals at Kilgore College since 1988. She is a frequent speaker on behalf of the Division.*





# The Paralegal Profession

**A**s the Paralegal Division's 35th Anniversary year comes to a close and in an issue featuring the accomplishments of our fellow paralegals, the *Texas Paralegal Journal* Publications Committee surveyed leaders in the legal community to gain their perspective of paralegals and the paralegal profession. State Bar President Frank Stephenson, State Bar President-Elect Tom Vick, Texas Young Lawyers President Sam Houston, and Tarrant County Bar Association President Bob West along with Justice Phil Johnson and Texas Board of Legal Specialization Executive Director Leo Figueroa, kindly contributed their thoughts.

**Frank Stephenson, President—  
State Bar of Texas**

I was proud to see that Senate Proclamation 1144 designated October 23 as “Texas Paralegal Day” in honor of the Division’s creation. That proclamation states that paralegals provide “valuable services that contribute significantly to the efficient functioning of the judicial system.” I couldn’t agree more.

Simply stated, paralegals are essential. Simply stated, the work paralegals do is essential. Every day, paralegals provide essential support to attorneys, law offices, government agencies, and corporations. And in doing so, each paralegal performs an essential service to more than just our clients. They provide an essential ser-

vice to our profession, too.

While the hard work of Texas paralegals sometimes goes unacknowledged, it never goes unnoticed. For those million-billion times a paralegal failed to get the praise she deserved, the credit he warranted, or the thanks he or she earned, on behalf of the more than 100,000 Texas lawyers, sincere apologies. More importantly, well done and thank you.

**Tom Vick, President-Elect—  
State Bar of Texas**

Paralegals are the engines that drive successful law practices in Texas and across the country. Their valuable service to the profession ensures quality legal work can be done timely

and efficiently. Judges, lawyers and clients are all beneficiaries of their work. Congratulations on 35 years as the backbone of the legal profession! Thank you for your contribution.

**Justice Phil Johnson—Texas  
Supreme Court, Place 8**

It’s one thing to tell the legal community or client that you’re an ‘expert’ in a particular area of law. But according to Texas Supreme Court Justice Johnson, “Board Certified attorneys and paralegals don’t have to TELL clients they have expertise, they SHOW them.”

**Hon. David Keltner—former  
Justice, Texas Court of Appeals**  
I was fortunate to be the young lawyer liaison to the State Bar



Frank Stephenson, President—State Bar of Texas



Tom Vick, President-Elect—State Bar of Texas



Justice Phil Johnson—Texas Supreme Court, Place 8



Hon. David Keltner—former Justice, Texas Court of Appeals

# Focus on...



*Sam Houston, President—Texas Young Lawyer Association*



*Leo Figueroa, Executive Director, Texas Board of Legal Specialization*



*Robert G. West, President, Tarrant County Bar Association*

of Texas Board of Directors when the Board approved the creation of the Paralegal Division. Looking back over the years, it was a great decision. If the other sections of the Bar displayed the same professionalism and dedication to continuing education as the Paralegal Division, we would all be better off. The State Bar of Texas is proud and you have made the lawyers of Texas proud. Congratulations on a magnificent 35 years.

## **Sam Houston, President—Texas Young Lawyer Association**

“Providing high quality, effective legal services often requires a team approach. Paralegals are an integral part of that team.”

## **Leo Figueroa, Executive Director, Texas Board of Legal Specialization**

“Paralegals are absolutely

indispensable to attorneys in providing excellent legal representation,” said Leo Figueroa. “Achieving Board Certification is the ultimate way to manifest their vital impact and allows them to join an elite group of high-caliber paralegals in the state.”

## **Robert G. West, President, Tarrant County Bar Association**

Congratulations to the Paralegal Division on the celebration of your 35th Anniversary this year. When the Paralegal Division of the State Bar of Texas was formed in 1981, I was an attorney and young partner at the Fort Worth law firm McGown, Godfrey, Decker, McMackin, Shipman & McClane. I served for several years during the late 1970s and early 1980s as an advisory director of the Fort Worth Legal Secretaries Association.

In particular I worked at the

“McGown Godfrey” firm with Irene Fox Nilan and Melinda Watts (now Melinda Watts Smith), who were both very active as officers in the FWLSA and in the establishment of the Paralegal Division of the State Bar, which I recall was originally called the “Legal Assistant Division.” Both Irene and Melinda were certified as Professional Legal Secretaries and were later certified as Legal Assistants, having taken the certification exam the first time that it was offered.

I recall that Melinda had served in the 1970s as the President of the FWLSA as well as the President of the Texas Association of Legal Secretaries. Melinda was a member of the State Bar’s study committee that discussed and recommended the organization of the new Division which was originally called the Legal Assistant Division since the study group did not like the word “Paralegal.” I recall visiting with Melinda

often about the progress of the study committee’s deliberations, including the significant threshold issue of whether to call the division the “Paralegal Division” or the “Legal Assistant Division.”

I also recall that there was quite a bit of controversy among attorneys at that time over what the distinction was between a “paralegal or legal assistant,” and a “legal secretary,” with one key distinguishing factor being that a paralegal or legal assistant was not expected to type, but a legal secretary was. I think that distinction has probably gone away with the use of word processors and computers, since even attorneys now regularly type much of their own work.

I commend your Paralegal Division and each of your members since my experience is that those who are active in the Paralegal Division are the most professional and most reliable staff members in the law office!





# A Necessary Metamorphosis

*Thoughts from an Attorney/Educator on the Evolution of the Paralegal Profession*

By Dr. Barbara Kirby, J.D., Ph.D.

**C**ongratulations to the Paralegal Division of the State Bar of Texas on this 35th anniversary! I find myself uniquely equipped to address this milestone, as I have lived a parallel life with the paralegal profession in Texas. You see, I graduated from Southern Methodist University School of Law in 1983 and passed the Texas bar examination that same year. During my legal career, from clerking during law school, practicing business litigation in a small firm, to my 17 years as in-house counsel at Xerox Corporation, paralegals were always an integral part of my professional life. Now, as Director of the Paralegal Studies Bachelor's Degree Program at Texas Wesleyan University, I am privileged to educate both current and future members of the paralegal profession. For 35 years, I have seen paralegals grow from their misunderstood role as a sort of administrative accessory for attorneys, to an integral and indispensable part of the legal profession. Today, the profession is strong and growing, and the future is definitely bright.

That being said, the Paralegal Division celebrates its 35th anniversary at a crossroads. The legal profession is changing, and as it changes the paralegal profession must also grow and change. The high cost of legal education and the drop in attorney jobs for those who graduate have caused a reduction in applications to law school. At the same time, the cost of legal services has risen to a point that access to justice is threatened not just for low income con-



sumers, but for middle income citizens as well. The availability of on-line legal services and document forms has created new competition for the legal profession. The legal profession is now challenged to provide affordable legal services to all who need assistance while finding a more sustainable model for legal education.

Past ABA President William C. Hubbard expressed his commitment to closing the gap in legal services delivery to poor and middle income families at the beginning of his term in 2014. At his request, the Board of Governors created a Commission on the Future of Legal Services, tasked to identify innovative practices being used around the country to deliver legal services, and to develop a "blueprint for fostering innovations in the legal system that will improve access

to justice." Even though President Hubbard couches his intentions in the language of accessibility, it is clear from his accompanying remarks that the pressures of technology and competition on the legal profession are serious concerns as well. According to Hubbard, "If we don't change, the profession as we know it will go away. We have to deliver legal services with more accessibility and less complexity using the tools available to us or we put ourselves at risk of becoming obsolete"

In August 2016, the long-awaited Report on the Future of Legal Services in the United States was released. (<http://abafuturesreport.com/#1>) As stated in the preface to the report:

"The Commission recognizes that portions of this Report may be viewed as controversial by some or not sufficiently bold by others, but the Commission believes that significant change is needed to serve the public's legal needs in the 21st Century." A central part of the Report focused on recommendations related to various types of Legal Service Providers (LSP's)—persons other than lawyers—and their ability to address the unmet need for legal services across the country. While paralegals, those who perform substantive legal tasks under the supervision of an attorney, are not (and should not be) specifically mentioned within the examples of LSP's, this report merits serious consideration by the paralegal profession. The examples submitted for consideration in the ABA report may

# Focus on...

represent the next step in the evolution of the profession—areas in which substantive legal work will be provided by non-lawyers, without the supervision of an attorney. Of course, one focus is on the Limited License Legal Technicians (LLLT) in Washington State, the first state to authorize and regulate an independent paraprofessional that is licensed to provide some legal advice. Texas is not currently considering this type of licensing, nor do I imagine that this will occur in the near future. However, there is no doubt that provision of affordable legal services by non-lawyers, whether supervised by an attorney or not, will be an integral part of the future of the legal profession.

The Paralegal Division of the State Bar of Texas is already on the forefront when it comes to access to justice. The pro bono services provided by Texas paralegals through the Paralegal Division and local paralegal organizations are unparalleled. The CLE provided to its members is invaluable and of the highest quality. Each year, an increasing number of attorneys attend the Texas Forum, with and without their paralegals. Because paralegals are such an integral part of today's legal profession, this kind of participation is imperative. I urge paralegals to read the ABA report on the Future of Legal Services, and to do your part for the profession in Texas, and remember to stay informed, educated



and engaged. Lawyers and paralegals, as legal professionals, must work to shape the future for the provision of legal services in Texas. I look forward to

being on board for the ride!

*Dr. Barbara E. Kirby, J.D., Ph.D., is an Assistant Professor and Director of Paralegal Studies, at Texas Wesleyan University, Fort Worth, TX.*



## THE NATIONAL ACADEMY OF DISTINGUISHED NEUTRALS

### ATTENTION LITIGATION STAFF

OCTOBER 2017						
Sun	Mon	Tue	Wed	Thurs	Fri	Sat
			1	2	3	
6	7	8	9	10	11	
13	14	15	16	17	18	
20	21	22	23	24	25	
27	28	29	30	31		

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# Texas Paralegal Standards

In 2005, the State Bar of Texas Board of Directors, and the Paralegal Division of the State Bar of Texas, adopted a new definition for “Paralegal.”

*A paralegal is a person, qualified through various combinations of education, training, or work experience, who is employed or engaged by a lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and supervision of a licensed attorney, of specifically delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal principles and procedures that, absent such a person, an attorney would be required to perform the task.*

On April 21, 2006, the State Bar of Texas Board of Directors approved amending this definition by including the following “STANDARDS,” which are intended to assist 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:

## A. Support for Education, Training, and Work Experience:

1. Attorneys are encouraged to promote:
  - a. paralegal attendance at continuing legal education programs;
  - b. paralegal board certification through the Texas Board of Legal Specialization (TBLS);
  - c. certification through a national paralegal organization such as the National Association of Legal Assistants (NALA) or the National Federation of Paralegal Associations (NFPA); and
  - d. membership in the Paralegal Division of the State Bar and/or local paralegal organizations.
2. In hiring paralegals and determining whether they possess the requisite education, attorneys are encouraged to consider the following:
  - a. A specialty certification conferred by TBLS; or
  - b. A CLA/CP certification conferred by NALA; or
  - c. A PACE certification conferred by NFPA; or
  - d. A bachelor's or higher degree in any field together with a minimum of one (1) year of employment experience performing substantive legal work under the direct supervision of a duly licensed attorney AND completion of 15 hours of Continuing Legal Education within that year; or
  - e. A certificate of completion from an ABA-approved program of education and training for paralegals; or
  - f. A certificate of completion from a paralegal program administered by any college or university accredited or approved by the Texas Higher Education Coordinating Board or its equivalent in another state.
3. Although it is desirable that an employer hire a paralegal who has received legal instruction from a formal education program, the State Bar recognizes that some paralegals are nevertheless qualified if they received their training through previous work experience. In the event an applicant does not meet the educational criteria, it is suggested that only those applicants who have obtained a minimum of four (4) years previous work experience in performing substantive legal work, as that term is defined below, be considered a paralegal.

## B. Delegation of Substantive Legal Work:

“Substantive legal work” includes, but is not limited to, the following: conducting client interviews and maintaining general contact with the client; locating and interviewing witnesses; conducting investigations and statistical and documentary research; drafting documents, correspondence, and pleadings; summarizing depositions, interrogatories, and testimony; and attending executions of wills, real estate closings, depositions, court or administrative hearings, and trials with an attorney.

“Substantive legal work” does not include clerical or administrative work. Accordingly, a court may refuse to provide recovery of paralegal time for such non-substantive work. *Gill Sav. Ass'n v. Int'l Supply Co., Inc.*, 759 S.W.2d 697, 705 (Tex. App. Dallas 1988, writ denied).

## C. Consideration of Ethical Obligations (See Note\* below):

1. Attorney. The employing attorney has the responsibility for ensuring that the conduct of the paralegal performing the services is compatible with the professional obligations of the attorney. It also remains the obligation of the employing or supervising attorney to fully inform a client as to whether a paralegal will work on the legal matter, what the paralegal's fee will be, and whether the client will be billed for any non-substantive work performed by the paralegal.
2. Paralegal. A paralegal is prohibited from engaging in the practice of law, providing legal advice, signing pleadings, negotiating settlement agreements, soliciting legal business on behalf of an attorney, setting a legal fee, accepting a case, or advertising or contracting with members of the general public for the performance of legal functions.

\*Note: a more expansive list is included in the “General Guidelines for the Utilization of the Services of Legal Assistants by Attorneys” approved by the Board of Directors of the State Bar of Texas, May, 1993.

To view these Standards on the State Bar of Texas website, click [here](#).



# Member Accomplishments



Lindsay E. McNeil

Here are accomplishments by some of our members across the state:

## District 1:

**Lindsay E. McNeil**, a paralegal with Munsch Hardt Kopf & Harr, P.C., in Houston, started classes last fall at South Texas College of Law Houston. She earned the highest grade in the class in Legal Research and Writing I.



Montye B. Holmes

**Montye B. Holmes**, ACP, TBLS-BCP, paralegal with Hirsch & Westheimer in Houston, passed the TBLS-BCP exam for Civil Trial. She is also the President-Elect for the Houston Paralegal Association for 2016-2017.



Kimberly Lovel Caboche

**Kimberly Lovel Caboche**, TBPS-BCP, paralegal with The Huckeba Law Firm in Friendswood, passed the TBLS-BCP exam in Personal Injury.



Esteban Martinez

**Esteban Martinez**, PHP, paralegal with Crain, Caton & James, in Houston, earned the PHP (Professional Houston Paralegal) designation from Houston Metropolitan Paralegal Association. He was also a finalist for HMPA's Paralegal of the Year Award. He graduated from UHD in December 2015, and

was accepted to South Texas College of Law Houston. He is attending law school part time while continuing to work full time. Esteban made his 10th appearance in the Houston Art Car Parade with three art cars. He also represented Houston with three art cars in the Seattle Art Car Blow Out, which is part of their Freemont Festival.

## District 2:

**DAPA 2016 Paralegal of the Year Award**

**Debbi Lowe**

Debbi is a litigation paralegal with over 20 years of experience in the legal field. She has served as Job Bank Administrator until the summer of 2011. She serves as DAPA's Communications Director, Weekly Communications Manager and Newsletter Editor and is a mentor in DAPA's Mentor/Protégé Program. Debbi is the recipient of DAPA's 2012 President's Award. She is a member of the Paralegal Division of the State Bar of Texas and The Bar College of the State of Texas.

