

MALA MOMENTS

September 2017 Edition

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



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President's Message

By Terry Hale, ACP

Well, I've survived the summer heat and now attempting to survive all this horrible smoke. I'm hoping now that summer is winding down, hopefully that means maybe the fire season and all the smoke will wind down as well.

So many things have occurred since the last newsletter. I'm writing this as I prepare to head to Portland, Maine on vacation. I have never been to Maine so I'm looking forward to an 9-day vacation with my husband, where I will partake in the eating of many lobsters, take many walks on the rocky beaches of Maine, and hopefully take a lot of photos of the leaves changing colors and a whole lot of lighthouses.

I also enjoyed my trip to Orlando, Florida in July. While it is not the most ideal time to go to Florida, I can say, it was an amazing trip. This Florida trip was to attend the NALA Convention that was held July 19-21. Before I tell you all about Convention, first, I would like to thank MALA for sending me as your representative. I also got to attend with a NALA Convention newbie "virgin," Stephanie Spokas, who is MALA's current Treasurer. I was excited to share NALA Convention with her because I know NALA never disappoints when it comes to their educational sessions at Convention.

NALA provides so many different educational sessions there is something for everyone, whether you are preparing for the CP Exam, or you are interested in Real Estate or Litigation, there is something for everyone. For me personally, I attended the educational sessions dealing with evidence, depositions, and cross-examination as well as general litigation sessions. As always, the speakers were phenomenal.

There are so many events happening at Convention it is hard to tell you everything I did in just a short message. However, I attended the round-table luncheon where I was able to learn more about the changes to the CP Exam, how to retain members, how to promote MALA to students and so much more. I attended the Affiliate's meeting, as well as NALA's 2017-18 Board Meeting. Affiliate Associations always put their best foot forward when it comes to table displays and their give-away swag. And of course, there are the vendors. Vendors are amazing at NALA Convention, not only their amazing swag, but also the services they provide, the networking and of course the connections you make with these vendors.

But my favorite thing about Convention would be the networking opportunities. I always meet new people, meet up with old friends and do a lot of talking and laughing. Having gone to over 15 NALA Conventions, I have made some of the best friends I could ever ask for, not to mention tons of connections of paralegals all over the country. Needless to say, I had an amazing time in Florida at this year's NALA Convention and am already planning for next year's convention. I encourage everyone of you to plan and attend next year's NALA Convention on July 11-13, 2018 in St. Louis, Missouri.

Something I hear time and time again is, "Convention is too expensive" or "they're not offering anything in my field". Well think about this – what if one day you are without your job in your "field." Then what? Or what if you are just wanting to leave your position for something new and exciting. How are you going to do that if you never learn anything beyond what's in your "field"? Cross-training or cross-learning is a must. You need to expose yourself to other areas of the law, as well as keeping up with the changing trends in the legal field. The more knowledge you have the more value you have. Like the old saying goes, "they can't take away your knowledge". Don't let that be one of your excuses to be exposed to phenomenal speakers and topics; a wealth of information and knowledge; and, the opportunity to network and make life-long friends. Plan early, get a cheap flight, and sharing a room are all great ways to make Convention affordable.

Again, THANK YOU from the bottom of my heart, for my opportunity to attend NALA Convention,. I always learn so much and love bringing that knowledge back to share with other paralegals.

Don't miss our upcoming Telephonic Quarterly Business Meeting on Friday, September 29, 2017 at noon.

NOTICE OF BUSINESS MEETING

MALA'S QUARTERLY BUSINESS MEETING

Friday, September 29, 2017

12:00 pm—1:00 pm

Telephonic Only

Call-in Information:

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

<https://global.gotomeeting.com/join/868971709>

You can also dial in using your phone.

United States (Toll Free): 1 866 899 4679

United States: +1 (312) 757-3119

Access Code: 868-971-709

Joining from a video-conferencing room or system?

Dial: 67.217.95.2##868971709

Cisco devices: 868971709@67.217.95.2

First GoToMeeting? Try a test session: <https://care.citrixonline.com/g2m/getready>

If you are unable to attend, be sure to complete and send in a Proxy Voting Form (Page 5) to ensure we have a voting quorum.



MALA

Montana Association of Legal Assistants*Paralegals



Vice President Report

By Heather Bienvenue, CP



If you are unable to attend the meeting on March 24, 2017, be sure to complete and return a Proxy to Amanda Hewitt no later than September 28, 2017 at Amanda@bkbh.com

Proxy form can be found on Page *.

MALA currently has 111 members. We had 40 members join MALA since April. Seventy-one (71) people renewed their MALA memberships in March or shortly thereafter. There are currently 5 membership applications pending. During the next quarter, I will be emailing the membership committee to discuss ideas for increasing membership. If you are not part of the membership committee but have an idea you would like to share, please reach out to me at hbienvenue@bozeman.net.

The WildApricot software is a huge asset to membership. A majority of our new members are applying through the website. I am able to easily track numbers and see when new legal assistants are applying for membership. I recently sent out 15 lapse notices to members who had not renewed. Terry had it set up so it took me less than 5 minutes to send out all notices. I think we can all appreciate any tool that helps us work more efficiently.

Respectfully submitted,

Heather Bienvenue, CP
Vice President

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.

To volunteer and keep MALA going strong into the future, contact Terry Hale, ACP at terry.hale@mt.gov or mala@malanet.org.

DESIGNATION OF PROXY

I, _____ an active MALA member,
hereby appoint _____, an active MALA of mem-
ber, to serve as my proxy at the September 29, 2017 MALA Business Meeting.

Dated this _____ day of September, 2017.

Signature

Email to:
Amanda Hewitt
Parliamentarian
Amanda@bkbh.com

Mail Original to:
MALA
Attn: Heather Bienvenue
P.O. Box 9016
Missoula, MT 59807-9016

MALA Members Receive National Recognition

Submitted by Stephanie Spokas, Treasurer



Terry Hale, ACP, President, and I attended the NALA Conference in Orlando in July. Part of the conference is an awards ceremony for NALA members who receive recognition for outstanding achievements. This year, two members from Montana, our very own Terry Hale, ACP, and Becky Henderson, ACP, NALA Liaison, each received the *Making a Difference Award*. While Becky was not able to attend the conference, Terry was present and accepted the awards. It was an honor to attend such a large conference with someone who received national recognition! The only cliff-hanger involved with this award, is NALA doesn't announce the reason the award was given. That information comes later in the year in the NALA publication *Facts & Findings*. I reached out to the NALA President in an attempt to get a sneak peek at the upcoming articles. The following is the only information that NALA could provide at this time. Stay tuned for updates regarding these most esteemed awards.

The National Association of Legal Assistants are proud to announce Ms. Terry Hale, ACP and Ms. Becky Henderson, ACP, have been selected as recipients of the Making a Difference Award. The purpose of the Making a Difference award program is to recognize outstanding achievements of a current NALA member or NALA Affiliated Association who has made a difference in the Paralegal profession or in their communities. This recognition is designed to inspire and motivate, as well as to celebrate who paralegals are and what paralegals have accomplished. Making a Difference honorees are recognized throughout the year in *Facts & Findings* and *Facts & Findings Digital* and through other communications programs of NALA, including the website and newsletter. Each year at the NALA Annual Meeting, honorees present are recognized as a group for their inspiring and selfless contributions. Ms. Hale and Ms. Henderson were recognized during the 42nd Annual NALA Conference and Expo in Orlando, FL held July 19-21, 2017, and will be featured in a future publication of *Facts & Findings* or *Facts & Findings Digital*, NALA's bi-monthly magazine.



Treasurer's Report

by Stephanie Spokas

CHECKING BALANCE:

May 31, 2017 \$4,566.74

Income:

May CLE \$287.00

June CLE \$331.28

July CLE \$689.00

August CLE \$663.64

Membership Dues \$425.70

Total Income \$2,396.62

Expenses:

CLE – Speaker \$100.00

GoToMeeting Fee \$206.99

2016 NALA Convention Promotional \$100.00

NALA Affiliate Association Dues \$225.00

Flights for NALA Convention \$1729.20

Hotel for NALA Convention \$915.04

Food/Miscellaneous for Convention \$400.00

Office Expense – Citrix Annual Fee \$1,034.50

Postage \$12.18

Quickbooks \$30.00

WildApricot \$81.32

Total Expenses \$4,834.23

Current Checking Balance as of 8/31/2017 \$2,129.13

SAVINGS BALANCE:

May 31, 2017 \$17,707.27

Income:

Interest \$4.46

Current Savings Balance 8/31/2017 \$17,711.73

TOTAL SAVINGS AND CHECKING \$19,840.86

How Cost Per Case Can Revolutionize Your Firm's Marketing Strategy

No matter where you live in the United States, you can always find a billboard or commercial of a nearby legal firm. Because the majority of business consists of one-time clients, advertising is a huge part of running a successful firm. Unfortunately, marketing is easier said than done — even well-established law firms can have trouble figuring out how to market smartly while still saving money.

However, using the cost per case method, you can start your firm on a path of intelligent advertising to bring in more clients while reducing costs.

The Simplicity of Cost Per Case

It can seem daunting at first to figure out how and where to advertise your firm. Nowadays there are loads of options available to pick from, from videos and web ads to TV, radio, or billboards. While most modern marketing methods (typically those on the internet) come built-in with marketing analysis tools, more traditional forms of advertising leave you with no way to determine how effective they are. This is where cost per case comes in.

At its core, cost per case is a simple equation that you can use to track how well a marketing strategy is bringing in new clients. This is done by comparing the cost of a single marketing campaign to the number of new clients signed directly via that campaign. This allows you to get the average marketing cost your firm spent to get one new client. The equation is as follows:

$$\text{Cost of Ad Campaign} / \text{Number of New Clients} = \text{CPC}$$

While this equation is designed to work best with real advertising numbers, let's take a look at an example to see how it works.

