



# Roanoke Valley Paralegal Association

P.O. Box 24001, Roanoke, Virginia 24019

<http://rvpa.org>

Roanoke, Virginia  
March 2010

## 2010 Officers

### **President**

VACANT

### **Vice President**

Colleen Doyle  
540.983.9470  
[colleen\\_doyle@gentrylocke.com](mailto:colleen_doyle@gentrylocke.com)

### **Secretary**

Beth Reed  
540-580-4376  
[reeddome@verizon.net](mailto:reeddome@verizon.net)

### **Treasurer**

Marilyn Hubbard  
[hubbard@woodrogers.com](mailto:hubbard@woodrogers.com)  
(540) 983-7564

## 2010 Board Members

Tara Barnett  
540-983-9367  
[tara\\_barnett@gentrylocke.com](mailto:tara_barnett@gentrylocke.com)

Kathie E. Coulson  
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540.767.2200  
[lwirt@glenpro.com](mailto:lwirt@glenpro.com)

Lisa Woodson  
540.983.9330  
[lisa\\_woodson@gentrylocke.com](mailto:lisa_woodson@gentrylocke.com)

### **VAPA Liaison**

Kathy Ward  
540.983.7517  
[ward@woodrogers.com](mailto:ward@woodrogers.com)

### **NALA Liaison**

Lisa Woodson  
540.983.9330  
[lisa\\_woodson@gentrylocke.com](mailto:lisa_woodson@gentrylocke.com)

## ***And now, a word from our vice-president...***



2010.....another year/another decade has begun. So too has your local paralegal association begun another year/decade of serving the paralegals of the Roanoke Valley. For over 25 years, the Roanoke Valley Paralegal Association has worked to encourage its members to develop, promote and maintain the highest degree of ethical and professional attainment. The Association has continued to provide opportunities for continuing legal education and acted as a source of information and assistance for the members, the community and bar associations. In addition, RVPA has advanced a spirit of professionalism, cooperation and fellowship among the members, the National Association of Legal Assistants, Inc. and members of the legal community.

Your 2010 Board Members have been working hard to achieve the above mentioned objectives and purposes as stated in Article II of the By-Laws of the Roanoke Valley Paralegal Association. In lieu of the January general membership meeting, the board met twice in January to begin their planning for the year 2010. Board members developed a plan to incorporate both the successful activities and goals of the past with new and exciting goals and activities for the future year.

Remember that it is never too late to offer your time and talent to RVPA. With the use of email and conference calls, issues of time constraints can be eased. Please consider joining one of our RVPA committee groups. Contact me or another board member regarding one of our committee groups.



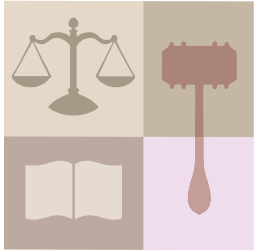
RVPA is now on Facebook! Become a fan and/or a member to see all of the upcoming meeting and event information. Invite your paralegal/legal assistant friends to become our friend.

Facebook will be updated on a regular basis,  
and will provide RVPA members with all of the latest information.

[http://www.facebook.com/#!/group.php?v=app\\_2373072738&gid=327204826804](http://www.facebook.com/#!/group.php?v=app_2373072738&gid=327204826804)

## Committee Reports

### CLE Committee



#### Speakers List

- Feb. 11 - Brent Brown, Esquire of Brown & Jennings
- Mar. 3 - NALA Webinar: "Trial Prep. for Federal Courts"
- Apr. 8 - Creditor's Rights (Part One of Two Part Series)  
Jeffrey A. Fleishhauer, Esquire
- May 13 - Fair Debt Collection Practices Act (Part 2) -  
Robert J. Slemp, Esquire
- Jun. 10 - Charles Downing, Esquire, of WootenHart, PLC
- Jul. 8 - Social - TBA
- Aug. 12 - Giovanni Masucci, President/CEO -  
National Digital Forensics, Inc.

### Community Relations

Beth Reed



Other organizations RVPA will be collecting donations for in 2010:

April & May: Roanoke Valley SPCA  
June – August: West End Center  
Sept. & Oct.: Bradley Free Clinic  
Nov & Dec.: Southwest Virginia Food Bank

Wills for Heroes programs provide essential legal documents free of charge to our nation's first responders, including wills, living wills, and powers of attorney. By helping first responders plan now, they ensure their family's legal affairs are in order before a tragedy hits. The 501(c)(3) charitable non-profit Wills for Heroes Foundation supports these Wills programs, giving back to the community and "protecting those who protect us."



#### **"Wills For Heroes" needs YOU!**

RVPA in association with the Roanoke Bar Association, the Virginia State Bar Young Lawyers Conference and the Virginia Bar Association Young Lawyers Division, is launching a new community service program to provide Roanoke Valley's firefighters and police officers with free estate documents, such as wills, powers of attorney, and advanced medical directives. The volunteers would be serving as witnesses and/or notaries. Drafting sessions will be held at the Roanoke Valley Regional Training Center, 1220 Kessler Mill Road, Salem, VA.

Save these dates!

May 1 and 15, 2010, 9 a.m. to 5 p.m.  
and May 19, 2010 4:00 – 8:00 p.m.

### Finance Committee

#### **New Cookbook**

Look for an upcoming announcement about a "NEW" cookbook



published by RVPA. We plan to have it ready to sell before people start holiday shopping. So start checking your favorite recipes! We will begin collecting entries very soon!

