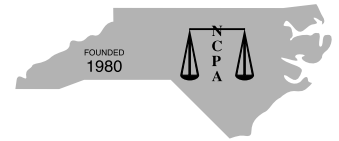




Summer 2015

North Carolina Paralegal Association, Inc.



Forum

noun [C]; *för-əm*
an occasion or a place for talking about a matter of public interest

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IN THIS ISSUE...

- (Almost) Everything You Need to Know About the Finances of Family Law - Part II
- Elements of a Contract
- Ethics for Paralegals

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Patron & Sustaining Chair

Vondell Davis
Articles/Association News Editor

The North Carolina Paralegal Association, Inc.
PO Box 8680, Greensboro, NC 27419
704.535.3363
www.ncparalegal.org

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President's Message

Beverly K. Moore, NCCP



Greetings!! I am Beverly K. Moore, NCCP, and I am YOUR new President for 2015-2016. I am very honored and count it a privilege to have been elected to serve the membership of NCPA in this position.

I am writing this article after returning from the Orientation meeting in High Point. The Board and Executive Committees are hard at work making plans for activities for the members of NCPA. We have a great group of volunteers and I look forward to working with each of them. Watch your inbox for exciting CPE and networking opportunities.

NCPA's 35th Annual Seminar and Meeting is history. The Education Committee did an outstanding job. If you could not attend, you missed some great speakers, lots of networking and a "murder mystery" that brought out the detective in all of us. Mark your calendars now for NCPA's 36th Annual Seminar and Meeting scheduled for March 17-19, 2016 in Wrightsville Beach.

Thanks, in part to, the NC State Bar's grant we once again recorded CPE sessions from Annual and will be offering these for CPE credits in June and December. A big THANK YOU to Ruffin Consulting, Bonnie Ruffin, NCCP and Dillon Tyndall for recording and hosting our CPE video sessions.

I am happy to announce that NCPA is now offering NCCP scholarships to cover the application fee to take the October NCCP exam. The scholarship is named in honor of Mary F. Haggerty, CLAS - a very special lady that served NCPA from President to the very first NCPA Coordinator and many positions in between. NCPA is prepared to award up to 10 scholarships to cover the \$125 application fee to NCPA members who are eligible to sit for the NCCP exam in October. For full details on how to apply, please see detail in this issue of the Forum or on the website at www.ncparalegal.org.

Thank you for the opportunity to serve as President of NCPA. If you have any comments or suggestions, please contact me. My inbox is always open.

Beverly K. Moore, NCCP

Beverly K. Moore, NCCP
President

Chairman's Message

Bonnie Ruffin, NCCP, CLVS



I am honored to be able to serve NCPA as Chairman of the Board this year. Your board members and directors at NCPA are not only an excellent team, but they also have a future vision for our association. Our board is continually working together to make NCPA the best organization that you can be a part of.

This year's annual seminar at Wrightsville Beach was extraordinary. We had excellent speakers, great food, an amazing view of the beach, and so much fun. We are already making plans for one of the best events ever for annual next year. You will want to go ahead and plan to join us so you don't miss out. Plan to come to have a great time and complete all of your CLEs at the same time.

Our directors are extremely active in all areas of our state. If you haven't already been contacted, you should be hearing about upcoming meetings and events in your area. Get excited about NCPA! We ROCK!

Looking forward to a great year!

Bonnie Ruffin, NCCP, CLVS

Bonnie Ruffin, NCCP, CLVS
Chairman of the Board



Can you believe its summer time? I'm ready for my shorts and flip flops! Welcome back to another edition of NCPA FORUM! As with most summer issues, this one is packed with things you may have missed about the Annual Seminar, things you may not know about the Mid-Year Review Courses, and just plenty of "things" in general - new ads, new ideas, and

new directions. In this issue we welcome Bonnie Ruffin as our new Chairman of the Board, two new District Directors - Sandra Strickland, NCCP (District

Editor's Court

Charity L. Inglis,
ACP, NCCP

II) and Jane Goeke (District IV), and our new Articles Editor, Vondell Davis. As always, please ensure you check out the Calendar of Events, and don't forget to register for NALA's 40th Annual Conference, coming up on July 22-24 in Tulsa, Oklahoma.



CALENDAR OF EVENTS

JUNE

June 5, 2015

Essays due for NCPA's 2015
Mary F. Haggerty, CLA
Scholarship Award

June 8 - 22, 2015

Video Replays (1 CPE Hour Each)
<http://www.ncparalegal.org/>

June 28, 2015

District VIII free hour of ethics
5:30-6:30pm, location TBA.

