

WINTER 2023

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# TPJ

*Texas Paralegal Journal*

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# President's **MESSAGE**

We are nearing our annual membership renewal period and I wanted to remind our active and associate members that you are required to have CLE hours to renew (6 total, with one of those being Ethics). Be sure to check out our website for upcoming CLEs and to watch for the Paralegal Pulse, which is your monthly e-newsletter for any CLEs that may be in your District. There are also email blasts from your Directors for upcoming CLEs, many of which are free! The membership year runs from June 1<sup>st</sup> to May 31<sup>st</sup>. All required CLE must be obtained prior to the May 31<sup>st</sup> deadline. Encourage a non-member paralegal to join the PD.

TAPS 2023 will be September 27-29, 2023 in Frisco, Texas. This is a new venue and we are very excited about the hotel and conference center space. The TAPS Committee met in January to begin the process of making sure that you have great speakers and socials. If you would like to see certain areas of law or speakers, please forward them to me and I will make sure that they get to the committee. Stay tuned for more details!

We are always looking for participants in the Mentor/Protégé Program. If you are interested please contact us at: [mentorprogram@txpd.org](mailto:mentorprogram@txpd.org).



Lisa Pittman

Thank you to all the members, volunteers, vendors and attorneys that support the PD.

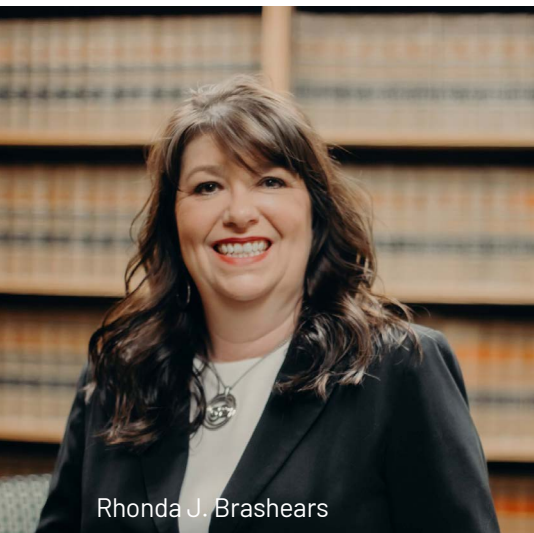
Remember:

**"A kind word is like a spring day,  
so be Kind!"**

**Lisa Pittman,**  
President

**PLEASE DON'T  
FORGET TO  
SAVE YOUR CLE  
CERTIFICATES!**





Rhonda J. Brashears

# Editor's NOTE

Greetings Paralegal Division members. I hope that your year is off to a great start, and you find yourself productive and happy! I can honestly say that the Paralegal Division is certainly off to a great start! The TAPS 2023 Planning Committee met in Frisco in late January to begin discussing exciting plans for this year's event, so mark your calendars for September 27-29, 2023, and plan to join us. Whether you will be an attendee or a vendor, we have big plans for great

speakers, networking, and awesome socials. Oh, and don't forget the Paralegal Division Annual Meeting of its membership will be held in conjunction with the TAPS final luncheon on Friday, September 29, 2023. Vendor hall sales and sponsorship sales have already started, and attendee registration will open on June 1, 2023. Watch for details!

The Paralegal Division is also working on ways to better serve its membership and paralegals across the state. We are collaborating with the Texas Board of Legal Specialization to promote the Paralegal TBLS Certification Exam. It is a great honor to achieve this certification and we want to continue to help paralegals reach this goal. Remember we have the Texas Board of Legal Specialization Helpful Hints Guide (log into your PD account and look under the My Account page for this resource). We are also actively working on more ways the Paralegal Division can assist those considering taking the TBLS exam. Take a look at the impressive list new of 2022 TBLS certified paralegals in this issue.

Our District Directors and CLE and Online CLE chairs have provided our members with several hours of CLE

opportunities, either free or at very affordable costs. Please watch out for e-blasts and emails from your District Directors for these opportunities.

On May 1<sup>st</sup> we will start our annual membership renewals. Please remember to keep those CLE certificates in the event of an audit and see additional details in this issue about the renewal process and special discounts for online CLE through the PD Online CLE site.

You may or may not know, but President Lisa Pittman's theme for the PD this year has been 'Perseverance.' I believe the Paralegal Division of the State Bar, having just celebrated its 40<sup>th</sup> birthday, is an example of perseverance. In the words of Walter Elliott "Perseverance is not a long race; it is many short races one after another." This is exactly what the Paralegal Division has done and will continue to do to better serve the paralegals of Texas.

Best,

**Rhonda J. Brashears,**  
CP, TBLS-BCP



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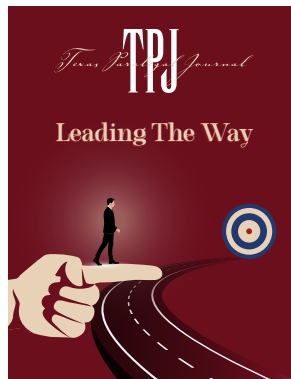
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**Deadline for the Winter Issue is January 25, 2023.**  
E-mail [tj@txpd.org](mailto:tj@txpd.org)

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# THE CRISPR PATENT WARS

Susan Krumplitsch and  
Lisa Hillman

CRISPR, which stands for **C**lustered **R**egularly **I**nterspaced **S**hort **P**alindromic **R**epeats, has been heralded as the most promising molecular tool for gene editing, one that is pushing the boundaries in many industries.

Among the signs of its enormous significance: first, two of the scientists who pioneered this technology, Drs. Emmanuelle Charpentier and Jennifer Doudna, were honored with the 2020 Nobel Prize in Chemistry; and second, *The Wall Street Journal* reported that in 2021 alone venture capitalists invested \$1.08 billion in CRISPR startups.

CRISPR technology is being evaluated for a broad range of applications: everything from modifying human genes to eliminating certain hereditary diseases, to creating plants that can withstand climate change or contain higher concentrations of nutrients, to altering microbes that will generate biofuels. For example, CRISPR has the potential to be wholly transformative in the treatment of disease. In 2020, a person suffering from Leber congenital amaurosis, a genetic condition that causes eventual blindness, became the first human to receive a directly administered CRISPR-Cas9 gene therapy (rather than the gene editing being carried out in vitro and infused back into the patient). ClinicalTrials.gov currently lists 32 studies

involving CRISPR-Cas9 to treat sickle cell disease, solid cancers, blood cancers, and diabetes, among many other ailments.

CRISPR is based on an ancient function of prokaryotes (single cell organisms, such as bacteria and archaea) – essentially, a basic adaptive immune system. Bacteria deploy a specialized CRISPR-associated molecule – Cas – to cut and destroy the DNA of invading viruses called bacteriophages. This CRISPR-Cas system has now been engineered to work in eukaryotes, like animals and plants. Its ability to make precise, targeted cuts in DNA sequences allows scientists to insert, delete, and modify DNA sequences of a wide variety of cells.

Various Cas proteins have been identified – the best known is CRISPR-Cas9, which has become an instrumental tool in genome editing.

## Who owns CRISPR-Cas9?

The CRISPR patent landscape is vast. One estimate suggests that there are already more than 11,000 families of patents on CRISPR-related technology.