Examining a Sample Billboard Space

Let's say your firm in Missoula, Montana wants to try branching out into a more traditional form of advertising. Using the [Lamar Advertising billboard finder](#), you find a space along the I-90 east through Missoula. This space will advertise to commuters as well as anyone attending the University of Montana, which will allow you to gauge your success with this demographic. For a 4-week ad campaign in this location, your firm would pay \$850.

After a 4-week advertisement in this space, let's say your firm signs on 3 new clients. If we plug these numbers into the CPC equation, we get the following results:

$$\text{\$850 (cost of ad campaign)} / \text{5 (new clients)} = \text{\$283 (CPC)}$$

This means, for a potential 4-week ad campaign in this location, your firm could expect to pay around \$283 per client.

To continue using CPC going forward, you would simply try out different ad campaigns, take the average CPC from each, and determine which ad methods work best for you and your company. By redistributing marketing

But is This a “Good” CPC?

It all depends on your area of law. CPC costs should not exceed 15% of your total case earnings. Depending on your field of practice, be sure to limit your CPC costs to less than 15% of case earnings. For instance, a criminal case lawyer (who can make upwards of \$10,000 a case) may be comfortable spending more money on larger ads to attract clients. However, a Social Security attorney (whose earnings are regulated and typically average \$3,000/case) may not have the funds to invest in more extravagant CPCs. Both areas of law could work with this billboard example, but bankruptcy attorneys who make just \$1,000 from a Chapter 7 settlement wouldn't be successful and would need to find cheaper marketing channels.

Important Tips to Remember

Be sure to keep the following in mind before using CPC for your firm:

The only results that are reliable are the ones that use real numbers. While hypothetical situations like the one above can help you guess which locations may be best, there is no way to gauge your success unless you give it a try. The more data you collect over time, the more accurate your CPC will be.

Client communication is key. CPC is only accurate if you can be sure of how your clients heard about your firm. Whether this is through a written questionnaire (paper or email works fine) or just a simple question during your client assessment, you must be sure to only include the correct clients when calculating CPC. Otherwise, your marketing strategies may seem more successful than they really are.

Location is essential. Whether you're using a billboard, a TV commercial, or a radio ad, timing and location is everything. Even the same billboard a block away from a previous location, or a commercial aired at night instead of in the afternoon, will target a different audience. Experiment intelligently with your advertisements to see which locations work best for you.

Deanna Power
eGenerationMarketing
www.eGenerationMarketing.com



MEMBER SPOTLIGHT



Amanda Hewitt— is from Bremerton, WA originally but went to high school in Dillon, MT. Amanda has been a MALA member since 2015 and a State Bar member since 2016. Amanda says it took her 6 years after high school to figure out what she wanted to do with herself, be in 2014 she graduated with an Associates Degree in Paralegal Studies. After an internship at Milodragovich, Dale & Steinbrenner in 2014, she began working as a paralegal with Browning, Kaleczyc, Berry & Hoven. Amanda currently handles mostly transactional work. She also has experience in civil litigation, family law, workers comp, environmental law, estate planning, and probate. She enjoys spending time with her son. Together they enjoy outside adventures like hiking and kayaking. Amanda also enjoys reading, painting and cooking, but is a huge baseball and football fan and she has been told that she turns into a different human being when she watches sports.



MALA's Quarterly Business Meeting Minutes

By Michelle Harelson

MALA Quarterly Meeting

June 20, 2017

12:07 – called to order by President, Terry Hale, ACP.

Roll Call: Terry, 103 active paid members, Amanda stated that we have 4 proxies, so we need 21 members to have a quorum. Present are: Amanda, Annette Brown, ACP, Breanna, Jeanette, Deb, Dorothy, Helen, Catherine, Kathy Clark, CP, Stephanie Spokas. Debbie, Barb Bessie, ACP, Michelle Harelson, Jenny Pierce, Deb Pierce, Crystal Pickens, Terry Hale, ACP, and Michelle Harelson. There are 19 members in attendance, so we are short for voting. Unless someone else logs on. We can't vote without a quorum.

The Minutes were posted in Newsletter. Terry re-sent those out, but we can't vote on approval of those without a quorum. Approval of the minutes will be tabled until the next quarterly membership meeting as cannot vote without a quorum.

Terry received notification from Barbara Hartzell, ACP that she could not attend the upcoming NALA conference, and then that she has resigned as NALA Liaison due to personal and work conflicts interfering with her position at this time. The By-laws state that the President will appoint a new NALA Liaison. Terry discussed it with the Executive Board yesterday that she is going to speak with Beckie Henderson, ACP and see if she would be inclined to continue since she ran against Barbara for the position. Terry will see if she is interested in finishing out the current year until next annual meeting. Terry has not talked to her yet. Barb's conflict made her unable to attend the NALA convention. Terry went down the list of officers. VP, Heather Bienvenue, CP, was unable to attend, so then she asked our Treasurer, Stephanie Spokas, and she agreed to attend in Barb's place. Stephanie agreed to attend the NALA convention with Terry. They have to get the flight, hotel, etc. now. NALA has allowed us to register late, but under the early bird special. Stephanie will attend the NALA conference and then Terry will appoint the new NALA Liaison. She will go down the list of eligible members for appointment if Becky cannot do it.

TREASURER's Report is given by Stephanie Spokas. This quarter we have had \$ 1,307.46 in revenue. That includes Membership and CLE revenue. Then we also have some outstanding deposits to put into the bank in the next couple of weeks. Terry gets them and sends them to Stephanie in Helena. Typically, the Treasurer has been located in Missoula. So, those will be included in the next Treasurer's Report. Our basic expenditures every month are GoToMeeting, the website, postage, QuickBooks, and miscellaneous office expenses. Income is \$1,307.46, and the total checking account balance is \$3,518.55. We have \$17,705.67 in savings. The total balance is \$21,224.22.

Olga provided the State Bar of Montana Paralegal Section update. The annual meeting is September 21st. She is planning to go. They will be discussing how to retain membership; they are currently struggling with membership and getting members participating. That's about it.

Special committee reports. Sabrina is in court today so Terry presented the report on her behalf, for the Seminar Committee report. They have a great list of seminars. We have had 2 seminars so far and they have been on evictions and ergonomics. In July, we will have the LLLT – 2 individuals from Washington will be coming and doing a presentation live in Missoula and this is also available on the webinar. Look for the flyer and registration. The presentation in August has no CLE credits, but Terry will talk about the new requirements for CP exam after attending the NALA convention. August 9 will have Dorothy Schuch, ACP (previously Howell) on doing E-Discovery in federal court. September will be the CP Review Course. In October, will be a seminar regarding court reporters. November will be something on subpoena practice.

There will be nothing in December. Then in January is fitness to proceed and DI cases. February is real estate – land surveys, plats, and legal descriptions. Then of course in March is our annual meeting. We do have a full seminar agenda. Watch for the flyers that will be coming out. We have had pretty consistent attendance for the last 2 brown bag seminars = 25-30 at each one. The CP review course will be held in Missoula – starting to look for speakers and finding locations.

OLD BUSINESS

The new MALA website is going well. People have made comments that they can't access it because it is not secure. It is a secure site. You will get re-directed to Wild Apricot and it is a secure site once you get into Wild Apricot. You will need to click through the parts that say it is not secure because it really is secure. There is a pop-up that there is an error or it is a non-secure site. Terry has verified with her firm's IT technician that it is secure once you enter Wild Apricot. Just click through the things that say it is not secure. IT guy said that the HTTPS = security. Using it for the online registrations for seminars is amazing – ¾ of those attending seminars can register and pay online. Quick and fast, is amazing.

NEW BUSINESS

BY LAWS – There have been some wording changes, but we can't vote on those due to a lack of proxy. It was brought to attention and the By-laws submitted for review in newsletter, the part regarding fiscal year and CLE credits, we were trying to clean up the language. One line was crossed out that needed to be left in there. Those will be added back in. Those were MALA fiscal year shall be April 1 to March 31. For each fiscal year, each member must complete 10 hours of continuing education. That was deleted out of there.

Under the removal of Elected or Appointed officers – there was a section that was omitted. There should have been (c) Substantial neglect of Elected or Appointed Officer's Duties. That will set back out in the next newsletter for re-review and hopefully voted on at our next quarterly membership meeting. If there is something else that you think the wording needs corrected, please contact the By-law Committee: Terry, Becky Henderson, ACP or submit on website. They will go to the By-law Committee for review, then to the Executive Committee before it is brought to the membership for voting. That will also be tabled until our next quarterly meeting.

Barb not able attend the NALA convention and her resigning as NALA Liaison.

The NALA Conference is July 19-21 in Orlando, FL. If interested, go to nala.org for information on conference or the new information on testing that starts 2018. The last of the CP tests under old format is in September. You have to pass all of it at that time or start over in 2018 with the new format. Those who are taking the exam, get information on new testing, go to NALA website.

Annette Brown, ACP had a couple things to add.

The NALA conference app just went live 11:00 a.m. today. Up and going with that. Would like to thank MALA for nominating her for the NALA Affiliated Associations Director – she will be appointed by acclamation to that position because she is the only nominee. Thank you so much. NALA has a Board position that is the Affiliate Director where Annette works directly with affiliates like MALA. She will be appointed through acclamation at NALA conference in July. Congratulations, Anette, that is exciting!

Amanda stated that we have parliamentarian spelled wrong on our MALA website. This will be corrected.

Terry adjourns the meeting at 12:30.

There will be new stuff in the upcoming newsletter. A big thank you to the new newsletter editor as she does amazing job putting that together.

Our next quarterly meeting will be held on September 29th.