C: Kathy Ward at ward@woodrogers.com

### Membership Committee



### RVPA Welcomes New Members!

- Barbara Bushnell of Michie Hamlett
- Sylvia Harper of Gentry Locke Rakes & Moore, LLP
- Kelly Hickey of Gentry Locke Rakes & Moore, LLP
- Donna Morgan of Gentry Locke Rakes & Moore, LLP
- James Pollack of Pollack Process serving

If you haven't joined or are interested in joining our organization, please contact our Secretary, Beth Reed at reeddome@verizon.net or 540-580-4376.

### Newsletter



### Newsletter

If you would like to submit an article for publication or have a suggestion or comment on its content, please contact Lisa Woodson at lisa\_woodson@gentrylocke.com .



### VAPA Report

VAPA Liaison - Kathy Ward

### VAPA NOTES

I attended the fall VAPA meeting 09/19/09 in Charlottesville. On the agenda was the 2010 VAPA and Local Government Paralegal Association Joint Statewide Conference scheduled for October 13th through 16th to be held in Fredericksburg. Conference fees will be based on the days of attendance. The conference brochure in final form will be ready by June 1. Please make plans to attend. Officers were elected for the 2009/2010 fiscal year. President is Teri Reece of the Fredericksburg Paralegal Association, Vice President is Amy Vaughan of the Richmond Paralegal Association, Treasurer is Karen Nelson of the Paralegal Association of Northern Virginia, and I was elected Secretary. Finally, a committee was formed to determine issues and come up with a standard for voluntary paralegal regulation in Virginia.



**35TH ANNUAL CONVENTION & EXHIBITION  
JULY 14-17, 2010 • JACKSONVILLE, FL**



**NALA Report**

reported by  
Lisa Woodson

**NALA Headquarters**

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Tulsa, OK 74119  
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phone: 918-587-6828  
[nalanet@nala.org](mailto:nalanet@nala.org)

**NALA NEWS!!**

The **2010 NALA Annual Convention** will be held in **July 14 - 17, 2010** in Jacksonville, FL! This year's focus is on Bankruptcy Law, Elder Law and Veterans Law. Educational tracks in Essential Skills, Corporate Law, and Litigation will again be offered as well as hot topics, such as Mortgage Foreclosures and Bailouts; Energy Issues Today, Tomorrow & Beyond, and Employment Law .

Don't forget to check out the NALA's website at [NALA.org](http://NALA.org). A host of information is available to you including the results of the 2010 Utilization and Compensation survey, NALA continuing education courses and CLA certification.

At [NALA.org](http://NALA.org), you can also visit on-line [Facts & Findings](#), NALA's quarterly magazine, for industry news and educational articles.

Also, continuing education opportunities this spring include NALA Campus LIVE! and the CLA/CP Short Course. For more information please visit [www.nala.org](http://www.nala.org).

**Paralegal Schools in Virginia:**

Lambda Epsilon Chi (LEX), the National Honor Society in Paralegal/Legal Assistant Studies.



**National College**

Jennifer Compton, Program Director  
1813 E. Main Street  
Salem, VA 24153  
540-986-1800  
[jcompton@national-college.edu](mailto:jcompton@national-college.edu)

**Degrees and Certifications:**

Associates Degree

**Virginia Western Community College**

Deborah Yancey, Program Head

**Degrees and Certifications:**

Associates Degree

3054 Colonial Avenue Southwest  
Roanoke, VA 24015-4704  
540-857-7986  
dyancey@virginiawestern.edu  
www.virginiawestern.edu

**Bryant & Stratton College**

Michelle Wilson, Program Director  
8141 Hull Street Road  
Richmond, VA 23235  
(804) 745-7444 FAX: (804) 745-6884  
<http://www.bryantstratton.edu>

**Degrees and Certifications:**

Associate Degree  
LEX Chapter

**Georgetown University**

Kelly Holdcraft, Director of Paralegal Studies Program  
3101 Wilson Blvd., Suite 200  
Arlington, VA 22201  
(202) 687-8466; FAX: (703) 812-9324  
ksh54@georgetown.edu  
<http://scs.georgetown.edu/paralegal-studies>

**Degrees and Certifications:**

Post Degree Certificate  
***ABA Approved***

**J. Sargeant Reynolds Community College**

Susan H. Brewer, Director of Paralegal Studies Program  
Parham Road Campus  
Post Office Box 85622  
Richmond, VA 23285-5622  
Telephone: 804.523.5605  
Fax: 804.371.3588  
Sbrewer@reynolds.edu  
<http://www.abanet.org/legalservices/paralegals/directory/va.html>

**Degrees and Certifications:**

Associate Degree  
***ABA Approved***

**Marymount University**

Susann Ninassi, Program Director  
2807 N Glebe Rd  
Arlington, VA 22207-4299  
(703) 284-5934  
FAX: (703) 527-3830  
susanne.ninassi@marymount.edu  
<http://www.marymount.edu>

**Degrees and Certifications:**

Baccalaureate Degree  
Masters Degree  
Post Degree Certificate  
***ABA Approved***  
LEX Chapter

**Mountain Empire Community College**

Beth Snodgrass  
3441 Mountain Empire Road  
Big Stone Gap, VA 24219-4634  
(276) 523-2400  
bsnodgrass@me.vccs.edu

**Degrees and Certifications:**

Associates Degree

**University of Richmond**

School of Continuing Studies  
Special Programs Building  
28 Westhampton Way  
University of Richmond, VA 23173  
Phone: (804) 289-8133  
Fax: (804) 289-8138  
scs@richmond.edu  
<http://scs.richmond.edu/degrees/paralegal/undergraduate/index.htm>  
|