July

July 22 - 24, 2015

NALA's 40th Annual Meeting
Tulsa, Oklahoma

August

August 1, 2015

Deadline to Register for
September 2015 CLA/CP Exam

August 5, 2015

Application Deadline for
October 2015 NCCP Exam

August 10, 2015

Late Application Deadline
to Register for September 2015
CLA/CP Exam
(\$25 late filing fee)

August 15, 2015

Essays due for NCPA's 2015
Meredith R. Pollette, CLAS
Scholarship Award

September

September 1, 2015

NCPA Fall Forum Published

September 12, 2015

District II Mini-Seminar (3 CPE Hours)
Durham Technical Community College

September 19 or 26, 2015

NCCP Review Course
Greensboro/Winston Salem/High Point
Details TBA

OCTOBER

October 10, 2015

NCCP Exam

NOVEMBER

November 1, 2015

NCPA Winter Forum Published

DECEMBER

December 2015

Video Replays (1 CPE Hour Each)
<http://www.ncparalegal.org/>

December 1, 2015

Deadline to Register for
January 2016 CLA/CP Exam

December 10, 2015

Late Application Deadline to
Register for January 2016 CLA/CP Exam
(\$25 late filing fee)

Report of the First Vice President & Education Committee

Michele A. Bryant, NCCP

Hello fellow Paralegals! First, I just wanted to say that I am excited to be serving as your new First Vice President for 2015-2016, but I am also sad that it is because our recently elected First Vice President and dear friend, Karen England, has moved away from us. I guess I have some big shoes to fill!

I want to give a big thank you to all of those who worked hard on the 2015 Annual Seminar at Wrightsville Beach in March, specifically to Beverly Moore, NCCP, Crystal L. Robinson, NCCP, and Chreatha Alston, NCCP. It turned out to be another successful seminar. We received very positive feedback on the speakers this year. Thank you to everyone who gave me leads on speakers or submitted ideas because they were a hit!

We will be offering video replays of NCPA's Annual Seminar sections coming up in June and December.

The NCCP Review Course will be offered this Fall. Look for more information to come as we work out the details.

Enjoy your summer!!!

Michele A. Bryant, NCCP

Michele A. Bryant, NCCP
2015-2016 NCPA First Vice-President

Report of Second Vice President

Patricia F. Clapper, ACP, NCCP

We currently have 313 members, as follows:

General members:	194
Associate members:	32
Student members:	75

On March 31, profiles of members who did not renew were inactivated. 220 renewal letters were mailed out with new membership cards. We will no longer send out membership cards every year. When you renew, you will receive a confirmation email.

NCPA appreciates the support of the following members:

Sustaining Members: Case Closed Investigations (gold); Caseworks Inc. (gold); Courtlogic (gold); Incorporating Services (gold); Lawyers Mutual (gold); Rogers Realty & Auction (bronze); Ruffin Consulting (gold); Triad Land Surveying (bronze); Noteworthy Report Services, LLC (bronze); and North Carolina Association of Professional Process Servers (NCAPPS) (gold).

Affiliate Member: Cumberland County Paralegal Association

Paralegal Program Education Member: Carteret Community College

Patricia F. Clapper, ACP, NCCP

Patricia F. Clapper, ACP, NCCP
Second Vice President, Membership Chair

(Almost) Everything You Need to know About Finance of Family Law Part II – Postseparation Support and Alimony

Elizabeth Vance, ACP, NCCP

This article is a continuation of a series on the financial aspects of family law litigation in North Carolina. For the first installment, Child Support, see the Spring 2015 issue of *The Forum*. *Please note that all statutory references in this segment are to the North Carolina General Statutes, Chapter 50-16.1, et seq., and are abbreviated here for readability.*

In North Carolina, there are two different types of spousal support – postseparation Support (PSS) and alimony. Both types of support require that the parties be married – there is no provision in North Carolina law for either type of support to be paid in cohabitative or other non-marital relationships. Postseparation support is intended to be temporary and determined relatively early in the legal proceedings. Alimony is longer term and sometimes “permanent” in duration.

As with most other civil actions, mediation is a common means of resolving PSS and alimony claims. For the sake of brevity, this article presumes that a case will be tried in a courtroom and that decisions will be made by a judge, rather than by the parties negotiating between themselves or through a mediator.

Although many spouses receiving support are wives and many spouses paying support are husbands, the PSS and alimony statutes are gender neutral. The law does not specify that a wife receive support and a husband pay support. Rather, in both PSS and alimony cases, the court must first determine if one of the spouses is “dependent” and one of the spouses is “supporting.” If the parties do not meet these conditions, then there will be no award of spousal support.

It is critical to understand the definitions of a dependent spouse and a supporting spouse. Whether the claim is for PSS or for alimony, the definitions are the same. Section 16.1A(2) defines a dependent spouse as one “who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.” Simply put, this means that the dependent spouse is either currently unable to meet his or her own needs, or will in the future be unable to meet his or her own needs.