**DAPA 2016 President's Award**

**Kathy Connell**

The President's Award is given to the officer who has made the greatest impact on DAPA

by supporting the Board of Directors through the year. Kathy exemplifies what it means to have integrity, professionalism and commitment to the organization.

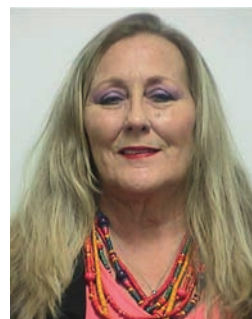
## District 3:

**Janice Piggott** was named "Paralegal Volunteer of the Year" by the Tarrant County Bar Foundation for her pro bono work with the Tarrant Volunteer Attorney Service.



Janice Piggott

On January 1, 2017, Michele Rayburn, CP, TBLS-BCP, became the Court Coordinator for the Hon. Michael Wallach of the 348th Judicial District Court of Tarrant County, Texas.



Michele Rayburn

The following members have passed the TBLS examination: Susan Davis, TBLS-BCP, with the Law Offices of Jason Smith, passed the certification exam in Civil Trial Law; Linda Webber, TBLS-BCP, passed the certification exam in Family Law; and Joy Pierce, TBLS-BCP, with the Moore Family Law Firm, passed the certification exam in Family Law. Katrina Lea, with BNSF Railway, received the 2016 Community Service Award from the Fort Worth Paralegal Association.

Congratulations to District 3 member Susy Johnson who will serve as President of the Fort Worth Paralegal Association this year. Not only did Susy receive the gavel from outgoing President Michele Rayburn, she was selected as Paralegal of the Year for the organization. Susy's mission for her presidential term is a concentration of disabled veterans.

## District 4:

**Pamela M. Etie**, ACP—Paralegal Division Outstanding Chair Award (Membership Chair) awarded at Annual Meeting, June 2016

I have been in the legal profession for over 40 years. I obtained the PLS certification from the National Association of Legal Secretaries in 1981, the CP certification from NALA in 2003, ACP in Business Organizations:



*Pamela M. Etie*

Incorporated Entities in 2008, and ACP in Business Organizations: Unincorporated Entities in 2015. I have been a member of the Paralegal Division since 2003 and served as Membership Chair since 2015 (District 4 Membership Sub-chair since 2014). I have been a member of CAPA since 2001 and have served in many capacities, including Parliamentarian (2007–2009), Treasurer (2009–2010), and President (2012–2013). I am currently Co-Chair of the Web Team and Rules and Bylaws Committee and Chair of the Membership Committee. I have worked at DuBois, Bryant & Campbell for the last 12 and a half years in the corporate/M&A practice area. I am married to Alba Etie, and we have two dogs (Doug and Diane) and one cat (Kirby), all rescues. I enjoy reading and traveling, and I am a long-time, devoted Aerosmith fan.

**Alice Lineberry, PLS, CP—Capital Area Paralegal Association Volunteer of the Year**



*Alice Lineberry*

**Award 2016**  
I have been in the legal profession for over 30 years and have been a member of the Paralegal Division since 1988 and currently serve as District 4's CLE Sub-Chair. I have also been a member of CAPA since 1994 and have served in many different capacities, including President during the 2009–2010 term. I have worked for DLA Piper for 15 years in the patent infringement litigation department. I am married and have two sons, one a junior at UT, and the other a junior in high school. I enjoy cooking, traveling, and reading.

**Francesca D. Romans, ACP—Capital Area Paralegal Association (CAPA) President's Award, 2016**  
I have worked in the area of school law at Eichelbaum Wardell Hansen Powell & Mehl, P.C. since 2004, and have been a paralegal there since 2011. I truly enjoy my job and the people I work with. I have a Bachelor of Arts degree in Business from Concordia



*Francesca D. Romans*

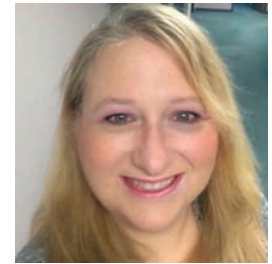
University Texas, and am a NALA Advanced Certified Paralegal in Discovery and Trial Practice. I currently have the honor to serve as the President of the Capital Area Paralegal Association, having previously served as the Treasurer and Membership Committee Chair. I am also a member of the Texas Bar College, the 2017 TAPS Planning Committee, and I am the District 4 Sub-Chair for Professional Development with the PD. I am so lucky to be a part of these organizations. The people I've met and the things I've learned have made such an impact on me, both personally and professionally! My husband and I will celebrate our 12<sup>th</sup> wedding anniversary in April, and we stay very busy with our 3 and 9 year old sons.

**Tove Sebring—Capital Area Paralegal Association (CAPA) Paralegal of the Year Award 2016**  
Tove Sebring began her legal career in Houston in 1995 and has worked in the legal field since



*Tove Sebring*

that time. She has worked primarily in the area of personal injury law and ERISA insurance law. She also has experience in large federal class action lawsuits. Tove earned her Associates Degree in Paralegal Studies in 2007. Tove is an active member of the Capital Area Paralegal Association and is currently serving as Immediate Past President CAPA, as well as chairing a couple of Committees. She was awarded CAPA's Paralegal of the Year Award for her service and commitment to the paralegal field. She is also a member of the State Bar of Texas, Paralegal Division, and as serves as District 4's Public Relations Sub-Chair. She is also a member of the NALA—The Paralegal Association. Tove has worked as a litigation paralegal with The McMinn Law Firm since May 2016, and prior to that was with Bemis, Roach & Reed since May, 2001 and has worked with Mr. Bemis as his paralegal since July, 2002. Tove is also



*Lori Wilkinson*

active in her church, serving on the worship team, and as a leader in the women's mentoring ministry. Tove has been married for almost 22 years, and has four grown children, three grand-children, and two four legged furbabies. Along with her husband, they enjoy family time, road trips, boating, and exploring our great state of Texas.

### **District 8:**

**Lori Wilkinson, M.L.S., RP, PLS, paralegal with Wood, Boykin & Wolter, P.C., in Corpus Christi, earned her Master's Degree in Legal Studies from Washington University in St. Louis School of Law. Her degree was conferred December 17.**

### **District 11:**

Crystal Ray, CP, Cotton, Bledsoe, Tighe & Dawson, is District 11's newest Certified Paralegal.

### **District 15:**

Letty Rodriguez, TBLS-BCP, of Jones, Galligan, Key & Lozano, L.L.P., passed the certification exam in Civil Trial Law.



# 2017-2018 President-Elect, Stephanie Sterling, TBLS-BCP

**O**n January 31, 2017, the Board of Directors elected Stephanie Sterling, TBLS-BCP, as the 2017-2018 President-Elect of the Paralegal Division. Stephanie is a seasoned litigation paralegal with 18 years of experience. She is with the law firm of DuBois, Bryant & Campbell, LLP in Austin in the practice area of civil litigation handling complex commercial and construction litigation matters. She became a Board Certified Paralegal in Civil Trial Law through the Texas Board of Legal Specialization in 2015. Stephanie earned her Associate of Applied Science Degree in Paralegal Studies with honors from Lamar University (an ABA approved program) and went on to graduate with a Bachelor's of Science Degree in History with honors from West Texas A&M University.

Stephanie has been an active member of the Paralegal Division since 2003. She was elected as the District 4 Director in 2014 and has concurrently served as Parliamentarian and

District 4 Director since 2015. Stephanie is also the Chair to the Governing Documents Ad Hoc Committee, a committee member on the Additional Directorship Ad Hoc Committee, and is board advisor to the Website Development Committee. Recently, Stephanie had the extreme honor to be appointed as a member of the State Bar's Technology Program. Stephanie is passionate about the paralegal profession and has served in many capacities over the years. She has served the Paralegal Division as District 4's Public Relations Committee Sub-Chair, Pro Bono Ad Hoc Committee Sub-Chair, and served as Marketing Chair on the TAPS 2014 Planning Committee. Stephanie is a member of Capital Area Paralegal Association (CAPA) and currently serves as Public Relations Chair and Rules & Bylaws Co-Chair. She has also served CAPA in many board positions and committee roles over the years including President in 2013-2014. Additionally, Stephanie lead

two subcommittees on CAPA's 35th Anniversary Planning Committee and assisted CAPA in re-establishing its Paralegal of the Year Award in 2010. Stephanie is also a member of the Texas Bar College, NALA—The Paralegal Association, and Women in E-Discovery.

In March of 2016, Stephanie was a speaker panelist for the 34th Annual Texas Forum hosted by the Texas Bar MCLE on the topic of *"The Legal Team's Responsibility in Maintaining Attorney-Client Privilege"*. Stephanie has been a contributor to CAPA's *The Brief*, the *Texas Paralegal Journal*, and the *Paralegal Pulse*. She has been a frequent speaker at various paralegal events and in many paralegal classes.

Stephanie was honored that CAPA awarded her with Paralegal of the Year in 2013. CAPA also awarded her with its Volunteer of the Year in 2011 for her outstanding volunteerism, and then again in 2014 for her extraordinary commitment and dedication to CAPA. Additionally, Stephanie was awarded with the NALA Affiliates Award in 2013 for her



contribution and dedication to the advancement of the paralegal profession.

Stephanie has previously served on the Virginia College at Austin Paralegal Studies Advisory Board and has been a paralegal volunteer with TexasLawHelp.org. She has also volunteered with her local PTA organizations serving as the Legislative Action Chair, Website Coordinator and Homeroom Mom for numerous years. Stephanie has also been a teacher in AWANAs for several years.

Stephanie has been married to Clint for 24 years and they have 1 child, Caleb, who is 16. In her free time, she enjoys traveling, reading, Zumba, hiking and participating in various obstacle runs and 5Ks.

## Paralegal Division, 2016-2017 Board of Directors

**T**hank you to our Directors who have served on the 2016-2017 Board of Directors. The Directors also serve as Board Advisors to various committees and Liaisons to outside associations. They meet three times a year and volunteer their time throughout the year to represent and conduct business for the Paralegal Division.

Megan Goor, TBLS-BCP, President (Fort Worth)  
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## Paralegal Division, 2016-2017 Committee Chairpersons

**T**he Paralegal Division appreciates the following chairs, coordinators and representatives. They give their time to lead a committee. Without the work of the Committee Chairs and their volunteer members, the Paralegal Division would not be able to offer its many benefits to its members.

### Standing Committees

2016 Annual Meeting—Katrina Lea, Chair (Fort Worth)

2017 Annual Meeting—Melody Johnson, Chair (Dallas)

Continuing Education—District CLE—Pam Snavey, ACP, Chair (Denton)

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Texas Board of Legal Specialization (TBLS) Examination—Helpful Hints—Javan Johnson, ACP, TBLS-BCP, Chair (Longview)

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Additional Directorship—Michele Boerder, CP, TBLS-BCP, Chair (Dallas)

### Others:

Blog Coordinator—Cynthia Minchillo, RP (Austin)

Mentor Program Coordinator—Deb Pointer (Fort Worth)

PD Coordinator, TPJ Advertising Coordinator, and TAPS 2017 Meeting Planner—Rhonda Brashears, CP, TBLS-BCP (Amarillo)

Procedures Manual Committee—Mona Hart-Tucker, ACP, President-Elect (Daingerfield)

State Bar of Texas Pro Bono Workgroup Representative—Misti Janes, TBLS-BCP (Austin)

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## Paralegal Division, 2016-2017 Ambassadors

**A**s a benefit to the paralegal profession, the Division offers an experienced speaker to do a presentation at no cost. Our Ambassadors are all past Presidents of the Paralegal Division and have over decades of paralegal experience. Ambassadors will travel to present CLE to both members and non-members

and are prepared to speak on a variety of topics. Not only are these Ambassadors past presidents of the Paralegal Division, but they all continue today to lead its cause. Ambassador presentations are requested through a website link on the Paralegal Division's website at [www.txpd.org](http://www.txpd.org) (PD Speakers/Request a Speaker). Please take a moment to view the

Ambassadors page at [txpd.org/PD Speakers/Ambassadors](http://txpd.org/PD%20Speakers/Ambassadors).  
Erica Anderson, ACP—Amarillo  
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Clara Buckland, CP—El Paso, TX  
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## Paralegal Division Chairs and Presidents

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## In Memory of Wendi Atwood Rogers, CLA, TBLS-BCP

**I**n 1994, I went to my first Dallas Area Paralegal Association (DAPA) meeting at the Belo Mansion, and met Wendi Rogers. I knew who she was, as I had read in the DAPA newsletter about her recent accomplishments. I knew from that meeting we would be friends. It wasn't long after that Wendi got me involved in DAPA, NFPA, and the Paralegal Division for many years. I would joke with her by telling others, "When Wendi Rogers calls, just hang up." But I never hung up, nor did anyone else.

On the friendship side, Wendi talked me into doing all sorts of crazy things, such as mountain biking, water skiing, playing softball, and riding roller coasters. We traveled together for CLE and NFPA conventions and, through her

example, taught me to be a better speaker. Wendi had a knack for bringing out the best in people and creating great memories.

Many of us will recall memories of Wendi helping or asking for our assistance in helping someone else. She had an intuition about people, and would gravitate towards those who needed help.

Wendi was a champion of paralegals everywhere. She was a long-time member of the Paralegal Division, a past President, District 2 Director, and Paralegal Division Ambassador. She was also a member of DAPA, NFPA, and the American Association for Justice. She won numerous awards, including DAPA's Paralegal of the Year in 1988, the NFPA's William R. Robie Leadership

Award in 2004, and Paralegal of the Year from American Association for Justice in 2003. She graduated from Tarrant County Junior College with an A.A.S. in Paralegal Studies in 1988, and from the University of North Texas with a B.A.A.S. in Legal Information Management in 2001.

Wendi's professional accomplishments were outstanding, as was her personal life. She and her husband have two children, where they all lived on a cattle ranch in Tom Bean, Texas. Wendi and her husband Steven were involved with their local church, and a program called Path4Life. Her husband plans to keep their efforts alive through community giving.

In the legal community, Debbie Oaks McBride, S. Kristine Farmer, and I have started the



Wendi Atwood Rogers Memorial Fund through Communities Foundation of Texas. The fund will grant money to non-profit mentor, community, and/or pro bono programs. To view the website, or to make a donation, please visit <https://cftexas.org/wendi-atwood-rogers>.

We will miss her infectious smile, kind heart, and positive attitude.

—Cynthia Minchillo, RP.

## TEXAS BOARD OF LEGAL SPECIALIZATION BOARD CERTIFIED PARALEGALS

Board Certified Paralegals earn their specialization credentials through a combination of experience, advanced continuing legal education, professional references and examination. The Board Certification process is purposefully rigorous and specific to meet the objectives set forth by the Supreme Court of Texas and the State

Bar of Texas to "... serve the public interest and to advance the standards of the legal profession."

The following paralegals have earned their certification by the Texas Board of Legal Specialization in 2016:

Michael B. Barrera—Civil Trial Law

Marnee Bolen—Family Law  
Victoria Buckley—Family Law  
Kimberly Caboche—Personal Injury Trial Law  
Cossette R. Callahan—Civil Trial law

Estina Childs—family Law  
Gigi Cox—Civil Trial Law  
Susan Davis—Civil Trial Law  
Sandra Glashan—family Law  
Katie Hall—Family Law  
Dinah Haney—Family Law  
Montye Holmes—civil Trial law  
Ashley Jenkins—Family Law  
Rebecca Lee-Jones—Family Law

Vicente Martinez—Family Law  
Jan Pierce—Family Law  
Mona Powers—Personal Injury Trial Law  
Leticia Rodriguez—Civil Trial Law  
Brenda Curran Solares—Bankruptcy Law  
Christina S. Tilotta—Personal Injury Trial Law  
Rosalinda Webber—family Law  
Amy L. Whitesell—Family Law

Congratulations on your certification!