It should be no surprise that disputes have arisen over the ownership of IP related to this fundamentally transformative technology. Most famously, two groups have claimed rights to the use of CRISPR-Cas9 for eukaryotic gene editing:

the University of California, Berkeley, University of Vienna, and Dr. Charpentier (CVC) on one side and the Harvard-MIT Broad Institute on the other side. This dispute has resulted in a complex and lengthy dispute at the US Patent office and the courts that is still ongoing.

Drs. Doudna and Charpentier, associated with UC Berkeley and the University of Vienna, respectively, first published research on CRISPR-Cas9 in prokaryotes in June 2012 and filed for a patent. Seven months later, Dr. Feng Zhang at the Harvard-MIT Broad Institute published a paper describing the use of CRISPR-Cas9 in eukaryotes (such as animals and plants) and applied for a patent. What makes this procedural history interesting from a patent perspective is that while Drs. Doudna and Charpentier filed for a patent in 2012 – months before the Broad Institute did – both patent applications were filed before the US implemented a first-to-file system in 2013.

The Broad Institute's patent issued in April 2014. In response, the CVC group requested that the USPTO institute an interference. When that was unsuccessful, they appealed to the Federal Circuit, which upheld the USPTO's decision, awarding the rights to use CRISPR-Cas9 in animals and plants to the Broad Institute.

The CVC team tried again, requesting an interference between the Broad patent and a different patent application. While the USPTO did grant an interference, it ultimately ruled that the Broad Institute has priority for use in eukaryotic cells.

In February 2022, the USPTO named the Broad Institute the first to invent the use of CRISPR-Cas9 in eukaryotic cells. The CVC group appealed this decision in April 2022. The appeal is pending.

To complicate matters, at least two other companies have asserted that they were the first to invent the CRISPR-Cas9 technology, and additional interferences are pending at the USPTO. And the patent war between over this technology has spread to Europe with multiple opposition proceedings ongoing.

These disputes between the CVC group and the Broad Institute only cover CRISPR-Cas9. And while this patent war plays out, scientists are developing, patenting, and commercializing other Cas variations, among them whole families of CRISPR complexes. At the start of this

section, we described the CRISPR patent landscape as vast – it is that, and it is still growing.

### Action steps for companies

As you seek to protect the IP you are developing around CRISPR technologies, here are some issues to keep in mind:

- Companies seeking to harness the power of this technology must grapple with some uncertainties about the boundaries of the patent landscape and any freedom to operate.
- The CRISPR landscape features expansive patent estates owned by many different entities. This means taking care to ensure that you appropriately in-license any rights.
- Ensuring appropriate licensing may be a challenging task given that, depending on how the CRISPR-Cas system will be used, the rights must be obtained from different sources. Multiple licenses may be needed, and the appropriate licensing entities may vary depending on whether your company is seeking to develop a

human therapeutic, genetically modified plant, or some other application. And these entities may be different in different countries.

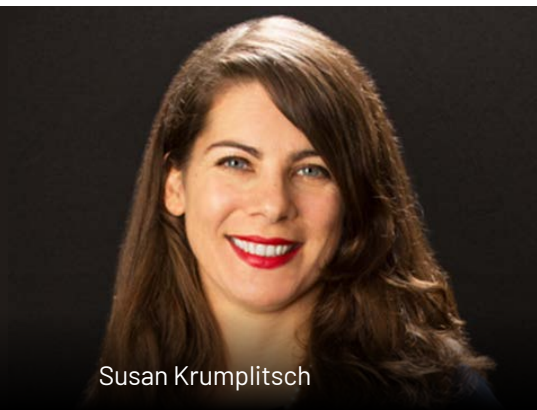
- For instance, CRISPR-Cas9 patent-owning institutions such as UC Berkeley, the University of Vienna, and the Broad Institute have all exclusively licensed their IP to spinout companies, which in turn may grant sub-licenses for different fields of use.
- Your company may wish to sidestep the entire Cas9 issue and look at other CRISPR enzymes, such as CasX, CasY, Cas12, Cas13, and Cas14. However, clashes are already arising about the ownership of the Cas12 and Cas13 enzymes.

The complexity of the IP and licensing landscape has resulted in some calling for the creation of a patent pool to simplify licensing from multiple entities. It remains to be seen if there is any appetite for this approach.

To learn more about this complex, continuously shifting legal landscape and its implications for your company, please contact either of the authors.

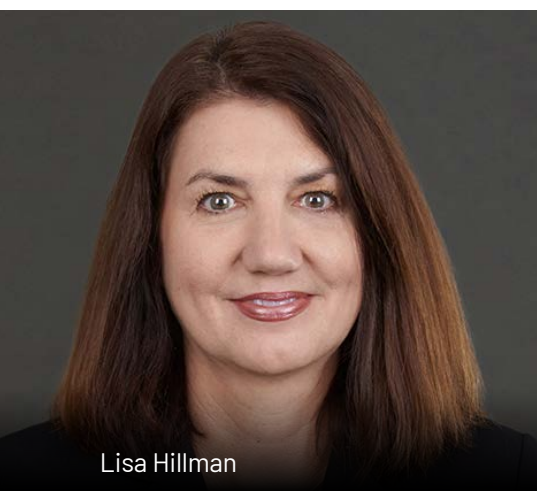






Susan Krumplitsch

Susan Krumplitsch represents life science companies in intellectual property disputes, with an emphasis on Hatch-Waxman, BPCIA and trade secret litigation. Her clients include innovative biotechnology, pharmaceutical and medical device companies and she regularly appears in federal courts across the country and in post-grant review proceedings at the US Patent and Trademark Office. Her practice involves a wide variety of technologies, including therapeutic monoclonal antibodies, pharmaceutical formulations, small molecule drug compounds, next-generation DNA sequencing, mammalian cell lines, biofuels, fungicides and magnetic resonance angiography.



Lisa Hillman

With two decades of experience in intellectual property law, Lisa Hillman's practice encompasses domestic and foreign patent procurement and portfolio management, interference practice, client counseling on validity, infringement, freedom-to-operate, due diligence review and patent strategy matters.