A supporting spouse, as defined in 16.1A(5), is a spouse “upon whom the other spouse is actually substantially dependent for maintenance and support or from whom such spouse is substantially in need of maintenance and support.”

At first glance, it seems like comparing the spouses' incomes might be sufficient to make the distinction between dependent and supporting, and that spouses with equal incomes would be neither dependent nor supporting. We might assume that if one spouse is dependent, the other spouse is supporting. In fact, in some cases, there may be a dependent spouse, but the other spouse is not a supporting spouse.

Once the court determines that there is both a supporting and a dependent spouse, it must then determine the amount of support to award. In setting the amount of PSS, the court must consider the factors set out in 16.2A(b): the parties' accustomed standard of living (not how they want or plan to live in the future, but how they did, in fact, live during the last few years of the marriage); current employment income and other sources of income; ability to earn income; debt service obligations; reasonable expenses of each spouse, and legal obligations to support other persons (typically former

continued on next page

spouses and children from previous relationships). The court must find that the dependent spouse does not have the resources to meet his/her needs and that the supporting spouse has the ability to pay the award.

After determination of the amount, the court must next consider the length of the award. A PSS award 16.1A(4) is effective until the first of these events: (i) the date specified in the PSS order; (ii) the entry of an order on the alimony claim; (iii) dismissal of the alimony claim; (iv) upon entry of absolute divorce (if no alimony claim is pending before the entry of the divorce); (iv) termination as provided in 16.9(b): the marriage or cohabitation of the dependent spouse or the death of either spouse.

Marital misconduct can be considered in PSS, but misconduct by a dependent spouse is not a bar to PSS; if the court considers marital misconduct of the dependent spouse, it must also consider marital misconduct of the supporting spouse. Therefore, a supporting spouse who has committed marital misconduct may not want to bring the dependent spouse's marital misconduct to the court's attention.

The considerations and terms of alimony awards are somewhat different than those of PSS awards. In 16.3A(b), there are 16 factors the court must consider in making a determination of the amount of alimony to be paid and the length of time it is to be paid. These factors include the following: marital misconduct, the spouses' relative earnings and earning capacities; the ages and the physical, mental, and emotional conditions of the spouses; the amount and sources of earned and unearned income of both spouses; the duration of the marriage; the contribution by one spouse to the education, training, or increased earning power of the other spouse; the extent to which the earning power, expenses, or financial obligations of a spouse will be affected by reason of serving as the custodian of a minor child; the standard of living of the spouses established during the marriage; the relative education of the spouses and the time necessary to acquire sufficient education or training to enable the dependent spouse to find employment to meet his or her reasonable economic needs; the relative assets and liabilities of the spouses and the relative debt service requirements of the spouses; the property brought to the marriage by either spouse; the contribution of a spouse as homemaker; the relative needs of the spouses; the tax ramifications of the alimony award; any other factor relating to the economic circumstances of the parties that the court finds to be just and proper, and the fact that income received by either party was previously considered by the court in determining the value of a marital or divisible asset in an equitable distribution of the parties' marital or divisible property.

Section 16.3A(c) requires the court to set out “the reasons for its award or denial of alimony and, if making an award, the reasons for its amount, duration, and manner of payment.” With few exceptions, “the court shall make a specific finding of fact on each of the factors in subsection (b) of this section if evidence is offered on that factor.”

In an alimony case, if the dependent spouse has committed illicit sexual behavior during the marriage and before the date of separation, he/she is barred from receiving alimony, even if the supporting spouse also engaged in illicit sexual behavior.

In spousal support cases, the court may also allocate resources other than money, such as possession of the marital home or personal belongings or the provision of medical insurance by one spouse for the other spouse. If the court does make such allocations, it must make findings of fact to support them.

Unlike child support cases, there are no North Carolina guidelines for spousal support cases. Rather than entering numbers and amounts into a calculator, the court must consider the statutory factors for each type of support. Therefore, once retained by one of the spouses, it is the attorney's responsibility to

present his/her client's financial situation to the court so that the court has sufficient information to make decisions in the case. The court will want to see evidence of the parties' accustomed standard of living during the marriage, as well as their incomes, expenses, assets, and debts. It is often the paralegal's role to assemble the client's financial documents, draft discovery requests and/or subpoenas to obtain the opposing spouse's financial documents, calculate both spouses' gross and net income, and identify and compile both parties' actual living expenses for a particular time period (usually specified by the attorney). Notice that the paralegal's role is to compile and document actual expenses - the court will decide whether each party's expenses are reasonable. (There is case law that courts may refer to for guidance, but the courts also have discretion in this regard.) While not all attorneys will request a compilation and analysis of the opposing party's income and expenses, it can be very helpful as a means of preparing for mediation and/or trial.