# Scruples

## Ethical Considerations of Limited Scope Representation

Ellen Lockwood, ACP, RP

**L**imited Scope Representation (LSR) is an agreement between an attorney and a client to perform some, but not all, aspects of the client's legal matter. Also known as unbundled legal services, this arrangement permits the client to engage a lawyer to perform only those services the client cannot, or prefers not to handle. This arrangement saves the client money, allowing access to legal services for many more clients who do not qualify for legal aid services, but cannot afford to hire an attorney to handle all aspects of a legal matter.

Of course, LSR will not be appropriate for every matter, or for every client. While some areas of law, such as family and estate planning, may provide opportunities for unbundling legal services, other areas of law, perhaps criminal law, may not be appropriate. Ultimately, it is up to the attorney to determine whether the LSR is reasonable, given the circumstances.

Although the attorney is only engaged to perform a limited portion of the services of the legal matter, the attorney must do the following, *in writing*:

- Ensure the client understands the difference between the limited services the client is requesting and full service representation
- Ensure the client understands the limits of the services the attorney is providing
- Ensure the client understands and accepts her responsibility for all other steps and deadlines required to complete the legal matter
- Provide guidance and assistance to the client about the legal process and decisions the client must make after the attorney's representation has ended, including specific, detailed instructions for the client to follow to complete the matter
- Advise client of the existence of any related issues

Law firms offering LSR must conduct their usual conflicts searches. Conflict rules apply to the entire legal matter, not just the portion the attorney will be handling.

LSR does not limit the attorney's liability for the scope of the attorney's involvement. However, the attorney must comply with the items listed above, including advising of related issues, **even if the client does not request that information.**

LSR provides many opportunities for paralegals to assist. Paralegals may be involved in drafting a form agreement for limited service representation, and revising that form at the attorney's direction for a particular client. Paralegals may also assist with client intake and identifying clients for which LSR may be appropriate. In addition to the LSR agreement, paralegals may prepare checklists for use by the attorney and support staff to track tasks and completion dates. These checklists may be provided to the client as an update of the status of the legal matter. Paralegals may also prepare checklists, instructions, and other information, reviewed and approved by the attorney, for the client to use when handling the portion of the legal matter that are not the responsibility of the attorney. Sample form agreements and checklists are available online which may be used as a starting point.

LSR still requires and creates an attorney-client relationship. Paralegals may not conduct the intake and then make the determination of the scope of the LSR. The requirements outlined above are the responsibility of the attorney and may not be delegated.

If the LSR agreement will include representing the client before a court or agency, the paralegal should work with the attorney to confirm the court will permit the attorney to handle only a portion of the legal matter. The paralegal may also assist the attorney with submitting an appropriate form to the court (e.g., with-

drawal or substitution of counsel) when the attorney's involvement ends.

Clients often ask paralegals to provide information, including legal advice. However, when a client has responsibility for handling some of the tasks for a legal matter, the client may turn to the paralegal for additional guidance, or request the paralegal perform those tasks. Since LSR agreements draw a bright line around the limits of the attorney's representation, paralegals should be prepared to explain to the client why they cannot assist beyond the scope of the agreement. In those situations, it may be necessary to remind the client of the terms of the agreement and refer them to checklists, instructions, and other materials that were provided. Any changes to the agreement, particularly those that expand the scope of the representation, must be in writing and adhere to the requirements of the original agreement.

Paralegals may assist with documenting the end of the attorney-client relationship. This is another requirement for LSR and is critical, especially when the attorney's representation of the client has ended but the legal matter has not concluded. If the legal matter is ongoing, it is advisable to include reminders to the client of any outstanding deadlines. Concluding the attorney-client relationship may include notifying the court.

When appropriate for the legal matter, attorney, and client, LSR is one way for attorneys to serve more clients, while keeping fees and expenses more affordable. LSR is one method of making legal services more accessible to more members of the community.



Ellen Lockwood, ACP, RP, is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president

of the Division. She is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's Paralegal Ethics Handbook published by Thomson Reuters. You may follow her at [www.twitter.com/paralegaletics](http://www.twitter.com/paralegaletics) and she may be contacted at [ethics@txpd.org](mailto:ethics@txpd.org).



# Texas Water Rights

By R. Scott Alagood

According to the Texas Water Development Board ("TWDB"), Texas' population is expected to increase from approximately 29.5 million to 51 million between 2020 and 2070. Tex. Water Dev. Bd., 2017 *State Water Plan* (May 19, 2016). It is further projected that over half of the population growth in Texas during this period will take place in the Dallas-Fort Worth metroplex and the cities and counties surrounding Houston. *Id.* During that same period, it is expected that the demand for water is expected to increase from 18.4 million to 21.6 million acre-feet per year. *Id.* "Acre-feet" is one way to measure the volume of water. One acre-foot of water is equal to the amount of water covering one acre of land one foot deep. An acre-foot of water is approximately 326,000 gallons of water. It goes without saying that Texans can't live or work without an adequate supply of water. The regulation of water rights in Texas is evolving to meet these future needs.

Historically, water rights in Texas have had limited regulation. Water is generally divided into two category types: *Surface Water* and *Groundwater*. Surface water constitutes the ordinary flow, underflow, and tides of all flowing rivers, natural streams and lakes, and bays or arms of the Gulf of Mexico, and includes storm water, floodwater, and rainwater in all state rivers, natural streams, canyons, ravines, depressions, and watersheds. The right to use the surface water generally belongs to the state. An exception exists where surface water impounds on the surface of an owner's tract and does not pass into a natural watercourse. A natural watercourse will have a defined bank and bed, a cur-



rent of water, and a permanent source of water supply. However, the bank and bed need not be deep, nor does it always have to flow. Clear examples of surface waters owned by the state include reservoirs (Lake Lewisville and Lake Ray Roberts), rivers (Trinity, Red, and Brazos), and streams or creeks (Clear and Pecan).

As opposed to surface water, Groundwater is owned by the surface owner of the land under which the water is located and may generally be used by such owner. Groundwater is the water which percolates below the surface of the earth. Groundwater may also be found in the form of a spring or an artesian well. Groundwater rights may be severed from the ownership of the surface estate and conveyed in the same manner as the mineral estate. Groundwater rights do not constitute any portion of the mineral estate. A reservation of "all of the oil, gas and other minerals" does not include the groundwater underlying the same applicable land. However, the mineral owner may use a reasonable amount of the groundwater underlying the land for the production of minerals.

There are other restrictions on the use of groundwater. For instance, one owner may not waste or maliciously cause the subsidence of the groundwater existing

under multiple tracts of land. Such use may be further restricted by the rules of the Texas Commission on Environmental Quality, an established groundwater conservation district, or by location within a municipality or utility district holding a certificate of convenience and necessity ("CCN") to supply water to the residents within the certificated area. If a parcel is located within a groundwater conservation district, the land owner may need to procure a permit before drilling a water well. If a parcel is located with a particular CCN, the owner may need to obtain the consent of the certificate holder before utilizing the water under its land.

It is expected that future regulation of water in Texas will expand due to the increase in population, the

limited supply of water, and the increasing uncertainty of weather patterns. Accordingly, Texas has been divided into 16 regional water planning areas. Each planning area is comprised of groups which average approximately 23 members. Each of these group members represent different segments of the Texas population, including members of the public, counties, cities, industries, agriculture, environment, small business, utilities, river authorities, water districts, and groundwater management areas. Each regional planning group assesses and evaluates the needs and impacts of water availability and use in their areas. The TWDB and the planning groups then recommend several water management strategies to increase water supply, reduce water demand, or some combination of both. These strategies include conservation, new reservoirs, groundwater wells, water reuse, and desalination plants. In order to implement these strategies, it is reasonable to anticipate that more regulation of water rights will be necessary.

*R. Scott Alagood is board certified in residential and commercial real estate law by the Texas Board of Specialization and practices in Denton with Alagood Cartwright Burke, PC. <http://www.dentonlaw.com>.*

# Closing the File—the Long Goodbye

Kelly Ausley-Flores

## I. INTRODUCTION

This paper has appeared in the course materials from several continuing education courses over the past several years, and I have given this talk numerous times. However, as this course is geared toward newer lawyers or lawyers who are re-focusing their practices and, perhaps, taking on family law for the first time, I hope to equip you with the tools to make your family law practice more efficient, to give your clients the best possible service, and to protect you in those instances where you need help in dealing with an unhappy or unfriendly client. Closing a file efficiently, finally, and completely will save you additional work and worry and the recommendations set out in this paper can be the framework for lifelong good, professional habits.

Once you leave the Courthouse, having just concluded a trial or having proved up an agreement or order, your work as the attorney is far from finished. In order to assure your client that the Judge's orders will be carried out, or that all parties will comply with the terms of a settlement agreement, you must pay close attention to the details of closing a file. Often, the most time-consuming drafting work in a case occurs at the end, and thoroughness and attention to detail can maintain the client's goodwill toward you and your firm and, may protect you and your firm.

This paper will provide helpful hints and our "Closing-the-File Checklist" for attorneys. While my firm's checklist is designed for use with divorce files, it can be simplified and adapted for other types of actions.

## II. START AT THE BEGINNING

At the time a client retains you to represent him or her in a matter, you should be clear with the client that the case has



a beginning, boundaries, and a definite ending. The simplest way to spell out the parameters of your representation is in your initial fee letter or contract.

In my firm's fee letters, we state clearly at the outset that the representation is for a limited and specific matter or purpose. The letter also sets out that "it is impossible to determine in advance the amount of time that will be needed to complete your case." Unless you take cases for a set fee, it is important to make this clear to a new client. Often, clients assume that their cases will end as trials do on television—with a hug or a handshake between the winning attorney and the innocent client as they walk out of the courtroom and into the sunset, never to see each other again. As you know, this is far from the truth. If a case is particularly complicated, the attorney often faces almost as much work *after* judgment is rendered as before. My firm's fee letters and our *Family Law Handbook*, which we prepare in-house and make to each new client (either as a hand-out at the initial consultation appointment or as a download from our firm's web site), emphasize that the case will not be concluded at the time the decree or order is rendered. Therefore, if you are wonder-

ing why I have addressed fee letters and contracts in a paper dealing with closing a file, I want to emphasize that it is good practice to prepare clients from day one as to what they can expect in order to close their cases. We begin to prepare the client at the outset for the fact that a significant part of good legal representation occurs at the end of the case.

## III. TIE UP THOSE LOOSE ENDS

Once the Judge has ruled or the parties have reached an agreed settlement (which should be memorialized by a signed mediated settlement agreement, Rule 11 Agreement, or Section 6.604 Informal Settlement Agreement), there are orders and decrees to draft (if not prepared and agreed to prior to the final hearing), child support accounts to open, transfer documents (such as deeds, vehicle powers of attorney, stock transfers, corporate resignations, etc.) to draft and file or submit to the proper entities, accounts to close or a signatory to be removed, settlement funds to secure, beneficiary designations to change, and retirement funds or stock options to divide. Some of these tasks, such as account transfers, beneficiary designations, and changes to homeowner's and auto insurance policies must be initiated and completed by the clients themselves. However, some clients are naive and unaware that these things do not happen "automatically" once the Judge pronounces the divorce. We have numerous clients who mistakenly assume that there is some central repository of information that notifies the world that a divorce has been granted, thus restoring a maiden name, and changing their bank accounts, driver's licenses, insurance coverage—you name it. Therefore, you must direct your clients to take the steps they need to take in order to fulfill their agreements or the

Courts' orders, and to protect the funds and assets awarded to them. Most clients have no idea of where or how to get a car title transferred, that they need to change the name in which their utilities are registered, or that they once designated a spouse as a joint tenant with right of survivorship on a checking account, for instance. They need to be encouraged to create and complete their own "to do" lists of tasks to complete the case, and then to follow through until those tasks are completed.

Other actions, such as filing real estate transfer documents or processing qualified domestic relations orders ("QDRO's") should be handled by the attorney. The moment the Judge rules or renders judgment on an agreed settlement, the attorney should begin the process of tying up the loose ends and moving the file toward closure.

#### A. Decrees and Orders (Getting Them Entered)

In this paper, we will not attempt to give specific drafting advice for decrees and orders, as these are topics addressed in other, more detailed presentations that specifically address drafting. (I encourage you to take at least one advanced drafting course in the near future, as it will improve your practice immensely.) However, I do want to emphasize speediness and timeliness in preparing your drafts and submitting them for approval, first by your own client and then by opposing counsel. Following are some tips on speeding your paperwork through the sometimes tedious process of drafting, revising, signing, and presenting the finished product to the Judge:

##### 1. *Take Good Notes and Prepare Your Drafts as Quickly as Possible*

If you settle your case in mediation or an informal settlement conference, you should have either a signed Mediated Settlement Agreement or a Section 6.604 Informal Settlement Agreement. (If your agreement is the result of an informal settlement conference, and not a formal mediation, I recommend that you use a Section 6.604 Agreement, rather than sim-

ply a "Rule 11 Agreement." The MSA or Section 6.604 Agreement should be sufficiently detailed that your drafter can follow the agreement and draft a Decree or Order that memorializes the agreement in detail. Additionally, take good notes at your settlement conference or mediation as to any side agreements, deadlines, or other information that may not be spelled out in the signed Agreement, but will assist your drafter (for instance, if the Agreement refers to a report rendered by a third party, such as a parenting facilitator or therapist, that is to be incorporated into the final Decree or Order).

If your case is tried in Court, not only take good notes at any final hearing, but before you leave the courtroom, order a transcript of the Judge's rulings. With the prevalence and efficiency of tablets and other electronic devices, you should be able to take good notes simultaneously with a Judge's ruling. If you cannot take notes and concentrate at the same time, you should assign that responsibility to another person, such as your paralegal, clerk, or co-counsel. Once I return from a hearing, I type up my notes and email them to the paralegal who will be drafting the document. I also give the paralegal any exhibits or spreadsheets that were stipulated to or used to define portions of the agreement or ruling. This information is enormously helpful to the drafter, and will be more accurate the more quickly you can put down your thoughts into written notes. Particularly if the Court Reporter cannot get a transcript to you for several weeks, your drafter can go ahead and work on the Decree or Order, and then double-check it against the transcript when it arrives.

If you allow even a few days to pass before you record your notes, you may forget important points that should be included in the decree or order. Do not rely solely on your memory!

##### 2. *Order a Transcript*

If I am reading a complicated settlement agreement into the record (and there is no signed M.S.A. or 6.604 Agreement), or if the Judge rules from the bench at the end of a contested hearing, I immediately order a transcript from the Court Reporter before leaving the courtroom. As you know, we often have cases where we know, right off the bat, that there will be trouble ahead in trying to get the final documents signed and entered. You will encounter opposing parties (and sometimes your own clients) who, you just know, will want numerous revisions, will reject your drafts, and/or will refuse to sign off on the final paperwork.

Even though a transcript costs money, that cost can be insignificant if it cuts down on the back-and-forth and drafting arguments between the attorneys, as well as lengthy conferences with your client. The paralegals in my firm who do our drafting work sometimes use the Judge's or parties' exact words when drafting provisions that address particularly complicated or controversial issues. It then becomes difficult to argue over the intent or accuracy of a provision when you can show the testimony or ruling in black and white to your client or your opposing counsel.

