



# **Ethics and Professionalism For Modern Paralegals**

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Stephanie B. Elliott, NCCP is a senior litigation support paralegal with McNair Law Firm, P.A., where she specializes in patent, corporate and complex business litigation. Her experience encompasses employment litigation, personal injury, insurance defense, trust and estates, and corporate and complex business litigation. She has more than twenty years' experience as a paralegal, with filings in the North Carolina Complex Business Court; state court filings in counties across North Carolina; filings with the North Carolina Court of Appeals and Supreme Court, federal filings in the Western, Eastern and Middle districts of North Carolina and the Fourth Circuit Court of Appeals. In addition, she has over fifteen years' experience in law office management. Ms. Elliott is a part-time instructor for the paralegal certificate program at the University of North Carolina at Charlotte and serves on the program advisory board. She is also a part-time instructor for Gaston College's paralegal program. She has been a featured speaker for IPE, the National Business Institute, NALA Campus Live!, MyLawCLE and the North Carolina Bar Association on such topics as preparing large document cases for trial, preparing for depositions, case management and moving a case through federal court. Her articles have been featured in NALA's Facts and Findings. Ms. Elliott is very active in the paralegal associations in North Carolina. She has served as President, Vice President, NALA Liaison, Executive Committee Member, Articles and Associations news editor of the North Carolina Paralegal Association. She is also a member of the North Carolina Bar Association's Paralegal Division, and is currently serving on the North Carolina Bar Association's Paralegal Division Council. In addition, Ms. Elliott is a member and serves on the Board of Metrolina Paralegal Association.

Ms. Elliott earned her B.S. degree from the University of North Carolina at Charlotte and her Paralegal Technology Post-Baccalaureate Diploma graduate degree from Central Piedmont Community College. She earned the designation of North Carolina certified paralegal (NCCP) from the North Carolina State Bar Board of Paralegal Certification in 2005. Ms. Elliott was awarded Gaston County Paralegal of the Year in 2007, was nominated for the North Carolina Bar Association Paralegal of the Year Award in 2010. She was awarded the Paralegal Gateway's Paralegal Superstar Award in 2011, and the NALA Affiliates Award in July 2014.

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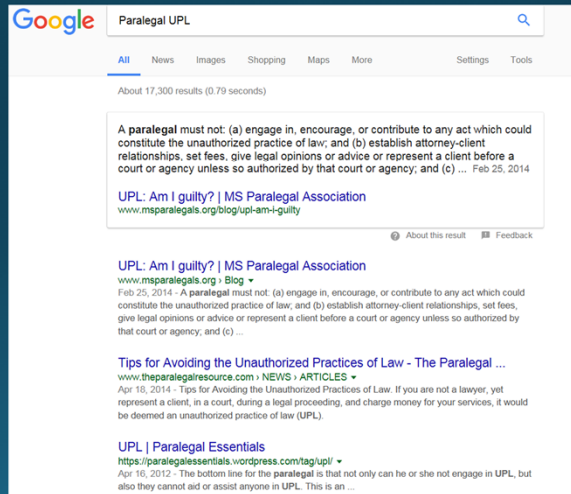
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# Why are ethics important to paralegals?

What could possibly go wrong?



The screenshot shows a Google search for "Paralegal UPL". The search bar at the top contains the text "Paralegal UPL" and a magnifying glass icon. Below the search bar, there are navigation links for "All", "News", "Images", "Shopping", "Maps", "More", "Settings", and "Tools". The search results indicate "About 17,300 results (0.79 seconds)".

The first result is a snippet from a blog post: "A paralegal must not: (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; and (b) establish attorney-client relationships, set fees, give legal opinions or advice or represent a client before a court or agency unless so authorized by that court or agency; and (c) ... Feb 25, 2014". Below this snippet is a link: "UPL: Am I guilty? | MS Paralegal Association" with the URL "www.msparalegals.org/blog/upl-am-i-guilty".

The second result is another link: "UPL: Am I guilty? | MS Paralegal Association" with the URL "www.msparalegals.org" and a "Blog" icon. The snippet below it reads: "Feb 25, 2014 - A paralegal must not: (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; and (b) establish attorney-client relationships, set fees, give legal opinions or advice or represent a client before a court or agency unless so authorized by that court or agency, and (c) ...".