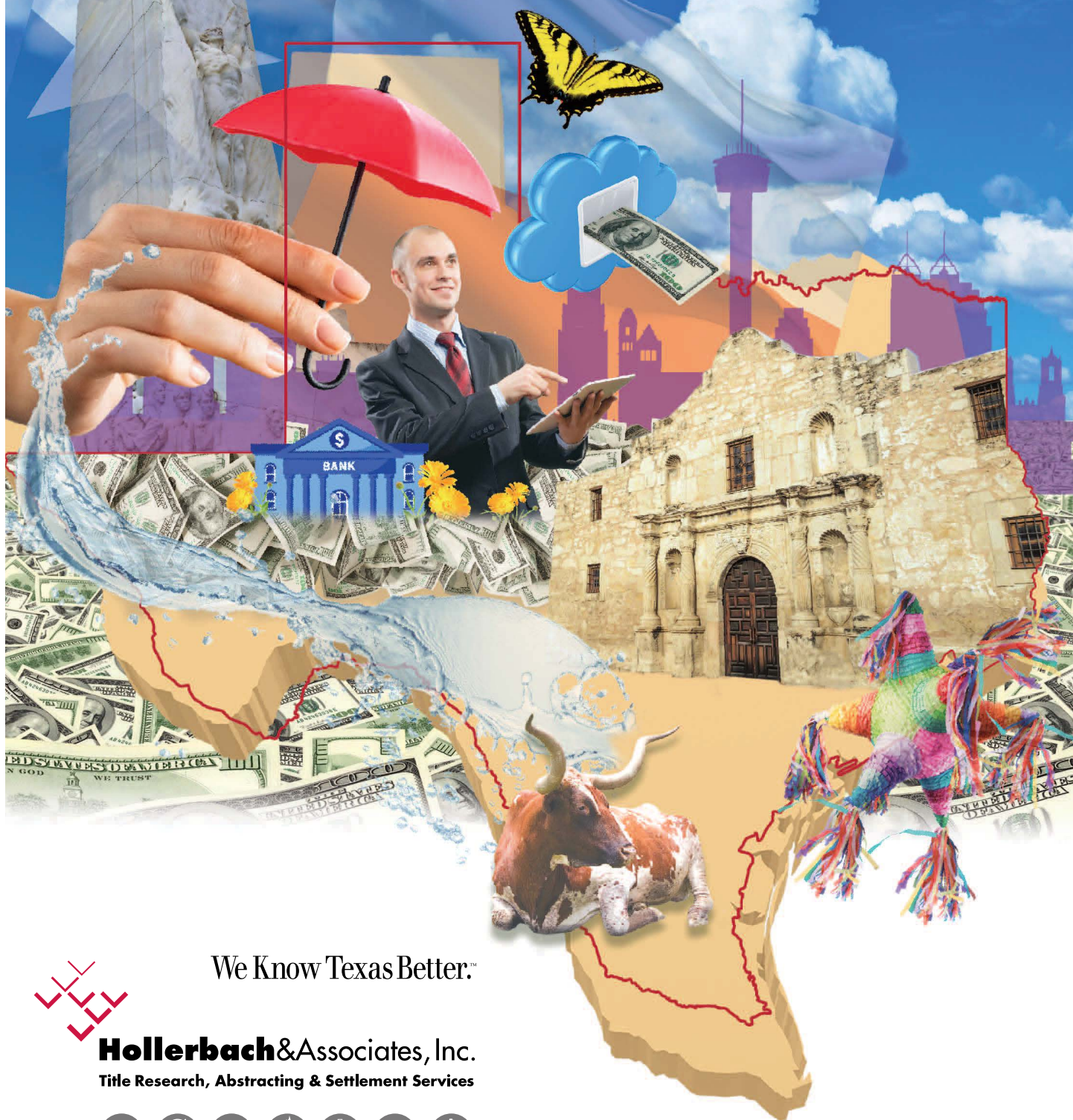
Lisa has broad experience in patent procurement and portfolio management in the areas of molecular biology, microbiology, fermentation technologies, human and veterinary diagnostics, personal diagnostics, proteomics, siRNA technologies, antibody technologies, CRISPR technologies, liposomes, biosensors, tissue scaffolds, agriculture, orthobiologics, medical devices, immunotherapy, and pharmaceuticals. She represents small and large biotechnology, pharmaceutical and diagnostic companies, as well as university clients and startups.





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# WHEN WORLDS COLLIDE: IMMIGRATION LAW ISSUES WITHIN A FAMILY LAW PRACTICE



Aimee Pingenot Key

The role of immigration status in family law cases is often overlooked. A party's legal immigration status may impact a divorce or child custody proceeding tremendously. As mixed-status families are becoming more common, this article provides an overview of some immigration issues encountered in family law practices.

## A. Immigration Statuses

If your client or their spouse is not a US citizen, then it is imperative to first understand what their immigration status is. A general understanding is helpful, and if necessary, the attorney should consider bringing on an experienced immigration attorney

for consultation or to potentially provide expert testimony to the Court about your client's specific status, its limitations, and requirements.

A nonimmigrant visa is issued to a person with permanent residence outside the United States, but who wishes to be in the United States on a temporary basis. An immigrant visa (IV) is issued to a person wishing to live permanently in the United States and a nonimmigrant visa (NIV) is issued to a person with permanent residence outside the United States, but wishes to be in the United States on a temporary basis for tourism, medical treatment, business, temporary work or study, as examples. There are nonimmigrant visas based on *employment* in the United States. There are nonimmigrant visas based on *family relationships*. There are nonimmigrant visas based on *humanitarian concerns*. Generally, there are dependent nonimmigrant visa statuses for the spouse and unmarried children under age 21 of the principal nonimmigrant. Many, but not all, nonimmigrants transition to immigrant visa or U.S. residency status.

## B. Special Issues in Divorce and Child Custody Proceedings

There are several scenarios where divorce may impact a noncitizen's ability to apply for or retain their US immigration status and remain legally in the United States.

If an individual is in the process of applying for an immigrant visa at the time a divorce is filed, then there is a possibility that their application will not be approved. Divorce generally ends the "dependent" and "derivative" relationships created through the immigration sponsorship process. If a client's pending application is tied to the divorcing spouse (such as by sponsoring the nonresident spouse in some way), then the application may fail on its face. This may happen if the sponsor's intent is revoked during the divorce. Alternatively, once the divorce is final, then the noncitizen's status will fall out of eligibility for U.S. residency regardless. The parties may want to agree to postpone the filing of their divorce until the U.S. residency cases are approved. Generally, the timing of the divorce should concur with a change of status to another immigration status that is not tied to the divorcing spouse. This may





Lindsey Obenhaus

necessitate careful planning by the noncitizen spouse. This ensures that both parties can remain in the United States, especially for the benefit of any children of the marriage. Fortunately, divorce does not affect the parties' children, as children remain "children" under immigration law before and after the divorce.

Child custody proceedings can be complicated when one or both parent's permanent status in the United States is not guaranteed due to their immigration status.

In a child custody proceeding, the Court will prioritize the best interest of the child when deciding issues such as which parent to appoint as the primary conservator, whether to establish a geographic restriction on the child's primary residence, and whether to impose any passport or travel restrictions on the children. It is possible for a noncitizen spouse to be appointed as the primary conservator of the child, however in many cases the Court will impose a geographic restriction that requires the parents to live within a limited geographic area so that both parents can have continuing and frequent contact with their children.

As mentioned above, there are humanitarian-based categories for lawful permanency residence in the United States, including the Violence Against Women Act (VAWA). Divorce greatly affects a person's eligibility to apply under VAWA. A person may apply if they prove to the government that their marriage to the abusive spouse was terminated *within two years*

prior to filing the VAWA petition and there is a *connection* between the termination of the marriage and the battery or extreme cruelty. In these divorce cases, the noncitizen spouse will often strategically plan for a VAWA petition by alleging violence and cruelty in the divorce. It is important for practitioners to be mindful of this potential motivation so they may strategize appropriately for their client.

While this article does not cover all aspects of immigration law that might be useful for a family lawyer to know, it hopefully brings to light scenarios that are often overlooked. A better understanding of immigration issues will help family lawyers provide thoughtful and strategic counsel to these increasingly common cases.

Aimee Pingnot Key and Lindsey Obenhaus are Board Certified lawyers in Family Law at GoransonBain Ausley, a family law firm with offices in Dallas, Plano and Austin.