Respectfully submitted,

Michelle Harelson



NALA Liaison Report

By Becky Henderson, ACP

Barbara Hartzell, ACP resigned from her position as NALA Liaison in June 2017 and the MALA Board asked me to complete her 2017-2018 term of office. I look forward to serving as NALA Liaison and will do my best to fulfill my responsibilities as MALA's point of contact with NALA and to keep you informed of upcoming NALA events.

Below is a list of NALA webinars scheduled for **September 12, 2017 through October 26, 2017**. Access www.nala.org/continuing-education/webinars to enroll.

Please contact me at bhenders425@msn.com if you have any questions about NALA or the benefits of professional certification. I'm here to help you in whatever way I can.

Becky Henderson, ACP
NALA Liaison



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.

Musings of a NALA Virgin

You might ask, what is a NALA virgin? As a MALA Board member, I had the good fortune of being invited to attend the 2017 NALA conference in Orlando, Florida. When I was first presented with the opportunity to attend the NALA conference on behalf of MALA, I thought to myself, “Orlando... in July... am I crazy?” In spite of the fact that I initially wasn’t looking forward to the inland heat and humidity presented by semi-tropical locations such as Florida in the heat of the summer, I embraced the opportunity to attend the national conference and booked a flight. I also had never visited to Orlando or attended such a large conference, so I put another pin on my travel map and checked “attend first NALA conference” off my list. I had such a great experience at this coming-together of professional paralegals from all over the country that I just had to share my excitement and experience!

Terry Hale, ACP, MALA President, and I traveled together to Florida. Terry, as you all may know, has been involved with NALA for many years. She is a staunch advocate of continuing education and promoting excellence and ethical standards for paralegals. Terry knows hundreds of paralegals from all over the country, so the networking opportunities that presented by mere virtue of being able to tag along with her were outstanding.

The conference center was located in the middle of the International Drive district in Orlando. If you haven’t been to Orlando, this is *the* locale for conferences and tourists. There are many great places to eat and shop within walking distance, or even a short Uber ride, from any hotel.

The conference was split into different tracks that the attendees were able to select based on their preferences. The speakers were fantastic and were from all over the country – some were attorneys and others were NALA members with either the CP or ACP certifications. NALA developed a really handy app so you could pick your preferred classes on your mobile device and receive reminders about when your next class was going to begin and where it was being held. The education was not a one-size-fits-all scenario, which made it easy for everybody to tailor their classes to their practice areas. Several classes offered focused on preparation for the CP exam. Other classes were general classes that ranged from litigation-related topics, to estate planning and taxation. There was something for everybody.

The days were filled with great learning and networking opportunities, and the evenings were filled with fun activities, great food, and new friends. There were many vendors from all over the country that attended the conference and gave away great swag. Most of the state paralegal associations also had vendor booths and gave away really cool stuff that was unique to their state. One state association was giving away Moon Pies and the Orlando association gave away color-changing cups and other items with a Harry Potter theme. In fact, there was so much swag at this conference that I didn’t have enough room in my luggage to bring everything home. I am very thankful that the UPS Store was located next to the convention center. I actually had to purchase one of their cardboard suitcases, yes – purchase a “brown” suitcase from “Brown” in order to ship all the conference swag home because my luggage was so full.

I attended a variety of interesting classes and met many wonderful people from all over the country. I earned 12 CLE credits. The learning, networking, and travel opportunities afforded by attending the national NALA conference are priceless. If you haven’t yet joined NALA, I encourage you to do so. NALA offers many affordable CLEs and invaluable opportunities for networking and furthering your professional life as a paralegal.

While I am no longer a NALA virgin, I hope you all, if you haven’t yet attended a national NALA event, will consider attending the 2018 NALA Conference in St. Louis next summer.

Opa!

Submitted by Stephanie Spokas

NEW
CERTIFIED PARALEGALS

MALA MEMBERS WHO HAVE ACHIEVED THE
CERTIFIED PARALEGAL DESIGNATION
FROM NALA:

KATHY CLARK, CP

CONGRATULATIONS ON A JOB WELL DONE!!!!!!





MEMBER SPOTLIGHT

Kathy Clark, CP—was born in Hanover, Pennsylvania and graduated from Gettysburg Area High School, and raised her children in the Gettysburg, Pennsylvania area. Kathy moved to Montana in 1995 where she met and married Kelly Clark, who is now a retired Sergeant Major in the U.S. Army.

Kathy obtained an Associates Degree in Paralegal Studies in 2005 and graduated Cum Laude from Kaplan University with a Bachelor of Science Degree in Criminal Justice in 2007. In 2017, Kathy recently obtained her Certified Paralegal credentials from NALA.

Kathy has worked as a paralegal for over 21 years with the majority of her work in the criminal defense and medical malpractice areas. While moving around the country with her husband, she worked in legal offices gaining experience in the areas of Social Security Disability, insurance defense, worker’s compensation, Wills, Probate and Estate, corporate law and personal injury. Kathy currently works as an independent contractor in her business KLC Professional Services, Inc.

Prior to working as a paralegal, Kathy had a career in the telecommunications industry where she worked for the Federal Communications Commission (FCC) in licensing, and then for private telecommunications companies.

Kathy was a volunteer for the Army’s family programs as an Army volunteer Corps Coordinator, a Master Trainer, and a Conference Coordinator. These opportunities earned her the silver and gold volunteer awards, volunteer of the year, Secretary of the Army award for volunteer service, and the Margaret C. Corbin award. She is currently a volunteer for CASA of Lewis and Clark and Broadwater Counties.

Kathy is a member of MALA and the Paralegal Section of the State Bar of Montana.

Kathy likes spending her leisure time with her children and grandchildren, visiting family, traveling, “glamping” in the RV, jet skiing, kayaking, 4-wheeling, and snowmobiling.

Kathy and Kelly are very proud parents of four grown children and 10 grandchildren. They currently reside in Elliston, Montana.



MALA Certified Paralegal Review Course

October 6, 2017

8:00 a.m.—5:00 p.m.

7 CLE Credits

C'mon Inn

2775 Expo Parkway

Missoula, MT 59808



Are you ready for the next step in your para-legal career? Become a Certified Paralegal through NALA, the nation's leading professional association for paralegals. NALA's Certified Paralegal certification program received accreditation by the National Commission for Certifying Agencies in May 2014. The Certified Paralegal (CP®) designation has been recognized by courts, the American Bar Association, and many others as marking a high level of professional achievement. Join the 17,986 others who have earned the CP designation from NALA.

NALA has a new CP exam format that will open for testing in early 2018 for one-month of post-administration analysis, scoring and standard setting. The 2018 CP exam will consist of two required sections taken in the following order: Knowledge Exam, which will consist of multiple choice questions, will be administered on-demand year-round at testing centers with preliminary result reporting upon completion. Upon successfully completing the Knowledge Exam candidates will be eligible to take the Skills Exam which will consist of a written assignment and will be administered during four testing windows each year: February, April, July and October.

The 2017 MALA CP Review Course provides comprehensive knowledge enabling you to commence your preparation for the new NALA CP examination format. This program benefits not only paralegal students and working paralegals planning to sit for the NALA examination, but also current CPs or ACPs in need of the required CLE credits for annual recertification. This course promises to educate, motivate and empower you in your quest for professionalism. This review course assists applicants preparing for the exam, with classroom instruction, discussions and practice exams.

Register online at malanet.org or request a registration form at mala@malanet.org.

WORD SEARCH

E X E R G B L Y L O Y Q C T K
H M M G R N T I W Y T U W C U
A Y I E A N I N E E R I L H A
Y Q A N A G E N L N E T I N D
S C E R E R T T O O P C T B E
H Z R A S N I R Q Z O L H J E
F A A H S T T E O Y R A G C D
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F R Y L V E D O W E R R N Y V

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INTEREST

LAND

LIEN

MORTGAGE

OWNERSHIP

PROPERTY

RIGHT

ZONING

QUITCLAIM

WARRANTY

TENANT

TITLE

SALE

RECORDING

Writing Tips

1. Remember Your Audience — every word you write should be tailored to the needs of the reader.
2. Organize Your Writing — create a roadmap for your writing by using visual clues to guide the reader.
3. Ditch the Legalese — Promote clarity, substitute abstract words with simple, concrete terms.
4. Be Concise — every word you write should contribute to your message.
5. Use Action Words — to make your legal prose more powerful, dynamic, and vivid.
6. Avoid Passive Voice — instead use Active voice tells the reader who is doing the acting and clarifies your message.
7. Edit Ruthlessly — omit unnecessary words and rewriting for clarity. Spelling, punctuation or grammatical errors can undermine your credibility.



Is Your War Room Fully Equipped?

The tools every paralegal needs to create a war room

By Ursula Furi-Perry, JD

In the middle of an important trial, there is nothing more essential and helpful than organization and preparedness. For experienced trial attorneys and their paralegals, that translates into setting up a “war room” — an orderly, central location to keep trial materials and files.

An organized war room makes for an efficient place to access case documents and provides a safe haven for all files associated with a case, and it’s often the paralegals job to put it together. “I can have every piece of evidence known to man and it does nothing if I don’t have them organized in a war room,” said Julie D. Hunt, litigation paralegal at Saladino Oakes & Schaaf in Paducah, Ky., who was chosen as the 2006 Paralegal of the Year by the American Association for Justice (formerly the Association of Trial Lawyers of America).

At many law firms, the war room is the paralegal’s responsibility. “The paralegal is the go-to person for documents, pleadings, discovery status questions and the like, so it’s a logical progression that paralegals would be the case ‘librarians,’ so to speak, for their war rooms,” said Janet M. Powell, a litigation project manager at Ogletree Deakins Nash Smoak & Stewart in Miami, a national labor and employment law firm exclusively representing management. Savvy and prepared paralegals are the key to setting up, organizing and maintaining a successful war room.