The third result is a link: "Tips for Avoiding the Unauthorized Practices of Law - The Paralegal ..." with the URL "www.theparalegalresource.com" and "NEWS" and "ARTICLES" icons. The snippet below it reads: "Apr 10, 2014 - Tips for Avoiding the Unauthorized Practices of Law. If you are not a lawyer, yet represent a client, in a court, during a legal proceeding, and charge money for your services, it would be deemed an unauthorized practice of law (UPL)".

The fourth result is a link: "UPL | Paralegal Essentials" with the URL "https://paralegalsessentials.wordpress.com/tag/upl/" and a "WordPress" icon. The snippet below it reads: "Apr 16, 2012 - The bottom line for the paralegal is that not only can he or she not engage in UPL, but also they cannot aid or assist anyone in UPL. This is an ...".

# REVIEW OF BASIC ETHICAL CANNONS

National standards set by the National Association of Legal Assistants  
and the American Bar Association

The NALA Code of Ethics and Professional Responsibility were first adopted by the NALA membership in 1975. It provided the foundation of ethical practices for paralegals in the legal community.

The Standing Committee on Paralegals of the American Bar Association drafted and the ABA House of Delegates adopted the ABA Model Guidelines for the Utilization of Legal Assistant Services in 1991.

## NALA Code of Ethics and Professional Responsibility

- Canon 1- A paralegal must not perform any of the duties that attorneys only may perform nor take any actions that attorneys may not take.
- Canon 2- A paralegal may perform any task which is properly delegated and supervised by an attorney, as long as the attorney is ultimately responsible to the client, maintains a direct relationship with the client, and assumes professional responsibility for the work product.
- Canon 3- A paralegal must not: (a) engage in, encourage, or contribute to any act which could constitute the unauthorized practice of law; and (b) establish attorney-client relationships, set fees, give legal opinions or advice or represent a client before a court or agency unless so authorized by that court or agency; and (c) engage in conduct or take any action which would assist or involve the attorney in a violation of professional ethics or give the appearance of professional impropriety.

- Canon 4- A Paralegal must use discretion and professional judgment commensurate with knowledge and experience but must not render independent legal judgment in place of an attorney. The services of an attorney are essential in the public interest whenever such legal judgment is required.
- Canon 5- A paralegal must disclose his or her status as a paralegal at the outset of any professional relationship with a client, attorney, a court or administrative agency or personnel thereof, or a member of the general public. A paralegal must act prudently in determining the extent to which a client may be assisted without the presence of an attorney.



- Canon 6- A paralegal must strive to maintain integrity and a high degree of competency through education and training with respect to professional responsibility, local rules and practice, and through continuing education in substantive areas of law to better assist the legal profession in fulfilling its duty to provide legal service.
- Canon 7- A paralegal must protect the confidences of a client and must not violate any rule or statute now in effect or hereafter enacted controlling the doctrine of privileged communications between a client and an attorney.
- Canon 8- A paralegal must disclose to his or here employer or prospective employer any pre-existing client or personal relationship that may conflict with the interests of the employer or prospective employer and/or their clients.

- Canon 9- A paralegal must do all other things incidental, necessary, or expedient for the attainment of the ethics and responsibilities as defined by statute or rule of court.
- Canon 10- A paralegal's conduct is guided by bar associations' codes of professional responsibility and rules of professional conduct.

<https://www.nala.org/sites/default/files/codeofethics.pdf>

## NAVIGATING CLIENT RELATIONSHIPS WITH A MIND TOWARD UPL

Always be aware of Canon 5- Disclose you are a paralegal in every new conversation. It should be included on your correspondence- email and letters.

Practice this line: "I am not an attorney. I can not give legal advice."

Even if you know the answer, you should not give it. \*With exceptions.

The most documented state bar complaint for attorneys is lack of communication with their clients. Be the messenger and make sure everyone continues to talk- your attorneys to the client, and vice versa

## PROFESSIONALISM AND ETHICS FOR SOCIAL MEDIA

If someone who didn't know you well looked at your social media, what would it say about you?

If you can see them, they can see you- use privacy mode.