Most counties have adopted local rules which include a standard Financial Affidavit form and which specify the financial documents each party must provide to the opposing party and to the court. Although every county varies, these documents usually include state and federal income tax returns for at least one year; several months' documentation of all income, including wages, bonuses, commissions, interest, dividends, etc.; bank account and credit card statements for a specific period of time; financial statements or credit applications produced to any other person or business, and a listing of assets and liabilities.

The documentation and preparation needed for spousal support claims is similar to that needed in non-Guidelines child support cases, so if you are working with a client who has both types of claims, much of the documentation can be used for both child support and spousal support claims.

There are other similarities between spousal support and child support claims. In a spousal support case, the dependent spouse may move the court to order the supporting spouse to pay the attorney's fees of the dependent spouse. In order for the court to award attorney's fees, it first has to find that the dependent spouse is entitled to PSS or alimony. The court has discretion in deciding the amount of the attorney's fee award, but the fees awarded have to be reasonable. The court may refer to existing caselaw to determine whether the fees are reasonable and how much of the dependent spouse's attorney's fees to order the supporting spouse to pay.

Just as bankruptcy does not relieve a payor parent of paying his/her past-due child support obligations, bankruptcy does not forgive a supporting spouse's obligation to pay spousal support debt.

There are many more aspects to spousal support cases than can be addressed in a single article. To get more detail on pursuing and defending these claims, refer to the resources listed below.

Online Resources

North Carolina Administrative Office of the Courts (www.nccourts.org): The "Favorites" menu on the right side of the page has links to Forms and Local Rules

18th Judicial District, Family Law Section of the Greensboro Bar Association (www.guilfordcountydistrictcourt.com) has easy-to-find examples of local rules and forms in PDF, Word, and Excel versions

North Carolina Bar Association Lawyer Referral Service (www.ncbar.org/public-resources/find-a-lawyer/find-a-lawyer)

Other Resources

North Carolina Family Law Marital Claims Deskbook, Third Edition (2012) published by the North Carolina Bar Association Foundation, includes a CD with relevant forms; it can also be purchased as a download with fillable forms; (<http://gateway.ncbar.org/store/seminar/seminar.php?seminar=20316>)

This article is not intended to be, and is not, a substitute for the advice of competent legal counsel, or is it a step-by-step guide for filing or defending a support claim. Neither the author nor the North Carolina Paralegal Association, Inc. can provide legal advice. Such advice may be obtained from a competent attorney. Refer to the North Carolina Bar Association's Lawyer Referral Service.

Elizabeth Vance has been a family law paralegal at Wyatt Early Harris Wheeler, LLP, in High Point for 12 years. She received her paralegal certificate from the American Institute for Paralegal Studies, Inc. She earned her Certified Paralegal designation from NALA in 2006 and completed the Advanced Paralegal Certification Course on Family Law – Child Support, Custody and Visitation in 2013. She has been a North Carolina Certified Paralegal since 2006. Elizabeth currently serves as the Affiliate Director and is a past Secretary of the North Carolina Paralegal Association, Inc.; is a current member and past President of Guilford Paralegal Association; she is also a member of the National Association of Legal Assistants.



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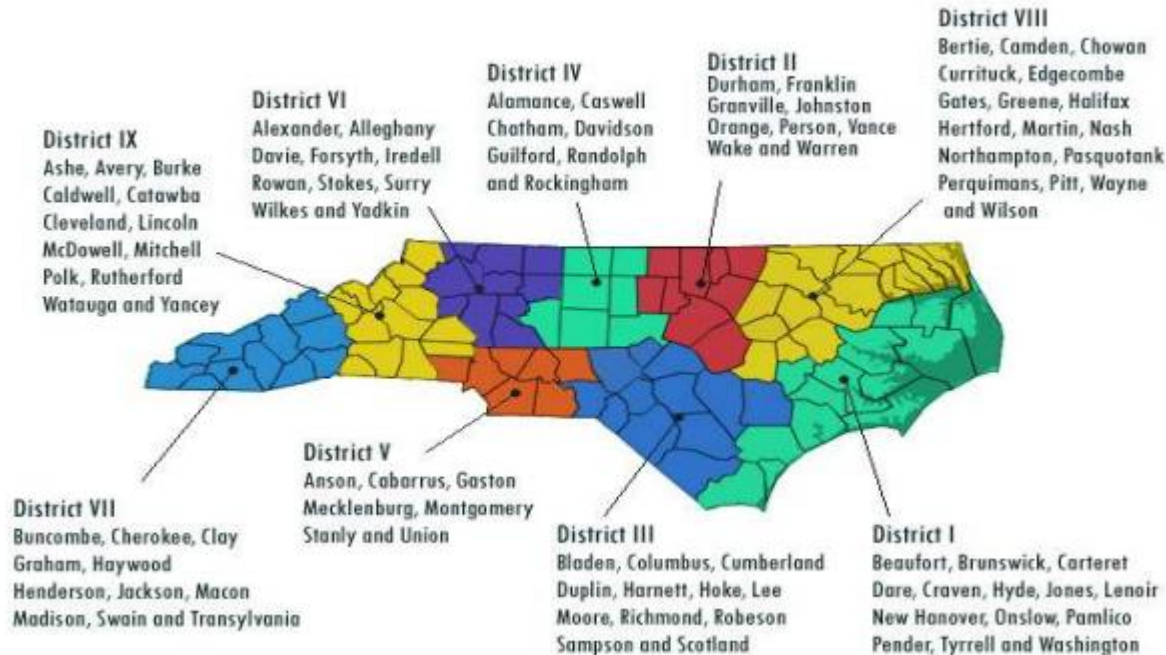