**Degrees and Certifications:**

Bachelor of Applied Studies (BAS)  
in Paralegal Studies  
Certificate in Paralegal Studies

# CLE Opportunities:



## **NALA CAMPUS LIVE!**

www.nala.org

(918) 587-6828 phone. (918) 582-6772

<http://www.nala.org/spring2010schedule.aspx.aspx>

## **LIVE! Spring 2010 Schedule**

### **Advanced Evidence**

Karen Sanders-West, ACP, JD

Thursday, March 30, 2010

3 – 5 pm Central Time

Conference ID – 3067

This advanced program is created for the Legal Assistant who has extensive experience in trial preparation and assisting in the courtroom. Hearsay will be discussed, as well as opinion and expert testimony, burden of proof and presumptions, admissibility of evidence generated by technology, evidence authentication and best evidence doctrine. Practical examples of how the rules come into play in the courtroom will be provided, along with references to case law interpreting the rules. The primary emphasis will be on the role of evidence in civil actions with limited discussion of evidence in criminal matters.

### **Estate Planning: Part I - Generation Skipping Transfers**

Ed Armstrong, Attorney

Wednesday, March 31, 2010

Noon – 1:30 pm Central Time

Conference ID – 3068

This course will examine Generation Skipping Transfers, both direct and indirect: Direct skips, taxable distributions; taxable terminations. Also included, explanations of "skip persons," when a trust is a "skip" person; exceptions to generation skipping transfer taxes; use of reverse QTIP elections and use of the Applicable Exclusion Amount against potential Generation Skipping Transfer Tax. The material contained in this presentation is presumed the participant has an extensive knowledge of the Federal Transfer Tax System.

### **Legislative and Regulatory Law for Paralegals**

Patricia Gustin, CP, CFEI

Friday, April 2, 2010

11 am – 1 pm Central Time

Conference ID – 3072

This course is designed to educate paralegals in the process, authority and roles of Congress, state legislative assemblies, regulatory authorities and executive government agencies in the creation, passage, codification, and enforcement of state and federal statutes and regulations. The course will also focus on veto power and constitutional challenges before the court. Useful handouts will be provided.

### **Freedom of Information Act**

Karen Sanders-West, ACP, JD

Wednesday, April 7, 2010

3 – 5 pm Central Time

Conference ID – 3073

FOIA, otherwise known as "The Freedom of Information Act" What is it? Why do we need it? Who can use it? What it can and what it cannot do. How to use FOIA to get the information you need. These and other question/applications regarding FOIA will be addressed in this NALA Campus LIVE! session.

### **Trademark Policing**

Debra Monke, ACP

Thursday, April 8, 2010

Noon – 1:30 pm Central Time

Conference ID – 3074

This session is designed for the paralegal that is assigned the task of putting together a policing program. It will discuss the importance of a policing program, how the paralegal can play a major role in developing and running a two prong approach policing program, both the client's usage and outside entities. It will also discuss the domain name arbitration process. This course is designed to assist those new to the trademark area and paralegals wanting to refine their knowledge.

### **Using Paralegals as Jury Consultants**

Mary Kubichek, BS, MA, JD

Friday, April 9, 2010

Noon – 1:30 pm Central Time

Conference ID – 3075

This course will present social science and legal research on jury selection and communication skills to help litigation attorneys and paralegals select-and deselect-jurors. Techniques for pretrial investigation of jurors, mock jurors and focus groups, voir dire, avoiding Batson issues, and post trial questioning will be discussed. Handouts will include research resources and communication tools.

### **Trademark Prosecution**

Deborah Hampton, IP Manager

Tuesday, April 13, 2010

Noon – 1:30 pm Central Time

Conference ID – 3076

Preparing a trademark application is easy; making it acceptable to the Examining Attorney and getting a Notice of Publication can be extremely difficult. Please attend this session to learn all of the tips and tricks to prosecute your trademark application smoothly through the United States Patent and Trademark Office. Are you tired of drafting responses to Office Actions, having to do yet another amendment to the identification of goods? Confused by the whole trademark prosecution process? This course will provide you with many of the tools necessary to successfully register your trademarks and shorten the time period to get ting the coveted trademark registration symbol ®

### **Estate Planning: Part II - Applicable Exclusion Amount To Offset Federal Gift Taxes and Federal Estate Taxes; Annual Exclusions and Marital Deduction**

Ed Armstrong, Attorney

Wednesday, April 14, 2010

Noon – 1:30 pm Central Time

Conference ID – 3077

This course will examine the Applicable Exclusion Amount (sometimes referred to as the "Unified Credit") as an offset to federal gift taxes, federal estate taxes and generation skipping transfer taxes; the per donee gift tax exemption and the exemptions for payment of educational and medical expenses. The material contained in this presentation is presumed the participant has an extensive knowledge of the Federal Transfer Tax System.

### **Advanced Discovery Techniques**

Rhonda Reid

Monday, April 19, 2010

Noon – 2 pm Central Time

[Click here to register](#)

Conference ID – 3079

It is not uncommon for cases to yield large amounts of electronic data and paper documents, both of which need to be reviewed and prepared for production. Learn how to make informed decisions about the best practices for your cases, for your clients, and for your firm, when it comes to document management and review. There are numerous programs on the market today, each with pros and cons. During this session you will learn what those pros and cons are, as well as how to overcome other electronic discovery hurdles.