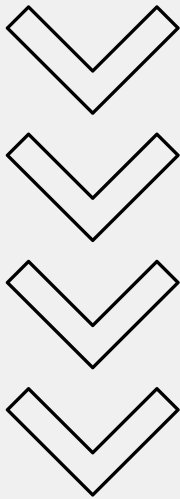


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# A BODY-WORN CAMERA DOES NOT DISPENSE THE NEED FOR A WARRANT

By: Pierre Grosdidier



Pierre Grosdidier

## About the Author

**Pierre Grosdidier** is an attorney in Houston and serving as the 2022-2023 Chair of the Computer & Technology Section of the State Bar of Texas. He belongs to the first group of attorneys board certified in construction law by the Texas Board of Legal Specialization in 2017. Pierre's practice also includes data privacy and unauthorized computer access issues and litigation. Prior to practicing law, Pierre worked in the process control industry. He holds a Ph.D. from Caltech and a J.D. from the University of Texas. He is a member of the State Bar of Texas, an AAA Panelist, a registered P.E. in Texas (inactive), a member of the Texas Bar Foundation, a Fellow of the American Bar Foundation, and the State Bar of Texas Computer & Technology Section.

The use of body-worn cameras by police officers during interactions with the public presumably has the merit of keeping everybody honest, but the recordings come with strings attached, as the recent Massachusetts case *Commonwealth v. Yusuf* illustrates.<sup>1</sup> In *Yusuf*, the Boston police intervened in a domestic disturbance that involved the defendant, his sister, and his girlfriend.<sup>2</sup> A police officer's body-worn camera recorded his field of view during his coming and goings in the home including, at one point, "floral-printed curtains" adorning a bedroom window. The officer later uploaded the video recording in a

police database, and a detective used the video to secure a search warrant in an unrelated investigation that led to the defendant's conviction on firearms offences. The Massachusetts Supreme Judicial Court held that the use of the body-worn camera during the disturbance was not a search under the Fourth Amendment, but that the later use of the recording for an unrelated investigation was—and required a warrant.

The defendant had been the target of an investigation for firearms offenses completely unrelated to the domestic disturbance, and a detective had been searching for a basis to secure

a search warrant for his home.<sup>3</sup> Sometime after the disturbance, the defendant posted a video of himself holding a firearm in a room with matching "floral-printed curtains visible in the background." The detective secured a search warrant based on the matching curtains and the search resulted in the seizure of narcotics, a firearm, ammunition, and marijuana.

During his bench trial, the defendant moved to suppress, *inter alia*, the body-worn camera video recording and the fruits of the search. The trial judge denied the motion and found the defendant guilty of

<sup>1</sup> 173 N.E.3d 378 (Mass. 2021).

<sup>2</sup> *Id.* at 381.

<sup>3</sup> *Id.* at 383.

## A Body-Worn Camera Does Not Dispense the Need for a Warrant

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unlawful possession of a firearm and ammunition.<sup>4</sup> On direct appeal to Massachusetts highest appeal court, the defendant argued that both the warrant-less use of a body-worn camera inside the home and the use of the recording in the unrelated firearms investigation violated the Fourth Amendment's prohibition against unreasonable searches.

As the court noted, the home is expressly protected by the U.S. Constitution's Fourth Amendment and the Massachusetts Constitution's Article 14.<sup>5</sup> Given the home's sanctity, it is entirely "safe from prying government eyes."<sup>6</sup> Be that as it may, the court rejected the defendant's claim that the officer's use of a

body-worn camera in his home amounted to a constitutional search. The officer was lawfully in the home at the invitation of the defendant's sister and in response to her request for assistance in the domestic disturbance. The record showed that the officer had not ventured in the home beyond the locations where he was required to perform his duties. The video captured only the plain view observations in which the defendant had a diminished expectations of privacy because of the officer's lawful presence in the home. In effect, the body-worn video was not substantially different from crime scene pictures that police officers routinely take without violating constitutional rights.

A violation would have occurred had the officer ventured beyond the locations necessary to deal with the disturbance, but such was not the case here.<sup>7</sup>

The subsequent use of the video in the firearms investigation was another matter, however. As other courts, including the United States Supreme Court, have already stressed, improvements in the power of technology and their adoption by authorities do not shrink privacy rights.<sup>8</sup> In this case, the court called the ability of police officers to review the video of the defendant's home interior at any time after the disturbance and for wholly unrelated reasons "the virtual equivalent" of the reviled "general warrants" and "writs of assistance" of the colonial era. Moreover, the later review of the video for reasons unrelated to the domestic disturbance defeated the rationale for making the recording in the first place, which was to create a record of the interaction and protect its participants from misconduct or false accusations. Giving access to the video for another unrelated reasons was the equivalent of allowing detectives "to peer into the defendant's home for evidence to support an unrelated criminal investigation" without a warrant.<sup>9</sup> The court held that such conduct was worthy of Orwellian Big Brother and amounted to a presumptively unreasonable warrantless search.

<sup>4</sup> *Id.* at 384–85.

<sup>5</sup> *Id.* at 386.

<sup>6</sup> *Id.* (internal quotations omitted).

<sup>7</sup> *Id.* at 386–390 ("Plain view observation cannot be used as a pretext for a general exploratory search of the home.").

<sup>8</sup> *Id.* at 392.

<sup>9</sup> *Id.* at 393.

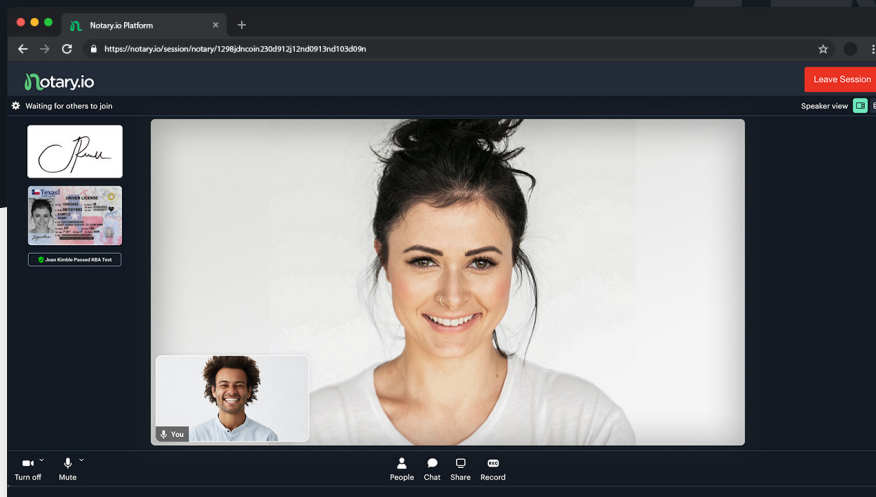




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# 6 PAID SICK LEAVE RULES EMPLOYERS WITH OUT-OF-STATE WORKERS MAY BE GETTING WRONG



Amy Beckstead

Amy Beckstead is an employment attorney, licensed to practice in both Texas and California. Amy's practice focuses on assisting employers with federal and state employment law compliance, assisting them with issues that arise from hiring to termination. She also defends employers when they are sued or under investigation by governmental agencies, litigating matters in state and federal court and before various governmental agencies. Amy frequently trains executives, managers, and employees on a variety of topics, including creating an inclusive workplace and preventing discrimination and harassment. A popular speaker, Amy has presented to numerous organizations, including the Association of Corporate Counsel, the Practicing Law Institute, and TexasBarCLE. Amy has also been a guest lecturer at the University of Texas School of Law.