##### 3. *Set a Hearing on a Motion To Enter Judgment*

All of you have encountered opposing attorneys who take months and even up to a year or more after a hearing, or after a settlement conference or mediation, to get the final paperwork entered. Perhaps the opposing attorney will not review and respond to your drafts of the closing papers, or refuses to make revisions you have requested, or will not finish the drafting work assigned to him. In these instances, you must protect your client from any harm that these delays can cause and from the additional, unnecessary legal fees that are



almost certain to result.

First, you do not want the dilatory attorney to be in charge of the drafting. It simply will be better to do it yourself! You can rely on your own thorough notes and the Court Reporter's transcript to prepare an accurate and well-drafted document. Additionally, if you are up against opposing counsel or an uncooperative or unreasonable opposing party, you should build in deadlines to protect yourself and your client. If you have proved up an agreement in open Court or the matter was tried, ask the Judge to order specific deadlines (the draft must go to opposing counsel by "X1" date, opposing counsel must give written objections/revisions back to you by "X2" date, and the final decree or order must be delivered to the Judge by "X3" date). And, if you anticipate or encounter an impasse over drafting issues, or simple refusal to sign by the opposing attorney or client, then immediately set a hearing with the Judge on a Motion To Sign or a Motion To Enter Judgment. The prospect of a hearing often is the incentive an opposing party needs to generate a response or willingness to sign; if not, then you at least have ensured your client that there will be closure by a date certain.

In mediation scenarios, you can include a provision that the mediator will serve as arbitrator on drafting issues, if disputes arise over the wording of your Decree or Order. (I recommend incorporating arbitration provisions only if you trust your mediator and have first-hand knowledge that he or she also happens to be a competent drafter. I am very confident of the drafting skills of several mediators we often retain in the Austin area, and I do not hesitate to use their skills to resolve drafting disputes. This can cut delays and save your clients time and money by bringing the matter to an end without having to schedule a hearing.)

In some extreme cases where significant time has passed with no

response, we even have sent our draft of the decree or order directly to the Judge who heard the matter, with a copy to opposing counsel, stating that we have heard no objection to the draft and that, unless the Judge hears otherwise by a certain date, we ask him or her to sign our draft. This approach probably is the best approach when the opposing party is pro se. Again, it is helpful, if you attach a copy of the transcript of the ruling to jog the Judge's memory.

It is not reasonable to punish your own client because of the opposing party's or attorney's non-responsiveness, uncooperativeness, or inefficiency. Bring the matter to closure!

#### B. Saving and Storing Final Orders and Ancillary Documents

When you appear before the Judge with an agreed order or decree, you should not leave the Courthouse without a certified copy of the decree/order, a certified copy of any QDRO's, and copies of any other orders or ancillary documents that were signed. In a divorce case, I have found that while certified copies cost the client a little extra, your clients almost always will need at least one certified copy of a divorce decree. If the decree provides for a name change, the client must present a certified copy to the Social Security Administration if she wants a new Social Security card issued in her new name. Some Plan Administrators of retirement, pension, and stock options plans require not only a certified copy of the QDRO, but of the Decree itself (the Teacher Retirement System of Texas and the Employees Retirement System of Texas, for example, require certified copies both of the divorce decree and of the QDRO).

A bonus to obtaining the certified copy is that you can take it back to your office and use it to make both paper and electronic copies for your file, your client, and opposing counsel. By doing so, all involved will have a complete and accurate copy of everything *exactly* as the documents were filed with the

Court and showing all signatures affixed.

You again save yourself time and your client money by taking the time to get these copies while you are at the Courthouse. In Travis County, the Courts have implemented a new system for scanning documents and making copies, and it is best to wait and get your certified copy the day the Judge signs your order. Otherwise, you may face several days' delay in being able to get a certified copy, resulting in a time of unhappiness for you as you face your paralegal and your client, both of whom need those copies in order to close the file!

In many other counties, you may not be permitted to get your certified copies on the day of your court appearance; therefore, you must have a reminder system in place that prompts you to return to the clerk's office for the necessary file-marked and certified copies before you close your file. Always familiarize yourself with the procedures your District Clerk's Office staff wants you to follow and be *unfailingly nice to the clerks*.

Several years ago, we set a policy in our firm to scan the final documents and save them on our server as a pdf file. When and if we move forward to become a paperless office, we already will have several years' worth of electronic copies of the pertinent parts of closed files. We currently are *not* scanning and saving clients' files in their entirety. Whether or not you have decided to become a paperless office, you should keep a folder on your server for all closed case files. Each client's retired file folder should contain electronic copies of all signed and file-stamped closing papers. My firm has a section of our server reserved for all retired files, and when a client's file is closed, we move that client's "folder" to the retired clients section. Within each client's folder, all retired folders have a sub-folder entitled "Closing Documents as Signed and Filed." That sub-folder contains that client's scanned Decree or Order, QDRO's (and copies of the confirmation/approval letters from the Plan Administrators)

if applicable, recorded deeds, any other ancillary documents and orders, and the "Closing the File Letter" to that client. We often have clients call us years after their case is complete and ask for a copy of their decree or other order, or who have a question about whether or not a deed was filed. It is a big time (and money) saver if you can just email the pdf of the document to the client, or print it and mail it to them. This will save you valuable time in not having to order the file from offsite storage or go to the Courthouse for another copy. (The exception to this is if a client needs a certified copy—you still must request that from the District Clerk's Office).

### C. Child Support Accounts and Wage Withholding Orders

If child support is awarded, you also want to take care of any paperwork required to set up the child support collection account with the Texas State Child Support Disbursement Unit and to have the wage withholding order served, unless the parties have agreed *not* to have the order served on the Obligor's employer or there is another compelling reason not to serve it, such as when the obligor is self-employed (or unemployed!). Currently in Travis County, we are experiencing a lag time of at least four to five weeks between the date we complete and submit the forms to open the child support collection account and the date the account becomes active and the Obligor can begin paying support through the agency.

Parties no longer have a choice as to whether or not a wage withholding order is entered. In fact, in Travis County, if you do not bring a signed wage withholding order when you file the form to open the child support account, the Travis County Domestic Relations Office will generate one anyway. Additionally, you now should be using the federal form entitled "Income Withholding for Support," identified as "OMB 0970-0154." Virtually every Judge and lawyer I know are complaining about the inadequacy of this form (primarily because there is no provision

for step-downs in the form and you must create that yourself, and it is even difficult for Judges to know where to sign it). However, you should use it, as an employer now is authorized by law to reject any wage withholding order that is *not* this form. Particularly when you are dealing with deadbeat obligors, you could cost your client a couple of months' worth of child support if your wage withholding order is rejected and you must go back, re-do, and submit the proper form.

If the wage withholding order is to be served, the procedure in Travis County is to provide all pertinent employer contact information to the Travis County Domestic Relations Office's form, including the correct payroll address for the Obligor's employer, and the Order will be served automatically. Parties do have the right to elect that a wage withholding order not be served on the Obligor's employer. If the parties choose not to have the wage withholding order served, the Decree or original Order must recite their decision. The following paragraph can serve this purpose:

*"On this date the Court signed an Order of AIncome Withholding for Child Support." However, the Court finds that good cause exists or the parties have agreed that no such order be delivered to any employer of John Doe as long as no delinquency or other violation of this child-support order occurs. If a delinquency or other violation occurs, the clerk shall deliver the Order as provided in this Decree.*

Even with the recitation of these instructions, however, we have had numerous instances of the wage withholding order being served. It is always fun to deal with an angry obligor who did not want the order served or an angry obligee who now receives the child support in installments, rather than in a lump sum at the beginning of the month, or receives each payment far later than when the former spouse transferred it directly into the obligee's checking account each month. If the parties do not want wage with-

holding, we now are going so far as to write in magic marker at the top of the intake forms: "DO NOT SERVE THE WITHHOLDING ORDER!"

Additionally, due to the delays in processing paperwork, we have run into problems for our obligor clients, who appear to be in arrears immediately because the S.D.U. accounts were not operational until a month or more after the paperwork was filed. For example, the parties' Decree or other child support order may state that child support begins on June 1st, yet it takes the clearing office and/or the S.D.U. until August to open the account and acknowledge the identification number to the parties. Meanwhile, intending to be timely, the obligor paid the child support directly to the obligee for the first month or two, or the obligor or the employer tried to pay through S.D.U. and the check was returned because the S.D.U. did not have the paperwork to establish the account for those parties. We now are routinely keeping files open for 30 days or more beyond the date all closing papers are signed, simply to anticipate these types of problems and assist the clients if they occur.

Also, since the time Attorney General's Office, Child Support Division, assumed administration of all child support payments in the state, we also have had several instances of obligor clients who receive notices of significant arrearages, when none exist. In a recent case, one of my law partners has been trying to help a former client who not only received notice that he was deemed to be several thousands of dollars in arrears (which was completely incorrect), but also was reported to the various credit reporting agencies by the AG's Office as being in arrears on his child support obligations. All of this occurred despite the fact that the obligee was cooperative and signed an affidavit stating that she had received all of her child support payments to date. This matter is still pending as of the submission deadline for this paper, so I hope to be able to report the steps you can follow to resolve such a matter, if you ever are faced with a similar problem.



## D. Qualified Domestic Relations

### Orders

It is imperative that attorneys be familiar with Qualified Domestic Relations Orders, or at least recognize when one is necessary and seek outside drafting help if you are not knowledgeable in that area. Few issues in family law property cases are more difficult to address than the division of retirement, pension, stock options, incentive awards, and other employee benefit plans. Each employer may have its own rules and requirements related to division of these plans and benefits on divorce, and all are subject to federal regulations and tax consequences for the unwary. Some employers will allow the parties to divide stock options and other incentives to the non-employee spouse via a QDRO, while others will not (thus requiring the employee spouse to act as constructive trustee for the non-employee spouse until all options have been exercised per the non-employee spouse's instructions).

Failure to submit the forms or QDRO's necessary to secure these benefits awarded to your client can cause irreparable damage to your client. And, if you have concerns about the opposing party's intent to withdraw funds or borrow against these benefits (especially easy to do with certain plans, such as 401k's), then timeliness is even more important to protect your client's interests.

The ideal scenario is one in which you obtained the plan booklets and a model QDRO (if one exists—not all employers have one) early in the case, prepared a rough draft of the QDRO pursuant to the employer's instructions, and submitted it for "pre-approval" prior to the time you obtained the Judge's signature. By submitting the draft for pre-approval, your job is much easier if the Plan Administrator requires you to make revisions before the QDRO is approved or "qualified." Once a Judge's signature is affixed to the QDRO, correcting it requires another trip to the Courthouse to get the Judge's signature on an amended QDRO (once again wasting time and your client's money). Most

Plan Administrators insist upon or prefer that all communications regarding the QDRO be sent to all parties and attorneys, and I agree. The process is much smoother if both the Alternate Payee's (non-employee spouse's) lawyer and the Participant's (employee spouse's) lawyer are kept in the loop. Furthermore, it usually is a good idea for the Alternate Payee's/non-employee spouse's attorney to be responsible for drafting the QDRO and, in fact, I refuse to draft the QDRO if I am representing the Participant and not the Alternate Payee. If you represent the employee spouse, you should not be drafting orders that are designed to protect the opposing party's interests.

In fact, I recommend that you do not attempt to draft a QDRO yourself, *unless* you have been given a specific form or model approved specifically for your plan by the Plan Administrator, such as the models published by the Teacher Retirement System of Texas or the Employees Retirement System of Texas. Another exception may be for plans that are managed by Fidelity Investments, which requires the QDRO's to be prepared directly on their Fidelity QDRO Center web site. (In fact, Fidelity Investments will charge the parties an administration fee that is more than three times the fee it charges if you *do* use its web site, *and* will delay review and approval much longer than if you use their web site form.) If you are not experienced in drafting QDRO's, encounter a smaller employer who does not provide a model and instructions, or have difficult issues (such as survivorship annuities), it probably is more cost-effective for your client to enlist the services of a QDRO expert to draft the order and see it through the approval process. There are a number of competent attorneys who do this kind of work, and who often charge a flat fee to prepare and process QDRO's related to many of the major corporations or governmental entities. These QDRO experts have amassed a library of model QDRO's, approved forms, and names and addresses of Plan Administrators for submission of the QDRO's through

proper channels. If you are not experienced in the area of retirement benefits, you should not attempt to tackle this work—it is too important to your client's future to handle in a hit or miss fashion.

The work required to process a QDRO through the approval process virtually is one of the last things to occur at the end of the case. **Never** close a file unless you either have written confirmation from the Plan Administrator that a QDRO has been approved or qualified; or, in the event of an unfriendly client scenario, that you have informed your client, in writing, of any problems that have resulted in a rejection of the QDRO or steps that have not been taken to prepare and process a QDRO (if your client has refused to authorize you to proceed with the necessary steps).

## E. Real Estate Transfer Documents

Just as it is important to see a QDRO through to its approval by the Plan Administrator, filing/recording the necessary real estate documents are critical steps you must take to assure that all third parties know that the real property belongs to your client.

### 1. *Drafting the Most Commonly-Used Real Estate Documents*

The real estate transfer documents we use most frequently are:

- a. *Special Warranty Deed* (or titled **Special Assumption Warranty Deed** if transferring property that is mortgaged and the receiving party also will be responsible for payment of the mortgage when both parties signed the original note)—the most commonly-used real estate form to transfer property awarded wholly to one spouse in a divorce.
- b. *Deed of Trust To Secure Assumption*—the document that provides some protection to the spouse transferring his or her interest in real property, when the transferring spouse co-signed the original note and technically remains liable for the mortgage.
- c. *Special Warranty Deed with Encumbrance for Owelty of Partition*—the proper deed to use when the spouse to whom the property is awarded must

refinance the mortgage and/or take a home equity loan to buy out the other spouse's interest in the property.

- d. *Real Estate Lien Note and Deed of Trust*—the two instruments necessary to perfect a lien when a settlement payment to be paid by one spouse to the other is secured by the real property (particularly if the payments are to be made in installments over time).
- e. *Deed without Warranty*—a type of deed similar to a Special Warranty Deed; however, we use this primarily as a precautionary measure if a piece of property is one spouse's separate property and the other party's name never appeared on the deed. Even if the other spouse's name is not on the deed and the property was purchased prior to marriage, it is a good idea to have the other spouse sign this document, particularly if the parties ever designated the property as their homestead or marital residence. (Some lawyers used a "Quitclaim Deed" for this purpose; however, I have been advised by real estate specialists that a Quitclaim Deed is *not* the proper document for this purpose.)

All of these forms are available in the current edition of the *Texas Family Law Practice Manual*; however, the Real Estate Forms Committee currently is in the process of revising these forms and, for that reason, I am not attaching copies of the existing ones, as I expect them to be replaced shortly. I encourage you to watch for and update your forms files when these new, updated forms are available and to consult your *Practice Manual* in the meantime when drafting your ancillary closing documents.

## 2. *Filing and Recording Real Estate Documents*

Recording a deed or a deed of trust in the real property records of the appropriate county is a simple, inexpensive procedure. And, I believe the attorney should take responsibility for it and not leave it to the client—who may forget, or fail to recognize the importance of this step. Many clients simply do not understand this process and find it daunt-

ing to try to deal with the County Clerk's Office. Handling it yourself also gives you the opportunity to copy and scan the file-stamped copy so five years from now, when you get that call from a former client, who obviously has lost the deed, and asks, "did you ever do anything about getting my house in my name," you can respond with a file-stamped copy.