### **Elder Law Intermediate**

Mitzi Wortman, RNC, CCM, LNCC

Thursday, April 22, 2010

11 am – 1 pm Central Time

Conference ID – 3081

Legal documents associated with elder care issues will be reviewed, with analysis of types of health insurance including private, HMOs and Medicare Plan D. Benefits and problems associated with each insurance type as they apply to elders will be compared, and there will be discussion on how paralegals can identify signs of elder abuse and understand the purpose for restraining orders. The presentation will include an explanation of assessments for temporary or permanent conservatorships. Definitions of financial or mental incompetence will be included, along with a review of advance directives vs. living wills. Elder law resources will be provided as a handout.

### **Electronic Discovery**

Rachel Alexander

Tuesday, May 4, 2010

Noon – 2 pm Central Time

Conference ID – 3084

This presentation will introduce the importance of electronic discovery ("e-discovery") in contemporary litigation, including why e-discovery is necessary, how to secure electronically stored information ("ESI") from clients, when and how to produce ESI, how to seek ESI from another party, and other pertinent issues.

#### Specific topics:

- Why e-discovery is necessary
- How to secure ESI from clients
- When and how to produce ESI
- How to seek ESI from another party
- Other topics – the presenter will also discuss tips for advising clients (and supervising attorneys) on maintaining ESI even when a litigation hold is not called for, including maintaining a "culture of preservation" and document-retention policies.

### **Real Estate Title Searches**

Glenn Leier, Attorney

Wednesday, May 12, 2010

Noon – 1:30 pm Central Time

Conference ID – 3087

What does the word "title" mean? May a paralegal obtain a copy of a "title" to a parcel of real estate? What encompasses the often abstract concept of "title"? This course will review searches of public records to find recorded documents related to the title of real estate. The discussion will include a review of recording procedures, locations of recorded documents affecting real estate title, types of recording index systems, and different methods of title searching used in the United States. The course will cover marketability of title, title defects, abstracts of title, title reports, types of title insurance, title endorsements, special and general exceptions, and contents of a title report.

### **Concordance 2007**

Victoria Craig

Tuesday, May 25, 2010

Noon – 1:30 pm Central Time

Conference ID – 3088



Concordance is a litigation support software program with powerful full-text search capabilities that is designed to assist attorneys and paralegals manage and organize documents and information. Concordance 2007 is the latest release of the software program and has a completely redesigned interface and many new functions. This course will provide a brief overview of Concordance including creating a new case, entering data, searching the database, preparing reports, and printing documents. Participants will gain an understanding of how Concordance functions and how to utilize Concordance to assist with the preparation of cases from the discovery phase through to trial. For those individuals already familiar with Concordance, this course will introduce the new features of the 2007 release. Participants will receive a copy of "Concordance 2007-The Getting Started Guide."

### **NATIONAL BUSINESS INSTITUTE with IPE – Institute For Paralegal Education**

<http://www.nbi-sems.com/>

Phone: 800-930-6182

#### **UPCOMING TELECONFERENCE:**

##### **Understanding Cloud Computing: A Guide for Paralegals (#52238ER)**

60-Minute National Teleconference - April 14, 2010, Eastern time 12:00-1:00 pm

"Cloud computing" in a nutshell is using the internet to create, house and retrieve documents. The "cloud" eliminates dependence on servers, software and maintenance. "Cloud computing" is for everyone but you must understand the advantages and disadvantages to use its greatest potential.

##### **From Pleadings to Trial: The Paralegal's Guide to Using Evidence Effectively (#52254ER)**

60-Minute National Teleconference - April 19, 2010, Eastern time 1:00-2:00 pm

Evidence can be one of the most important items used to substantiate, or disprove, a case during trial. Discover how you can best support the case by properly preparing documents for trial as well as creating effective trial notebooks and exhibit lists. Register today!

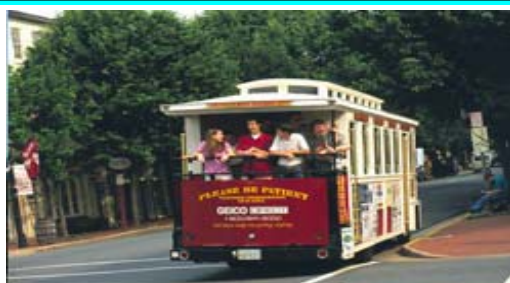
##### **The Paralegal's Guide to Creating a Trial Notebook (#52939ER)**

60-Minute National Teleconference - April 29, 2010, Eastern time 12:00-1:00 pm

The trial notebook is one of the most critical trial tools your attorney uses, and understanding what documents it should and should not include is imperative. Utilize the practical tips and techniques of our experienced faculty to learn what to collect, how to organize it for efficient retrieval, as well as how to preserve evidence and key case documents.

**"There is no end to education. It is not that you read a book, pass an examination, and finish with education. The whole of life, from the moment you are born to the moment you die, is a process of learning." ~ Jiddu Krishnamurti**

## **UPCOMING 2010 ANNUAL MEETINGS**



### **10/13-16, 2010 Virginia Alliance of Paralegal Associations**

VAPA Semi-Annual Seminar

Fredericksburg, VA

For more information : <http://www.vaparalegalalliance.org/events>



**35TH ANNUAL CONVENTION & EXHIBITION  
JULY 14-17, 2010 • JACKSONVILLE, FL**



**07/14-17, 2010 National Association of Legal Assistants**  
NALA Annual Convention  
Jacksonville, FL  
For more information: <http://www.nala.org/convention.aspx>

### **Word of The Day "Cloud Computing"**

Cloud computing is a general term for anything that involves delivering hosted services over the Internet. These services are broadly divided into three categories: Infrastructure-as-a-Service (IaaS), Platform-as-a-Service (PaaS) and Software-as-a-Service (SaaS). The name cloud computing was inspired by the cloud symbol that's often used to represent the Internet in flow charts and diagrams.