Planning Your War Room

A well thought-out war room means thorough planning — and a lot of it. “No two groups of attorneys will do things the same way, and no two trials are alike,” explained Ann Price, litigation case manager at Patton Boggs in Washington, D.C. “You have to be flexible. I have always planned far in advance and therefore had a minimum of problems.” While some things can be corrected if a challenge pops up, issues such as insufficient space, lack of communication methods and inadequate technology are hard to address in the middle of trial. “You don’t want a lot of workmen in your war room once your trial materials are in place,” Price said. “You must anticipate any problem that can come up and work ahead of time to resolve it before it becomes an issue.”

Also, consider war room costs to your client. While some trials warrant an elaborate war room setup, other cases might require something smaller, prompting you to organize your materials on a single table or shelf.

Space planning is one of the most important considerations in preparing to set up a war room. “Most folks don’t give themselves enough room or don’t arrange things so that [they] can get to [them] easily. If the room is cramped, it will be difficult to function there even if the materials are well organized,” Powell said.

Consider whether the war room will be in a high-traffic area, causing distraction and disturbances. In addition, plan for any heating or air-conditioning concerns, lighting and the necessity of renting shelving, seating or equipment. Depending on your client’s needs, take into consideration electronic capabilities, such as phone lines, wireless Internet connections, security, speed and reliability.

Think about accessibility and security. Are all members of your trial team able to access the files in the room? Will you need to provide extra sets of keys to your colleagues?

You should account for plenty of office supplies and other necessities. Price said one of the greatest challenges in establishing a war room is “making sure you brought everything you need [or] think you will need, and that you bring sufficient supplies or have a steady supply stream available.” Hunt worked on one case where she and an assistant created a brand new office in their war room on location, complete with a label maker, office supplies and even a wireless printer — only to find they forgot to bring printer paper. Fortunately, this was quickly remedied by a friendly visit to the clerk’s office.

Finally, don’t underestimate the necessity of an enjoyable work environment. “You should find the surroundings pleasant and more than adequate or you will go crazy,” Price said. “You will know it’s a comfortable, workable space if you find the associates working on the case in the war room,” Powell said, adding that she also brings a CD player and a few CDs from home, and keeps contact information for nearby restaurants handy as well. And of course, on-site coffee availability is always a plus.

Setting up Shop

Paralegals typically set up the furniture and office machinery first in a war room. Think about conference or work tables, adequate seating and sufficient shelving — especially for those often full and heavy boxes where trial files are stored. “Try to purchase inexpensive metal shelving with [three to five] shelves so you can still stack the boxes, but only have to handle one box at a time,” Powell said. For easy access, Hunt said she sets up a conference table to hold her color-coded trial files.

Next, think technology. “If your case documents are contained in a searchable database, a decision will need to be made [as to] whether to include a station in which an individual can search for documents electronically,” said Laurie Sanguinetti, senior litigation para-legal at Dechert in Palo Alto, Calif., who mostly works on patent litigation matters. Printers, e-mail access, scanners and any pertinent software programs should be set up as part of the war room computer station. Make sure computer files are easily accessible and appropriately labeled on the desktop. Also, think about other technical and electrical equipment, such as a copier and shredder.

Consider how you will transport your technology and how you will physically secure it on-site. Check the location for sufficient outlets and figure out whether you will need to bring surge protectors. Make sure the war room has a suitable and efficient Internet connection, and check in advance whether the trial team will be able to access office files remotely. “The one thing I find curious that is often overlooked is a phone,” Sanguinetti said. A speaker phone might also come in handy. Hunt said she sets up equipment that is necessary to go over any trial exhibits and demonstratives, such as screens and projectors.

Don’t forget contact information. “I have [a] desktop icon for my case telephone book,” Powell said. “It has the contact data for everyone and everything associated with my case.” Powell splits her book into various categories — including court information, trial team members, witnesses and opposing counsel’s contacts — and lists full contact information, work schedules and any notes on availability or special commitments.

Once the war room is set up, make sure every member of your trial team is aware of its location and how files are organized. “If you have a large case, give a tour of the room when it is pulled together so everyone can see where everything is,” Powell said. “Ask for feedback from the trial team [and] keep an open mind and implement their suggestions if everyone agrees.”

Organizational Secrets

“The most important thing is that the room has to work; there must [be] a sense of control and organization, and everything must be easily accessible,” Powell said. “If your war room is disorganized, it creates visual and mental chaos and confusion, which might translate in the minds of your trial team that the paralegal is confused. Clients walking into your war room should feel that they are getting their money’s worth.” A disorganized war room might mean an unnecessary waste of time and your client’s money, unhappy attorneys and even the possibility of losing important files and materials.

Though methods of organization might vary by attorney, paralegal or case, “a war room is most functional when the materials are organized by party,” Sanguinetti said. “You can go one step further and organize by source within the parties.”

Sanguinetti calls her organizational system the “library approach,” marking each document, box, binder and file with a tracking number to easily identify the document’s location. “Each item is then placed on a War Room Tracking Inventory (WTI), which functions as an index of case materials,” Sanguinetti added. “Keeping copies of the WTI handy in the war room allows attorneys a way to quickly find an item without scanning over a multitude of shelves.”

Color-coding different types of items also works. Neatly label file folders and clearly mark trial notebooks, Powell said. It makes sense to have the most frequently accessed documents in a location that is most easily accessible.

“You will always need to organize different types of cases differently, but you will still have basic groups of documents in any type of case including pleadings, discovery materials, exhibits, witness files, research files [and] trial motions,” Price said. She Bates-numbers every document and double- or even triple-checks each number before the files leave the firm for the war room. Price also said it pays to keep materials in at least two places. “I like to organize both hard copies and computer copies on CDs and [in] separate folders,” she explained. “Sometimes it’s quicker to find the document electronically, but most attorneys, particularly in trial, like the comfort of the familiar hard copy that they can easily highlight [or] mark up.”

Because it’s imperative that the paralegal in charge of the war room be familiar with the contents of each file, it might be necessary to rearrange those files’ contents, even if that means extra work. “Many trial paralegals tear down and reassemble files when they put their war rooms together so they are sure they know everything in the file,” Powell said. “Some might be reluctant to take that step, but the five secretaries and five other attorneys who have worked on that file are no longer responsible for its organization and finding things — you are. Bite the bullet and do it.”

Finally, it’s essential to organize any materials that need to be kept out of the war room or trial. “Once I take one of our original files and have removed everything I need into the trial file, I will put a rubber band around [the office file],” Hunt said. “No one is allowed to remove that rubber band without discussion and once we are headed into the courtroom, everything with a rubber band on it stays out but nearby.”

Out-of-Towners: Setting up the War Room on Location

Special planning considerations arise if you are setting up a war room on location, outside of your firm's offices. Trials can mean traveling, sometimes across state lines, prompting the trial team to organize materials in foreign territory. Your war room might wind up being a secure room in co-counsel's offices or in the hotel where you are staying.

When setting up the war room on location, Price said the first issue is figuring out how to get each document safely to its destination. Plan out transportation logistics. Will you ship your documents to the location ahead of time, rent a truck and drive them or carry them with you when you travel by plane? In any case, Price said scanning the documents onto CDs that you will take in your carry-on bag is essential. Organize and label all documents at your firm before you leave, Powell said. It might also make sense to leave extra copies of essential documents at a "home base" in case something is lost or damaged during transit.

As for taking trial files in to the courtroom, Hunt recommends clipping case boxes or Bindertek to make transportation a cinch. (Binderteks are two-ring notebooks in different colors with tabbed dividers; there also are cases with clips on the back that attach to a two-wheel roller for easy transport of the notebooks.)

Cost presents another challenge when choosing an off-site war room location. "Cost considerations will no doubt determine your choice of location for the war room. Just go into it knowing there will be advantages and disadvantages to any type of situation you will encounter and be ready for them," Price said. "The best paralegal is the one who is flexible and has a plan A, plan B and plan C for every contingency."

Also, pay attention to the war room's proximity to the courthouse, your offices (or your opponent's) and any other pertinent location. "It's also important that [the war room] not be the same location as the sleeping quarters, since you [might] have some members sleeping while others are working," Price said.

If the war room must be set up in a hotel room, you might have to take extra precautions, including arrangements for emptying the trash and shredding documents to make sure the hotel staff doesn't have access to trial materials. On the other hand, "If you are in a local counsel's office, you have to worry about others coming in and taking your supplies and moving your documents around in an area where they normally would have access," Price added.

When possible, visit the war room location ahead of time and check with your trial team members to see if they have any requests or special expectations. Powell, for example, recalls one trial where the original war room setup didn't meet the attorney's expectations because he felt the space was too confined, which left Powell scrambling for a backup.

"When we all got to the trial city (several hours from our home office) the head attorney didn't like the location another person had made the arrangements for and suddenly decided that he liked somewhere else better — and that was where we were going," Powell said. As a result, she spent considerable time on the phone tracking down furniture and office machine vendors.

To avoid a repeat, Powell said she secures a layout of the space so she can get approval from the attorney ahead of time, and she spends time scoping out vendors and resources on location before leaving for trial. Some of the vendors she recommends having at your fingertips are:

- a high-volume copying service;
- a service for additional demonstrative exhibit preparation;
- a local staffing agency;
- local eateries;
- the closest 24-hour pharmacy; and
- the closest, fastest dry cleaner.

Maintenance Is the Key to Trial Sanity

You could have the most well-planned and organized war room on the block, but it will all be for naught if you don't take special care to maintain its integrity, safety and organization.

For starters, pay continued attention to space. One of the greatest challenges that can arise with a war room is running out of space for your files. "It can be hard sometimes to gauge the volume of case materials you are going to wind up with as discovery progresses. What was once considered a small matter document-wise can change to a huge one with a single document production received by an opposing party," Sanguinetti said. "You must then make judgment calls as to whether you should relocate your entire war room to a larger area, move certain materials into storage or split materials into multiple war rooms."