## 3. *Filing the Decree in Lieu of Real Estate Documents*

Every so often, you will encounter the difficult opposing client who refuses to sign any closing documents post-divorce. The best way to avoid this is to have the deeds and other transfer documents ready at the time of the final hearing or court appearance to prove up an agreement. If you can be that far ahead in your planning, you can ask the Court to order the opposing spouse to sign the documents right there, in the Judge's presence.

The difficult opposing spouses often are *pro se*, or have dismissed their own attorneys out of dissatisfaction with the outcome of the case. This leaves you to chase down the difficult opposing spouse after the divorce and try to get those documents signed. Sometimes it simply cannot be done. In that event, you can obtain a certified copy of the Decree of Divorce and file it of record with the County Clerk, just as you would file a deed. It is more expensive per page than filing a deed, but it is valuable protection for your client. All of our Decree drafts now include the following provision:

*Notwithstanding any other provisions of this Decree, this judgment shall operate as a conveyance to the parties so named of the real property described herein and title to such real property passes as ordered herein, without the necessity of any further action*

*by the party being divested of title.*

*This Decree shall serve as a muniment of title to transfer ownership of all property awarded to either party in this Final Decree of Divorce.*

## F. *Protecting the Interests of the Unfriendly Client*

What creates an unfriendly client? Perhaps your client was unhappy with the Judge's ruling, or had "buyer's remorse" after agreeing to a property settlement in mediation. Perhaps your client is tired of paying attorney's fees and decided the case was over (regardless of the loose ends remaining) and informed you that he no longer needed your services and would take care of all remaining loose ends. Even when you are left with the "unfriendly" client, I believe that you, as the attorney, not only continue to have an obligation to protect the unfriendly client, but also must protect yourself against a potential fee dispute or malpractice claim. If real estate transfer documents have been signed by the opposing party, I recommend that you file them in the appropriate real property records. Or, if you cannot get the real estate documents that protect your client's interests, file the Decree in lieu of filing real estate documents, regardless of whether or not you have any expectation that you will be paid. The filing fees are nominal, compared to the expense and trouble of a client who later asserts a claim against you, even if you must pay them with no hope of being reimbursed. You do not want the unfriendly client back in your office a year later when he or she tries to sell the real property, only to learn that the property records do not reflect your former client as the rightful owner of the property!

If you have an unfriendly client who does not cooperate with you to see the QDRO process through to a conclusion, informs you that he or she will not pay the fee required to draft the QDRO, or fires you (or you fire the client), then you should give written notice to the client

that more work is required to transfer the retirement funds or benefits awarded to your client; and, if possible, you should enumerate exactly the steps that should be taken to conclude the QDRO or transfer process. The Plan Administrator and opposing counsel should be notified that they should communicate directly with your client, if that is your client's wish.

#### G. Other Transfer Instruments

In addition to deeds and qualified domestic relations orders, other transfer documents may be required. All of these documents should be prepared at the time the Decree is drafted, and in an ideal situation, all of these documents would be signed at the time the Decree, QDRO, and real estate documents are signed to avoid a situation where you are chasing an ex-spouse for a signature. Some commonly-required transfer documents are:

##### 1. *Vehicle and Boat Titles or Powers of Attorney*

If a vehicle or boat is owned free and clear of any debt, then the parties should have possession of a negotiable Texas Certificate of Title. Parties who owe money on the asset usually will have a "non-negotiable" Certificate of Title. The title document reflects the description of the vehicle or boat, the name(s) in which the asset is titled, and the vehicle identification or serial number.

The attorney or paralegal should look at the client's title documents to confirm how ownership is listed—is it in the sole name of one party or the other, or is it titled in the parties' joint names? If the title shows only your client's name as owner and the vehicle or boat has been awarded to your client, then no additional paperwork is required. However, if the asset is awarded to one party, and the title shows both parties' names as owners or the other party's name only as owner, then the other party must sign the back of the negotiable title so that title can be transferred properly.

If the title is a non-negotiable

title, then the attorney can prepare a "Power of Attorney To Transfer Motor Vehicle," which will allow the spouse receiving the asset to sell, transfer, refinance, or own the asset in his or her sole name. When preparing a Power of Attorney To Transfer Motor Vehicle, it is important to state the parties' names exactly as they appear on the existing title, and to make certain the vehicle identification or serial number matches the one shown on the original title.

##### 2. *Stocks, Closely-Held Business Entities*

Most stocks, bonds, and securities today are held in brokerage or investment firm accounts. Transferring ownership of those securities can be achieved by transferring ownership of the account into a party's sole name; or, by instructing the parties' broker to transfer certain assets into another account designated for this purpose by the receiving party. If individual stocks, bonds, or securities (not held in brokerage accounts) are awarded to one of the parties, then the certificates must be endorsed so that the shares can be transferred to the party awarded those shares. Bear in mind that transfers of securities often require a "guaranteed" signature, which is not the same as a notarized signature. You can have a signature "guaranteed" only by officers of certain financial institutions, such as banks and savings institutions, and the party must sign the appropriate instrument in the presence of the financial institution officer. Transfers of brokerage and investment accounts, and transfers of securities must be handled personally by the clients; however, your clients may not know whom to contact to start the ball rolling on these processes, or they may not have understood that they need to take action. Another of your duties in closing the file is to point out all of the things the client needs to attend to, and to point him in the right

direction to get these things done.

If the stock shares represent ownership in a closely-held corporation, the party who is divested of ownership in the corporation should resign formally from any officer's or director's position. Most clients have an attorney-client relationship with a business or general practice attorney who prepared and maintains the corporate records. It is a good idea to have that attorney prepare the documents required to keep the corporate records in good order, reflecting any changes brought about by the division of property. If you do not have expertise in general business law, then it is wise to defer this drafting work to someone well-versed in this area.

##### 3. *Life, Homeowners, and Auto Insurance Policies*

You should always remind your clients to contact their various insurance carriers just as soon as you can anticipate when the date of divorce may occur. The client should ask his insurance agent to determine what the costs of the various insurance coverages will be once the divorce is granted and assets are divided between the parties. Auto and homeowners insurance, for example, will have to be billed separately to each party post-divorce.

In divorce suits involving children or orders and agreements for spousal maintenance, the paying party often is ordered (or agrees) to maintain life insurance to protect that support obligation. That client must contact his life insurance agent to notify the carrier of this obligation, to make the correct beneficiary designation, and if required, to request that third-party confirmation be sent to the receiving party.

In these situations, be aware that a divorce renders null and void the designation of a former spouse as beneficiary of your client's life insurance coverage. If your client intends to continue to designate the former spouse as the beneficiary (whether as part of a settlement agreement or

ordered by the court to protect child support or spousal maintenance obligations), your client must *re-designate* the former spouse as the beneficiary *after* the date of divorce.

#### 4. *Health Insurance and COBRA*

The granting of a divorce makes the non-employee spouse ineligible for group health insurance coverage that may have been available previously to all of the family members. The Consolidated Omnibus Budget Reconciliation Act (a federal statute referred to commonly as "COBRA") provides for conversion and continuation of the non-employee spouse's group health insurance coverage for a limited period from the date of the "terminating event" (which, in Texas, is the date of divorce). While the non-employee spouse is not guaranteed the same group premium rates he or she enjoyed previously, the non-employee spouse will have uninterrupted health insurance coverage for a specified time, so that he or she can obtain other coverage through that party's own employment or private carrier and can terminate the COBRA coverage. If representing the non-employee spouse, you should advise your client of the requirement that he or she must file the appropriate request forms with the employee spouse's group health insurance carrier, indicating the non-employee spouse's desire for continuation coverage under COBRA. The request must be filed within 60 days of the terminating event (the date of divorce). Your decree should contain a provision expressly ordering the employee spouse to cooperate with your client by contacting the employer's human resources or benefits office and obtaining and signing any COBRA forms.

Unless ordered otherwise by the court or agreed by the parties as part of a spousal support package, the individual premiums on the COBRA coverage will be billed to and paid by the non-employee spouse post-divorce.

There are numerous statutory requirements related to children's health insurance coverage post-divorce. The parent ordered to carry the children's health insurance coverage is required to notify the clerk or the child support collection agency of the following information no later than the thirtieth day after the date the notice of the rendition of the Decree is received:

The Social Security number of the party providing insurance;  
The name and address of the employer of the party providing insurance;  
Whether the employer is self-insured or has health insurance available;  
Proof that health insurance has been provided for the children; and,  
The name of the health insurance carrier and the number of the policy.

The party ordered to provide the children's health insurance coverage must provide copies of the policy, explanations of benefits, insurance cards, and list of providers (if applicable) to the other parent. The decree or order also should spell out the time-frames for notifying the other parent of any change or termination of coverage, deadlines for submitting claims to the health insurance carrier, and procedures and deadlines for submitting requests to the other party for reimbursement of uninsured healthcare expenses. All of these many dates and deadlines can be confusing to the clients, and it is a good idea to list these obligations and deadlines in a letter or written memo to your client as you close a file. I will describe our "Closing-the-File Checklist" and "closing-the-file letters" in more detail below.

#### IV. CLOSING-THE-FILE CHECKLIST

All of the closing steps and procedures described above are listed in a concise checklist that my firm uses when the attorney closes a file. Again, although it is specific to family law, it can be adapted to other areas of practice, as well. Responsibility for completing the check-

list is delegated the paralegal assigned to that file. A copy of my firm's "Closing the File Checklist" is attached to this paper as **Appendix "A."**

Note that the very first step the paralegal takes to complete the checklist is to read the Decree once again, earmarking all relevant obligations and deadlines and items requiring follow-up. In connection with completing the Closing-the-File Checklist, the paralegal also begins a draft of the "closing-the-file letter" to the client. A sample closing-the-file letter to a friendly client is attached to this paper as **Appendix "B."** In the closing-the-file letter, the attorney informs the client of all deadlines and obligations, some of which are:

- Date(s) any settlement payments are due.
- Deadlines and obligations related to the non-employee spouse's health insurance coverage under COBRA.
- Deadlines and obligations for changing life insurance beneficiary designations and providing proof of coverage.
- Obligation to comply with instructions from the child support collection agency.
- Notice dates required by the possession order and any other significant dates related to possession of the children.
- Obligation and deadlines for notifying the former spouse, the court, and the child support collection agency of any changes of employer, employer's address, and client's address.

In the closing-the-file letter, you also should send the client any of the following items that you have not given the client previously:

- Certified copy of decree or order.
- Conformed copies of any wage withholding orders, QDRO's, and any other ancillary orders rendered as a part of the final hearing.
- The client's original real estate documents *after* they have been recorded properly, file-stamped, and returned to you. (You may have to return these to the client at a later date.)
- Executed vehicle titles and/or powers of attorney.
- Any original financial records, insurance policies, diaries, photographs, and



audio- or video-tapes provided to you by the client during the course of the case.

If you have already given the client any of the final documents, state in the letter what items they were given and on what date. If you have made recommendations to your client regarding actions he or she should take to close the matter, reiterate your advice in writing in the closing-the-file letter, particularly if the client insists upon handling personally those tasks that you normally would handle in the course of closing a file.

In the past several years, as we have used electronic data more and more often in discovery, we often have clients' financial records and other information recorded on discs or flash drives, rather than held in big banker's boxes of copies. In these events, we provide a copy of the disc or flash drive to the client and offer the client the option to take back any paper copies we have accumulated over the course of the case. Due to storage limitations, we are no longer able to store voluminous files after the relevant appeals deadlines have passed; therefore, in the closing-the-file letter, we inform the client that if they do not want paper copies released to them (or if they do not pick up the boxes by X date), we will have them shredded.

In a "closing-the-file letter" to an unfriendly client, the attorney still should set out all of the different recommendations and information set out above, and enclose the same kinds of paperwork described above, but he or she also would set out at length all "loose ends" that have not been addressed because of the termination of the attorney/client relationship, or because the client specifically requested that "I do not want you to do any additional legal work for me." If documents remain unsigned; if QDRO's have not been processed; or if real estate transfer documents have not been exchanged, **set out all of those in writing** and warn your client of the consequences of leaving them undone. You probably should send copies of the letter via certified mail and regular mail.

Once the closing letter is written and sent, and the Closing-the-File Checklist

has been completed, there are no unfinished tasks, you have written confirmation of approval from any retirement plans, and the "friendly" or "unfriendly" "closing-the-file letter" has been sent to the client, then you can close the file.

## V. OTHER MEANS OF CLOSING THE CLIENT'S FILE

There may be times when a file is closed for reasons other than the logical conclusion of the case. A client may dismiss you, you might withdraw from a case, the client might choose not to pursue the case, or on rare occasions, the client may cease communicating with you altogether. If any of these events occur, you should take the proper legal steps to protect yourself from liability and to fulfill your remaining obligations to the client. Do not allow the matter simply to languish, unresolved, in your drawer.

### A. Dismissal by Your Client

If you have not yet been fired by a client, you will be at some point in the not-too-distant future. Upon facing that outcome, the attorney should prepare a Motion and Order for Withdrawal of Counsel and obtain the client's and opposing counsel's signatures before presenting the agreed Order for approval by the Court. If the client already has notified you that new counsel has been retained, ask the new attorney to prepare a Motion and Order for Substitution of Counsel (in lieu of the withdrawal motion and order), and see that these are signed and entered quickly. Cooperate with your client and her new attorney by promptly providing copies of your file and transferring to the new attorney any financial records and other materials your client has delivered to you during your representation.

The Motion and Order should state the client's last known mailing address (and, if new counsel is being substituted, the identity and address of new counsel), and should list in detail any filing deadlines, discovery deadlines, and court settings known to you at that time.

### B. Your Dismissal of a Client

If you want to withdraw from representing a client, you should follow the steps similar to those followed when the client dismisses you. The difference may be that you want to withdraw, but your client does not agree. In that event, the client should be notified in writing of the request to withdraw and given the opportunity to agree to your withdrawal by signing an agreed Order. As a safety net in the event the client will not voluntarily sign an agreed Order, you should schedule a hearing on your Motion for Withdrawal of Counsel and notify the client of her right to object to your withdrawal and to be present at the hearing.

In the written communication, assure the client that you will assist her by making her file available to new counsel. Clearly state the reasons for your request to withdraw (the client's refusal to pay fees, the client's violation of a court order, non-responsiveness by the client, a client's unrealistic expectations or unwillingness to follow advice, etc.), but do not become accusatory, do not denigrate the client personally, and avoid inflammatory terms and phrases.

Additionally, if you know that you do not want to represent that difficult or unfriendly client in the future, your closing-the-file letter should state specifically that your work is at an end and you will not perform any additional legal services for that client. If you believe that disputes between the parties will be on-going, particularly if you believe it is simply a matter of time before additional litigation is initiated by one party or the other, you may want to go through a formal withdrawal procedure, so that the opposing party cannot serve your client through you in the future. Our firm's fee letter states clearly that once the order/decre is rendered and the related paperwork is completed, we consider that the case is finished and anything else (enforcement, modification, etc.) will be treated as an entirely new matter. Sometimes, a client does not "get" that or forgets it, and perceives the matter as one continuous lawsuit, even if a year or two pass before something new is filed.

Filing a Motion for Withdrawal of Counsel and having an Order entered allowing your withdrawal provides a clear demarcation to your client and to the opposing party that a conclusion has been reached, at least as far as your involvement in the case is concerned! (This action also can protect the client, as the opposing party cannot claim to have notified or "served" your client by faxing some pleading or hearing notice to you at 4:30 p.m. on a Friday.)