A cloud service has three distinct characteristics that differentiate it from traditional hosting. It is sold on demand, typically by the minute or the hour; it is elastic -- a user can have as much or as little of a service as they want at any given time; and the service is fully managed by the provider (the consumer needs nothing but a personal computer and Internet access). Significant innovations in virtualization and distributed computing, as well as improved access to high-speed Internet and a weak economy, have accelerated interest in cloud computing.

A cloud can be private or public. A public cloud sells services to anyone on the Internet. (Currently, Amazon Web Services is the largest public cloud provider.) A private cloud is a proprietary network or a data center that supplies hosted services to a limited number of people. When a service provider uses public cloud resources to create their private cloud, the result is called a virtual private cloud. Private or public, the goal of cloud computing is to provide easy, scalable access to computing resources and IT services.

Infrastructure-as-a-Service like Amazon Web Services provides virtual server instances with unique IP addresses and blocks of storage on demand. Customers use the provider's application program interface (API) to start, stop, access and configure their virtual servers and storage. In the enterprise, cloud computing allows a company to pay for only as much capacity as is needed, and bring more online as soon as required. Because this pay-for-what-you-use model resembles the way electricity, fuel and water are consumed; it's sometimes referred to as utility computing.

Platform-as-a-service in the cloud is defined as a set of software and product development tools hosted on the provider's infrastructure. Developers create applications on the provider's platform over the Internet. PaaS providers may use APIs, website portals or gateway software installed on the customer's computer. Force.com, (an outgrowth of Salesforce.com) and GoogleApps are examples of PaaS. Developers need to know that currently, there are not standards for interoperability or data portability in the cloud. Some providers will not allow software created by their customers to be moved off the provider's platform.

In the software-as-a-service cloud model, the vendor supplies the hardware infrastructure, the software product and interacts with the user through a front-end portal. SaaS is a very broad market. Services can be anything from Web-based email to inventory control and database processing. Because the service provider hosts both the application and the data, the end user is free to use the service from anywhere.

**The Paralegal Mentor**  
*Strategies for Paralegals Seeking Excellence*  
by Vicki Voisin, aka The Paralegal Mentor

Vicki Voisin, "The Paralegal Mentor", delivers simple strategies for paralegals and other professionals to create success and satisfaction by achieving goals and determining the direction they will take their careers. Vicki spotlights resources, organizational tips, ethics issues, and other areas of continuing education to help paralegals and others reach their full potential. She publishes a weekly ezine titled ***Paralegal Strategies***. More information is available at [www.paralegalmentor.com](http://www.paralegalmentor.com) .

**Ethics Tip: Hey! Those are MY Billable Hours!**

**Dear Vicki:** I am a *Paralegal Strategies* subscriber, as well as a paralegal in XXX, USA. I wonder if you would offer some advice on a problem I have at the small firm where I work. My boss, the owner of firm, has developed a habit of having me draft letters or short pleadings and then bill it to the attorney's time, at the attorney's rate, which is, of course, significantly higher than the paralegal rate. The other day I was also forwarded an email from another paralegal where the boss asked her to do several things on a case and then bill it to the boss's time. Obviously, Vicki, this is ripping off the client, unethical, and I feel it exploits the use of paralegals. I have thought about making an anonymous complaint to the state bar. Just wondering if you have any advice for a paralegal out here in the trenches.

Thanks!  
Anonymous

**Dear Anonymous,** Thank you for subscribing to *Paralegal Strategies* and for taking the time to send your question. This is *not* the first time I've heard of this practice and I share your concerns.

First, I must say that my goal is to provide paralegals with information that will help them to better perform their work and to increase their career satisfaction. It is NOT my goal to interpret Model Rules as they apply to attorneys or to tell attorneys how to practice law or manage their law businesses.

That said, the circumstances you describe are disturbing because they are dishonest and unfair to the client. They also diminish the professional status of the paralegal. It is a practice that is probably more prevalent than we know. It is a practice that should be exposed but I believe that would best be done by clients and by Judges.

There are, however, some important points that every paralegal (and every attorney) should be aware of and pay attention to. Are you ready? It's long!

**The purposes for hiring paralegals.** Paralegals are hired for several reasons: to free up attorney time for other substantive work; provide legal assistance to more clients than he or she could do without a paralegal; increase firm profits; and to provide quality legal services to the public at a fair rate. Paralegals and supervising attorneys

must be aware of the specific rules, decisions and statutes applicable to fees and to paralegal utilization within his or her jurisdiction.

It goes without saying that if an attorney is going to charge for paralegal time, the paralegal must meet the standards set by the definitions adopted by the American Bar Association, various states, and all paralegal professional associations.

**What does the ABA say about fees?** There are two specific ABA Model Rules that apply to fees and to paralegals:

**Rule 1.5: Fees**

a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;

2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

3) the fees customarily charged in the locality for similar legal services;

4) the amount involved and the results obtained;

5) the time limitations imposed by the client or by the circumstances;

6) the nature and length of the professional relationship with the client;

7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

8) whether the fee is fixed or contingent.

