CONVENTION 2019
Recap of awards, social event, and policy meeting

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What a wonderful convention and 45th Anniversary for NFPA! A sincere thank you again to Paralegal Association of Rochester, Inc. for hosting such a great convention, from the fantastic speakers to the tasty food and a memorable tour of the George Eastman Museum and Mansion, it was awesome. The entire weekend was very productive due to meaningful collaboration and open communication among attendees. I thank each and every one of you for your participation - especially those who came together to discuss agenda topics and ask the hard questions. Your passion for NFPA and the paralegal profession was obvious in the way you were united and making NFPA the priority. Read more about convention starting on page 6.

Congratulations to all of the 2019 award and scholarship winners! I know you will be inspired by their stories, starting on page 18. Also, salute the individuals and the local associations who met the President’s Challenge and Pro Bono goals.

I am energized for the coming year and working with Bloch|Reed Association Advisors and the newly elected NFPA Board of Directors. Congratulations to the newly elected Board Members:

Theda Yandell, RP, Vice President & Director or Profession Development

Tom Stephenson, ILAP, Vice President & Director of Membership

Ronell Badua, Vice President & Director of Marketing

Lori Wagner, RP, IRP, Treasurer & Director of Finance

Lisa Lynch, CRP, CEDS, Region II Director

Tracey Woolsey, RP, Region III Director and

Cathy Allard, Region V Director.

I am looking forward to working with you and having a collaborative and efficient year. This is a new chapter in NFPA’s history.

I also want to thank the 2018-2019 Board of Directors for their hard work and support over the past year which placed the foundation for our next steps. And thank you to Leslie Murphy and the staff team at Raybourn Group International for their support.

Lastly, as we look forward to 2020, I encourage you to Save the Date for NFPA’s Joint Conference in sunny Tampa, Florida, April 24 through 26, 2020! Check the NFPA website for updates in the coming weeks.

NITA SERRANO, RP, AACP
PRESIDENT
ALOHA!

This issue will mark a year since the relaunch of the National Paralegal Reporter (NPR). Hats off to Lisa Lynch, CRP, CEDS (former Vice President and Director of Marketing) along with our Editor Rachel Daeger, CAE, IOM, who have done a phenomenal job during the transition and creating a publication valued by members like you.

The Editorial Committee is chaired by Wendy Otto, RP® with the help of committee members: Wayne Akin, Janice Brown-Watko, Hanna Henna, Tiffany Lubahn, Shannon Mack, Tiffany Mosley, Tanya Patterson and Dardie Robinson. They continue to be in contact and play a vital role in the production of the NPR.

In this issue of the Reporter, we feature convention highlights and showcase NFPA’s scholarship and award winners. Congratulations to all! There are also articles on diversity and shared career experiences. We also feature NFPA associations who celebrated special days in their community.

The 43-year success of this publication is attributed to members of the National Federation of Paralegal Associations, Inc. The Reporter’s mission is to provide NFPA members with substantive legal articles and current information about NFPA and our profession. Together, we are building the history of the Reporter as a valued communication platform with articles that feature the interests of our membership.

With your experience and passion for our profession, we can continue to build upon the diverse and rich history of NFPA. Writing articles fosters our ability to explain and refine ideas to others and ourselves. Perhaps, one day your featured article will inspire and mentor others.

The Editorial Committee and I challenge you to share your experiences and contribute an article.

Until the next issue, live aloha.

RONELL B. BADUA
VICE PRESIDENT & DIRECTOR OF MARKETING

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Convention 2019 Recap

By Ronell B. Badua

The 2019 National Federation of Paralegal Associations, Inc.'s Annual Convention and Policy Meeting was held October 10-13, 2019, in Rochester, New York. The Paralegal Association of Rochester, Inc. (PAR) was very excited to share their city with NFPA as they had planned diversified topics around the convention theme Continued Focus on Legal Rights.

PAR, led by Convention Host Coordinator Deborah J. Wilcox Mabry and the Convention Committee, did an outstanding job collaborating and executing a memorable convention experience enjoyed by attendees. We thank them for all their hard work and planning. This event could not have been possible without the generous donations by sponsors and support from exhibitors.