Private companies are not required by the federal government to provide paid sick leave. Once an employer has at least 50 employees within a 75-mile radius) [Family and Medical Leave Act \(FMLA\)](#) unpaid sick leave requirements kick in. But this is only for employees who have been with the organization for at least 12 months, and have worked for at least 1,250 hours over the previous 12 months.

Increasingly, however, other state and local jurisdictions are requiring private employers provide paid sick leave. And here's the catch: The rules apply to where the employee works, not where the employer is located.

This is an important distinction for Texas employers with out-of-state locations or remote workers. Arizona, California, Connecticut, Massachusetts, Oregon, Vermont, Washington, the District of

Columbia, and Puerto Rico have passed statewide laws. So have certain counties and municipalities including Cook County (Illinois), Montgomery County (Maryland), Spokane (Washington), and St. Paul (Minnesota). The laws are even more complex in New Jersey and California, where more than twenty separate municipalities have passed their own paid sick leave laws. And with legal battles over the legislation in many of these and other jurisdictions, who is covered and how they're covered is ever changing.

To help determine a company's obligations, it's important to keep an eye on the paid time off regulations within each jurisdiction in which you employ workers. Pay close attention to these main areas that can differ from location to location:

- 1. Definition of who is eligible.** Your company size and the industries in which you conduct business can affect your employer eligibility. Not all employees are eligible, either, even if they work in an area with strengthened legislation.
- 2. Accrual time and usage.** Laws can vary on when employees can start accruing paid time off and how much can be taken. For example, some jurisdictions accrue one hour of paid sick leave time for every 30 hours worked. Others accrue at different rates, such as 1 hour for every 40 hours worked. Some jurisdictions permit front-loading leave entitlement, instead of accruing leave on hours worked. Laws will also vary on how much paid sick time an individual may take each year.

## 6 Paid Sick Leave Rules Employers With Out-of-State Workers May Be Getting Wrong

Texas Paralegal Journal  
Winter 2023

**3. Carryover allowances and caps on accrual.** Pay close attention to whether employees can carry over accrued unused sick leave and whether employers may institute an annual cap on accrual. Some laws permit employers to pay for unused leave annually instead of allowing a carry over of unused leave hours.

**4. Qualifying use.** Paid sick leave requirements can differ when it comes to which events are eligible. Many extend qualifications to the care of a family member, and others can extend leave for reasons such as domestic violence, stalking or a public health emergency.

**5. Notices and recordkeeping.** Workplace posting or individual notices may be required; records may also be required for a certain number of years. As far as paperwork from employees, many laws limit an employer's ability to require documentation to prove why the employee was gone and others cover advanced notice requirements as well.

**6. Enforcement.** Look for specific anti-retaliation provisions and enforcement allowances as well as fines and penalties for non-compliance.

When hiring out-of-state employees, or even out-of-town employees in states like California and New Jersey, pay close attention to paid time off regulations that may differ from your own. This is particularly true with respect to part-time employees who may not otherwise be eligible for PTO, vacation, or sick time under a company's regular leave policies. Employers with individuals in several of these locations may even choose to adopt the most generous provisions

of each law to create a uniform policy that works in all locations. This is typically less administratively burdensome than creating policies unique to each location.

If it's been a while since you've updated your leave policies, it may be time to do so. Certain aspects may need to be revised, whether remote workers are on your payroll or not.

### GET A HEAD START on the Paralegal Division 2022 - 2023 Membership Renewals and CLE Requirements

All current 2022-2023 members of the Paralegal Division whose current membership **expires on May 31, 2023**. The membership renewal process for the Paralegal Division is entirely online. Beginning on May 1, 2023, online renewals will be available.

#### CLE Requirements for Active or Associate Members:

If you are a current 2022-2023 **Active or Associate** member (membership expiring on May 31, 2023), you are required to obtain at least 6 hours of CLE, 1 hour of which must be legal ethics (2 hours can be self-study) **between June 1, 2022 and May 31, 2023** in order to renew your 2023-2024 membership. All Active and Associate members must obtain at least 6 CLE hours to renew membership for the following fiscal year (June 1 – May 31).

#### Qualifying CLE:

The Paralegal Division will accept substantive law CLE presented or approved by the MCLE Department of the State Bar of Texas, the Texas Board of Legal Specialization, the National Association of Legal Assistants, the National Federation of Paralegal Associations, and/or presented by the Paralegal Division, local bar associations, paralegal associations, or law firms for credit towards the Paralegal Division's mandatory membership renewal CLE requirement.

If the CLE course is not accredited by any of the above-referenced groups, the Division will accept a seminar, if it is a substantive law course offered by a qualified presenter that would qualify for approval if submitted to one of the above organizations. "Substantive Law Course" means an organized program of legal education dealing with: 1) substantive or procedural subjects of law; 2) legal skills and techniques; 3) legal ethics and/or legal professional responsibility; or 4) alternative dispute resolution. Additionally, law office management programs accredited by the State Bar of Texas will be accepted.

If the requested CLE hours are in connection with auditing or attending a substantive law class, the CLE hours allowed shall be limited to the number of semester hours (usually a three-hour course) rather than the number of clock hours attended.

#### Help Finding CLE:

The Paralegal Division is here to help you obtain your CLE. You may attend an on-site CLE or an **Online CLE** or download a **CLEtoGo** (podcast) from the PD's Online CLE. The Paralegal Division has a CLE website calendar that lists upcoming CLE (view at [www.txpd.org](http://www.txpd.org)) and also houses an Online CLE library for easy access to CLE.

Purchase 3 or more Online CLE and Save. Purchase 3-4 CLE events and save 10%, purchase 5 or more CLE events and save 20%! Select from over 160 events from our Online CLE Library. Check out this great offer go to: <https://txpd.inreachce.com/Pricing/BundlePricingSelection/37a630db-bc9d-4d65-9880-479a146d8e09>

This is valid through May 31, 2023. All events must be purchased at the same time.





Ellen Lockwood

# THE ETHICS OF DISTINGUISHING BETWEEN BEING HELPFUL AND UPL

When asked by paralegal students to explain the job of a paralegal, I say that a paralegal's job is to make the attorney look good. I realize that is a huge oversimplification, but regardless of the area of law, paralegals are, at the most basic level, being helpful to their attorneys and their attorneys' clients.

As paralegals, we are often asked by friends and family to provide information. Naturally, we want to be helpful. However, it is often too easy to cross the line between being helpful, and the unauthorized practice of law (UPL).

A good dividing line between giving legal advice and answering a client's questions is to never advise anyone on

any matter if the advice may alter the rights or legal position of the person to whom the advice is given. Although there may be times when this rule of thumb could be applied too strictly, it is an excellent way to gauge whether what a paralegal says or does could be construed as giving legal advice, which is UPL.