**Rule 5.4 Professional Independence of a Lawyer** Prohibits the sharing of legal fees and states that a lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

**The ABA also has Guidelines for the Utilization of Paralegal Services.**

**Guideline 8: A lawyer may include a charge for the work performed by a paralegal in setting a charge and/or billing for legal services.**

Comment to Guideline 8

In *Missouri v. Jenkins*, 491 U.S. 274 (1989), the United States Supreme Court held that in setting a reasonable attorney's fee under 28 U.S.C. § 1988, a legal fee may include a charge for paralegal services at "market rates" rather than "actual cost" to the attorneys. In its opinion, the Court stated that, in setting recoverable attorney fees, it starts from "the self-evident proposition that the 'reasonable attorney's fee' provided for

by statute should compensate the work of paralegals, as well as that of attorneys." *Id.* at 286. This statement should resolve any question concerning the propriety of setting a charge for legal services based on work performed by a paralegal. See also, Alaska Rules of Civil Procedure Rule 79; Florida Statutes Title VI, Civil Practice & Procedure, 57.104; North Carolina Guideline 8; Comment to NALA Guideline 5; Michigan Guideline 6. In addition to approving paralegal time as a compensable fee element, the Supreme Court effectively encouraged the use of paralegals for the cost-effective delivery of services. It is important to note, however, that *Missouri v. Jenkins* does not abrogate the attorney's responsibilities under Model Rule 1.5 to set a reasonable fee for legal services, and it follows that those considerations apply to a fee that includes a fee for paralegal services. See also, South Carolina Ethics Advisory Opinion 96-13 (a lawyer may use and bill for the services of an independent paralegal so long as the lawyer supervises the work of the paralegal and, in billing the paralegal's time, the lawyer discloses to the client the basis of the fee and expenses).

It is important to note that a number of court decisions have addressed or otherwise set forth the criteria to be used in evaluating whether paralegal services should be compensated. Some requirements include that the services performed must be legal in nature rather than clerical, the fee statement must specify in detail the qualifications of the person performing the service to demonstrate that the paralegal is qualified by education, training or work to perform the assigned work, and evidence that the work performed by the paralegal would have had to be performed by the attorney at a higher rate. Because considerations and criteria vary from one jurisdiction to another, it is important for the practitioner to determine the criteria required by the jurisdiction in which the practitioner intends to file a fee application seeking compensation for paralegal services.

**Don't forget the US Supreme Court.** The US Supreme Court has been asked on two occasions to decide whether paralegal time may be reimbursed at market rates under fee shifting statutes. Twice the Court has provided an unequivocal "yes." In doing so, the Court has recognized that paralegal time should be billed the same as other professional staff.

***Missouri v Jenkins, 1989:*** The Court addressed the recoverability of paralegal fees under §1988 of the Civil Rights Attorney's Fee Awards Act of 1976. The Court recognized that everyone (attorneys, paralegal employees and clients) benefits from the proper utilization of paralegals. In its opinion, the Court stated: By encouraging the use of lower cost paralegals rather than attorneys wherever possible, permitting market-rate billing of paralegal hours "encourages cost-effective delivery of legal services and, by reducing the spiraling cost of civil rights litigation, furthers the policies underlying civil rights statutes."

***Richlin v Chertoff, 2008:*** The question before the court was similar to *Missouri v Jenkins* except that the court was asked to review if paralegal fees could be reimbursed at market rates under the Equal Access to Justice Act. The court again stated that paralegal fees may be awarded at market rates.

**What are 'market rates'?** The market rate is the typical charge for a person of

comparable education and experience performing a certain level of task in a specific area of law and geographic locale. For this reason, the billable hour rate for a paralegal in Cedar Rapids IA may not be as high as in Los Angeles CA. The billable hour rate for a paralegal working in real estate may not be as high as the rate charged for a paralegal working in intellectual property.

**The client.** Clients have historically been concerned about the delivery of cost-effective legal services. Today's economic circumstances have increased their concerns. Attorneys can counter their concerns and meet their needs by providing a high caliber work product at a lower cost through the use of paralegals. Again, those paralegals **MUST** be qualified through education, work and/or experience to perform substantive tasks that, in the absence of the paralegal, would be performed by the attorney.

**Fee Petitions:** This is where the issue of fees gets particularly sticky for attorneys. They must not commit a fraud upon the court. Therefore, when they submit fee petitions where they have absorbed paralegal time as their own, they are not being truthful. Instead, the fee petition should set forth the time spent by the paralegal and also the time spent by the attorney. These are separate.

The fee petition must itemize the date the work was performed, the identity of the person doing the work, detail of the task performed, and the time spent. The amount charged must reflect reasonable local market standards. It is also helpful to provide the court with information regarding the credentials of each billing professional. The lack of this data may result in the denial of fees.

The court should closely scrutinize these petitions. The opposing party should also. If there is no paralegal time on the petition, and the Judge or the opposing party is aware that the firm utilizes paralegals, questions should be asked.

**Courts have denied attorney fees because the work should have been done by paralegals.** In the matter of *Metro Data Systems, Inc. v Duranao Systems, Inc.*, 597 F.Supp 244 (D.Ariz.1984) the Court refused to authorize compensation for lawyers performing services that could have been performed by a paralegal. As was so aptly put in the decision rendered in *Urisic v Bethlehem Mines*, 710 F2d 670 (3rd Cir.1983), the Judge said:

**"Michelangelo should not charge Sistine Chapel rates for painting a farmer's barn."**

**Usually paralegals do not set their billing rates.** The matter of setting billable rates for every member of the firm, including paralegals, is usually left to the firm's administrators and/or attorneys. In fact, because paralegals are prohibited from setting the client's fees, they probably should not make any decisions regarding charges to the client. The majority of paralegals are responsible for keeping track of their time, as well as meeting billable hour goals which are, again, determined by the firm's administrator's and/or attorneys.