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AMICUS THE Director's Chair

Want to know what is going on in your district and which district you belong to? See below!



District I has 32 members. It was great to see everyone in Wrightsville Beach for the Annual Seminar! We will be working to hold meet and greets in the district in order to provide educational and networking opportunities. As many of the members of District I are student members, we will also look for ways to encourage them to continue on as general members after graduation. Any members interested in getting together for a meet and greet please contact Heather Padgett, District Director – padgett.hn@gmail.com

District II has a membership of 123 members, including 97 general members, 16 associate members, and 10 student members. District II held a Meet-n-Mingle on Thursday, May 14, 2015 from 6-8 p.m. at Midtown Grille in North Hills in Raleigh. The event was sponsored by NOVA Office Strategies of Raleigh. Special thanks go to Damon Beaty of NOVA and NCPA Pro Bono Chair Paulene Scott Kearney for their assistance in planning the event, which was attended by 31 members and guests! Monetary and in-kind donations were collected for Military Missions in Action, and attendees also wrote thank-you cards to servicemen and veterans to be delivered with the donated items. Congratulations to the winners of the door prizes, which included two \$25 Target gift cards and two NCPA backpacks. NCPA will participate in the Paralegal Program Orientation to be held on Monday, August 17, 2015 at 6 p.m. at Meredith College. Plans are underway for a 3-hour CPE event to be held on Saturday, September 12, 2015 at Durham Technical Community College. More details will be provided as plans are confirmed. Anyone interested in joining a study group for the upcoming NCPA CLA/CP Exam in September should contact Catherine Haynes by e-mail at haynes.cat@gmail.com or by phone at (919) 637-3560. Sandra R. Strickland, CLA/NCCP, District II Director - srstricklandnccp@gmail.com.

District III has 23 members (1 affiliate, 2 associate, 11 general and 9 student). District III is in need of a director. If you are interested, please send an email to info@ncparalegal.org. We are trying to get to the Sanford/Fayetteville area soon to hold a meet and greet.

continued on next page

AMICUS - continued

District IV has 55 members. We will be looking to contact the schools in our area to boost student membership with our free student. Also, will be working to hold meet and greets in our district to provide educational and networking opportunities. Also, we will contact members that did not renew. Jane Goeke, District IV Director - jane goeke@gmail.com.

District V has 44 members. On March 31, 2015 District V and District IX held a joint meet and greet at UNCC- Center City. Leroy Everhart and Case-Closed Investigations sponsored the food and lead a very interesting discussion on private investigations. There were 10 in attendance. Stephanie B. Elliot, District Director - selliott@gastonlegal.com.

District VI has 32 members. An e-mail was sent to all members of District VI on May 4, 2015 asking if anyone would be interested in getting together for a Meet and Greet in June in the Winston-Salem Area. A few affirmative responses were received, and plans are in the works to get together for an informal Meet and Greet in June. For more information, please contact Toni Morgan, District Director - toni.morgan@inmar.com.

District VII has 11 members (9 general and 2 student). District VII is in need of a director. If you are interested, please send an email to info@ncparalegal.org.

District VIII has 6 members. A Meet & Mingle was held on Tuesday, May 26th from 5:30 to 7:30 sponsored by Ruffin Consulting, Case Closed, and Smart Start. Emails went out to members that renewed their memberships, being 3 total members. Emails went out to a couple of former members that did not renew, being 2 or 3 people. Emails went out to the community colleges in our district asking them to let the students know they could obtain a FREE membership. Bonnie Ruffin, District VIII Director - BonnieR@RuffinConsultingInc.com.

District IX has 18 members. On March 31, 2015 District IX and District V held a joint meet and greet at UNCC- Center City. A big THANK YOU to Leroy Everhart and Case-Closed Investigations for sponsoring the food and presenting a very interesting discussion on private investigations. We had 10 in attendance. Plans are to have another joint M&G at UCC-Center City in late summer. I hope to do a joint District IX and VII sometime this summer as well. If you have any suggestions on a location or speaker, please contact Beverly K. Moore, NCCP, District Director at bev@tissuelaw.com.