Giving legal advice (and committing UPL) may include the following:

- telling someone what the law states
- interpreting the law for someone's situation
- telling a client or any person what to do in a particular situation because you know what the attorney will say
- recommending what anyone should do in a legal situation, other than to recommend consulting an attorney
- filling out legal forms for someone other than under the direct supervision of an attorney
- telling someone how to complete legal forms other than under the direct supervision of an attorney
- assisting someone to complete legal forms other than under the direct supervision of an attorney
- signing a letter or giving a message to a client from the attorney that contains legal advice, without clearly stating that the attorney asked you to provide the information.

## The Ethics of Distinguishing Between Being Helpful and UPL

Texas Paralegal Journal  
Winter 2023

One of the reasons paralegals may justify crossing the line into UPL is because they know the person asking the questions cannot afford an attorney. Many people who do not meet the income criteria to become a client of the legal aid organizations are also in need of free or heavily discounted legal services. Fortunately, there are options available, including <https://texaslawhelp.org/>, which provides free legal help including articles on common situations, and legal forms with guidance on how to complete the forms.

Another reason paralegals may decide to give legal advice to friends or family is because they believe no one will ever find out and even if someone does, the matter will not be pursued

as UPL because the information was trivial and/or the person could have found the information on their own. Unfortunately, people do sometimes find out and report the situation to the Supreme Court of Texas Unauthorized Practice of Law Committee.

Paralegals should familiarize themselves with the available resources for legal assistance for the public, as well as the lawyer referral services. There is a state-wide attorney referral service ([https://www.texasbar.com/AM/Template.cfm?Section=Lawyer\\_Referral\\_Service\\_LRIS\\_\\_](https://www.texasbar.com/AM/Template.cfm?Section=Lawyer_Referral_Service_LRIS__)), and many of the local bar associations also offer attorney referral services. Many of these attorneys offer an initial meeting for a reasonable price to

discuss the available legal options for the person's situation.

The potential for UPL is not a reason for paralegals to stop being helpful, just a reminder to proceed with caution.

*Ellen Lockwood, ACP, RP (she/her/hers) is the Chair of the Professional Ethics Committee of the Paralegal Division and a past president of the Division. She is a frequent speaker on paralegal ethics and intellectual property and the lead author of the Division's Paralegal Ethics Handbook published by Thomson Reuters. She may be contacted at [ethics@txpd.org](mailto:ethics@txpd.org).*



State Bar of Texas  
**Paralegal Division**

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**Post-Judgment Turnover Receiverships**

You have a judgment, now what? A discussion of the remedy available to judgment creditors of post-judgment turnover receiverships under Chapter 31 of the Texas Civil Practice and Remedies Code.



# PARALEGAL ETHICS HANDBOOK

The *Paralegal Ethics Handbook* is a resource for all paralegals, attorneys, and members of the legal community that addresses ethical considerations for 17 practice areas, as well as considerations for in-house, corporate, freelance, administrative, governmental, and regulatory law paralegals. The PEH:

- Examines topics such as defining ethics, ethical obligations, and remaining ethical;
- Addresses ethical considerations for e-filing, e-discovery, and technology;
- Provides resources for state information and paralegal association ethics cannons, plus related information; and
- Contains rules and regulations for all 50 states and Washington, D.C.

The PEH explains how to determine whether an action may be an ethical violation.

*Authored by Paralegal Division members, with input from the legal community. Published by Thomson Reuters.*



<https://tinyurl.com/txpdPEH>

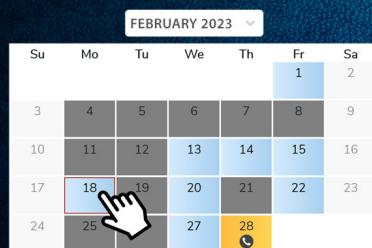


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Susy Johnson

# EXCEPTIONAL PRO BONO RECIPIENT

Susy Johnson is the 2023 Secretary of the FWPA. Susy is a Texas Board of Legal Specialization Board Certified Paralegal in Real Estate and she has been a commercial real estate paralegal in Tarrant County for over 40 years. Susy has been employed with The Woodmont Company as V/P and Paralegal since 2001. She was born and raised in Northern Wisconsin (Minocqua), and she attended the UW-Eau Claire and Chippewa Valley Technical College (Associates Degree/Paralegal Studies). Susy also attended TCJC (n/k/a TCC) to complete her Texas real estate salesperson licensing requirements, and she earned her BBA from UT-Arlington. Susy is a proud Past President of FWPA and has been delighted to serve in many capacities on the Board over the years.

The 2021-2022 recipient of the Exceptional Pro Bono Award is Susy Johnson. That much may be known by many. But what may not be known to some is why she received the award.

When you first meet Susy, she will have a big, welcoming smile on her face – whether it be your first meeting or any time together thereafter. The more time you spend with her, talking to her, sharing life experiences, and staring at that gracious smile, you will quickly learn something special about Susy. You will learn that the big, welcoming smile completely matches the size of her giving heart.

Susy has a passion for spreading compassion to those in need. She has been a longtime pro bono volunteer through the Fort Worth Paralegal Association and with the Tarrant Volunteer Attorney Services (TVAS)

and Legal Aid of Northwest Texas. Susy has a special place in her heart for American military veterans and has spent countless hours helping veterans with legal matters alongside the attorneys who also volunteer. When the call goes out to paralegals needed for a pro bono event, you can sure bet that Susy will be one of the first ones to jump on board.

The Fort Worth legal community can be thankful that Susy Johnson chooses to use her legal skills, knowledge, education and experience to help provide pro bono services in her community with a big smile and big heart to make the person receiving the help feel special. Susy – we thank you for being – well – you!

Susy Johnson is the 2023 Secretary of the FWPA. She is a Texas Board of Legal Specialization Board Certified

Paralegal in Real Estate and she has been a commercial real estate paralegal in Tarrant County for over 40 years. Susy has been employed with The Woodmont Company as V/P and Paralegal since 2001. She was born and raised in Northern Wisconsin (Minocqua), and she attended the UW-Eau Claire and Chippewa Valley Technical College (Associates Degree/Paralegal Studies). Susy also attended TCJC (n/k/a TCC) to complete her Texas real estate salesperson licensing requirements, and she earned her BBA from UT-Arlington. Susy is a proud Past President of FWPA and has been delighted to serve in many capacities on the Board over the years.