**Ethical obligations.** The tasks and services that are performed by the paralegal and for which compensation may be sought must be substantive and NOT clerical in nature and, also, consist of tasks and services that would otherwise be performed by an attorney. The paralegal should ensure truth in billing by describing the task accomplished accurately and honestly, including the records of actual time spent on the task.

At this point, truth in billing becomes the attorney's ethical obligation because the attorney has the direct relationship with the client. The attorney has the ultimate authority concerning methods, amounts and descriptions used when clients are billed. This may vary from practice to practice. Still, truth in billing is every attorney's obligation.

### **What can paralegals do?**

- 1) Be sure the attorney you work for fully understands the criteria a paralegal must meet in order for the paralegal's time to be billed to the client, including the fact that the paralegal's work must be substantive in nature;
- 2) Be sure the attorney you work for understands that paralegal fees can be recovered but they must be presented in a properly drafted fee petition.
- 3) Be sure you are truthful...always...in your time recording practices. Record only the time you work and never for work that is clerical in nature.
- 4) Be sure to maintain a high degree of personal and professional integrity; and
- 5) Review opposing parties' fee petitions carefully; if they should include paralegal time but do not, your firm may be able to oppose them on this issue.

**In conclusion:** Beyond maintaining your own high ethical standards as you enter your time for work done for clients and making the attorney aware of ethical obligations regarding paralegal fees, there is really little the paralegal can do.

If your situation is intolerable, you should look for other employment but that may not be a viable option. Sometimes you just have to remember which side of your paycheck you're signing.

It is my hope, though, that the practice of attorney's billing paralegal time at their own rates will be squelched by attorneys themselves realizing that this is a dishonest practice, by savvy clients who ask why they are not being charged for paralegal time, and by judges who are aware that paralegal time should appear on fee petitions separately from the attorney's time.

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## The New Legal Assistant Trend, Virtual Paralegals By Cordina Charvis

A Virtual Paralegal is a paralegal who is independently contracted by a lawyer or law firm to provide paralegal support services on an as needed basis. They communicate with their clients remotely through the use of technology such as the internet, e-mail, fax and other remote access systems.

The target markets for the services of virtual paralegals are solo practitioners, small law firms and in-house legal departments. Most virtual paralegals work from their home office and by using a notebook computer with a secure internet connection; they can complete their assignments anywhere.

The education and skills necessary to become a virtual paralegal is the same as a paralegal who works in the office. Paralegals may have a variety of formal education. **Some obtain a one-year certificate, while others have** two-year or four-year degrees in paralegal studies. Some paralegals have a combination of some form of paralegal education and a four-year degree in another area of study. In addition to a formal education, The Virtual Paralegal Training Center offers online training to virtual paralegals regarding starting and operating their business.

The general start-up cost for a virtual paralegal business can range from \$2,000 to \$5,000. Generally, virtual paralegals fees range from \$30 -\$100 per hour. The types of tasks that are delegated to virtual paralegals depend on their practice areas. An attorney may ask a corporate paralegal to draft an article of incorporation, by-laws and organize company records whereas; a bankruptcy attorney may ask a virtual paralegal to draft petitions.

Virtual paralegals are not required to hold a license in order to perform their duties as paralegals. However, the main legal restriction for operating a virtual paralegal business is for a virtual paralegal to work exclusively under the supervision of attorneys to prevent unauthorized practice of law. They are to always represent themselves as the paralegal and never an attorney and maintain a log of all their clients and projects to prevent any conflicts of interests.

Confidentiality is one of the top concerns for attorneys hiring virtual paralegals. Virtual paralegals have to convince attorneys that they can offer the same level of confidentiality as if they were working in the attorney's law office. They are expected to sign a confidentiality agreement as well as to take other necessary steps to keep their clients projects confidential. It is common practice for a virtual paralegal to have their clients' files locked away in a safe place. Advances in technology have brought into being several virtual law practices and attorneys today are now more comfortable working with virtual paralegals.

My advice to new virtual paralegals is to make sure you know your business inside . There is little to no training. I would suggest that entry level paralegals as virtual assistants and work their way up to virtual paralegals. I would also encourage new virtual paralegals to start out on a part-time basis and gradually grow their business.

Cordina Charvis is the managing paralegal of CD&C Virtual Outsource Paralegal. She has been working as a paralegal for more than 12 years and a virtual paralegal since 2005. She is also a contributor for The Virtual Paralegal Training Center. Ms. Charvis can be reached at [inbox@cdcvop.com](mailto:inbox@cdcvop.com).

*Disclaimer: The view and opinions expressed here are views of the writer and do not necessarily reflect the views and opinions of the Roanoke Valley Paralegal Association. They offered purely for informational purposes.*



## Would You Like To Work Virtually? Look Before You Leap!

Vicki Voisin, ACP

**Has working as a virtual paralegal ever crossed your mind?** When I surveyed subscribers of my weekly ezine, *Paralegal Strategies*, 88% answered, "Yes!" Chances are good that you, too, have given some thought to working virtually.

Technological advances have made it possible for legal professionals, including attorneys and paralegals, to become mobile and work virtually. The virtual legal world is really coming into its own.

At the same time, clients are demanding cost effective legal services. The effective utilization of highly experienced and properly trained virtual paralegals is clearly the best avenue for the legal community to practice law both efficiently and economically without incurring the employee overhead that is customarily passed on to clients.

For many reasons, including the depressing economic climate of the past year or so where many paralegals have found themselves unemployed, the idea of launching a booming business sounds very good.