Affiliations Director – Correspondence has been sent to several local paralegal associations in North Carolina not currently NCPA affiliates. Anyone interested in your local associations becoming an NCPA affiliate, please contact Elizabeth Vance, ACP, NCCP, District Director at paralegal878@earthlink.net.

Chairman of the Board – I am so pleased with our directors. As you can see we are holding events all over North Carolina. Being a director is a challenge and is extremely rewarding. We have some of the best directors we could ask for. I anticipate seeing much activity the rest of 2015. If you haven't been in contact with the director in your area, please let me know and I will put you in touch with her. Take advantage of these meetings that get scheduled. You never know when you will need a new friend or you can be a friend for advice or employment opportunities. Feel free to contact me at bonnier@ruffinconsultinginc.com.

NALA Liaison Report Summer 2015

Charity L. Inglis, ACP, NCCP

NCPA would like to recognize and congratulate Toni Morgan of Winston-Salem, NC on passing the January 2015 CP and the ACP exam! Congratulations on a job well done!

I am looking forward to NALA's 40th annual convention in Tulsa, Oklahoma on July 22-24, 2015. I hope to see you there! During this year's annual convention, we will celebrate NALA's 40th Anniversary - 40 years of providing exceptional continuing legal education, national accredited paralegal certification, advanced specialty certifications, and 40 years of helping to shape the paralegal profession. More information on the convention can be found here, <http://www.nala.org/15convention.aspx>.

Also, please note the announcement of the Meredith R. Pollette, ACP Scholarship Essay contest in this issue of the Forum. This is a great way to help to cover the expenses of the NALA CP exam and the ACP exam!

If anyone has any questions, feel free to contact me directly at charityinglis@gmail.com. Thank you for allowing me to serve as NCPA's NALA Liaison!

Charity L. Inglis, ACP, NCCP

Charity L. Inglis, ACP, NCCP

Liaison to the North Carolina State Bar Board of Paralegal Certification Report

Yolanda N. Smith, ACP, NCCP

The Spring 2015 NCCP exam was held on April 11, 2015. One hundred twenty-five people took the exam. Exam results will be released at the end of May.

The Fall NCCP exam will be held on October 10, 2015. August 5, 2015 is the deadline to register for the exam.

The Board of Paralegal Certification is looking for proctors. If you are interested in proctoring an exam, please contact Joy Belk at jbelk@ncbar.gov to be added to the list.

Respectfully submitted by:

Yolanda N. Smith, ACP, NCCP

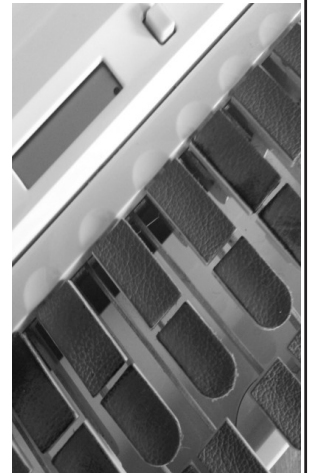
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Finalists will be notified by September 15, 2015.

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Elements of a Contract

Article by Leslee A. Ellenson
Hawaii Paralegal Association

Paralegals must possess a working knowledge of contract law. Whether you are reviewing contract documents in a litigation matter as part of the discovery effort, or assisting on a corporate or transactional business matter that involves contracts, it is assumed you are familiar with the law of contracts. This article covers the basics of contract law.

A contract, whether it is verbal or in writing, is a legally binding agreement that is enforceable in a court of law, but the following elements must exist:

- **Offer** – An offer is some sort of a proposal to make a deal. It must be communicated to someone and it should remain open and valid until it is retracted, rejected, accepted, or expired. A subsequent counter-offer will close the original offer.
- **Acceptance** – Acceptance is an acknowledgment by the person to whom the offer was made that the offer is accepted. The acceptance should comply with the terms of the offer.
- **Consideration** – Consideration is often referred to as “the bargained for exchange” between parties. It can be considered as a legal benefit received by one party and a legal detriment imposed on the other party. Typically, consideration takes the form of money, property or services, but in some circumstances consideration may be a promise to do or not to do something.
- **Competence** – Competence to enter into a contract means that each party has the legal capacity to do so, which can vary from state to state.
- **Consent** – The parties must have entered into the agreement freely, and not under duress or undue influence.
- **Legality of Performance** – Legality means that the purpose of the agreement must not be illegal or contrary to public policy; for instance, it is illegal to make a contract whose purpose is a murder.

continued on next page

Contracts Required to be in Writing

While most contracts can be either written or oral, some must be in writing to be considered binding, such as:

- Real estate sales
- Agreements to pay someone else's debts
- Contracts that take longer than one year to complete
- Real estate leases for longer than one year
- Individual State's laws may specify others that must be in writing.

