

MALA MOMENTS

December 2018 Edition

A publication of the Montana Association of Legal Assistants*Paralegals an affiliate of the National Association of Legal Assistants*Paralegals



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President's Message

By Terry Hale, ACP



Winter is here and Christmas is sneaking up on me way too fast. Can I just say, I am not ready, not even in the slightest as I still have shopping and baking to do while a 5 day trial looms over me. But as I write this message, I have just returned from a family Thanksgiving trip to Sedona, Arizona. It was warm and beautiful and I didn't want to come home. I love spending time in Sedona and hopefully one day when I retire, my husband and I will have the opportunity to live there in the winter months, but for now in the real world, I'm back to the cold, snow and work.

Time has flown by and it is now time to start preparing for our Annual Meeting which will be held in Bozeman, on March 22, 2019 at the GrandTree Inn. We have the makings of a great line up of topics and speakers for this year's Annual Seminar. Remember, MALA's Annual Meeting & Seminar are free for MALA members, but MALA wouldn't be able to offer this full day of CLE credits for free without the help of our legal community sponsorships. So be on the lookout for our sponsorship letter as we will be in need of sponsors and donations for our amazing give-away baskets. So when you see that letter, be sure to pass it on to your employer.

Our Annual Meeting is also the time for voting for a new Board. Now is the time to think about individuals you would like to nominate for board positions. These Board positions consist of the President, Vice President, Secretary, Treasurer, and NALA Liaison. While I would love to be President again, per our bylaws, I am unable to be nominated as President since I have already served 2 consecutive 1 year terms. If you are ready to step up and take it on, being President of MALA is very rewarding. Please contact me and I can give you more information on the duties to not only this position but all the positions. Look for the Nomination Form in January, 2019!!!

Remember on Monday, December 17, 2018 at noon we will hold our Telephonic Quarterly Meeting. If you are not able to join us at our Quarterly Meeting, be sure to send in your Proxy which can be found on Page 36 of the newsletter or on our website. Your vote counts as to what happens to MALA in the future. Happy Holidays everyone!!!!

Terry Hale, ACP

**NOTICE OF MALA'S
QUARTERLY BUSINESS MEETING**

Monday, December 17, 2018

12:00 pm—1:00 pm

Telephonic ONLY

If you are unable to attend, be sure to complete and send in a Proxy Voting Form (Page 36).

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/152606765>

You can also dial in using your phone.

United States: [+1 \(224\) 501-3412](tel:+12245013412)

Access Code: 152-606-765

Joining from a video-conferencing room or system?

Dial: 67.217.95.2##152606765

Cisco devices: 152606765@67.217.95.2

First GoToMeeting? Let's do a quick system check:

[https://link.gotomeeting.com/
system-check](https://link.gotomeeting.com/system-check)



Work Life Balance – My Thoughts on it

By Terry Hale, ACP

Is there really balance between work and personal life? That's a great question to ponder. So my thoughts on that is—I believe there can be. But each year we all say, “This is the year I am going to do . . .”. And we always mean well, but honestly, have you ever completed all the goals you set for yourself at the beginning of the new year? If you have, CONGRATULATIONS!!!! You are the few, the proud, the overachievers. But seriously, congrats. It takes a lot to be able to set goals and actually complete all of them. I know I have set many goals and completed many, but I have never accomplished everything that I set out to do in a year. Why? Because life gets in the way. So be realistic in your goal setting. Set goals that are attainable. That means set yourself up for success instead of setting so many goals that you set yourself up for failure

As paralegals, our work lives are crazy busy and burnout happens if you don't take some precautions. So avoid burnout in life and at work by shifting your thinking toward balance. I've tried to come up with a few items that you can actually control in order to get some work-life balance:

1. Disconnect from technology whenever possible. Set up a message on your voicemail and email systems stating you are unavailable and provide contacts for those needing help. Leave an additional number to reach you in a real emergency (it typically is not one). Most senior partners and clients expect 24/7 instant availability, so this won't be easy. But, it can be accomplished with some creativity. Doctors learned this decades ago by assigning “on calls” for weekends or weeknights. Maybe your office can do the same.

2. Learn to say no. Set realistic work boundaries that permit you to do quality work and maintain high energy. In my experience, a senior partner has more respect for paralegals who are honest about their workload and do not wish to compromise quality.

3. Take *all* vacation and comp days. Make them real vacations, not “staycations,” especially if you have finished a major project or trial, or have been traveling excessively for work. Take off for two weeks — not one. You need at least three or four days to feel your body relax and then you'll have a full week to decompress. And try not to plan too many trips that are exhausting in and of themselves.

4. Commit to healthy habits. Easier said than done, but here are the basics:

- Take frequent, quick breaks: a quick walk, five minutes of deep breathing, a short meditation.
- Every night, spend an hour doing something for yourself that you can look forward to — a good book, some Netflix, yoga.
- Follow good nutrition habits instead of binge eating when you're feeling starved or late at night.
- Exercise. And this doesn't have to be strenuous workouts. This can be a nice brisk walk at lunch or after work with the dog or kids. A game of basketball or other sport. There are a lot of ways to get exercise besides being a gym rat.
- Get some social interaction outside of work and face-to-face with people. Social interaction that is other than online.
- Make a sustained sleep schedule a priority. Studies confirm that we lose all stability if our sleep is compromised for any period of time.

5. Get in touch with your life's priorities, goals and passions. Have you discarded or forgotten them? Your tombstone is not going to read that you had the highest billable hours for a decade. Here are a few tactics to use when looking to reconnect with your passions:

- Identify your greatest joys. Feel free to go back to your childhood.
- List five things (jobs, volunteer work, hobbies, adventures) you would like to do.
- List five more things that you are very good at doing (even if you have never done them in public or as part of a job).
- Complete this sentence: "My life is ideal when ... " Do it again 15 times, then reduce it to your top five.