### C. Dismissals or Non-Suits

If a client informs you that he or she does not wish to pursue the legal matter, do not close the file without taking some specific action, such as obtaining an Order dismissing or non-suiting the case. When the client asks that her file be closed while the case is unresolved, you should inform her (again, in writing) of her options at that time and ask for further instructions: Are you to dismiss or non-suit the case? Does she want to allow the case to remain on file, but with no action taken for a period of time? If the latter, then you also need to inform the client of the possibility that the case could be placed on the dismissal docket in the future (in which event, she will be faced with the decision to dismiss or proceed at some time in the future). If the client wants the case to remain on file, then you either should follow the procedure to withdraw as attorney of record or you should *not* close your file.

If the client chooses to dismiss or non-suit the case, then you can close your file once you have obtained the Judge's signature on the Order granting the dismissal or non-suit.

## VI. STORAGE AND MAINTENANCE OF CLOSED FILES

Per State Bar of Texas guidelines, our firm stores all closed files for a period of time following the date the file is closed or retired. Currently, our firm has not gone completely "paperless," so the actual paper divorce files and other files involving child-related matters are held for approximately 7 years following the date the file is closed or retired, at which time they are removed from storage. As mentioned

previously in this paper, several years ago, we began scanning the signed closing documents, including the Final Decree of Divorce or other final orders, the Income Withholding Orders, the recorded deeds and other transfer documents, QDRO's that have been signed and approved, and the Plan Administrators' approval letters for those QDRO's. Additionally, whenever a client's financial records have been stored electronically on disc or flash drive, we offer an opportunity to the client to take possession of those devices.

In high-document cases, where there are cumbersome discovery documents or the client had voluminous business and financial records, we offer the client the opportunity to come to the office and take those boxes. However, if the client does not want to retrieve the paper copies for the client's own records, we destroy any paper back-up copies within a month or two after any potential appeals deadlines have passed.

However, because we have years of files that were closed prior to the advent of scanners and other electronic media, we do have numerous retired files that are held in our off-site storage facility. The partners conduct an annual audit of closed files that are seven years old or older, and decide at that time whether or not a file is to be destroyed. Our firm's policy now is to hold files for seven years, due to space constraints. Files pertaining to pre-nuptial, post-marital, and partition agreements are held indefinitely. Also, when former clients have new matters involving modification or enforcement of prior orders, that seven-year deadline follows the date the *most recent* matter was closed.

Because of security concerns and the increase in incidences of identity theft, our inventory of retired files is held in a secure, bonded storage facility with a vendor who provides moving and storage services, and who has the capability to shred voluminous amounts of documents each year when we perform our retired file audit. We also have contracted with a disposal firm, who has provided us a large, locked receptacle where we can deposit things like rough drafts, notes, and other discarded documents. The disposal company then visits our office one or more times a month (depending upon volume)

and takes the items in the receptacle to be destroyed. Any wastepaper and other discarded documents that contain client names, financial information, and other identifying information (such as dates of birth, Social Security numbers, account numbers, and any other data specific to our clients) are shredded.

I know that most lawyers started taking these steps some time ago to protect their clients' information, simply as a matter of good office policy. However, the ethical duty goes farther than that and, in fact, now is required by both state and federal law. In December, 2003, a federal law was passed which is entitled the "Fair and Accurate Credit Transactions Act of 2003" ("FACTA"). This law was passed to address various issues related to consumer credit and identity theft. I believe FACTA to be the basis for all subsequent policies and recommendations for storing and protecting client files.

### A. Protecting Private Information

FACTA required that certain federal agencies must create rules to minimize identity theft and consumer fraud, including the proper destruction of documents. The Federal Trade Commission issued the "disposal rule" in November, 2004, and the Securities and Exchange Commission and federal banking agencies also adopted the rule for all organizations under their authority.

The Disposal Rule became effective as of June 1, 2005 and states that "any person who maintains or otherwise possesses consumer information for a business purpose" must properly dispose of the information by "taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal." To read the entire rule, go to [www.ftc.gov/os/2004/11/041118disposalfrn.pdf](http://www.ftc.gov/os/2004/11/041118disposalfrn.pdf).

#### 1. What Is "Consumer Information"?

Consumer information is defined in the rule as any record about an individual that is a consumer report, or is derived from a consumer report, including compilations of such

records. In a family law practice, the Inventories and Appraisements, budgets, and documents produced in response to discovery requests all could be defined as "consumer information" under this definition. In addition to these documents, a Final Decree of Divorce contains a wealth of "consumer information," virtually the entire financial identity of a couple, in its pages.

## 2. What Are "Reasonable Measures"?

Reasonable measures that can be taken to protect consumer information under the Disposal Rule are defined as follows:

- Shredding, burning, or pulverizing of papers containing consumer information so that the information cannot be easily read or reconstructed.
- Destroying or erasing electronic media containing consumer information so that the information cannot be easily read or reconstructed.
- Contracting with an entity engaged in the business of records destruction to dispose of consumer information in a manner consistent with the rule. (Due diligence must be used when contracting with the outside entity.)

## B. Non-Compliance with the Disposal Rule

The Disposal Rule provides that a consumer can bring a claim against a person or business who violates the rule within two years from the date the consumer discovers the violation or within five years from the date of the violation. In addition to whatever federal fines and penalties might be imposed against a law firm found guilty of such a violation, you can imagine the adverse publicity your firm would receive after such a breach became public.

Give careful consideration to your file maintenance and storage policies, and make certain you have in place procedures that safeguard your clients' files and protect you from liability.

## C. Similar Texas Statutes and Rules Pertaining to Confidential Information

Texas lawyers should be mindful of the ethical and legal duties of lawyers to protect private information, as set out in the following:

1. Rule 1.05 Texas Disciplinary Rules of Professional Conduct (confidentiality of information).
2. Rule 21c Texas Rules of Civil Procedure (sensitive data).
3. Chapter 501 Texas Business & Commerce Code (protection of Social Security numbers).
4. Chapter 181 Texas Health & Safety Code (privacy of medical records).

Particularly if you are a solo practitioner, the managing partner of a firm, or the lawyer responsible for policies and procedures in your office, you must be familiar with these requirements and prepared to impose safeguards and procedures for your staff to follow to protect your clients' confidential information.

## VII. CONCLUSION

As stated in my firm's fee letter, much of the valuable work performed in a case comes after settlement is reached or after you leave the courtroom. Good drafting, thorough follow-through, and attention to details and deadlines will help you improve the quality of your work and leave you with friendly, satisfied clients who will recommend you to others.

And, in those instances when you part with the unfriendly client, these same good practices can protect and help you defend yourself and your firm in the event a grievance or lawsuit is filed against you.

Closing a file properly, maintaining your closed files securely, and protecting your clients' confidential information require considerable time and effort, but diligence in these areas can be some of the most important steps in the process.

*Kelly Ausley-Flores, Attorney at Law,  
Austin, Texas Board of Legal Specialization-  
Family Law*

# People Skills: Indispensable Qualities for Successful People

*by Judge Oscar G. Gabaldón, Jr., CWLS. This article is reprinted with permission from the El Paso Bar Journal.*

"Your career success in the workplace of today—independent of technical expertise—depends on the quality of your people skills."

—Max Messmer Jr., *Managing Your Career for Dummies*

Whether we are involved in the practice of law, the art of teaching, the healing arts, the sciences, or some other career pursuits, most people would agree that an academically-inclined mind is a very useful means to a more

successful career. While this may be true in many cases, it is usually undisputed that intellectual ability often defers to the quality of our "people skills" as being a more promising indicator of our potential to better succeed professionally, as well as succeed in our everyday personal relationships.

Good people skills are unlike other desirable career attributes. Attributes, such as comprehension skills, creativity, and technical literacy are highly valued in the work place; however, no matter how much we may excel in developing these kinds of qualities, if we are lacking in good people skills, the odds are that our career progression and our efforts to maintain

healthy personal relationships may face a challenging uphill battle.

Perhaps at the center of our commitment and perseverance in seeking to grow and flourish in our people skills is to have the insight that allows us to recognize and embrace the dignity and value of human beings. The more we respect the dignity and value of others, the better we are able to intensify our overall people skills.

We can develop and improve our people skills. The more people skills that we can nurture and master, the more «doors of opportunity» will open up for us on our trek towards our professional and personal aspirations and successes. Jacquelyn Smith, who worked for Forbes as a Leadership Reporter, and who is the coauthor of "Find and Keep Your Dream Job: The Definitive Careers Guide from Forbes," wrote an online article entitled, «The 20 People Skills You Need to Succeed at Work.» Those vital skills are (1) the ability to relate to others, (2) strong communication skills, (3) patience with others, (4) the ability to trust others, (5) knowing how and when to show empa-

thy, (6) active listening skills, (7) genuine interest in others, (8) flexibility, (9) good judgment, (10) the ability to persuade others, (11) negotiation skills, (12) the ability to keep an open mind, (13) a great sense of humor, (14) knowing your audience, (15) honesty, (16) awareness of body language, (17) proactive problem solving, (18) leadership skills, (19) good manners, and (20) the ability to be supportive and motivate others. Most of us already possess some of these skills. A few possess all of them. Regardless, these skills are obtainable and can always be enhanced.

We must keep in mind, though, that it is more difficult to develop our people skills if we do not first learn to be more accepting of ourselves and regard ourselves in a more positive light. How we feel about ourselves has a significant effect on how well we can more genuinely reach out and relate to others. Wilfred Peterson, an American author who wrote a monthly column for *Science of Mind* magazine, explains this idea by saying that "The art of being yourself at your best is the art of unfolding your personality into the man you want to be. Be gentle with yourself,

learn to love yourself, to forgive yourself, for only as we have the right attitude toward ourselves can we have the right attitude toward others."

It is often the case that our ability to embody an array of admirable people skills is proportionate to our sincere desire to reach out to our fellow men and women. The more we are concerned about the happiness, betterment, and well-being of others, the more we aspire to grow and mature in our people skills. After all, it is part of our mission in life to gently touch hearts, especially sad, somber, or forgotten hearts that are in need of reassurance and hope, for as the saying goes, "No one needs a smile as much as a person who fails to give one."

*Judge Oscar G. Gabaldón, Jr., CWLS is a former Associate Judge of the 65th District Court in El Paso County and former Director of the El Paso Bar Association. He is certified by the National Association of Counsel for Children as a Child Welfare Law Specialist (CWLS).*

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## What Technology and E-Discovery Essentials Do Attorneys and Paralegals Need to Know?

*By Stephanie R. Sterling, TBLS-BCP, District 4 Director and Parliamentarian*

This question was the topic at a brainstorming session of the State Bar of Texas Technology Program meeting held on January 13, 2017, at the U.S. District Courthouse in Austin, Texas. U.S. District Judge Xavier Rodriguez, the Technology Program Chair, gathered a group of attorneys, judges, educators, a paralegal and state bar staff to discuss technology essentials and the best approach to offer the necessary education and training.

There was an extensive list of topics and questions deliberated at this meeting, but the main topics and questions discussed were as follows:

- How to become more efficient with technology?
- What are the necessary technology law office essentials?
- Metadata scrub;
- The cloud;
- Data security and How to prevent a breach of data?
- What to do in the event of a breach?

- Email encryption;
- Mobile devices and security;
- E-filing in federal and state courts;
- What data to retain to defend a grievance or malpractice action?
- Social media and evidence issues;
- E-discovery; and
- Ethics and technology

Today, there are many ethical obligations being imposed on attorneys to understand technology and the effects of technology on their law practice as well as



their clients. It was mentioned that some malpractice insurance carriers are providing discounts to attorneys for CLE training in technology and social media topics.

The group considered how some states are beginning to require a minimum number of "tech" CLE hours for attorneys, such as Florida and other state bars are compiling technology guidelines. In Texas, attorneys currently have a 15 hour CLE requirement, but there is no MCLE credit for "tech" programs. There was much discussion on what would be best for Texas to implement regarding technology training for attorneys.

Technology is very complex and convoluted, so the committee met for most of the day to arrive at the current best course of action on legal "tech" education and training. At this time, the general consensus was to begin encouraging technology education and to work on obtaining MCLE credit for "tech" CLE courses. The Technology Program brainstorming group will identify speakers on the topics listed above and on the extensive list circulated at the meeting. The TexasBarCLE and

Law Practice Management (LPM) will explore recommending technology topics and speakers to State Bar Sections and CLE Planning Committees. The staff of TexasBarCLE and LPM will also research various vendors to determine how to best offer "tech" training programs to attorneys as well as paralegals. This could be very helpful to paralegals to have some TexasBarCLE technology programs, especially on the items we tend to deal with every day, such as e-filing, cloud options, document production, metadata, e-discovery and electronically stored information (ESI).

To effectively support the attorneys that we work for, paralegals should always stay on top of the rapidly evolving technology landscape. Paralegals also have specific ethical considerations to be competent in the applications and programs that we utilize at the office. TexasBarCLE offering these future "tech" programs will be another excellent choice for paralegals. Paralegals already have several outstanding options to stay apprised on technology changes, such as the Paralegal Division

webinars and District CLEs. To learn more about Paralegal Division webinar opportunities, please visit <http://txpd.inreachce.com/> and you can view the CLE calendar featuring CLE events all over the state at this link <https://txpd.org/calendar/calendar.asp>.

If you have any suggestions on technology topics or speakers, please contact your District Director with your technology CLE suggestions. Remember that knowledge is the key to equip us in effectively and efficiently performing our duties as paralegals. Our attorneys will be extremely grateful and appreciative that we continue to educate ourselves on all technology issues.

*Stephanie R. Sterling is the District 4 Director and Parliamentarian of the Paralegal Division. Stephanie is a Texas Board of Legal Specialization Board Certified Paralegal in Civil Trial Law with the law firm of DuBois, Bryant & Campbell, LLP in Austin and she handles complex construction and commercial litigation matters.*

## Things to Consider When Attending an Out-of-Town Trial

*By Edna W. Garza, TBLS-BCP—Civil Trial Law*

**M**ost litigation paralegals may have to attend an out-of-town trial on a regular basis. Whether a trial is scheduled in a neighboring county, across the state, or maybe even somewhere else in the United States, one of the most important things to consider when attending an out-of-town trial is to make sure that you or the person making the hotel accommodations makes the reservations well in advance *but* only after the court has confirmed that your client's case will proceed to trial.

The second most important thing to consider when making hotel reservations for everyone on the trial team is to reserve

an extra room or a conference room which will be used as the "war room." The war room should have several tables (which will become work stations for members of the trial team), chairs, shelves, and desk lamps. In addition, the war room should be well-stocked with office supplies (*i.e.* pens, staplers, tape, note pads, sticky notes, highlighters, markers, exhibit labels, and clips). And don't forget the snacks and beverages which may include: fruits, chips, cookies, energy bars and nuts, water bottles, an array of sodas, teas and/or power drinks.

The file boxes and exhibits will be stored in the war room for easy access

to and from the courthouse. No files or exhibits should be taken out of the war room; documents lost or misplaced during trial can become a nightmare! Make sure you keep track of documents and exhibits admitted into evidence during the trial. This is one of the most important tasks you will have to do at trial so stay organized, focused, and alert!

Each person should have a laptop, desk top or iPad with internet access. You should also take a printer, a wireless router containing your case, a color copier-scanner; connectors for iPad to projector, a projector screen, mouse pads, extension cords, surge protectors, toner cartridges (for the printers); duct tape; and plenty of batteries in all sizes.