# TAPS 2023 PLANNING

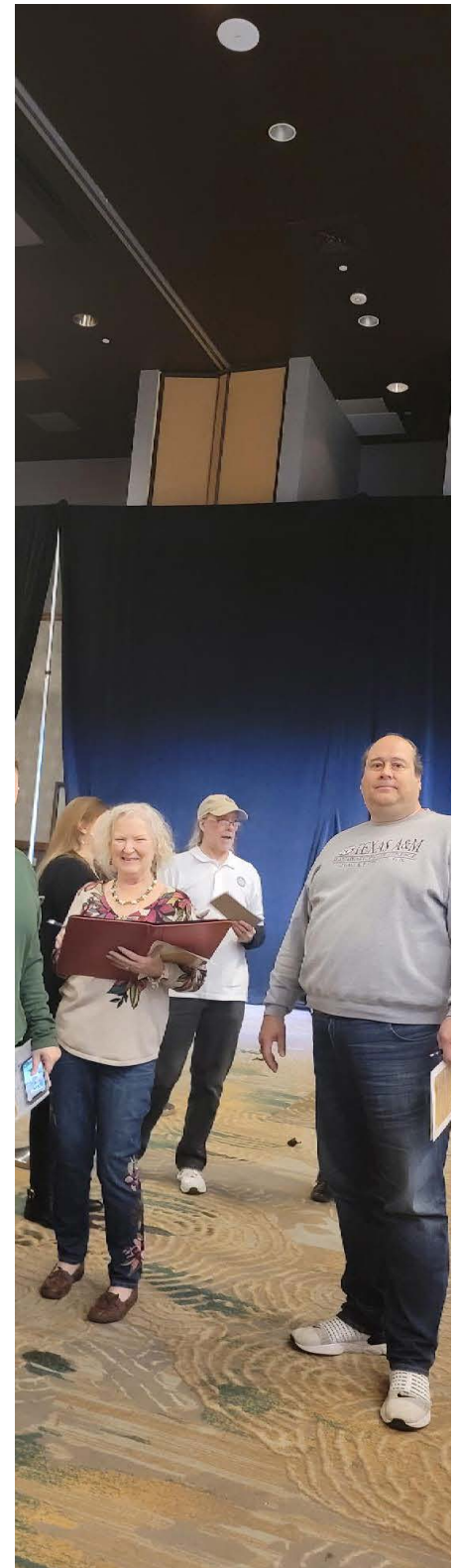
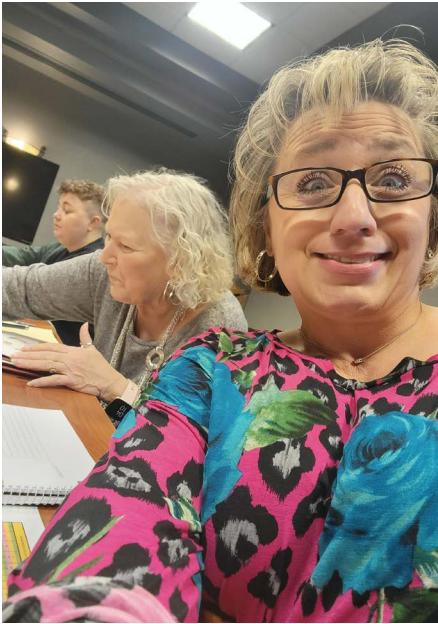
The TAPS Planning Committee met on January 27 -28, 2023 at the Frisco Embassy Suites and Convention Center to begin planning for TAPS 2023 - September 27-29, 2023. The Planning Committee came up with great ideas for top notch speakers, a very informative Friday Morning Session and of course some fun and unexpected surprises for our FAMOUS

TAPS socials. This is always an exciting time, and the TAPS Planning will work hard for next several months to make sure you have the best TAPS yet (just like every year).

SEE YOU IN FRISCO  
SEPTEMBER 27-29, 2023.

[Vendor sales are open!](#)

Attendee Registration Opens June 1.



# A BIT OF TAPS KNOWLEDGE!



Jeff Deyke

Did you know that there is a hidden gem behind the scenes every year at TAPS. It is Jeff Deyke of TKE (TechKnowledgeEase). Jeff really keeps the show running! If you have ever attended TAPS you have no doubt seen Jeff running from room to room, setting up speakers before their presentations and making sure we have music and slide shows for our socials and TAPS luncheon. Jeff and TKE have been with us for many, many years and we just could not do TAPS without them. Next time you see Jeff, if you can catch him, tell him thank you!

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industry to create successful events. Our team goes above and beyond to cater to each client's specific needs. Not all meetings are the same. We are here to tell our client's story, reach their audience and achieve their goals, from events in hotel ballrooms to meetings in the smallest of boardrooms.







Alice Lineberry

# RECOGNITION OF PRESIDENT-ELECT Alice Lineberry

**The Board of Directors of the Paralegal Division of the State Bar of Texas is pleased to announce their election of Alice Lineberry, PLS, CP as the 2023-2024 President-Elect.**

Alice Lineberry, PLS, CP, is a Case Manager with the law firm of DLA Piper LLP (US) in Austin and has been with the firm since 2001. She has over 35 years of experience in various areas of the law, with the last 25 years primarily focused on patent infringement litigation. In 1988, Alice earned her Professional Legal Secretary (PLS) certification from NALS. Alice became a Certified Paralegal through NALA - The Paralegal Association in 1990.

Alice has been a voting member of the Paralegal Division since 1988 and has served the Paralegal Division in various capacities for many years, including serving as a mentor, the Membership Chair from 2018-2019, Annual Meeting Chair in 2018, on the

TAPS Planning Committee for several years, and CLE Sub-Chair for District 4. She is currently serving as the Director for District 4 and Division Secretary. She is honored to be elected to serve as President-Elect for the 2023-2024 year.

Alice has been a voting member of the Capital Area Paralegal Association (CAPA) since 1994 and has served CAPA in various board positions and committee roles over the years, including President. She is currently serving as the Lunch & Learn Chair.

Alice has been married to Colin for 28 years, and they have two sons, Travis and Matthew. She enjoys spending time with family, traveling, reading, and cooking.







# Board of Directors **QUARTERLY BOARD MEETING SUMMARY** Winter 2023

**Submitted by President-Elect, Joncilee Miller, ACP**

The PD Board of Directors met on Friday, February 10 and Saturday February 11, 2023 in Dallas, Texas.

## **2022-2023 Board of Directors and PD Coordinator**

President – Lisa Pittman

President – Elect – Joncilee Miller, ACP

District 1 and Parliamentarian –  
Kim Goldberg, TBLS-BCP

District 2 – Heather Ulliman, TBLS-BCP

District 3 – Wayne Baker, Jr., RP

District 4 and Secretary –  
Alice Lineberry, PLS, CP

District 5 – Pearl Garza

District 7 – Erica Anderson, ACP

District 10 and Treasurer –  
Shannon Shaw

District 11 – Vacant

District 12 – Pamela Snavelly, ACP

District 14 – Maria Sturdy

District 15 – Arturo Ortiz

District 16 – Clara Buckland, CP

Paralegal Division Coordinator –  
Rhonda Brashears, CP, TBLS-BCP

The Board of Directors discussed the recent opportunities to work with other groups such as TLAP and TBLS.

The Board reported on their Texas Paralegal Day Celebrations.

They also discussed the preparations for the next membership renewal time period, including the success of the new postcard reminder that was sent for the 2022 renewal time period. They discussed ways to continue to increase membership and member benefits. They further discussed the importance of consistent reminders about members keeping their CLE certificates in case of possible spot-audit.

The Board discussed plans for updating social media and potentially adding new social media.

The Directors discussed several upcoming CLE events across the State.

## **The Board Elected 2023-2024 Officers:**

President-Elect – Alice Lineberry, PLS, CP  
Parliamentarian – Kim Goldberg,  
TBLS-BCP

Treasurer – Shannon Shaw

Secretary – Heather Ulliman, TBLS-BCP  
Joncilee Miller, ACP will be the  
2023-2024 President

Some upcoming dates to remember:

**Membership:** Renewals will begin May 1 and go through July 31, 2023.

**TAPS 2023 is in Frisco** – September 26-28, 2023 – Save the Date! The Board received reports regarding the recent TAPS Planning Committee meeting and the exciting plans for TAPS 2023.