Remember everything in life that results in real change begins with simple and tangible actionable steps, not a January flood of empty promises to yourself and new gym memberships.

Here's looking to a fabulous New Year!!!



Vice President Report

By Heather Bienvenue, CP



Hello MALA Members. I would like to report we had an increase of 10 new members since September and there are currently 129 members including 1 new associate and 2 new student members.

The new MALA Membership Application is up on the MALA website. Thank you to Terry Hale, ACP and the membership committee for making that happen.

If you have any questions, please feel free to email me at heather.bienvenue@gmail.com.



Volunteers needed!!!

If it weren't for the dedication of our members, Officers and Committee members, MALA would not be making a difference in providing continuing education for paralegals, legal assistants and attorneys; providing professional development opportunities for paralegals to advance their careers, or the general education and promotion of the paralegal profession. Be sure to volunteer on a committee in 2019-20 and keep MALA going strong into the future.



Treasurer's Report
 September 2018—December 2018



Montana Association of Legal Assistants

STATEMENT OF FINANCIAL POSITION

As of October 31, 2018

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
MT Assoc of Legal Assistants Checking (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX king)	2,746.81
MT Assoc of Legal Assistants Savings (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX ings)	17,731.39
Total Bank Accounts	\$20,478.20
Total Current Assets	\$20,478.20
TOTAL ASSETS	\$20,478.20
LIABILITIES AND EQUITY	
Liabilities	
Total Liabilities	
Equity	
Opening Balance Equity	21,626.90
Retained Earnings	-1,007.65
Net Revenue	-141.05
Total Equity	\$20,478.20
TOTAL LIABILITIES AND EQUITY	\$20,478.20

Montana Association of Legal Assistants

STATEMENT OF ACTIVITY

September - October, 2018

	TOTAL
Revenue	
CLE	0.00
2018/08 August	328.58
2018/09	338.38
2018/10 October CP Review	790.35
Total CLE	1,457.31
Library	30.00
Membership Dues	49.90
Total Revenue	\$1,537.21
GROSS PROFIT	\$1,537.21
Expenditures	
Dues & Subscriptions	25.00
GoTo Meeting	10.19
Legal & Professional Fees	110.00
Postage	3.68
Quickbooks	215.00
Wild Apricot	101.10
Total Expenditures	\$464.97
NET OPERATING REVENUE	\$1,072.24
NET REVENUE	\$1,072.24



MALA's Quarterly Meeting Minutes

By Amanda Hewitt



MALA QUARTERLY BUSINESS MEETING

Friday, October 5, 2018 – 12:02 PM
Telephonic

Officers:

- President – Terry Hale, ACP
- Vice President – Heather Bienvenue, CP
- Secretary – Amanda Hewitt
- Treasurer – Stephanie Spokas
- NALA Liaison – Becky Henderson, ACP
- Montana State Bar Liaison – Olga Bobko
- Parliamentarian – Velvet Truzzolino



1. Call to Order – 12:02 PM

2. Officer Reports/ Discussion:

Vice President - 119 Active Members, 12 Pending Applications, 6 of the pending are student applications.

Parliamentarian – 10 proxies all together. According to new Bylaws, we have quorum

Secretary – June 29th Meeting Minutes were published in the newsletter. No corrections to minutes. Motion to approve made Stephanie, Second, No objections. Minutes approved as published in Newsletter.

Treasurer – Report published in Newsletter. Total as of August: \$19405.96. It says our net revenue is - 526.00 because of NALA Convention Expenses that come out before most of our income comes in, but the account is not negative as of today due to income from CP Review CLE. Members are welcome to ask any questions regarding our financials. Report is approved as published.

NALA Liaison - No additional updates.

3. Old Business:

Membership Committee has been working on updating applications. Big changes are allowing people to pay online. A new associate member category was added for anyone new to industry that doesn't qualify under student or regular membership category. They will not have voting rights, but will be able to participate. Form is on the website. We're still working on forming an online application. \$26.00 if you pay online and \$30.00 if paying by check.

Reminder that if you're a current member and you renew after July 1st, it is a higher fee of \$40.00 with check and \$36.00 if you pay online.

NALA Convention 2018 attended by Terry Hale, Becky Henderson and Amanda Hewitt.

Terry reached out to GoToMeeting regarding additional charges. We were paying additional charges for members to access a "1-800" number. Our settings have been changed and we will no longer use the "1-800" call in number.

4. New Business:

NALA Convention 2019 will be in Phoenix in July, 2019. From Missoula you could fly by Allegiant Air at a cheaper rate.

Upcoming Seminars:

Brown Bag CLE:

October 13th – CP Review at Chico Hot Springs

October 24th – Tracy Axelberg, Mediation in Montana

November 14th – Dan Cahalan, Landlord Tenant Law

No CLE in December

January 16th – Helen Hauerwas, Probate

Let us know if you any speaker ideas for February.

MALA Annual Meeting will be on March 22nd in Bozeman at the Grand Tree. Seminar Committee is working on details of that. Let us know of any ideas you may have for the meeting. We'll be sending out sponsorship and donation letters after January 1st.

We have 24 attendees for CP Review this year. We also have 6 speakers, 5 of those speakers are CP and/or ACPs.

Board will be looking at providing a group rate to attend CLEs.

5. Announcements:

Will be sending out a Survey regarding the best way of communication and any changes you'd like to see in MALA.

Annual Meeting in March, which means we'll need to nominate Board Members. After the beginning of the year you'll see emails regarding nominations. Terry cannot serve as President next year. Please consider running for a Board Position.