Staying organized is another must. "Attorneys are often stressed and focused on a single issue at trial. It's the paralegal's duty to keep a big picture approach, and part of that is to keep the war room organized," Price said. A disorganized war room quickly can become an unpleasant place to work, especially with trial team members taking documents out of the war room to work on them elsewhere — those documents can become lost or unavailable for the next person who needs to use them, Price added.

To keep order, paralegals in charge of the war room need to make certain that documents are filed in their proper places. "It's imperative that the documents used are put back into place so they can be found quickly the next time they are needed," Price said. "I recommend that the paralegal keep an eye out for clutter, papers left out ... and make it a priority to refile these as soon as possible."

Hunt has a color-coding and numbering system for the notebooks, and due to this she can quickly tell if a trial book is missing. "Normally, the trial attorney will not remove items from the trial books, but will ask for his [or her] own copies if he [or she] needs something, and those copies are clearly stamped with [the attorney's] initials so I know [they have] not been removed from the trial book," she said.

Sanguinetti said she discusses the war room with the team as it's being set up to help keep it organized and intact. "I usually try to explain to the team ... that the materials in the war room are for community use, and if they want to borrow something, to let myself or another paralegal on the team know. We then note on the WTI who has the materials in question."

One thing that Powell keeps in mind is that she is there to support the attorneys. “Realistically, everyone is under intense pressure to perform, and my survival instinct on [maintenance] is to remember that I am there to support my people,” she said. Recognizing that, Powell added, “one thing that has been helpful is that we have PDFs of most of the important documentation filed in our firm’s document management system. Often, the attorneys don’t even need the physical files to print out a copy of a motion, order, report or other exhibit. It’s just easier to pull it up on the system at their desks and hit ‘print.’”

Safety also becomes an issue with war room maintenance. Experienced litigation paralegals agree that a simple lock on the door is sufficient protection, as long as keys are only provided to authorized trial team members. Alternatively, Sanguinetti said having a team member or other “war room librarian” on location to guard the documents might also work.

“I once had to set up a war room in the hospitality suite of a hotel,” Powell said. “The doors had locks, of course, but it was such a large case that various attorneys and some of the experts needed to have access during the days when the rest of us were in court. We had a secretary with us and then had another person who was hired to assist with all the logistics that we more or less just stationed in and around that area to keep an eye on everything.” Powell also keeps the security desk’s contact information taped to her phone.

With plenty of planning, organization and thorough maintenance, para-legals can make sure their war rooms provide accessibility, security and efficiency to the entire trial team. “Litigation paralegals should be familiar with setting up [a war room] because we are the ones who most often field questions from attorneys who are trying to locate a piece of information they know they saw but can’t remember where,” Sanguinetti explained. “If a war room is properly set up and maintained, a person will be able to locate whatever he or she needs quickly and efficiently.”

Ursula Furi-Perry, JD is a nationally published legal writer and adjunct paralegal professor from Massachusetts. Her first book, *50 Legal Careers for Non-Attorneys*, will be published in early 2008 by American Bar Association Publishing.

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Recipe Corner



Chicken Cornbread Casserole



Ingredients

3 boneless skinless chicken breasts, cut in to cubes OR 2 cups cooked chicken in bite size pieces
1/4 cup diced onions
1/3 cup butter
1 bag frozen mixed vegetables
1/3 cup flour
2/3 cup milk
1 1/4 cup chicken broth
Salt and pepper to taste
1 box cornbread mix (1 large or 2 small) prepared per the directions on the box

Instructions

If cooking chicken: heat 2 Tablespoons of oil in a large pot. Add cubed chicken and season with salt and pepper. Cook until chicken is done, about 10 minutes. Drain chicken from the pot and set aside.

Melt butter in a large pot on the stove over medium high heat. Add onions and cook for about 2 minutes. Add in bag of frozen vegetables and cook until warmed through and no longer frozen.

Stir in flour and cook for 2 minutes, stirring continuously.

Whisk in chicken broth about 1/2 cup at a time to avoid lumps. Once all the chicken broth is added, add in the milk and whisk to combine. Allow mixture cook for a few minutes to thicken. Stir in cooked chicken and cook for another minute or so until the entire mixture is hot. Remove from heat.

Pour the mixture in to a 9 x 9 square baking pan or any baking dish similar in size.

Top the mixture with the prepared cornbread mix, smoothing the mix out to cover the top of the pie.

Bake per the directions on the cornbread mix. My mix said to bake at 400 degrees for 22-26 minutes. Make sure to bake long enough so that the bottom of the cornbread bakes through.

Once the bread is done, remove from oven and allow to sit for 5 minutes before serving.

The Evolution of Transcript Management Technology



The basic tasks of legal transcription have not changed substantially over the years. Stenographic reporting is still a high-skilled, high-pressure job requiring extraordinary speed and attention to detail and accuracy if the end result is to be a reliable record of who said what and when. While stenographic writers are now paired with laptop computers that output electronic transcripts, and video recording is beginning to be used in some courtrooms, the transcription skillset continues to be in demand in the legal world.



On the other hand, the *management* of transcripts—once created and converted to a digital format—is undergoing a rapid and substantial transformation that is streamlining the work of paralegals and attorneys and, ultimately, helping them do better legal work faster and at lower cost.

Three important features distinguish transcripts from other legal documents.

- *Transcripts are time-stamped.* Mismatched or poorly integrated technologies can compromise time stamps, which in turn can create confusion and slow down proceedings, or even cast doubt on legal reasoning.
- *Transcripts must be carefully paginated according to the rules of specific jurisdictions.* Court reporting software or other programs created to import or convert text from one application to another may not always be designed to optimally manage pagination.

- *Transcript designations play a significant role in legal proceedings.*

Designated excerpts from transcripts are key building blocks of legal arguments. Creating, tagging and cross-referencing designations is often a massive undertaking for paralegals, and many of the tools they use for this work are clumsy or manual.

A transcript is not just another document, and to date very few technology companies have the specialized legal expertise to design software that can deal effectively with each of these idiosyncrasies. Over the past few years there have been some exciting technological developments that are paving the way for much more efficient transcript management. For one thing, there are now digital import tools that are smart enough to recognize anomalies and fix issues related to time stamping and pagination, so we can be confident transcripts are truly accurate.

Beyond this development, there are several other technological advances that are changing the very nature of transcript management. The *first advance* is cloud-based computing. Because of the flexible and dynamic nature of the cloud, I predict the days of saving transcript files on a network drive or dumping them into an in-house legacy transcript management software will soon be over. You can't reliably search across multiple files in a network drive, nor can you easily view testimony at the macro level across witnesses. There are a few transcript management tools which represent a step in the right direction by offering functionalities like searching, annotation and hyperlinking across centralized transcripts, but these tools are often underutilized because they *only* handle transcripts—which is only one category within a very diverse collection of document types that legal teams mark, categorize, organize and otherwise pull together to make a case. This limitation forces the case team to toggle between multiple cumbersome software tools, each of which only addresses a sliver of the need.

This brings us to the *second factor* in the transformation of transcript management: the creation of virtual workspaces (in the cloud, of course) that handle everything pertaining to a legal matter, including transcripts, synchronized video, designations, key

documents, key facts, chronologies, attorney work product, and more. Not only do these workspaces make such materials available in a single, secure place, they also include a comprehensive set of tools for managing these materials and establishing logical

The basic tasks of legal transcription have not changed substantially over the years.

relationships among them—thus generating new insights and, ultimately, winning case strategies. All of the materials are in a single virtual workspace, all are managed with a single toolset that accommodates highlighting, annotations, deposition and trial exhibits, hypertexting, sharing work product with colleagues and so on. And all are accessible to authorized users from any connected device, including a smartphone. Imagine the difference this radical consolidation of tools, functionalities and materials can make for paralegals managing designations for a large, complex case. A single, smart, secure environment for managing everything—including, but not limited to, transcripts.

Which brings us to the *stated factor* that is changing the nature of transcript management in today's legal environment: The importance of collaboration has finally begun to be reflected in legal technology. In fact, there is software in use today that combines each of these attributes:

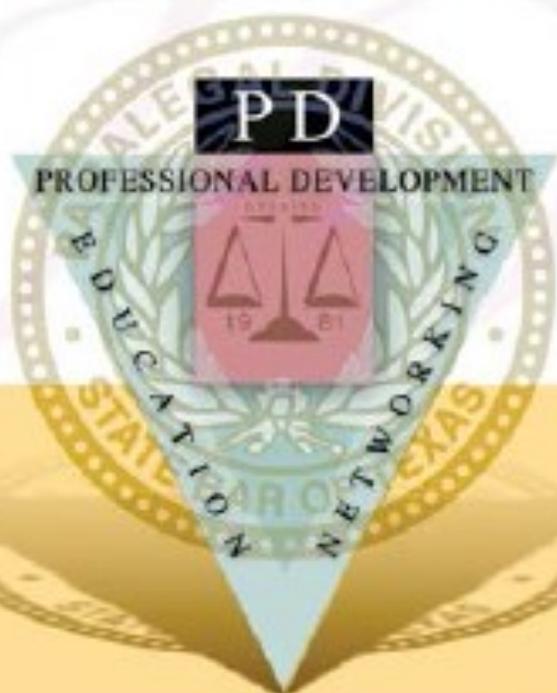
- 1) available cloud-based virtual workspaces
- 2) designed specifically for legal collaboration and
- 3) able to accommodate the full range of litigation-related materials.

And, yes, they also can manage the idiosyncrasies and anomalies of time stamps and pagination unique to transcripts. Isn't it time you investigated the latest transcript management tools?