Express and Implied Contracts

A contract is either an Express Contract or an Implied Contract. In an Express Contract, the terms and conditions are fully expressed, either orally or in writing. Conversely, in an Implied Contract, the terms and conditions are not fully expressed. An Implied Contract can be further broken down as implied in fact or implied in law. Implied in Fact means that the circumstances imply that the parties have reached a clear agreement even though they have not done so expressly. An example of an implied in fact contract is when you take your pet to the Veterinarian, it is implied you have agreed to pay a reasonable price for the services rendered. A contract that is implied in law may also be called a quasi-contract because it is not actually a contract, rather, it is considered a way or a means for a court to remedy a situation in which one party would be unjustly enriched were he or she not required to compensate the other. A typical example of a contract implied in law is when an unconscious patient is treated in an emergency room and is expected to pay for the services rendered. Although the patient could not agree or request the services either expressly or by implication, the patient will be expected to make a fair compensation.

Parts of a Contract

As paralegals, often working on Discovery, we need to be aware of not only the elements of a contract, but what constitutes an entire contract. By this I mean we need to know what all the parts of a contract actually are. We must not, in our haste to complete a Discovery Request, assume that when we hit the signature portion of a contract that we have the whole contract in hand. It is not uncommon for a contract to have the following: Clauses or other documents 'incorporated by reference' (clauses or documents are listed but not specifically attached to the contract), Attachments, Exhibits, Appendices, Addendums, Amendments, Modifications, General Terms and Conditions, Special Terms and Conditions, Statement of Work (SOW), Exceptions, Service Quotes, etc. It is an essential part of a Paralegal's job to read through a contract and identify all of the contract documents. In some cases you may need to do further research to find a key part of a contract, for instance, you may need to print out a particular Federal Acquisition Clause that was incorporated by reference in a Government Contract.

Conduct of the Parties

A typical contract dispute involves issues related to the conduct of the parties. During Discovery you may need to sift through and analyze volumes of corporate emails, correspondence, memos, notes, phone and meeting records to discern what a dispute is truly about, who knew what when, and what course of action was pursued based on known information. This step in Discovery is where a paralegal can truly set themselves apart and shine. The creation of a solid timeline or chronology backed by responsive contract documents can often make or break a case.

Think of a contract as a living, breathing document that often evolves over time just as the human and business relationships behind it evolve. Always be aware of the big picture and ensure you have identified all of the relevant documents that make up a particular contract.

An excellent career move for paralegals seeking advancement beyond law firms can be found in the field of Contract Law. The US Federal Government offers many contract related fields, i.e., Contracting Specialist, Contracting Officer, Contracting Officers Representative (COR), Technical Contracting Officer (TCO), and Contracts Policy Analysts. Companies that do business with the US Federal Government (commonly referred to as “Contractors”) also offer contract related fields, i.e., Contract Administrator, Contract Manager, Chief Negotiator, etc. For more career information consider contacting National Contract Management Association (NCMA) at www.ncmahq.org or call 800-344-8096. NCMA offers local state Chapters that usually meet monthly, certification programs, workshops, networking, webinars, books and periodicals, and much more.

This article was reprinted with permission from Ashley (Morgan) King, President of The Hawaii Paralegal Association, a non-profit organization formed to meet the needs of legal professionals in the state of Hawaii.

Ethics for Paralegals

The Paralegal Resource

Paralegals are those individuals who do legal work although they are not lawyers. They usually work for law firms, attorneys, and legal departments of companies and businesses. Paralegals are expected to follow guidelines for legal ethics by governing authorities like the National Federation of Paralegal associations, also known as the NFPA, and the National association of Legal assistants, known as NALA.

This code of ethics enables the paralegals to make the right decisions, and helps to review whether the paralegals are performing their duties in a professionally and socially acceptable way.

Professional Conduct

The NFPA expects paralegals to ensure that they follow professional ethics by providing them with general guidelines for the same. This includes not having any Ex Parte communications or direct communications with parties that are represented by the attorneys. They are also expected to behave in accordance with dignity and decorum and avoid impropriety or any form of impropriety.

It is also mandatory for paralegals to maintain complete, honest, and accurate records for billing and time. Members of the NALA consent to adhere to the canons of the code of ethics. The Canon 10 requires the paralegals to also adhere to the codes of professional responsibility and rules of professional ethics set by the Bar Association.