6. Discussions:

Heather noted that some of the pages of the Newsletter are a little hard to read.

7. Adjourn - 12:25 PM.

The Crucial Role Of The Project Manager In eDiscovery

Dealing with ediscovery is complex, and the details to be handled are endless.

By [KELLY TWIGGER](#)
Sep 12, 2017 at 6:11 PM

Dealing with electronically stored information (“ESI”) is complex. The details to be handled are endless, and the skill set needed to do it effectively is highly technical.

Those of you who deal with ESI are nodding your heads, and those of you who let someone else do it truly do not understand the complexity that is involved. That’s ok, but you need to learn so you can have the right people doing the right jobs. And you need to learn to appreciate the expertise that they bring to the table.

By way of example, remember the last time you tried to search for an email you knew was in your inbox but you couldn’t find it, no matter how many searches you tried? The systems that we use to create, send, store and manage ESI were never designed to pull data for purposes of litigation. That means that to engage in ediscovery effectively, you need people who think about how data functions, where it lives, and the complexities of the various forms of data.

As a litigator, you need someone to handle that data and get it into a format that you can look at. That person is your project manager.

You may call the role something else at your firm (e.g., litigation support manager), but the role is the same.

As I work with clients across the country — large firms, small firms, corporations, government offices — I see lawyers assuming that picking up the complexities of ESI and handling data is something their paralegals can just do. I’m here to tell you that it’s not. And understanding the difference between these two roles may help you understand why you aren’t getting the help you need in ediscovery.

If you are expecting your paralegal to have the skill set necessary to manage ESI, including setting up and managing your databases, without some serious training, you are putting yourself and your clients at risk.

Let’s look at the traditional role of the paralegal — one that is critical to the success of any good litigator. Your practice may vary to some degree, but as a general rule, these are some of the broader tasks of a paralegal:

- Managing the case file
- Sending out subpoenas
- Setting up depositions (court reporters, etc.)
- Tracking productions from all parties
- Organizing witness binders
- Deposition preparation
- Handling appellate filings
- Creating trial exhibits
- Preparing for trial

Compare and contrast that list with the duties of a project manager:

- Working with the litigation team to identify key custodians and sources of ESI for collection
- Working with IT at the client to figure out how to collect effectively and efficiently from the client
- Performing or managing the collection process with a provider
- Receiving data
- Loading data and resolving any issues with data — examples can include corrupted files, records without files attached, rendering issues, etc.
- Performing a check that all required metadata has been received
- Ensuring documents are OCR'd as needed
- Setting up a database for a matter
- Creating searches, filters, and tags, and utilizing the features of the review platform to enhance the lawyer's goals for the case
- Creating redactions, privilege sets, and production sets
- Doing quality control on production sets according to defined parameters for the case, including date ranges, custodians, topics, etc.
- Sending out productions
- Loading productions from other parties and identifying holes in the productions or metadata provided

See? The two sets of skills and requirements are completely different. I want to be clear — there are many paralegals out there who both have the capability and desire to learn the skill sets of a project manager, so that may be a viable path. But they have to have training, and their roles need to be defined. If you are using your paralegals for ediscovery, find out what they really know and what they don't know. You can outsource some or all of the required skill sets, but you need to identify where the gaps are and what you need to fill.

Your paralegal manages the matter; your project manager manages the database of ESI. The paralegal is your expert on case knowledge; the project manager is an expert on your review software. The paralegal knows who everyone is at all parties, what has happened in the case, and the case status. Your project manager knows who the custodians are with data, how many productions have been made and how, and what can be done to better manage the database more efficiently for your client.

The project manager role is new — it's unique to dealing with ESI. You need one, and you need one who knows the technology you are using like the back of his or her hand. Not all firms have enough work to have a full-time project manager, that's true. So train up those paralegals at user conferences for the software you are using, and whatever methods you have so they can do the job you are asking them to do. Or get outsourced project management from your software provider.

Acknowledge the difference in skill sets. You wouldn't have a tax lawyer try your commercial litigation case, would you?

Reprinted with permission of Kelly Twigger, the article originally appeared on Above the Law website September 12, 2017, The article is reprinted here in its entirety. For further information, contact: <https://abovethelaw.com/2017/09/the-crucial-role-of-the-project-manager-in-ediscovery/> or Kelly@ediscoveryassistant.com.



NALA NEWS

*By Becky Henderson, ACP
NALA Liaison*



Components of Certified Paralegal Exam By Becky Henderson, ACP NALA Liaison

Dear MALA Members,

Just a few more weeks until the new year! If professional development is one of your goals for 2019, you may want to consider taking the steps to become a Certified Paralegal (CP).

How can it benefit you? Use of the CP credential signifies that a paralegal is capable of providing superior services to firms and corporations. National surveys consistently show CPs are better utilized in a field where attorneys are looking for a credible, dependable way to measure ability. The credential has been recognized by the American Bar Association as a designation that marks a high level of professional achievement. The CP credential has also been recognized by over 47 legal assistant organizations and numerous bar associations.

I would encourage you to read NALA's 2018 Certified Paralegal Program Candidate Handbook, found at <https://www.nala.org/Certification/.Informational Links/CP Program Handbook>. The Handbook explains how to apply for the exam, application requirements, fees, and general policies.

Contact Jill Broughton (MALA's librarian) at mala@malanet.org if you would like to check out NALA CP study guides.

The CP examination consists of two required sections taken in the following order:

Knowledge Exam

The Knowledge Exam will consist of multiple choice questions covering the topic areas listed in Appendix A.

The Knowledge Exam will be administered on-demand, year-round at testing centers with preliminary result reporting upon completion.

Candidates must successfully complete the Knowledge Exam in order to be eligible to take the Skills Exam.