Clare Foley is vice president for litigation solutions for Opus 2 Magnum. Clare has been a driving force in the litigation services market for more than 20 years and, in her current role, advises law firms and corporate clients on their cloud collaboration strategies, specifically around the deployment of the Opus 2 Magnum platform. Although originally from Ireland, Clare lives in the United States and guides both U.S. business strategies and international services for Opus 2. Clare is a contributing author to several trade publications and a regular speaker on cloud technology.

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To Plan or Not to Plan...

That is the Question!

By Lynn B. Aust, Esq.

As an Elder Law attorney, one of the most heartbreaking conversations I often hear sounds something like this....

Daughter: "My widowed dad has been diagnosed with Alzheimer's and I need a Power of Attorney for him."

Attorney: "When was he diagnosed?"

Daughter: "Two years ago. The Alzheimer's has really advanced but he has good days."

Attorney: "Do you know if he has ever signed an older Durable Power of Attorney?"

Daughter: "Dad has always been a private person and has never shared anything about his business with us. We have not been able to find any documents and he doesn't remember."

Attorney: "I'm so sorry but at this point, your only option is Guardianship."

With a little bit of planning, this outcome could have easily been avoided. Unfortunately, many people believe that Estate Planning is only for the wealthy or for senior citizens. Nothing could be further from the truth. If clients own more than a car and the clothes on their

If clients own more than a car and the clothes on their backs, they have an estate.

backs, they have an estate. If clients want to ensure that their finances are managed properly when they can no longer manage on their own, they need a Durable Power of Attorney. And, most importantly, if clients want to ensure that their healthcare is managed properly when they can no longer do so, they need a Healthcare Surrogate Designation and possibly a Living Will.

You will often hear professionals refer to these three documents as advance directives. Our office calls these documents the incapacity planning documents. Based on experience, we have also added a HIPAA authorization to our incapacity planning documents. HIPAA is the federal Health Insurance Portability and Accountability Act of 1996. The primary goal of the law was to make it easier for people to keep

health insurance, to protect confidentiality, and to keep healthcare information secure; however, we have found that clients not only need a HIPAA compliant Durable Power of Attorney and Healthcare Surrogate Designation but also a stand-alone HIPAA authorization.

A Durable Power of Attorney (which is different from a Power of Attorney), gives authority to another person to handle the signer's finances, even if incapacity occurs to the signer. What makes the Power of Attorney Durable is specific language in the document that refers to Florida Statute Chapter 709. (*Fla. Stat. §709.2104(2014) Durable power of attorney.—Except as otherwise provided under this part, a power of attorney is durable if it contains the words: "This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes," or similar words that show the principal's intent that the authority conferred is exercisable notwithstanding the principal's subsequent incapacity.*)

In Florida, we experienced significant law changes for Durable Power of Attorney documents in 2011. These changes were sweeping and the details are outside the scope of this article. But suffice it to say, if



- A **terminal condition** is a condition caused by injury, disease, or illness from which there is no reasonable medical probability of recovery and which, without treatment, can be expected to cause death.
- An **end-stage condition** is an irreversible condition caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, and for which, to a reasonable degree of medical probability, treatment of the irreversible condition would be ineffective.
- A **persistent vegetative state** is a permanent and irreversible condition of unconsciousness in which there is (a) the absence of voluntary action or cognitive behavior of any kind or (b) an inability to communicate or interact purposefully with the environment.

Some law firms combine the Durable Power of Attorney and the Healthcare Surrogate Designation. Our firm does not for three reasons.

1. First, many times the client does not want the same people designated in the power of attorney and the healthcare surrogate documents.
2. Second, for privacy reasons, many clients don't want their healthcare providers to have information about who will handle their finances and vice versa.
3. Finally, if a law change causes the document to be ineffective, the client loses two important safeguards to avoid guardianship.

Guardianship is time consuming, expensive, intrusive, and completely avoidable if clients plan properly while they are still able. The guardianship process is two-fold. The first part is to determine the capacity or lack of capacity of the person needing help, called the *Ward*. The court appoints a three-member panel of mental

you have clients with documents older than 2011, they may want to have their estate planning attorney review them for current law compliance. If their documents are older than 2004, these documents will not be HIPAA compliant and clients should definitely have new Durable Powers of Attorney prepared.

A Healthcare Surrogate Designation, as mentioned earlier, permits clients to designate someone to make their healthcare decisions, if they are unable. These healthcare decisions are limited in scope. Some examples include: choosing a medical facility, choosing a doctor, and deciding which medical tests will be performed. Typically, Healthcare Surrogate Designations are not used for end-of-life scenarios but for ongoing healthcare decisions.

A Living Will is a legal document that allows clients to memorialize, in writing,

their end of life decisions. Often a Living Will is confused with a Last Will and Testament and a DNR. A Last Will and Testament is the roadmap for the Probate Court that specifies who will inherit the decedent's assets after death. A Do Not Resuscitate, often referred to as a DNR, is a hospital order that is authorized by the family of the person who is ill or injured. A Living Will is directed by a client who typically is not in a life threatening situation. Living Wills do not designate a person to make the decisions for the client but, instead, Living Wills designate a person to institute the client's pre-defined wishes for end-of-life scenarios.

A Living Will becomes effective only when the client is incapacitated *and* one of three end-of-life scenarios exist. The three scenarios are terminal conditions, end-stage conditions, and persistent vegetative states.

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To Plan or Not to Plan...That is the Question!

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health experts to evaluate the ward and report back to the court. The court also appoints an attorney for the ward to ensure the ward's rights are protected. Although the court appointed mental health team and attorney are professionals, the ward will have four strangers asking them if he/she knows who the president is, which can be disturbing if he/she has dementia and/or Alzheimer's.

The court requires proposed guardians to complete an application, a fingerprint scan, and a background check. If the proposed guardian is a minor (under 18 years of age), an incapacitated person, or a convicted felon, he/she is disqualified from serving as a guardian. If the ward did not set up a preneed guardian designation and if his/her children cannot agree who will serve, many times the court will appoint a professional guardian for the ward.

It is wonderful that so many people are blessed with longer lives but with longevity comes a higher risk of mental and/or physical incapacity. If the public understood the importance of having valid Durable Power of Attorney and Healthcare Surrogate documents in place, then guardianship cases would be greatly reduced. The cost of these documents compared to the cost of Guardianship is a factor of ten. It is impossible to accurately calculate the enormous benefit to the family and the client when these documents are in place and guardianship is avoided.

Lynn B. Aust established the Aust Law Firm in 2002. Her practice areas include Estate Planning, Probate, Guardianships, Business and Medicaid Planning. She graduated Cum Laude from Stetson University College of Law and received her undergraduate degree in Journalism/Public Relations from the University of Florida. Lynn serves as a Vitas Tax Volunteer for low income individuals, and as a Life Mentor for The Jobs Partnership of Florida. Her office also sponsors a booth at the annual "Make 'M Smile" event hosted by Nathaniel's Hope.



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Soft Skills to Excel in any Environment

By Mary L. Wagner, Esq.

To get a job, and keep that job, you must have a repertoire of hard skills, *aka*, those technical skills that we all think of when polishing up our resumes. Things such as typing ability, proficiency in Microsoft® Word™ and Excel™, ability to write and research, knowledge in a particular area and other skills. The hard skills necessary will change depending on the nature of the job, size of the firm, and area of law. Hard skills are also things that any number of people can be trained to do. It is your soft skills that will set you apart and allow you to thrive in any employment situation.

What are these "soft" skills? Soft skills are personal qualities and abilities related to your ability to work with others and your approach towards life and work. They include a number of things like: communication, conflict resolution, creative thinking, attitude, work ethic, dedication, teamwork, problem solving, adaptability, flexibility, professionalism, time management, and ability to accept feedback. They are just as important, if not more important than hard skills, but much more difficult to measure and teach. Like hard skills, they require practice and development. But with that development, you will be able to adapt to and be successful in a multitude of environments.

For me, my practice path has led me through a variety of positions and employment environments. I started my career by clerking at the Tennessee Court of Appeals. I worked closely with my judge in a small office consisting of a total of three people. My work focused mainly on research and writing. I worked in any area of civil law



imaginable. One day I might be addressing the division of tractors in a divorce and the next day considering constitutional law and federal preemption issues in a multi-million dollar products liability case. My interactions were almost exclusively with my judge and his assistant.

From there I went to work for a regional law firm. We had six offices across three states and more than one hundred attorneys. We primarily handled defense matters for personal injury and workers' compensation cases. Many of the cases were strikingly similar. At times, it seemed we only changed the names and numbers. We had a multitude of support staff. Each partner had a paralegal and an assistant. Every associate had an assistant that he or she shared with two or three other associates. In this position, I worked mainly with other attorneys and rarely with clients.

In my current position, I work in a small firm of less than 10 attorneys. There

are only three partners. Partners manage his or her team to their liking. The partners' styles vary across a broad spectrum. On one end, there is the partner who can work more hours than I knew existed in a day. She arrives at the office no later than 7:30 a.m. each day with more energy than the Energizer Bunny. She takes work home daily and works every weekend. She moves quickly through cases with attention to detail compared to none other. She demands excellence and wanted it yesterday. She focuses exclusively on domestic cases. On the other end of the spectrum is the partner who is equally successful but has a much more laid back approach. He arrives daily at 9:30 a.m. He too moves through his cases, but with a more holistic approach. His cases range from minor criminal charges to the multi-million dollar divorce and the million dollar personal injury defense. Neither partner's practice method is better than the other. But I am sure you can imagine the work environment

for their staffs varies greatly. We all work with the court, other attorneys and clients on a daily basis.