**There are many successful virtual paralegals throughout the United States and Canada. You could be one, too.** However, if you take that leap to self-employment, you should leap with your eyes wide open. **Here are 11 things you should know:**

**1. What is a virtual paralegal?** A virtual paralegal working in the state of California should meet both the definition adopted by the American Bar Association and the State Bar of California and, in addition, possess the skills and expertise to perform this work as an independent contractor in a virtual setting, usually from a fully equipped remote office.

The reason for meeting both definitions, is that the virtual paralegals will very likely work for attorneys located in more than one state. It is most important to note that even though the paralegal is working virtually, working under the supervision of a licensed attorney is still required.

**2. This is not a 'get rich quick' scheme.** If you think you can just set up your computer in your spare bedroom and expect the money to start rolling in, think again. Launching a successful virtual paralegal business is like establishing any other business: it requires a lot of hard work, determination, and commitment.

**3. This is not something you undertake right out of paralegal school.** It is imperative that you have practical experience (a minimum of five years is recommended) working in the legal setting, either in a law firm or a corporate legal department, prior to launching your own business. Not only is the practical legal experience important, but you will need to establish contacts among your peers for future business prospects.

**4. You will work more, not less.** Assuming your goal is to make a profit, you should be prepared to put in some long hours. Not only will you have to handle the work for your clients, you will also be in charge of your business, with all the responsibilities and headaches that come with business ownership. This includes marketing, billing, ordering supplies, purchasing equipment, etc. One thing to remember is that when you're making the investment in yourself, working those long hours may be very satisfying.

**5. You can't spend all your time in your pajamas and bunny slippers.** It's true that your dress code will change and you will eliminate your daily commute, but it will remain important for you to maintain your professional contacts and continue your networking. To do this, you will need to project a professional image.

**6. Working alone can be lonely.** You will no longer have the interaction with your fellow workers and you may miss that. Be sure you can spend time alone and keep yourself motivated when you are accountable to no one but yourself. You've got to focus...no wandering off to watch Oprah, read a book or clean a closet.

**7. Your benefits will go away.** You can forget your four weeks of vacation, 401k, health and life insurance plans, and any other benefits your current employer provides. It will be your responsibility to pay your taxes and to provide your own insurance.

**8. You'll need a 'nest egg' to get started.** You should have a cash reserve for startup costs. Remember that you will provide your own equipment, software and office space. Your telephone system and Internet services will be your responsibility. You'll have to pay for designing and maintaining a website and a blog. AND you'll need to consult with both an attorney and an accountant. The startup costs will have to be funded long before you have cash coming in.

**9. You'll still answer to someone.** If your goal is to be your own boss and to answer only to yourself, don't forget that you will have clients that will require your attention and require good customer service. You're still going to work for attorneys and have to meet their deadlines and demands.

**10. Ethics are just as important as when you worked in-house.** The issues of confidentiality and attorney-client privilege remain, as does the obligation to work under the supervision of a licensed attorney. The attorney must review your final work product. Because you will be working primarily over the Internet, you will have to pay close attention to security issues.

**11. Marketing will be your responsibility.** Ideally, you may be able to work virtually for your current employer or for a former employer. Those contacts will be important. If you don't have that 'lifeline' to rely upon, you will have to work very hard to attract clients. Your website, blog, and social networking efforts will be very important and will take a good deal of time.

**While you should feel comfortable that you can handle all of the above, I have a few more recommendations for you to help you launch your business:**

- **Do your research.** Read any special reports you can locate and visit the web sites and blogs of working virtual paralegals. With the assistance of **Cathy Ribble, CP**, a virtual paralegal working out of Guthrie OK, I compiled Sixty-Six Solid Tips From Your Virtual Paralegal Success Team. Thirteen paralegals contributed to this effort and each has a web site you can visit. This is a free resource and can be accessed here.
- **Listen to the experiences of other virtual paralegals.** Paralegals are a generous group and always willing to help. You will find **The Virtual Paralegal Interview Series** to be a valuable resource. Six virtual paralegals were interviewed and all offered tips for launching a business, including the equipment and software you will need, how to market your business, and how to attract clients. More information about these interviews is available at this link.

- **Prepare a business plan.** You must have a good idea about the kind of work you will do and how you will run your business. This includes establishing your hourly rate. You can find more information at [bpplans.com](http://bpplans.com)
- **Check out [www.vanetworking.com](http://www.vanetworking.com)** This is a wonderful resource for everyone working virtually, in the legal arena or otherwise.

**While working virtually will take planning, research, energy and commitment,** it is a realistic goal for you so long as you understand the risks involved and the hurdles you will have to overcome. If you're ready to take the leap to the virtual world, go for it!

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**Just a little Paralegal humor.....**

### **You Might be a Paralegal if...**

- ✓ Your briefcase actually contains briefs.
- ✓ You speak fluent paralegalese.
- ✓ Your friends go sailing. You go para-sailing.
- ✓ You're glad your boss is "always on your case."
- ✓ "I've gotta go to court that day," is your standard excuse for everything.
- ✓ Your kids know they're in for it when you say, "Please approach the bench."
- ✓ Your driving is not so hot, but you can paralegal park like no other.
- ✓ You switched from boxers to legal briefs.
- ✓ You don't invite people to parties. You summon them.
- ✓ You let your daughter to go to the prom "on her own personal recognizance."
- ✓ Every time you're mad, you threaten paralegal action.
- ✓ Something's up with your iPod. You just can't seem to docket.
- ✓ Thanksgiving just isn't Thanksgiving without turkey, football, and empanelling a grand jury.
- ✓ You refer to the Postal Service as "bail mail."
- ✓ Your favorite show is Boston Paralegal.

<http://www.rasmussen.edu/programs/fun-paralegal.asp>



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