Unauthorized Practice of Law

Codes of ethics, by both the NALA and the NFPA, prohibit the practice of law and the offering of legal opinions by paralegals. Paralegals are not allowed to accept clients, decide fee amounts, or represent a client in court or an agency, unless the agency's rule or statute allows it. Unauthorized practice of law is also prohibited by the Canon 3 code of ethics by the NALA.

Disclosure

Disclosure provisions by the NFPA and the NALA code of ethics circle around the status, conflict of interest, and the confidentiality. The paralegals must have a system of tracing previous clients so that they can monitor any possible conflict of interest. In case of any conflicts, they must disclose it to the attorneys. It is also vital for paralegals to disclose that they are not attorneys, but paralegals.

Confidentiality

Paralegals are obligated to protect the confidentiality of the client and also must not breach the privilege doctrine between the attorney and client. Information must not be shared unless it is approved by the client himself. Even the disclosure of any information that is received from a source, other than the client, must not be shared if sharing of that information might cause embarrassment to the client. That is why paralegals must take

proper steps to ensure that any information about the client is neither intentionally nor accidentally passed on to others.

How Violation of Ethics Can Affect a Paralegal's Career

Paralegals should not give advice to a client in any circumstance. This is considered as an unauthorized practice of law. Also, in case advice given by the paralegal is incorrect, the client may sue the supervising attorney or the paralegal himself. Professional discipline may also be faced by the attorney as a result of the paralegal's wrong practice. A paralegal might put his reputation and career at stake by not adhering to the code of conduct and indulging in such practices.

This article was reprinted with permission from Erin Foxwell, Member Benefits Coordinator for The Paralegal Resource (www.theparalegalresource.com), a training and development website for Legal professionals. The article was original posted on April 18, 2013.

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Alamance County Paralegal Association meets at various restaurants on the square in Graham on the 3rd Tuesday of the month at 12:30. The group usually has a speaker at the meetings.

Cumberland County Paralegal Association

The Cumberland County Paralegal Association (CCPA) held its 24th Annual Educational Seminar on April 11, 2015. The Seminar was a great success. Currently, members are in the process of electing a new Board with the installation of the new Board members to be held on May 14, 2015. The CCPA will be holding a Hot Dog Sale at the Cumberland County Courthouse to benefit a local charity. The date of the sale is still pending but anticipated for May or June. Please see our website for updated information to come. Those interested in joining the CCPA now is the time as it is currently our renewal period and any new members will get the benefit of being a member for an entire year. Please see our website for the application if interested. Our website is www.ccpara.com.

Guilford Paralegal Association

GPA welcomed guest speaker Gerry Chapman of the Chapman Law Firm to its February meeting. He presented a session on Immigration Law and current legislation. In March, Karen McKeithen Schaefer with Connors Morgan, PLLC spoke about Employment law and EEOC claims. Jodi Knox & Hilary Bowman of Womble Carlyle

Sandridge and Rice were the guest speakers at GPA's April meeting. Their topic was Health Care Law: Collaboration vs. Consolidation.

In March the association collected items for Military Missions in Action. The items will be included in care packages and given to homeless and low income veterans at various "Stand Downs" held throughout North Carolina. On March 7 GPA members participated in a "Prep Party" for Arts for Life, an organization that provides music and art activities for pediatric patients at several children's hospitals in North Carolina.

The association's May meeting was held at Logan's Roadhouse in Greensboro and included nominations of officers for the 2015-2016 year. On May 2, GPA hosted its 9th Annual Spring Seminar at Embassy Suites in Greensboro with approximately 100 paralegals in attendance. The seminar was approved for six hours of continuing paralegal education credit. GPA's June 9th meeting will be held at Wyatt Early Harris Wheeler in High Point and will feature the election of new officers. On July 8, the association will kick off its new membership year with a meeting at Elon Law School in Greensboro.

More information about GPA is available on its website, www.guilfordparalegalassociation.org. Upcoming events are also posted on the association's Facebook and LinkedIn pages.

Elizabeth Vance, ACP, NCCP

Elizabeth Vance, ACP, NCCP



**NCPA
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Short articles in the following areas are welcome: Tips and How-to's; Legal Updates; Ethics Corner; News Articles; Short essays; Professional Profiles; Member announcements and/or achievements; Suggestions for reprints.

Pitch, write and publish articles that show what you know! It's a fantastic way to make contacts, build your professional network and when a potential employer Googles you, they'll find not only a list of your social media profiles, but your credits and expertise as well!

Contact the NCPA Forum (ncpaforum@gmail.com) if you'd like to contribute to future issues of the Forum, or if you simply have announcements or suggestions.

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VIII	Bonnie Ruffin, NCCP	(W) 252-243-9000	bonnier@ruffinconsultinginc.com
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Affiliate Director	Elizabeth Vance, ACP, NCCP	(W) 336-819-6043	paralegal878@earthlink.net
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