Established in 1976, the CLA /CP (Certified Legal Assistant/Certified Paralegal) program has enabled the profession to develop a strong and responsive self-regulatory program offering a nationwide credential for all paralegals. Today over 15,000 paralegals have achieved this esteemed credential.



Skills Exam

The Skills Exam will consist of a written assignment; specifications are set forth in Appendix A.

The Skills Exam will be administered during four testing windows each year: February, April, July, and October.

Two hours testing time will be provided for the Skills Exam.

Successful completion of both the Knowledge and Skills Exams is required to obtain the CP credential.

Examination Policies

First Administration — Knowledge Exam

The first administration of the Knowledge Exam will be offered during a 30-day window with 150 items. This administration will be used for post-administration analysis, scoring, and standard setting. For this session, results will not be available upon completion but will be provided once the analysis, scoring, and standard setting has been completed.

100 items will be scored (determined after administration).

50 items will be pretested for statistical analysis (determined after administration) but will not be scored.

3.75 hours testing time (90 seconds per item) will be provided for this one-time testing session.

Subsequent Administrations — Knowledge Exam

When the examination opens for year-round testing, 120 items will be included on each Knowledge Exam.

100 items will be scored.

20 items will be pretested for statistical analysis.

3 hours testing time (90 seconds per item) will be provided for all subsequent Knowledge Exams.

Result reporting will be available upon completion with on-demand testing year-round.

Exam Administration Policies and Procedures

Knowledge Exam

Candidates must first pass the Knowledge Exam.

Candidates are eligible to take the Knowledge Exam only after they have graduated from an educational program, if using that eligibility pathway, or have the required minimum experience, if using the experience category. The new system of on-demand testing will remove deadlines to apply for the examination. Candidates will be able to apply when they are eligible.

Once NALA approves an application for the Certified Paralegal examination, candidates will have 365 days from the approval date to sit for the Knowledge Exam. If the candidate does not take the Knowledge Exam within 365 days of the initial approval date, NALA will return the application to the candidate. The examination fee is nonrefundable.

Candidates who do not pass the Knowledge Exam must wait 90 days before re-taking it.

Candidates must pass the Knowledge Exam within the first three attempts during the 365 day period or wait 365 days before trying again.

Skills Exam

Candidates who pass the Knowledge Exam are then eligible to take the Skills Exam and must complete the Skills Exam within the next 365 days after receiving notice of eligibility from NALA.

Candidates must wait at least 2 weeks after passing the Knowledge Exam before receiving eligibility to take the Skills Exam.

Candidates who do not pass the Skills Exam must wait 90 days before re-taking it.

Candidates must pass the Skills Exam within the first three attempts in a 365 day period or start over by re-taking the Knowledge Exam.

Exam fees

First time candidates

Nonrefundable examination fee of \$250 for NALA members, \$275 for nonmembers.

Includes one attempt for the Knowledge Exam and one attempt for the Skills exam.

Retake candidates

Nonrefundable attempt fee of \$60 per subsequent attempt for the Knowledge Exam.

Nonrefundable attempt fee of \$60 per subsequent attempt for the Skills Exam.



CP
CERTIFIED PARALEGAL

ACCREDITED

Certified Paralegal Program Receives Accreditation from the National Commission for Certifying Agencies (NCCA)

On April 30, 2014, The National Commission for Certifying Agencies (NCCA) granted accreditation to the NALA Certified Paralegal program for demonstrating compliance with the NCCA Standards for the Accreditation of Certification Programs.

NCCA is the accrediting body of the Institute for Credentialing Excellence. The NCCA Standards were created to ensure certification programs adhere to modern standards of practice for the certification industry.

The NALA Certified Paralegal program joins an elite group of more than 120 organizations representing over 270 certification programs that have received and maintained NCCA accreditation.

More information on the NCCA is available online at www.credentialingexcellence.org/NCCA.

Information describing the Certified Paralegal program is available at www.nala.org/certification.aspx.



**THE ASSOCIATION OF
LEGAL ASSISTANTS • PARALEGALS**

Appendix A

Knowledge Exam		100 points
1	United States Legal System	15
1.A	Sources of Law	
1.B	Judicial System	
1.C	Remedies	
1.D	Administrative Law	
2	Civil Litigation	15
2.A	Jurisdiction	
2.B	Federal Rules of Civil Procedure	
3	Contracts	15
3.A	Formation, Rights, and Duties	
3.B	Enforcement and Defenses	
4	Corporate/Commercial Law	10
4.A	Business Organizations	
4.B	Rights and Responsibilities	
4.C	Transactions	
5	Criminal Law and Procedure	5
5.A	Criminal Law	
5.B	Criminal Procedure	
6	Estate Planning and Probate	5
6.A	Estate and Trusts	
6.B	Wills	
7	Real Estate and Property	10
7.A	Property Rights and Ownership	
7.B	Transactions	
8	Torts	10
8.A	Intentional Torts	
8.B	Negligence	
8.C	Strict Liability	
9	Professional and Ethical Responsibility	15
9.A	American Bar Association (ABA) Model Rules of Professional Conduct	
9.B	Unauthorized Practice of Law	

Skills Exam		30 points
1	Writing	12
1.A	Grammar, Spelling, and Punctuation	6
1.B	Clarity of Expression	6
2	Critical Thinking	18
2.A	Reading Comprehension	6
2.B	Analysis of Information	6
2.C	Decision Making	6

NALA



Advanced Certified Paralegal

**Advance your paralegal skills with
our specialized self-study courses.**

- ▶ Learn at your own pace, with one year to complete the course.
- ▶ You can take the exams as many times as you need to, until you pass.
- ▶ Self-Study courses include a PDF e-Book.
- ▶ The new interactive format includes many activities to engage learning.