Other things to take with you when attending an out-of-town trial are several reams of copy paper, colored paper, various-sized notebook binders, staplers and staples, tape and tape dispensers, heavy-duty stapler, notebook dividers, Redweld folders (letter size), rule books, phone chargers, notary stamp and book,

conference room tray, easel and pad, paper cutter, packing tape, memory sticks (USB flash drives), Federal Express shipping supplies, a dolly, laser pointer, paper plates, napkins and utensils, and a coffee machine. And don't forget your "trial box," which includes most of the office supplies.

Once you arrive at your destination, become familiar with the local vendors (i.e. copy service, courier service, dry cleaner and local restaurants that will deliver to the courthouse and/or your hotel) and your new surroundings (i.e. rush hour).

A trial in general can be very tiring and overwhelming, so be prepared to work even longer hours in an out-of-town trial! It's not uncommon for litigation paralegals to have to work way into the late night and then have to get up very early the next day in order to get to the courthouse to set up equipment, organize trial binders and exhibits before the commencement of trial each day.

Finally, before you leave the office to go on the out-of-town trial, make sure to copy your file onto the external drive; change the telephone voicemail message, turn on the auto-response e-mail setting,

and review the calendar for up-coming deadlines.



*Edna W. Garza, TBLS-BCP, is the Director for District 15 and a litigation paralegal for Kittleman*

*Thomas, PLLC, McAllen, Texas.*

## When to Say 'No' . . . and When Refusing a Notarization Is Not Allowed

*by Kelle Clarke, a regular contributor to the National Notary Association. Reprinted with permission.*

**M**ost of the time Notaries perform notarial services for customers because there requests are legal and there is no legitimate basis for refusing the request. But there are times when you have to turn down a request, and it's critical to know when you can—and cannot—refuse a notarization to protect the public from fraud.

**WHEN TO REFUSE A NOTARIZATION** Many states have specific statutes or regulations which explain when exactly a Notary is permitted or required to refuse service. You can generally refer to your state's Notary website, Notary handbook, or one of the NNA's *Notary Law Primers* for the requirements you need to follow.

Below are some of the main reasons you might be required to refuse a notarization. Keep in mind that they do not all apply in every state.

### 1. SIGNER DISQUALIFICATIONS

This occurs when the signer does not meet certain qualifications for the notarization. These may include:

- The signer is not physically present

- The signer cannot be properly identified
- The signer does not speak the same language as the Notary
- The signer is unwilling to swear or affirm the contents of the document for notarizations that require an oath or affirmation
- You have reason to believe the signer appears to be confused, disoriented, or lacks the mental capacity to sign documents
- You have reason to believe that the signer is being coerced to sign, rather than signing of his or her own free will

### 2. DOCUMENT DISQUALIFICATIONS

This occurs when the document doesn't meet certain requirements. Situations may include:

- The document contains blank spaces or missing pages
- The document does not contain a notarial certificate, and the signer cannot or will not instruct the Notary which type of notarial certificate is required

- The signer wants you to certify a copy of a vital record, such as a birth certificate, which you are not permitted to do

### 3. NOTARY DISQUALIFICATIONS

There are times when the notarization presents a conflict of interest that impairs the Notary's impartiality. These may include:

- You are a signer of the document
- You are named as a party to the underlying transaction or have a financial or beneficial interest in the transaction
- The signer is your spouse, parent or child

### 4. OTHER DISQUALIFYING SITUATIONS

Here are several other potential situations when you should refuse the request:

- You know or suspect the transaction is false, illegal or deceptive
- The act being requested is not an authorized notarial act
- The signer is unable or unwilling to pay the required fee
- The request is made outside of your regular office hours
- The request violates your workplace guidelines

### WHEN YOU SHOULDN'T SAY 'NO'

Generally, if a requested notarial act is lawful, the Notary should not refuse to perform it. Scenarios that may be difficult for a Notary to refuse are the following:

## 1. REFUSALS BASED ON PERSONAL BIAS OR BELIEFS

- **Signer Bias:** As a public official, you should not refuse a notarization based on personal feelings you may have about the signer's nationality, religion, race, age, lifestyle, gender, or disabilities.
- **Controversial Documents:** You should not refuse to notarize documents that contain content related to controversial issues, such as same-sex unions, assisted suicide, use of medical marijuana, or abortion you disagree with. Article I-A-3 of *The Notary Public Code of Professional Responsibility* states that a Notary should not refuse to perform a lawful and proper notarial act "because of disagreement with the statements or purpose of a lawful document." Even if the contents of a document violate your personal beliefs, this is not reason enough to refuse a notarization. Remember: notarizing a document does not mean you are personally endorsing or agreeing with its contents. You are simply acting as an impartial, third party witness and verifying the identity of the signer.

## TIPS FOR REFUSING A NOTARIZATION

Refusing a notarization may result in a confrontation with an upset signer, who may feel inconvenienced, or, in the worst case scenario, accuse you of unlawful discrimination. Remain calm and follow these best practices:

- **Be Tactful:** Speak to clients in a calm, respectful manner. Always maintain your professionalism, and avoid getting drawn into a debate with the signer regarding the refusal.
- **Explain Yourself:** Offer a clear explanation of how the improper action being requested violates the law, and that doing so may not only get the signer in trouble, but it can also cost you your Notary commission and payment of hefty penalty fees.
- **Document the Refusal:** Document the refusal in your notarial journal, detailing the exact reason for the refusal, in case it should be questioned down the line.

## 2. LEGAL REQUIREMENTS VS. BEST PRACTICES

- It's important to remember the difference between a legal requirement and best practice. For example, when it comes to taking signer's thumbprints, you must not refuse a notarization based solely on the signer's refusal to leave a thumbprint—unless you are commissioned in a state that requires collecting journal thumbprints for certain transactions (namely, California

and Illinois). The same would apply to signers who are opposed to signing a journal in a state where a journal signature is not required.

*Published by the National Notary Association, 9350 DeSoto Ave., Chatsworth, Calif., 91311-4926, and reprinted with permission. Contact the NNA at (800) 876-6827 or online at [www.nationalnotary.org](http://www.nationalnotary.org).*

## PARALEGAL DIVISION ONLINE STORE

*A Division With Vision . . . Empowering Paralegals!*

### About us . . .

The State Bar of Texas was the first bar association in the United States to create a separate division for paralegals. The Division was created on October 23, 1981, and charged with "enhancing legal assistants' participation in the administration of justice, professional responsibility, and public service in cooperation with the State Bar." The term legal assistants later was changed to "paralegals." The Division looks forward to fulfilling its mandate enthusiastically, energetically and professionally.

The Paralegal Division of the State Bar of Texas offers members merchandise to promote the paralegal profession and their membership of the Paralegal Division.

1981 [www.txpdl.org](http://www.txpdl.org) 2016

### PD and 35th Anniversary Products

The Paralegal Division was created in 1981. This year, we are celebrating our 35th Anniversary and offering the all products with our 35th Anniversary seal! These products will be available for a limited time.

The PD is offering PD products with its traditional logo, as well as 35th Anniversary logo products (in Black and White or Bronze).

Go to the PD online store today!

<http://www.cafepress.com/paralegaldivision>



## Paralegal Division Luncheon and Annual Meeting

STATE OF THE DIVISION AND SWEARING IN OF NEW OFFICERS AND DIRECTORS

**REGISTER ONLINE ONLY**

**3 HOURS OF CLE AVAILABLE**  
(Including .50 Hours of Ethics)

**Friday, June 23, 2017**

9:00 am–1:30 pm

Crowne Plaza Dallas Galleria  
14315 Midway Road, Addison, TX 75001

### *Writing and Cloud Storage: The Paralegal's New Legal Pad*

**Keynote Speaker:**

**Peter S. Vogel, Esq.**  
of Gardere, Dallas

*“Keep Investigations About Cyber Intrusions Confidential and Reporting Cyber Intrusions in the US and Around the World”*

Also featuring

**Tom Mighell, Esq.**

**Robert J. Bogdanowicz, III, Esq.**

Registration Fees (**deadline June 5**):

On-Site registration is not available

\$55—on or before May 29, 2017/\$60—May 30–June 5, 2017

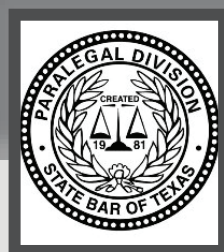
Register **Online** beginning April 3, 2017 by credit card or check.

[www.txpd.org](http://www.txpd.org)



# Paralegal Division of the State Bar of Texas

10/4/17-10/6/17



[www.txpd.org/taps](http://www.txpd.org/taps)



# TAPS *UnMasqued* KNOWLEDGE AWAITS 2017

Crowne Plaza  Addison, Texas



**Online Registration Opens June 1**

Three-Day registration includes 14 CLE hours,  
speaker materials, 2 social events, and Keynote luncheon.  
Single day registrations are available for CLE and seminar materials.

## ***Hotel Reservations***

The reservation deadline is September 12, 2017. Hotel reservations must be booked and cancelled through the Crowne Plaza. Guest room rate is \$139 for single/double. To reserve a room, [register online](#) or call 972-980-8877 and specify group **TAPS 2017 Paralegal Division State Bar Group** (call in only).

Note: Call if the desired room you are reserving is not available online.



# PARALEGAL DIVISION ANNOUNCES **TAPS 2017 SCHOLARSHIP**



For the upcoming 2017 Texas Advanced Paralegal Seminar (TAPS), a three-day CLE seminar, the PARALEGAL DIVISION of the State Bar of Texas will award up to two (2) educational scholarships for the three-day registration to attend the TAPS 2017 seminar, "*TAPS Unmasked: The Mystery Awaits.*" Below are the guidelines and application for applying for this scholarship.

1. The Recipient must be a member (or apply for membership) of the Paralegal Division of the State Bar of Texas.
2. To apply for a TAPS scholarship, the applicant is required to submit a written essay on the following:  
*Why is CLE important to paralegals, even when certification or membership doesn't depend on it?*  
*Things may come to those who wait, but only the things left by those who hustle. ~Abraham Lincoln*  
*Even if you're on the right track, you'll get run over if you just sit there. ~Will Rogers*  
The essay must be two (2) pages in length and double-spaced.
3. To apply for a TAPS scholarship, the applicant is **required to provide two (2) letters of personal reference**, which describe the applicant's involvement in the paralegal profession.
4. Financial need shall be a contributing factor, but not a requirement. However, if two or more applicants are tied in meeting the criteria for the scholarship, financial need shall be the determining factor.
5. Recipients are required to volunteer a minimum of three hours on-site during the event.

#### **Other**

1. No money will be sent directly to the recipient.
2. The scholarship for TAPS shall cover the cost of the three-day registration, but does not include the socials, travel, or hotel expenses.
3. The scholarship selection committee for reviewing scholarship applications for TAPS shall be composed of the Chair of the TAPS Planning Committee, one Planning Committee Sub-Committee Chair, and the Board Advisor to the TAPS Planning Committee.

The Paralegal Division of the State Bar of Texas will award scholarships for TAPS 2017 which will cover the cost of registration in accordance with the TAPS scholarship guidelines.

### **TAPS 2017 SCHOLARSHIP APPLICATION**

**IMPORTANT: ALL APPLICATIONS FOR A SCHOLARSHIP FOR TAPS 2017 MUST BE RECEIVED BY THURSDAY, JULY 20, 2017. DATE OF TAPS 2017: October 4-6, 2017, Addison, Texas.**

Name \_\_\_\_\_ PD Membership No. \_\_\_\_\_  
Home Address \_\_\_\_\_  
Home Telephone \_\_\_\_\_ Email Address \_\_\_\_\_  
Work Address \_\_\_\_\_  
Work Telephone \_\_\_\_\_ Fax Number \_\_\_\_\_  
Employer \_\_\_\_\_

Are you a member of a local paralegal organization that offers a scholarship award? \_\_\_\_\_

Give a detailed description of your reason for seeking a scholarship to TAPS 2017: \_\_\_\_\_

**Attach two (2) letters of personal reference and your written essay to this application.** Applications should be mailed to: Mona Tucker, Scholarship Chair of the TAPS Planning Committee, 2434 US Hwy 59 N, Carthage, TX 75633, or email to [taps@txpd.org](mailto:taps@txpd.org). *Scholarship recipients will be notified by letter or email by August 9, 2017.*

\_\_\_\_\_  
Applicant's Signature

**Attach any additional explanations**

# COURTEX:

## News from the Office of Court Administration

Reprinted with permission from the Office of Administration CourTex

### CHIEF JUSTICE PUSHES COURT-HOUSE SECURITY, OTHER REFORMS IN STATE OF JUDICIARY

**Press Release on the State of the Judiciary delivered Wednesday, February 1, 2017.**

In his second State of the Judiciary address Chief Justice Nathan L. Hecht urged legislators Wednesday to redouble courthouse security across Texas and provide money to protect judges from known threats as well as changes in the law to protect their personal information.

Speaking to state senators and representatives in the House chamber, Chief Justice Hecht also urged them to revamp procedures to assure judicial salaries remain competitive and in line with inflation; to keep legal-aid financing a priority; to close the “justice gap” between people who can afford lawyers and those who cannot; and to implement reforms to the bail system to assure bail “must not extend beyond its justifications.”

Hecht introduced Travis County Criminal District Judge Julie Kocurek, who was ambushed in November 2015 outside her Austin home and advocated for money to protect judges who have been threatened, as Kocurek was before she was shot, and to keep personal information about judges confidential.

Noting that she returned to her courtroom rather than retire, Hecht said: “With judges like Judge Kocurek serving the people of Texas every day, I am proud to report to you that the state of the Texas judiciary is strong.” He advocated reforms proposed by the Texas Judicial Council, a policymaking body, embodied in Senate Bill 42 by Sen. Judith Zaffirini of Laredo.

“I urge its passage,” the chief justice said, “and I hope you will entitle it the ‘Judge Julie Kocurek Judicial and Court-house Security Act of 2017.’”

Federal prosecutors have since indicted suspected assailants. Hecht also advocated Texas Judicial Council proposals for more effective treatment for criminal defendants who suffer mental illness and for reform-

ing procedures by which minor offenders are assessed fines and fees. “Most people ticketed just paid the fine and court costs. Others needed a little time and were put on payment plans for an extra fee,” Hecht said.

But more than \$1 billion was collected and 16 percent—offenders in about 640,000 cases—were jailed for failing to pay fines and fees involving minor cases. “Jailing criminal defendants who cannot pay their fines and court costs—commonly called debtors’ prison—keeps them from jobs, hurts their families, makes them dependent on society, and costs the taxpayers money,” he told the Legislature. “Most importantly, it is illegal under the United States Constitution.”

Hecht said such fines and fees even include fees for making a payment to satisfy a fine.

Hecht also:

- Proposed a “new, data-based, fact-driven approach” to implement biennial recommendations by the Judicial Compensation Commission for judicial salaries in Texas. “All we need is to agree on a simple mathematical formula to use from now on,” he said, “then each session, just plug in the numbers. Tie legislative retirement to the formula, or not. None of it would ever have to be debated again. A formula now would settle the matter once and for all.”
- Hecht said Texas judicial salaries rank 27th among all states and last among the six largest states. “Judge Kocurek reminds us again that judges serve at considerable personal sacrifice, including inadequate compensation,” he said. “Judicial pay is a topic of almost every State of the Judiciary address. I would like to change that.”
- Urged continued appropriations for legal-aid assistance for the poor. “Legal aid helps the poor be productive and adds to the economy’s bottom line. That’s why national CEOs and general counsel support access to justice

initiatives—they’re good for employees, good for customers, good for communities and good for business.”