As you can see, my areas of practices and employment atmospheres have varied widely. Each required a different set of technical skills than the others. It was my soft skills that enabled me to be successful in each environment and adapt to the changing circumstances. While there are many different soft skills used daily, three stand out: flexibility and adaptability, work ethic, and being a team player

1. Flexibility and Adaptability

We've all had that day when we arrive at work with our day planned out and not a minute to spare. Then a client emergency occurs or the court calls and your entire plan is thrown in the trash. To be effective, you must be able to quickly change course. To continue to grow as a professional you need the ability to adapt to changes. Sometimes these will be quick daily changes. Other times they will be gradual changes to the business.

Your change may be related to adapting work output depending on the supervisor assigning the project. One attorney may want items filed one way, while the other wants something completely different. There is no logic to the madness, just sheer personal preference. But your willingness to be flexible with the systems will go a long way. Your flexibility may even allow you to offer some constructive suggestions to your team as you learn from the positives and negatives of each.

You must meet these curves and changes as welcome challenges. Always strive to welcome the stress and frustration of a change with positivity. Confront changes, even if last minute, head on with a can-do attitude.

2. Work Ethic

No, I don't mean being willing to work 24/7 and 7 days a week. That works for some and that's fine. But it is not for everyone.

It means being dedicated to your work. Consistently strive for excellence. Produce quality work product that your team knows they can rely upon. Your team wants to know that you are dependable. Employers want to know that you are committed to the team goal and need little supervision or motivation to produce quality work. This is a willingness to be self-directed. You will know you have successfully demonstrated your work ethic when your boss cites a case in court that he has not yet read. In doing so, he is solely relying upon your review and analysis. It is your work ethic that provides that level of confidence.

You may also find that not only does strong work ethic allow you to excel as a professional, but also it will provide that flexibility that you may need from others when things go haywire.

3. Being a Team Player

We all have different roles in the office. There are still various levels of superiority. But we all play a role in accomplishing our goal. This means sometimes you will be a leader and sometimes you will be a follower. One day you may be helping keep the partner you work for on track and the next you may be training a new member of the support staff. Regardless, you work with others across the organization to achieve a common goal.

Clerking in the appellate court provides the best example of team work. While it is the judge ultimately responsible for the written decision and whose name goes on the public record, it took the entire team to research and craft that opinion. While we all knew the decision belonged to the judge, we all felt the same sense of responsibility to do a good job and work together. Sometimes being a good team player may mean questioning, albeit respectfully, your superior. I know, can you imagine telling an appellate court judge that he was wrong? A good supervisor

though will recognize the importance of your critique and watchful eye, and value your input.

There are many skills that go into being a good team player: working cooperatively; contributing to groups with ideas, suggestions, and effort; communication (giving and receiving); sense of responsibility; healthy respect for different opinions, customs and individual preferences, and the ability to participate in group decision-making. Whether you are in a management position or supporting position, you should work to develop these skills. Not only will it allow you to excel in any workplace, but also it will enable you to grow and develop professionally.

Soft skills are skills that you will continue to develop through your career. They need practice, thought and study just as much as technical skills. They are often overlooked in professional development though because they are more difficult to train and measure. With the right attitude and some practice, you can continue to grow your soft skill set and excel in any environment.

Mary L. Wagner is 2009 magna cum laude graduate of the University of Memphis School of Law. Mary is an associate of Rice Amundsen & Caperton, PLLC. She practices in the area of general civil litigation and appellate practice section. Mary also serves on the executive council of the Tennessee Bar Association Appellate Practice Section. Previously, she taught legal writing at the University of Memphis Law School. Recently, Mary was named 2015 Top 10 under 40 by the National Academy of Family Law Attorneys and 2015 Rising Stars by Super Lawyers.



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Marketing Your Paralegal Services

Strategies for freelance paralegals.

By Rachel Ng

The fancy mahogany desk is assembled, the state-of-the-art computer is set up and the phone is installed — your new home office is set up perfectly. Now what? More and more paralegals are making the decision to branch out on their own to start a freelance paralegal business. Although experience and expertise will go a long way, for a business to succeed, it's pertinent to first create a well-thought-out marketing plan.

“A [business] strategy begins by listing your goals and targets — where do you want to get work and for how many hours,” said Larry Bodine, a Web and marketing consultant with 13 years of experience in legal marketing. For eight years, Bodine served as the marketing director for Sidley & Austin (now Sidley, Austin, Brown & Wood), a large, Chicago-based law firm. While there, he supervised everything from public relations, print collateral, advertising, seminars, direct mail and the Web site to marketing training, the internal newsletter and new business proposals. In 2000, he formed an independent marketing consultancy, Larry Bodine Marketing (www.larrybodine.com). He also operates the Law Marketing Portal (www.lawmarketing.com).

“Along with your goals and targets, list the strengths you can build on, weaknesses you can improve on, opportunities you can pursue and competitors you need to be aware of,” Bodine said. Next, you need to explore the different options available for marketing your freelance paralegal services, and decide the best way to use each option to your advantage.

Web site

In the past decade, Web sites have become essential, cost-effective marketing tools for many businesses, including those in the legal field. “Web sites are a superb marketing tool, which is why I operate several of them,” Bodine said. “I estimate I get 75 percent of my new business from people who call me and say, ‘I heard about you online.’”

Kristy Sinsara, a paralegal for 12 years, specializing in bankruptcy and divorce, started her freelance business, Oklahoma Paralegals, in September 2004. She said she didn't realize the importance of Web sites at the time. She created a basic Web site for clients to get in touch with her. “I just threw together a very simple Web site because I thought it was going to be something people would possibly refer to if they needed to,” she said. “It ended up bigger than I thought it would be. People used it a lot more than I realized they would. It ended up being my biggest marketing tool.”

Now, Sinsara said she plans to redesign her Web site to include more functions and information.

Dorothy Secol, CLA, was an in-house paralegal for 24 years before deciding to become a freelance paralegal in 1981. She is the co-owner of Paralegal Services based in Allenhurst, N.J. The company provides services in all areas of the law including Secol's specialties, residential and commercial real estate, probate, estate administration, personal injury, research and writing and corporate law. Secol's partners Peggy E. Stalford and Susan A. Niemiec handle bankruptcy, personal injury, banking law and commercial transactions.

Secol also is the author of “Starting and Managing Your Own Business: A freelancing guide for paralegals,” published by Aspen Publishers. She said her Web site, www.paralegalserv.com, is one of her company's greatest marketing tools. “Since posting the Web site, we no longer print up brochures,” she said. “Everything about us is set forth on the Web site, and we can change the information at will. When a brochure is printed and you have a change, you have to throw out the brochures and order new ones. We direct proposed clients to our Web site, and then answer any questions they might have.”

L. Jane Bourgoin is a freelance paralegal with 30 years of experience, specializing in complex commercial litigation, with an emphasis on professional malpractice and construction law. She started freelancing in 1993 after the construction company she worked for went out of business. Bourgoin mainly provides services to attorneys and corporate legal departments on a contract basis. She said her Web page on the Colorado Freelance Paralegal Network Web site (www.paralegalsfreelance.com), which the company has had running since the late 1990s, has been directly responsible for at least one contract. “I think Web sites are an excellent marketing tool, especially for groups, since all joint advertising and marketing (e.g., in legal publications, directories, etc.) can be directed to the Web site. Even though I know of only one direct ‘hit’ from my Web page that resulted in a contract, I am aware of a lot of activity on the site that might have indirectly resulted in others. Eventually, I might create my own Web site. If I do, I definitely will link it to my page on the CFPN site.”

According to Bodine, a good Web site should be a reference source on your work. “Be sure to list representative clients (with permission), testimonials, references and examples of successful projects you have taken on,” he said. In addition, every single Web page should list your phone number, mailing address and e-mail. “Finally, spend the money to get a professional photo taken and put that online too,” Bodine said.

Advertising

In the first two months after Sinsara opened her business, she started advertising in *The Oklahoma Gazette* aggressively. She was unable to afford the more expensive, larger publications such as *The Daily Oklahoman*, but found a cheaper alternative in the local paper, *The Gazette*. For about \$300 for a full-page ad, the freelance paralegal specializing in probate, divorce and bankruptcy managed to reach her target audience.

“I placed a couple of ads in the paper and in no time, it took off,” she said. “It was absolutely worth the cost of it. I just put a half page ad out, it was a very simple little ad, and from there I probably got 40 clients in my first month.” Sinsara said 90 percent of the clients were derived from ads she placed in *The Oklahoma Gazette*.

“There is a lawyer I didn’t even know about, I never even heard of before, but apparently he has seen my ad in *The Gazette* and he refers all kinds of clients to me,” she said. “I spend a lot of money advertising, but I get my advertising money back tenfold.”

In addition to national and local papers, you also should consider advertising in paralegal association or bar newsletters, trade journals, directories, professional Web sites and other community publications. Secol said her company has received calls from ads placed in the *Monmouth Memoranda*, a local bar newsletter located in Monmouth County.

Pamela Packard is a freelance paralegal specializing in construction and employment law litigation in Idaho. She has more than 30 years of paralegal experience and has been a freelance paralegal for more than two years. Her many clients include the Idaho Department of Agriculture, J.R. Simplot Company (a large potato and agriculture company and the supplier of McDonald’s french fries) and Meuleman & Miller. She said she also has placed business card-sized ads in materials promoting various Lions Club activities.

Bodine cautioned that advertising is good only if it produces results. “You must run five to 10 ads before you are going to see any results,” he said. “If your ad does not make the phone ring, then you have chosen the wrong publication or your customers don’t look for freelance paralegals in ads.”

Print Collateral

Printing fliers and brochures is a relatively easy process with the prevalence of inexpensive graphic design software, including QuarkXpress, Adobe Photoshop and a FedEx Kinko's on every other street corner.

Collateral material can be as simple as a postcard including a list of your services, your credentials and your contact information. You can leave these postcards in attorney drop boxes at the courthouse, post them on law school bulletin boards, pass them out during your local paralegal association meetings or even leave a stack at restaurants and cafés near large law firms.