ACP AREAS INCLUDE:

BUSINESS ORGANIZATIONS

CRIMINAL LITIGATION

DISCOVERY

E-DISCOVERY

FAMILY LAW

LAND USE

REAL ESTATE PRINCIPLES

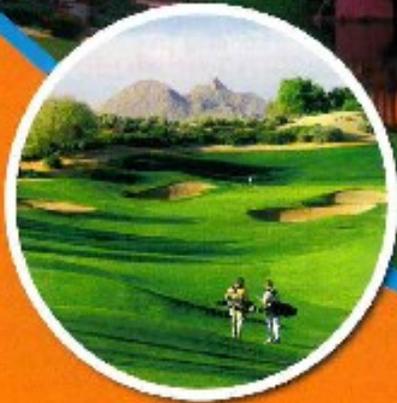
TRIAL PRACTICE

To see a full list of courses available, visit www.nala.org.

THE WESTIN KIERLAND

RESORT & SPA

PHOENIX-SCOTTSDALE



2019 NALA CONFERENCE & EXPO

Join us in Arizona on July 11-13 and be a part of our 3-day education event. We hope to see you at the nation's largest paralegal conference!



MEMBER SPOTLIGHT



Lisa Radcliffe Wallace grew up in the era of the “Valley Girl” in Southern California, but began her legal career in 1983, while attending college at the University of South Dakota. She worked as a Legal Assistant until she graduated and moved to Florida to tag and release billfish all over the world. Several years later Lisa moved back to California to take care of her Mom. In 1997, while working for a sole practitioner in Laguna Beach, California, Lisa obtained her Paralegal Certification. Since that time, Lisa has worked in a handful of law firms over the past 20+ years, from one attorney offices to managing an entire estate planning department with a staff of 12, where she created and funded million-dollar trusts. Her experience includes revocable and irrevocable trusts, trust administration, real estate transactions, commercial litigation, creditor bankruptcy and family law. But her passion lies in estate planning and probate. Lisa feels very fortunate to work in the legal field, as it has provided her with knowledge, opportunities and advancement. In 2009, Lisa and her husband Bryan moved to the Bitterroot Valley. She has worked for a sole practitioner in Stevensville for the past 7½ years. When she is not working, Lisa likes to camp, fly fish, read, garden, and spend time with family and friends.

Top 10 Rookie Mistakes New Paralegals Make

Posted on [April 6, 2018](#)

It's too much to expect that anyone stepping into a brand new position will do a letter-perfect job on day one.. but nothing builds dumb confidence quite like a college degree and zero experience!

As a brand new paralegal, fresh out of school, you'll feel like you're ready to take on the world. Then you'll humiliate yourself with a stupid mistake. The kind that makes you cringe and want to crawl under a rock every time you think about it for years to come.

It's inevitable. And just as inevitably, you're going to beat yourself up about it. The key is to get out ahead of these things and spare yourself the embarrassment – and the self-flagellation that follows.

Even experienced paralegals make mistakes, and god knows you'll see lawyers themselves make plenty of them. But there are certain mistakes brand-new paralegals seem to be famous for making. Be Warned ...

1. Giving Legal Advice

Every new paralegal runs afoul of this mistake at some point despite having repeatedly been hammered in school that the unauthorized practice of law is strictly prohibited and sometimes rises to the level of a criminal offense.

It's an easy mistake to make. Sometimes it's just to friends and family, eager to draw on your freshly minted expertise in the field for some free consultations. Sometimes, and much worse, it's helpful advice to a client who seems worried and needs reassurance. But it can come back to bite you and it's best to put a lot of room between yourself and legal advice or anything like it until you have a few years under your belt and know where the fine lines are drawn.

2. Misfiling Documents

You're told all through your training that details matter, that being detail-oriented is the most important part of being a paralegal, that it's your responsibility to get every little thing correct in everything you do. But it doesn't really sink in until the first time you slide a folder into the wrong file and come up missing crucial documents at a critical moment. There's not a lot you can do about this except double down on your attention so you don't have to learn the hard way.

3. Mishandling Potential Clients

Lawyers and experienced paralegals know that the key to a successful law practice is in picking winning cases. It's not your skill, it's not the lawyer's skill, it's not crucial sleuthing out on the streets... it's picking clients and cases that can prevail in court.

But new paralegals have seen too many TV shows and haven't yet become hard-boiled professionals who can see through a sob story and tell when a client is lying. At first, you'll probably do poorly at filtering out the bad risks. This is another area where experience becomes your best friend—but you can be sure your employer will be happy to help until then.

4. Missing A Deadline

Missed deadlines are unfortunately all too common in American jurisprudence. Even in the most serious of cases, capital crimes where defendants face the death penalty, the [New York Times found 80 cases](#) where legal teams failed to file crucial documents in their client's defense on time.

There are no statistics kept in the wider world of law, but you'll see plenty of missed deadlines in your own career... and you'll probably be individually responsible for a few of them yourself. It's a terrible feeling and one you'll want to avoid as much as possible.

5. Violating Confidentiality

Some of the things that come across your desk will be so outrageous, so hilarious, or so interesting that you'll just *have* to tell someone. But that someone had better not be anyone outside the office, because if it is, you'll have violated one of the most sacrosanct strictures of legal practice... client confidentiality. It's no easy task to keep your lips sealed at happy hour with friends and family but it's a habit you'll have to get into if you hope to have a long legal career, because violations can be serious and could result in you being the one on the receiving end of the criminal justice system.