**Paralegal Pulse and TPJ** – The Paralegal Pulse is emailed out monthly and the TPJ is emailed on a quarterly basis. Please open and read them as there is so much information contained in both. And remember to check out the Paralegal Pulse for what is happening in your District and across the state.



## Have a Topic to Share?

***Let us know if you have an article you would like to publish.\****

Example topics:

- Substantive Legal Articles (all areas of law: bankruptcy, civil trial, criminal, family, immigration, corporate/business, environmental, oil & gas; probate, real estate, employment, personal injury, entertainment, intellectual property, etc.)
- Pre-Litigation: Subrogation, Interview Techniques, Obtaining a Proper Witness Statement
- Litigation: Trial Notebooks, Organization of Complex Document Production, Use of Databases, "On-the-Road"
- Importance of the Role of Paralegal
- Non-Traditional Roles for Paralegals
- Pro Bono
- Technology Tips
- PD Member Achievements

Submit your article to Editor at [tpj@txpd.org](mailto:tpj@txpd.org). \*Minimum 2,000 words/.doc format.

# OUTGOING OFFICERS AND DIRECTORS



Lisa Pittman

## **Lisa Pittman, 2022-2023 President**

### **Summary of Roles:**

- President, 2022-2023
- 2022 TAPS Chair
- President-Elect, 2021-2022
- 2022 TAPS Scholarship Committee Chair
- D12 Director, first being appointed to fill a vacancy in December 2017 to finish out the 2016-2018 term and then elected to D12 Director for the 2018-2020 and 2020-2022 terms
- Secretary, 2019-2020 & 2020-2021

In addition to serving on the Board of Directors I have also served as:

- Chair of the Public Relations Committee and Mentor/Protégé Committee, 2009-2012
- D12 Sub-Chair of the Public Relations Committee, 2007-2008

## **What Serving on Board Has Meant to Me:**

Serving on the Board has been my honor and privilege. I am very humble to be part of an organization of such amazing people. Working side by side with some very talented and hard working paralegals, I have been impressed by the level of experience and professionalism. These amazing ladies and gentlemen have encouraged and supported me to get out of my comfort zone and do things I never imagined myself doing. I have met some truly awesome paralegals and made lasting friendships.

## **Erica Anderson, ACP, District 7 Director**

Erica Anderson is a senior litigation paralegal at Mullin Hoard & Brown in Amarillo, Texas. She has her Associate Degree in Applied Science with emphasis in Paralegal Studies from Amarillo College and she is an Advanced Certified Paralegal in Trial Practice ("ACP" through NALA).

She has previously served the Paralegal Division through many positions, most notably President, TAPS Committee Chair, Treasurer, District 7 Director, Membership Committee Chair, Public Relations Committee Chair, and as a contributing editor of the Paralegal Ethics Handbook. Erica currently serves as the Director for District 7 completing her term in June 2023.



## **Wayne Baker, Jr., RP, District 3 Director**

### **Summary of Roles:**

- I have served as D3 Director since I was appointed to fill a vacancy in March 2020.
- While serving as Director, I filled several D3 Sub-Chair positions at various times, including:
  - District and Online CLE
  - Professional Development
  - Membership
  - Publications
- Prior to becoming director, I served as D3 Sub-Chair for:
  - District CLE
  - Professional Development
- I have also coordinated and planned the Wild West CLE for 4 years (2020 – 2023).

### **What PD has meant to me:**

Serving as District 3 Director for the last 3 years has been one of my greatest honors. Throughout my career, I have served in leadership positions for paralegal and professional organizations, including the Navy Legalman Association and NFPA. I can unequivocally say that my time serving on the board of the Paralegal Division of the State Bar of Texas has been the most rewarding and influential experience of all. The level of professionalism and the sheer



volume of legal experience among our members is astonishing. It has been a great honor to serve so many amazing paralegals, the majority of which I look up to and often learn from. I have made lasting friendships and gained invaluable mentors. With 2 years of director eligibility left, it pains me to step away from the board now. I had aspirations of continuing as Director and eventually serving in higher levels of PD leadership. However, my decision to step away is a bittersweet one. I will be starting law school

this fall, which has been a dream of mine since early childhood. Though I must go, I will carry with me always the lessons I learned, the memories I made, and the incredible friends I gained in this wonderful organization. Rest assured, however, that this is not "goodbye". I will continue to support PD as a paralegal throughout law school, and as an attorney throughout my career. So, instead, I'll say, "See you later." From the bottom of my heart, thank you all for the memories!



**SAVE THE DATE**



**NFPA 2023 Annual Convention and Policy Meeting**

October 5 - 8, 2023

hosted by National Capital Area Paralegal Association

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

# 2022 TBLS PARALEGALS

The Texas Board of Legal Specialization 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."

## CONGRATULATIONS TO 2022 BOARD CERTIFIED PARALEGALS:

**Roshaea Denise Alford**  
Family Law

**Jennifer Armendariz**  
Civil Trial Law

**Holly Marie Burch**  
Oil, Gas and Mineral Law

**Stephane Carlson**  
Family Law

**Lisa Castillo**  
Family Law

**Doris Ann Cenicerros**  
Family Law

**Carli Collins**  
Civil Trial Law

**Tracey Cryer**  
Civil Trial Law

**Kathy Davila**  
Real Estate Law

**Eliana De La Rosa**  
Civil Trial Law

**Leslee "Diane" Fox**  
Family Law

**Cathy Frasier**  
Civil Trial Law

**Kendra Griesemer**  
Family Law

**Stefanie Henderson**  
Family Law

**Veronica Hernandez**  
Family Law

**Armando A. Huereca**  
Civil Trial Law

**Elizabeth Lasater**  
Family Law

**Vicki A. Lorenzen**  
Oil, Gas and Mineral Law

**Monty L. Mayes**  
Family Law

**Casey Renee Wheeler Mills**  
Family Law

**Celia Dianne Morgan**  
Family Law

**Cheyenne Murphy**  
Family Law

**Carolyn Page**  
Family Law

**Terra Lachelle Paul**  
Family Law

**Tammy Jo Payne**  
Family Law

**Jennafer N. Persinger**  
Civil Trial Law

**Clay J. Riese**  
Family Law

**Natasha Geddie Rinehart**  
Civil Trial Law

**Debbie A. Sanchez**  
Family Law

**Heather Christine Ulliman**  
Family Law

**Ashley Lauren Wheeler**  
Family Law

**Sherry Lee White**  
Family Law

**Kimberley Alene Sharp Williams**  
Family Law

**Chrysa Williams**  
Personal Injury Trial Law

**Stephanie Wood**  
Family Law





# MENTOR PROGRAM

BE A MENTOR | HAVE A MENTOR

## Protégés:

- Receive guidance/direction/support on topics such as ethics, career advancement, & professionalism.
- Access to valuable networking opportunities with other paralegals and the legal community through your mentors and others at state-wide and district PD events.
- Opportunities to learn more about the PD and PD activities & opportunities to get more involved.

## Mentors:

- Opportunity to share your guidance/direction/support on topics such as ethics, career advancement, & professionalism.
- Encourage and promote the Division, and opportunities to participate in the Division.
- Invite Protégés to attend Division functions, and introduce Protégés to Division leadership, as well as some of the members.

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

## SIGN UP TODAY

For more information contact:  
[mentorprogramtxpd.org](mailto:mentorprogramtxpd.org)