“Think about the area you are targeting and specifically the people you are targeting, then make fliers or send out mailers like a postcard,” Sinsara said.

Since Sinsara's clients are mostly women going through a divorce, she decided to target a women's-only gym in her area. She created a large, full-size poster for her business and displayed it in the gym. “I was targeting women — single women or women going through divorces. Women talk, women have friends and women get divorces. I have gotten quite a bit of business from that,” she said.

Bodine stressed that fliers and other print collateral are great to have, should anyone request them, but they will not bring new business in alone. “They are only good as a ‘leave-behind item’ after you have visited with a client or prospect,” he said.

Association Involvement and Networking

Bodine strongly encourages freelance paralegals to attend bar and trade association meetings where there are plenty of opportunities to meet potential clients. “‘Go fishing where the fish are,’ is the old saying,” he said. “If you are a frequent face at events, it's easier to get to know the potential customers there.”

Bourgoin agreed. “In the almost 12 years I have been freelancing, I find the most useful marketing tool is networking, and consequently word-of-mouth referrals,” she said. “Most of the marketing I do is passive. I have never done a mass mailing and have never done cold calls.”

She said most of her networking comes from her involvement with various paralegal and attorney associations. Bourgoin is a member of the Rocky Mountain Paralegal Association and actively involved in its freelance section; a member of the Colorado Freelance Paralegal Network; a member of the National Federation of Paralegal Associations; and an associate member of both the Denver and Colorado Bar Associations.

Attempting to get her name out to the public, Packard joined the Boise Chamber of Commerce and attends Chamber functions. “I have applied to be a member of the Boise City Ethics Commission, and I will be working with a state senator on a voluntary basis to assist in drafting legislation this next legislative session,” she said.

In addition, Packard also participates in *pro bono* activities for the Idaho Association of Paralegals and Idaho's National Association of Legal Professionals. Packard said most of her new business comes from word of mouth. “Having been an officer in the local paralegal association, I let other members know I am available for work,” she said. “I also have identified other freelance paralegals and send my overflow work to them.”

Elizabeth H. Nellis, CLA, has been a freelance paralegal for nearly 20 years in Tulsa, Okla., specializing in civil litigation. Nellis was the co-founder and past president of the Tulsa Association of Legal Assistants and is a member of NALA. “Without my involvement with TALA and NALA Tulsa, I don’t believe my practice would have been as successful as it has been,” Nellis said. “Almost without exception, the word-of-mouth referrals and networking through both associations have provided me with exceptional opportunities professionally and privately. My very best employment positions and dearest friendships have all originated through contacts made at organizational meetings and events.”

Bodine added that while the best marketing is in-person networking, make sure you are meeting with potential customers, not just other paralegals. “Freelance paralegals should telephone prospective clients and ask to meet them at their offices. If possible, take the prospect out to lunch or dinner,” he said. “The point of the exercise is to start building a relationship; people hire paralegals they like and know. The better the client knows you, the more likely they are to hire you.”

Also, it’s important to maintain a good relationship with current clients and former employers. “Your best referral sources will be your current clients,” Bodine said. “You must ask your clients to refer you, be clear about what kind of work you are looking for, and remember to send them a handwritten card or nice gift when they do refer you business.”

Sinsara was working for Lanpkins & Associates for six years prior to branching out on her own as a freelance paralegal and now the firm is one of her clients. “I still have cases with them and I still work on those cases,” she said.

Increase Visibility: Writing and Public Speaking

Writing articles for your local bar and paralegal associations and legal journals also can be an effective way to reach potential clients. Examples of articles can include issues such as paralegal utilization, discovery, technology and document management.

“[Writing] articles for newsletters, journals and publications is a good way to raise a person’s visibility,” Bodine said. “The important step is to make copies of the article and send them to customers and prospects with a nice cover letter, advising them you are available to work for them.”

Secol said she and her partners have written articles for legal periodicals, newspapers and other publications. Secol credits the company’s monthly newsletter as one of its best marketing tools. “We write a newsletter once a month on an area of substantive law, or on law office management or on an aspect of technology, such as e-mail discovery, software and so forth,” she said.

The newsletter is then faxed to about 1,000 attorneys and title companies, and it’s also available on their Web site. “We feel when the attorneys see the newsletter, it keeps us in their minds and thoughts for future reference,” she said. “We also have had many calls from attorneys for further information on articles we have written.”

Bodine added that freelance paralegals also should “actively write for other Web sites read by customers, and freely grant permission to allow them to be reprinted.”

“Another effective way to get your name out there is to do public speaking. Giving a good public presentation is the most effective way to establish your credibility,” Bodine said. “People naturally think a good speaker also is good at what they practice. I have had people come up to me after a speech and retain me on the spot. If you give speeches, it’s important to give a lot of them, so you become good at public speaking, and give the same speech over and over so you can perfect it.” Both Secol and Packard speak at paralegal seminars for their associations and other law firms.

Nellis started making speeches and presentations during her first term as president of TALA. She has been a co-presenter at TALA seminars and has spoken at the annual meetings of the Oklahoma Paralegal Association. This July, Nellis is scheduled to be a co-presenter at NALA’s 30th Annual Convention during the Membership Exchange portion. “Public exposure has proven to be a real asset to me, affirmed my creditability and enhanced my reputation and business,” she said. “I have always encouraged other legal assistants to pursue [speaking] opportunities whenever they have been offered to them because the experience will challenge them, aid in their growth and positively reward them in ways they might not even realize at the time.”

Work Within Your Budget

Bodine said professional firms typically spend 2 percent of their gross revenue on marketing. However, he said that the percentage might be too small for a solo business owner.

“Set aside \$2,000 for a good Web site you can update yourself. Set aside enough money to take a client or prospective client out to lunch once each week,” he said. “[And] set aside enough to do four direct mailings to prospects per year.”

In reality, many freelance paralegals are one-person operations, and have to work on a shoestring budget. However, marketing doesn’t have to be an expensive or time-consuming endeavor. Many veteran freelance paralegals have successfully marketed their businesses with a little creativity and determination.

Looking for a Fresh Start

Here are some resources to help you market your freelance business:

The U.S. Small Business Administration Web site (www.sba.gov) features tips on the basics of marketing, how to create a marketing plan and even free online marketing courses.

- Entrepreneur.com is an established online community where business owners can access marketing information, expert answers and comprehensive services to solve their business challenges.

The Hartford’s Business Owner’s Playbook (<http://www.thehartford.com/business-playbook/marketing?LB1>) is chock full of expert advice and hundreds of different marketing tips, from Internet marketing to direct mailings.

As a member of the National Federation of Paralegal Associations (www.paralegals.org), you have access to the NFPA Freelance Chat and the Freelance Listserv, where members can discuss issues related to freelance paralegal work.

The Colorado Freelance Paralegal Network Web site (www.paralegalsfreelance.com) features a directory of freelance paralegals with a variety of experience and specialties.

Rachel Ng is the former managing editor of Legal Assistant Today. She is currently the assistant copy editor/researcher at Fit Pregnancy magazine. She also freelances for several publications including *Law Office Computing*, *LAT*, and *EW Woman*. (Reprinted with permission of Rachel Ng.)



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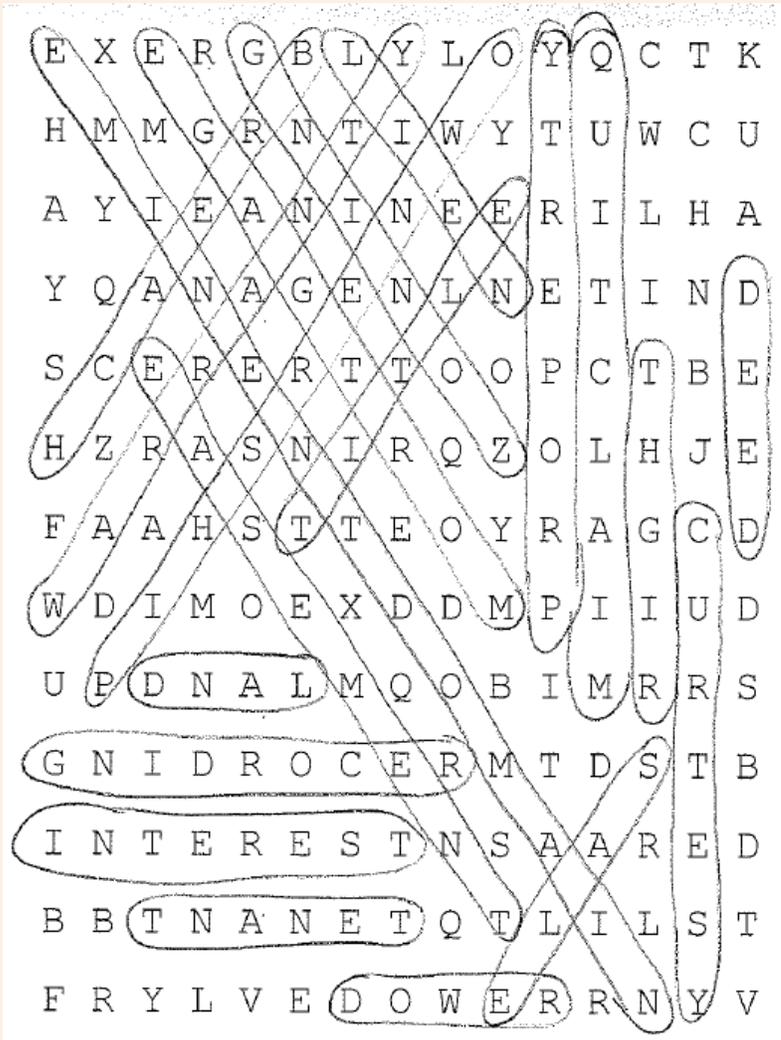
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