6. Failure to Disclose a Relationship or Other Conflicts of Interest

Outsiders are always surprised how seriously ethical conflicts are taken within the legal community. You're primed through popular culture to be used to lawyers and law firm staff sleeping with clients, gossiping with other firms, or otherwise behaving in a cavalier manner about conflicts of interest. But when you become a practicing paralegal, you'll need to learn to take it seriously, because everyone around you will. If conflicts of interest emerge, you need to be forthright and frank about communicating them, even if they are uncomfortable to share.

7. Not Tracking Your Time Closely

Law firms live and die by billing. Although trends are changing, that's still primarily hourly billing, in increments of one-tenth of an hour... every six minutes on the clock needs to be accounted for and accurately attributed to the relevant case or client. Just keeping track of all those time segments is a lot of work, and there's a lot of pressure to drive up the time spent to increase billable hours. You'll be in a lot of hot water if you can't attribute your time to individual cases, no matter how hectic your day has been.

8. Not Knowing Court Rules

It's not intuitive that different courts have different rules and standards for esoteric legal matters like document formatting and filing, but they do... and a failure to learn and apply those rules has brought the axe down on many a new paralegal. If you don't know the rules for your jurisdiction, you had better at least know how to look them up... and not be afraid to do so when you have a question.

9. Calendaring Errors

Although missing a deadline is among the worst offenses a paralegal can commit, there are whole other categories of calendaring mistakes that new paralegals routinely make. From scheduling new client appointments while the attorney is supposed to be in court to mistaking calendar days for business days in docketing matters, the calendar is a minefield for new paralegals – and only experience will help see you through safely.

10. Being Overly Dependent on Your Attorney

Reacting to many of these other possible mistakes can create a new one that paralegals sometimes make... becoming overly dependent on the attorney to answer hard questions or avoid obstacles. But paralegals are there expressly so attorneys won't have to do all this detail work. If you're not serving as a resource for your attorney instead of bogging them down, you're not doing the job you were hired to do.

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Ingredients:

- 4 strips bacon
- 2 tablespoons candied pecans or walnuts, finely chopped
- 2 tablespoons dried cranberries, finely chopped
- 6 dried apricots, finely chopped
- 1 tablespoon fresh rosemary leaves, finely chopped
- 2 teaspoons red wine vinegar
- Kosher salt and freshly ground black pepper
- One 7- to 8-ounce round high-quality Brie, preferably from France

Directions:

- Preheat the oven to 325 degrees F. Lay the bacon in a large skillet, then cook over medium heat until golden and crisp, 4 to 5 minutes per side. Drain the bacon on paper towels, let cool, then finely chop.
- Combine the bacon, pecans, cranberries, apricots, rosemary, vinegar, pinch of salt and a few grinds of pepper in a small bowl.
- Remove the Brie from its packaging. Cut off the top rind of the round of Brie, leaving a 1/4-inch border around the edges (use a sharp knife and go in from above at a slight angle). Discard the rind you have removed. Put the Brie in a small baking dish. Top with some of the cranberry-pecan-bacon crumble, and scatter the rest around the Brie. Cover the dish with foil, and bake until the cheese is warm and gooey, 30 to 35 minutes.

Serve with bread, crackers and apple and/or pear slices for dipping.

MONTANA LAWYER

State Bar
— of —
Montana

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By Shanni K. Barry

What is a paralegal? Knowing the facts can help maintain the integrity of the profession

As Chair of the Paralegal Section of the State Bar of Montana, I receive many questions related to paralegals. The questions come from current paralegals, aspiring paralegals, attorneys and law office administrators and all relate to the same topic — paralegals. What is a paralegal? How do you become a paralegal? What credentials should a paralegal possess? What duties does a paralegal perform? How much should a paralegal make? What should the billable hour requirement be? How much should we bill for a paralegal? While I am always willing to answer any questions you may have, this article may answer some of the most common questions.

Paralegals are not licensed in the State of Montana. Because of that, non-credentialed individuals may refer to themselves as a paralegal. This leads to confusion as to what a paralegal is.

What is a Paralegal?

This is how the American Bar Association defines a paralegal:

A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible¹.

There are two very important distinctions in this definition: *legal assistant* and *substantive*.

1. A legal assistant is a paralegal.

In this era of political correctness, some have replaced the word “secretary” with “assistant.” But, a legal assistant is a paralegal. Because of that, referring to a legal



assistant can be very confusing. For clarity, stick to paralegal and legal secretary.

2. **Substantive legal work.** Substantive legal work is, well, substantive. Merriam Webster defines substantive as, “having substance: involving matters of major or practical importance to all concerned.” Basically, substantive legal work means in the absence of a paralegal, the work would be performed by an attorney.

In the 2009 Montana Legislature the Paralegal Section of the State Bar of Montana initiated legislation that resulted in the addition of paralegal language to the law regarding costs, including Mont. Code Ann. Sections 25-10-302 and -304, which allows a law office to include reasonable fees of a paralegal in the attorney fees awarded to the prevailing party. Mont. Code Ann Section 25-10-305 defines the word “paralegal” in that context:

25-10-305. Paralegal defined -- use of title. (1) As used in 25-10-304 and this section, “paralegal” means a person qualified through education, training,

or work experience who is employed or retained to perform, under supervision by a licensed attorney, substantive legal work that:

- (a) requires a substantial knowledge of legal concepts; and
 - (b) in the absence of the paralegal, would be performed by an attorney.
- (2) An individual may use the title “paralegal” if the individual:
- (a) has received an associate’s degree in paralegal studies from an accredited institution or a baccalaureate degree in paralegal studies from an accredited college or university;
 - (b) has received a baccalaureate degree in any discipline from an accredited college or university and has completed not less than 18 semester credits of course work offered by a qualified paralegal studies program;
 - (c) has received certification by the national association of legal assistants or the national federation of paralegal associations;

¹ https://www.americanbar.org/groups/paralegals/resources/current_aba_definition_of_legal_assistant_paralegal.html

(d) has received a high school diploma or its equivalent, has performed not less than 4,800 hours of substantive legal work under the supervision of a licensed attorney documented by the certification of the attorney or attorneys under whom the work was done, and has completed at least 5 hours of approved continuing legal education in the area of legal ethics and professional responsibility; or (e) has graduated from an accredited law school and has not been disbarred or suspended from the practice of law by any jurisdiction.