“And besides all that, it’s the right thing to do. As much as has been done, only 10 percent of the civil legal needs are actually being met.”

- Urged continued support for the Texas State Law Library in one stroke that would help people who cannot afford lawyers’ assistance, a broad endeavor for which the Texas Supreme Court appointed a commission—the so-called justice gap commission—to recommend specific ways to make legal services more affordable. The state law library offers free services to lawyers and non-lawyers alike.

“If justice were food, too many would be starving,” he said. “If it were housing, too many would be homeless. If it were medicine, too many would be sick. If it were faith, too many houses of worship would be closed.”

- Promoted a statewide system for making court records available online. Noting the Legislature created the Judicial Committee on Information Technology years ago, Hecht said the committee was ready to propose statewide records access, protecting those records from abusive “data mining” and the means to support counties in creating a state system. “A statewide system will also provide more information about how the work of courts is changing, what kinds of cases the courts are handled and what improvements can be made. In planning for the future, this information is crucial.”
  - Tackled the perennial judicial-selection issue, addressing partisan presidential voting that has doomed good judges caught election moods. “These kinds of partisan sweeps are common, with judicial candidates at the mercy of the top of the ticket.
- “Such partisan sweeps are demoralizing to

judges and disruptive to the legal system. But worse than that, when partisan politics is the driving force, and the political climate is as harsh as ours has become, judicial elections make judges more political, and judicial independence is the casualty.”

### **Court Adopts Recommendations for Limited Access to Electronic Case Filings**

The Texas Supreme Court has adopted recommendations from the Judicial Committee on Information Technology that will provide varying access to electronic judicial records by judges, lawyers in their own cases, visiting judges assigned to specific cases and court clerks. The access will be through a system called re:SearchTX.

The order specifies the following access:

- A judge may access all case index information and all electronically filed documents in any case in any court. Justice court and municipal court judges are not included.
- Attorney on the case, visiting judge. An attorney on a case may access case index information and all electronically filed documents for any case in which he or she is attorney of record or has made an appearance in the case. A visiting judge may access case index information and all electronically filed documents in a case to which he or she is assigned.
- Clerks. For purposes of re:SearchTX, a clerk has the same permission level as a judge for cases filed in the district or county. A clerk may access case-index information and all electronically filed documents for any case in the district or county. Additionally, clerks will have access to reports and other system features that will allow them to configure systems and to provide them with additional information concerning their offices.

Under the order, the Office of Court Administration will maintain electronic copies of all case records filed in the state’s e-filing court-filing system for use in re:SearchTX.

### **Retired Chief Justice Pope Lived to 103**

Retired Texas Chief Justice Jack Pope, who helped establish formal judicial education for Texas judges, fought for a voluntary

judicial-ethics code when judges had none and fought again to make that code mandatory and enforceable, died at his Austin home Saturday at 103. He served Texas for 39 years as a district court judge, court of appeals justice and on the Supreme Court, the last two as chief justice.

His judicial tenure, as a whole, was the longest of any Texas Supreme Court justice.

“Chief Justice Jack Pope was a judicial icon,” Chief Justice Nathan L. Hecht said. “His hard work, scholarship, common sense, humor, and integrity are legendary. No Texas judge has ever been more committed to serving the rule of law and the cause of justice. He was my mentor, role model, counselor, and most especially, my friend. Texas has lost a great, great man.” More...

### **CASA Honors Judge Sylvia Chavez**

On February 23, Midland Kappa Alpha Theta Alumnae Chapter held the Power of One Luncheon & Children’s Style Show to benefit CASA of West Texas. Judge Sylvia Chavez was honored for the positive impact she has made in the lives of thousands of local abused and neglected children in the foster care system. This event was a celebration of the power one person has to positively change the life of a child in need.

### **Court Statistics Project releases new edition of Examining the Work of State Courts**

The new edition of Examining the Work of State Courts reports that total state court caseloads continued their steady decline, dropping an additional 5 percent between 2014 and 2015. Criminal, juvenile, and domestic relations cases leveled off from 2014 to 2015, while civil and traffic/violations cases continued to drop. The reasons for the decline, which began in 2008, include reductions in budgets and services throughout the criminal and juvenile justice system, changes in driving habits and automobile technologies, a decline in the divorce rate, and alternative modes of dispute resolution and simply discouragement with a slow, complicated, and expensive civil justice system. Appellate caseloads have followed the same downward trend, declining an additional 3 percent from

2014 to 2015. Examining documents these caseload trends, while the Court Statistics Project’s online DataViewer tool allows readers to explore these data by sorting, filtering, and exporting the data. More...

### **Re:SearchTX Update**

JCIT continues to deliberate to make additional recommendations to the Supreme Court regarding Re:SearchTX’s expansion to additional user types. JCIT’s next meeting is scheduled for March 3rd. Discussions will continue on recommendations to the Supreme Court on Re:SearchTX policy issues.

## **RESEARCH & COURT SERVICES SPOTLIGHT:**

### **Court Costs, Fines & Fees**

The following resources may help you address issues related to court costs, fines and fees.

Resources to Assist Local Collection Programs in Implementing the Amended Rules

On August 19, 2016, the Texas Judicial Council approved amendments to the rules that govern the implementation and operation of programs operated by counties and municipalities to improve the collection of court costs, fees, and fines (Title 1, Chapter 175, Texas Administrative Code). The primary goal of the amendments is to provide procedures that will help defendants comply with court-ordered costs, fines and fees without imposing undue hardship on defendants and their dependents. OCA provides resources to assist local collection programs in implementing the amended rules. Resources include sample language for defendant notification for past-due payments, a sample standard acknowledgement form, and training slides on the amended rules.

Source: Office of Court Administration

### **CourTools: Trial Court Performance Measures**

The National Center for State Courts’ CourTools suite of products supports local courts’ efforts to improve their performance by helping them clarify their performance goals; develop a performance



measurement plan; and document success. New measures related to offender compliance with legal financial obligations have been released:

- 7a Ensuring Fairness in Legal Financial Obligations: This measure evaluates the extent to which the court is seen by its customers to demonstrate fairness, respect, equal treatment, and concern in the imposition of legal financial obligations.
- 7b Management of Legal Financial Obligations: This focus of this measure is on the extent to which a court successfully manages the enforcement of court orders requiring payment of legal financial obligations.
- 7c Fair Practices for Legal Financial Obligations: This measure provides a method of self-assessment for court personnel to evaluate the utility of their current processes and gauge the importance of incorporating additional recognized good practices to enhance defendant compliance with LFOs.  
Source: National Center for State Courts

**National Association for Court Management Midyear 2017 Conference Session: The End of Debtor's Prisons: Effective Court Policies for Successful Compliance with Legal Financial Obligations.**

This video features a presentation by panelists discussing the Conference of State Court Administrators Policy Paper most recent policy paper, *The End of Debtors' Prisons: Effective Court Policies for Successful Compliance with Legal Financial Obligations* (2015-2016). The focus of the paper is on the specific practices that courts can adopt to minimize the negative impact of court debt while ensuring accountability for individuals who violate the law.

Source: National Association for Court Management

**National Task Force on Fines, Fees and Bail Practices Resource Center**

The Conference of Chief Justices and the Conference of State Court Administrators formed a National Task Force on Fines, Fees and Bail Practices to address the ongoing impact that these legal financial

obligations (LFOs) have on economically disadvantaged communities and to draft model statutes and court rules for setting, collecting, and waiving court-imposed payments.

The Task Force has created a Resource Center that includes products created by the National Task Force and highlights other resources related to these issues. One of the products created by the Task Force is the Lawful Collection of Legal Financial Obligations: A Bench Card For Judges.

Source: National Task Force on Fines, Fees and Bail Practices

For additional information on this topic or to discuss how OCA can help you with issues related to court costs, fines and fees, please contact OCA's Scott Griffith, Director of Research and Court Services, or Amanda Stites, Court Services Manager at (512) 463-1625.

**Beyond the Bench: Law, Justice, and Communities Summit**

Texas' two highest courts, the Supreme Court of Texas and the Texas Court of Criminal Appeals, spearheaded the Beyond the Bench: Law, Justice, and Communities Summit on December 14, 2016 in Dallas, Texas. The Summit brought together Texas judges, law-enforcement officers, and national, state, and community leaders with the objective of strengthening trust and confidence in our justice system.

Public trust is the justice system's principal asset but a recent study by the National Center for State Courts found there is widespread public perception that our courts do not provide justice for all. At the Summit, participants explored diverse viewpoints and engaged in candid conversations to listen and learn from one another.

The Beyond the Bench Toolkit was created to offer assistance in planning similar convenings and to inspire continued conversation about this important issue. The Toolkit includes video and details from the event and is now available on the Texas Judicial Branch website.

**Judicial Appointments**

Governor Greg Abbott has reappointed

Alex Bunin and Don Hase to the Governing Board of the Texas Indigent Defense Commission for terms set to expire February 1, 2019.  
View article...

**Free Online Self-Paced Learning for Judges**

The National Judicial College offers free online self-paced programs so that you can advance your judicial education in the comfort of your home and at your own pace.

**FEATURED COURSES:**

**An Ethical Approach to the Commercial Motor Vehicle Safety Act of 1986**

The goal of this self-study course is to assist judges with increasing their knowledge surrounding the goals of the Commercial Motor Vehicle Safety Act of 1986 (CMV-SA), basic terms and provisions unique to CDL laws, who is required to be licensed, and the various classes of commercial motor vehicles.

Register

**Handling Inquiries from the Media: A Primer for Judges**

Notorious cases with high media interest can be assigned to you in any court. What should you do when a reporter calls or shows up on your doorstep with a camera crew in tow? Judges who need immediate help with these situations now have a resource at their fingertips.

Register

**Probate Matters: A Self-Study Online Course**

According to the U.S. Census Bureau's projections, the older adult population will double between 2010 and 2030. As the population of America ages, probate courts will necessarily see an increase in the types of cases that they process—guardianships, conservatorships, elder abuse protection petitions, and matters pertaining to estates.

Register

To join the OCA's newsletter list, visit <http://www.txcourts.gov/publications-training/publications/courtex/>

## THE PD APP NEEDS YOUR CLE!



Having membership renewals completely online will mean that you will need to input your CLE online too. Utilizing the Paralegal Division CLE portal is more important than ever! To update your CLE, go to [www.txpd.org](http://www.txpd.org)->Directory->View My CLE Records->Log On to enter your CLE or use the Paralegal Division App!

There will be a **BRIGHT BLUE POSTCARD** coming your way in the mail in April to notify you to renew your membership only AND THIS **BRIGHT BLUE POSTCARD** WILL BE YOUR ONLY REMINDER TO RENEW your membership starting May 1st. Tack it to your fridge, put it with your bills and/or snap a photo and add it to your smart phone notes or calendar!

(The Paralegal Division App is a web-based app that allows PD members to add the app icon to their homepage on their handheld devices. Once members log on, they will be able to manage their CLE hours on the go, and call up the *Texas Paralegal Journal* (TPJ) on their handheld devices! To download the app, please click or go to <http://txpd.org/myapp>)

## Congratulations to NALA CPs/ACPs for 2016!

Kimberly Assunto—CP; Alysa Baker—ACP Discovery; Linda Carrette—ACP E-Discovery, Trial Practice; Ruth Conley—ACP E-Discovery; Pamela Etie—ACP Business Organizations: Noncorporate Entities; Kimberley Fox—ACP Family Law: Division of Property and Spousal Support; Jane Hogan—CP; Jennifer Justiss—ACP E-Discovery; Donna Kelley—ACP E-Discovery; Annette Norred—CP, ACP Commercial Bankruptcy; Yoojung Allison Ro—ACP Business Organizations: Incorporated Entities; Michelle Rowland—ACP Real Estate Principles; Sandra Seutter—CP; Suzanne Wilkinson—ACP Estate Planning; Christianna Yarborough—CP; and Deborah Zal—ACP Automobile Accidents

# TEXAS BOARD OF LEGAL SPECIALIZATION

## Paralegal Board Certification Program

### TBLS—BCP



WWW.TBLS.ORG

There are currently  
356 Texas Board  
Certified Paralegals

Established by TBLS in 1994, the paralegal certification program recognizes the quality of services of paralegals who have achieved a level of special knowledge in a particular area of law. The program is the only state organization authorized to certify paralegals as specialist in specialty areas of law.

Request next year's certification application forms via email at [tbls@tbls.org](mailto:tbls@tbls.org).

Examination for Paralegal Board Certification will be Mid-November in Austin.

The paralegal certification process closely parallels the attorney certification process:

a minimum of five years of actual experience as a paralegal

a thorough assessment of the paralegal's

experience and duties under the supervision of a licensed Texas attorney

30 hours of Continuing Legal Education in the specialty area

completion of Baccalaureate or higher degree or completion of an accredited paralegal program or 2 additional years of relevant paralegal experience

#### PARALEGAL SPECIALTY AREAS

Bankruptcy Law  
Civil Trial Law  
Criminal Law  
Estate Planning & Probate  
Law Family Law  
Personal Injury Trial Law  
Real Estate Law

#### About TBLS

Texas Board of Legal Specialization, authorized by the Supreme Court of Texas, is the nation's largest and most successful legal board certification program. It certifies attorneys in 21 specialty areas of law and paralegals in seven specialty areas. TBLS serves as a resource by listing all certified attorneys and paralegals online. TBLS works to ensure that the citizens of Texas receive the highest quality legal services. To learn more about Board Certification and TBLS visit [www.tbls.org](http://www.tbls.org).



# PARALEGALS

## Texas Bar College

### Associate Membership

# PRIDE & PROFESSIONALISM

## REQUIREMENTS

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

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

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

## PURPOSE

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

## BENEFITS

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

## JOIN TODAY!

Please visit the Texas Bar College website for more information on becoming a Paralegal Associate Member:

<https://texasbarcollege.com/merchandise/membership>



# TEXAS

Professionalism Through Education.



# Volunteer Paralegal

TEXASLAWHELP.ORG

## Job DESCRIPTION

*Volunteer remotely from your home, office, or anywhere  
with an internet connection.*

### OVERVIEW

Texas Legal Services Center (TLSC) is a non-profit law office that provides free legal services to low-income Texans. TLSC manages TexasLawHelp.org, a statewide website that provides free and reliable legal information and resources. In 2015, more than 1.2 million unique people visited TexasLawHelp.org, and over 6,500 visitors received free navigation assistance.

### HOW YOU CAN VOLUNTEER

#### [Website Navigation \(LiveChat Representative\)](#)

Over instant chat, Volunteer Paralegals can directly help website visitors navigate the website and find the correct information and resources for their individual legal issue. LiveChat software training is simple and will be provided at no cost to volunteers. Legal advice would not be provided by Volunteer Paralegals. Volunteers may work for two to 3 hours per session.

### QUALIFICATIONS

- Experience or training as a paralegal
- Interest in helping low-income Texans
- A stable Internet Connection

### BENEFITS

- The Volunteer Paralegal will collect pro bono hours for all time spent volunteering.
- Membership to Pro Bono College (recognition by the State Bar of Texas and other benefits) upon completion of 50 pro bono hours.
- Possible course credit (for paralegal students) and networking opportunities.
- Flexible scheduling and the ability to volunteer remotely.
- Guaranteeing that low-income Texans are gaining access to the legal system with correct information and referrals.

The TexasLawHep Volunteer Program is made possible by a grant from the State Bar of Texas Corporate Counsel Section. The Texas Access to Justice Foundation provides support as well.