Avoid posting about current clients or cases to avoid the inadvertent disclosure of confidential information. See ABA Model Rules of Professional Conduct:

The duty to protect privileged and confidential client information extends to current clients (RPC 1.6),

Former clients (RPC 1.9)

Prospective clients (RPC 1.18)

[ABA Formal Opinion 10-457](#) provides that lawyers must obtain client consent before posting information about clients on websites.

Police your page and be careful who you friend. This applies to Facebook, LinkedIn and Instagram- among others.

Do not talk badly about lawyers in your firm, co-workers or other people in your legal community.

Whatever you post, is permanent, somewhere.

Stay in "character" in both social media and your communications via email, text message and any other instant messaging.

You can use social media to investigate potential clients and opposing parties, but avoid contacting or otherwise communicating with them. Use privacy mode on LinkedIn when searching profiles.

# Remember this!

Dance like noone is watching.

Email like it may one day be read aloud in a deposition.



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user card

- Do not post anything you wouldn't say in public (and to your grandmother's face)
- Do not post when angry. Walk away, take a deep breath and ignore social media all together.
- Do not post anything from work.
- Be mindful of spelling and avoid using profanity.

## Know your employer's social media and confidentiality policies

Wayward comments have the same power behind a computer screen as they do in person and the rules of professional conduct still apply.

Libel and Breach of Confidentiality are the reasons paralegals get fired for social media postings (or outbursts).

Your employer is watching, and if they aren't, other attorneys are.

Recruiters routinely look at potential hires social media pages.



## MENTAL HEALTH- WHAT TO LOOK FOR AND HOW TO RESPOND

The practice of law is stressful and hard.

A 1990 Johns Hopkins University study examined more than 100 occupations for anxiety-related issues and found that lawyers suffer from depression at a rate 3.6 times that of the other professions studied.

A National Institute for Occupational Safety and Health study—based on data from 1984-1998—concluded that white male lawyers are more likely to turn to suicide than nonlawyer professionals.

[http://www.abajournal.com/magazine/article/how\\_lawyers\\_can\\_avoid\\_burnout\\_and\\_debilitating\\_anxiety](http://www.abajournal.com/magazine/article/how_lawyers_can_avoid_burnout_and_debilitating_anxiety)

# Mental Health for Lawyers and Paralegals- what are the signs?

Loss of focus or ability to complete tasks

Failure to meet deadlines

Not showing up for court or client appointments

Financial difficulties

Mood swings (more than normal) – swinging from high to low

Sudden outbursts directed at staff, clients, judges or other staff

Withdrawal from normal activities

Drinking or drug use in the middle of the day (or evidence of it)

## What Should you Do?

- Do not ignore warning signs. First, discretely talk to your attorney (or co-worker). If necessary, document the conversation so you can remember dates and times.
- If symptoms continue, seek help up the ladder. Contact someone inside your law firm or organization to seek guidance and assistance.
- Does your firm have specific policies for reporting such behavior? Consult your policy handbook to find out, then take appropriate action.

# Consider Lawyer/Paralegal Assistance Programs

Examples:

North Carolina Bar Association

BarCARES

The Lawyer Assistance Program (LAP)

<https://www.ncbar.org/members/barcares/faq/>

State Bar of Georgia

The Lawyer Assistance Program (LAP)

<https://www.gabar.org/committeesprogramssections/programs/lap/>

Lawyers and Judges Assistance Program

<https://www.michbar.org/generalinfo/ljap/home>

# We are FAMILY

Paralegals are often the first responders to substance abuse and mental health issues that involve their attorneys and/or members of their legal team.

Paralegals have an ethical duty to our clients to insure the rules of professional conduct are being followed. If you have a feeling that something isn't right, follow up on it.

It's never a good idea to ignore or cover up the problems- they only snowball. What could be something that is easily addressed could turn into a malpractice claim, or worse, disbarment.

It's not just your job- it's your duty to protect.

## Stay HEALTHY!

- Join paralegal associations and use your membership to network and socialize with other paralegals. Find strength in numbers and others who understand your unique set of responsibilities.
- Give back- join pro-bono efforts in your community.
- Keep your work/life balance in check. Try to avoid working through lunch and routinely staying late to work.
- Keep your yearly check-ups and go to the doctor regularly. Avoid working when sick. Stay home, get well and come back to work.
- Find a non-law hobby.
- When you find your situation not improving, get another job. Life is too short to let continued conflict and stress take away the simple pleasure of living your best life.