(3) A person may not practice as a paralegal except under the supervision of a licensed attorney and is prohibited from engaging in the unauthorized practice of law.

The costs associated with a case can become a crucial part of a law office's consideration of its ability to represent clients. The fact that attorney fees can be considered costs in civil cases, awarded by law, is not a small component of our system. A law office that employs a paralegal that meets the definition outlined in this statute can automatically include their costs with that of attorneys.

Paralegal certification through National Association of Legal Assistants (NALA)

NALA provides national standards, training, and certification of paralegals, all of which provide a basis for people seeking to truly join the profession and perform substantive legal work. To take the six-hour exam (often compared to the bar exam), a person must meet NALA's specific criteria, including the following:

1. Graduation from a paralegal program that is any of the following: approved by the ABA; an associate degree program; a post-baccalaureate certificate program in paralegal studies; a bachelor's degree program in paralegal studies; or a paralegal program consisting of a minimum of 60 semester hours (900 clock hours or 90 quarter hours) of which at least 15 semester hours (225 clock hours or 22.5 quarter hours) are substantive legal courses.

2 A bachelor's degree in any field plus one year's experience as a paralegal. Successful completion of at least 15 semester hours (or 22.5 quarter hours

or 225 clock hours or equivalent CEU hours) of substantive paralegal courses will be considered equivalent to one year's experience as a paralegal.

3. A high school diploma or equivalent plus seven years' experience as a paralegal under the supervision of a member of the Bar, plus evidence of a minimum of 20 hours of continuing legal education credit to have been completed within a two-year period prior to the examination date².

The NALA exam includes two parts: the knowledge exam and the skills exam. The knowledge exam must be successfully completed to sit for the skills exam. The knowledge exam consists of:

- **United States Legal System:** Sources of Law; Judicial System; Remedies; Administrative Law
 - **Civil Litigation:** Jurisdiction; Federal Rules of Civil Procedure
 - **Contracts:** Formation, Rights, and Duties; Enforcement and Defenses
 - **Corporate/Commercial Law:** Business Organizations; Rights and Responsibilities; Transactions
 - **Criminal Law and Procedure:** Criminal Law; Criminal Procedure
 - **Estate Planning and Probate:** Estates and Trusts; Wills
 - **Real Estate and Property:** Property Rights and Ownership; Transactions
 - **Torts:** Intentional Torts; Negligence; Strict Liability
 - **Professional and Ethical Responsibility:** American Bar Association (ABA) Model Rules of Prof. Conduct; Unauthorized Practice of Law
- The Skills Exam consists of:
- **Writing:** Grammar, Spelling, and Punctuation; Clarity of Expression
 - **Critical Thinking:** Reading and Comprehension; Analysis of Information; Decision Making³

NALA offers study materials as well as practice test for preparing for the examination. The Montana Association of Legal Assistants, is the local chapter of NALA. MALA offers a 1.5-day certified paralegal review course every fall as well as scholarships for the exam. The certified paralegal exam is \$275. NALA membership dues are \$140 annually and MALA

2 <https://nala.org/certification/exam-application-and-qualifications>

3 <https://nala.org/certification/preparing-exam-format-specifications>

membership dues are \$25 annually.

State Bar of Montana— Paralegal Section

Another way to demonstrate to your employer and your employer's clients that you are qualified to call yourself a paralegal in Montana is to join the Paralegal Section of the State Bar of Montana. Membership dues are \$85 annually. Just like sitting for the certified paralegal exam, there are stringent requirements to be a member. If you don't currently meet the requirements, work toward fulfilling them. Once you have attained this goal, you will have another credential and you can assist our profession in many ways.

Help us all maintain the integrity of the paralegal profession

As a law office administrator, you want educated and skilled paralegals and you want to retain them. A competitive salary/compensation and benefits package will help ensure that. NALA conducts a National Compensation and Utilization Survey Report (Survey)⁴ every two years. The 2016 Survey found that the average compensation (salary, bonuses & overtime) for paralegals in 2016 was \$61,671. The average compensation for paralegals in 2016 in the Rocky Mountain region was \$60,212. The average salary for a paralegal in 2016 was \$57,668 per year or \$27.73 per hour. The average salary for a paralegal in the Rocky Mountain region in 2016 was \$56,257 or \$27.05 per hour. (Upon my certification in 2007, my salary was \$52,000 annually and I also received bonuses.)

Law office administrators need to understand and implement how a paralegal position differs from a legal secretary position. Obviously, given the descriptions set out above of the training and duties of a paralegal, there are substantial differences. Recognize that while a legal secretary should be able to handle all incoming communication (in person, on the telephone, or through written communication), file management,

Paralegal, page 27

4 <https://www.nala.org/sites/default/files/files/banner/2016%20NALA%20Utilization%20Compensation%20Survey%20Report.pdf>

Paralegal, from page 17

scheduling, and document completion, a paralegal does substantive legal work. While the goals of efficiency and professionalism apply to both, the use of these two positions should be vastly different.

Failure to recognize these distinctions in hiring practices will only create confusion and waste time. That is, the law office administrator will waste a lot of time with hiring procedures – none of which will facilitate the law office's goals – if there is not a clear picture of the duties that must be fulfilled. The applicants will waste time applying for positions that are not accurately described. Don't advertise a paralegal position when you have no intention of having the person provide substantive legal work.

Consider the benefits of hiring a capable certified paralegal. Like attorneys, paralegals are hired often with an annual billable hour requirement in a contractual arrangement. (Make sure the work will flow from the attorneys.) In my experience, 1,500 hours per year was both reasonable and achievable. Consider the allowable cost of \$125 per hour times

1,500 hours of paralegal work (\$187,500) and the commensurate margin of profit.

Also, encourage the certification of your current employees. Hard-working employees seeking additional education and credentials is a sign of dedication, open-mindedness, and initiative in the workplace. And, remember the benefit to the law office and the individual of the law office paying for both the certification exam and membership dues.

Additional benefits to a law office hiring certified paralegals include the requirement that they are bound by the NALA Code of Ethics and Professional Responsibility⁵. Violation of this Code may result in suspension of the certification credentials. Members of the Paralegal Section of the State Bar of Montana are bound by the Rules of Professional Conduct⁶.

Also, NALA requires 50 CLE hours per five years (5 must relate to ethics), MALA requires 10 CLE hours per year (3 within three years must relate to ethics)

⁵ <https://nala.org/about-paralegals/professional-standards>

⁶ <https://www.montanabar.org/store/ViewProduct.aspx?ID=2102697>

and members of the Paralegal Section requires 10 CLE hours per year (1 must relate to ethics). These requirements overlap.

As of July 16, 2017, there were less than 100 certified paralegals in the State of Montana⁷. As credentialed paralegals, we can educate regarding those credentials, then negotiate a salary that is commensurate with our worth. Remember that you will never get what you don't ask for. Negotiate a contract establishing a billable hour requirement (with a bonus for hours exceeded), salary, payment by the law office of CLE's, paralegal section and association dues, and benefits.

Together we can maintain the integrity of the paralegal profession in Montana.

Shanni K. Barry has an associate of science degree in paralegal studies, was certified as a paralegal by NALA in 2007, and has worked in the legal profession for over 15 years. She is a member of MALA and is the Chair of the Paralegal Section of the State Bar of Montana.

⁷ https://www.nala.org/sites/default/files/files/banner/CP_Statistics.pdf



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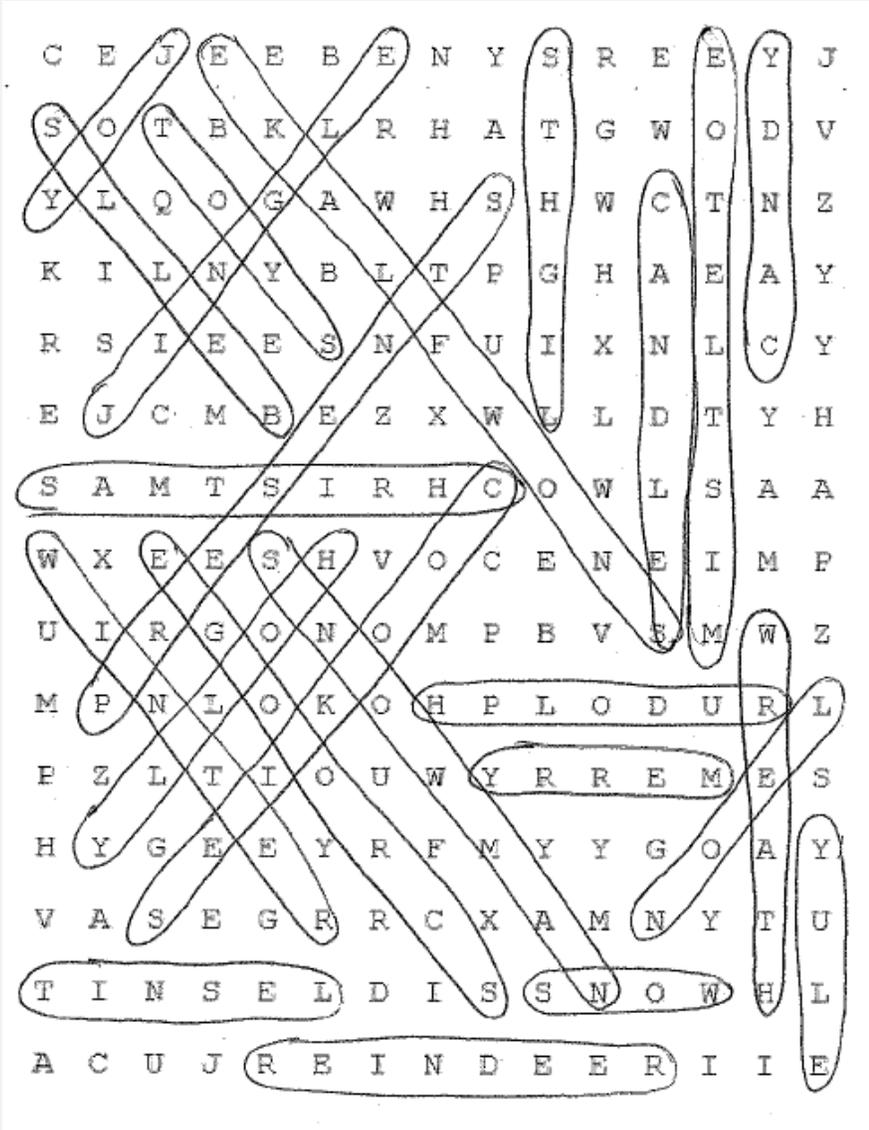
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DESIGNATION OF PROXY

I, _____ an active MALA member, hereby appoint _____, an active MALA member, to serve as my proxy at the MALA Quarterly Meeting on Monday, December 17, 2018.

Dated this _____ day of _____, 2018.

Signature

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