THURSDAY

Thursday, October 10, 2019 was the first full day of Convention as continuing legal education sessions were attended by paralegals from across the country. The CLE-approved sessions consisted of cybersecurity, mediation and arbitration, Federal and state practice, real estate, litigation and ethics. Workshop topics included: defusing difficult conversations, unconscious racial bias and streamlining legal drafting. Student attendees had the opportunity to hear a panel discussing legal drafting. Student attendees had another opportunity to meet at the Exhibitors' Reception.

Eager and enthusiastic convention “first timers” met with their mentors. The mentor/mentee program matches a new convention attendee with a seasoned convention attendee. Together, they navigated the convention program and the mentee had a mentor readily available to answer any questions.

The day concluded at the Fall meeting of the NFPA Board of Directors. Various NFPA business items were discussed and members had the opportunity to address questions to the Board.

FRIDAY

On Friday, October 11, 2019, NFPA members gathered for Region Meetings while also showing off their region spirit by wearing region tees and jeans to support this year’s charity of choice – The National Susan B. Anthony Museum & House. The House, a National Historic Landmark, was the home of the legendary abolitionist and leading figure in the women’s right movement. It was also the headquarters of the National American Woman Suffrage Association. Through generous donations of handmade purses and a silk scarf from Gail Riggs, PhD, MSW, CEO and Head of Design, Abigail Riggs Collection, monetary donations and raffles, attendees contributed $1,475 to support The National Susan B. Anthony Museum & House.

With the support of CT Corporation and efforts of Renee De La Cruz, ILAP, NFPA's In-House Paralegal Committee met for an inaugural breakfast to discuss and share the unique needs of In-House paralegals.

VeriFyle sponsored the Volunteer Appreciation and Networking Luncheon on Friday and attendees heard from VeriFyle's Vice President Dana Shibley. During the lunch, attendees had the opportunity to network while NFPA's volunteers were also recognized.

The Nixon Peabody law firm sponsored the Friday evening Social Event at the George Eastman Museum on the grounds of Eastman’s Colonial Revival mansion on East Avenue. Eastman was a pioneer of popular photography and founder of the Eastman Kodak Company. Through the donation of R. Thompson Gilman and Philip L. Burke, partners of Woods Oviatt Gilman LLP, the Aeolian pipe organ Opus 1416 serenaded attendees as they toured the mansion.

SATURDAY

Saturday was the start of the 2019 Policy Meeting. The meeting commenced with the presentation of the colors by Girl Scout Troop 60602 and reciting the Pledge of Allegiance, followed by recognition of special guests, credentialed paralegals, NFPA volunteers, Board members and former presidents. President Nita Serrano, RP®, AACP also recognized all associations that met the President’s Challenge, including associations who increased membership by 30 members, certify four new RPs and/or four new CRPs and provided speakers for webinars throughout the year.

Board Advisor Valerie Wilus, RP®, PaCP conducted the In Memoriam recognizing beloved NFPA members who have passed during the last year (2018-2019).

The Strategic Planning and State of the Profession Committees made their pre-
sentations. 2019 Convention Host Coordinator Deborah J. Wilcox Mabry provided a recap of the convention and acknowledged the team from PAR who volunteered their time in planning the convention. Following the updates, Lisa Lynch, CRP, CEDS, Vice President and Director of Marketing, gave a presentation celebrating NFPA’s 45th Anniversary. The pictorial tribute brought back fond memories of conventions passed.

Delegates took to the Policy Floor to engage in lively discussions on policy matters facing NFPA and the profession. The following were passed by the Delegates:

- **Agenda Topic 1** – Event Alcohol and Cannabis (19-04)
- **Agenda Topic 2** – Creation of an Awards Coordinator (19-06)
- **Agenda Topic 3** – Candidate Requirements (19-01)
- **Agenda Topic 4** – Candidate Questionnaire (19-03)
- **Agenda Topic 5** – Reduction in Waiting Period and Elimination of Waiver (19-07)
- **Agenda Topic 8** – CLE Ethics Credit Option (19-08)
- **Agenda Topic 9** – Certification Standards Committee Request for Policy from the Delegates on LLLT’s and NFPA Credential (19-09)

Nominations Coordinator Cindy Welch, RP® introduced the Slate of Candidates for 2019-2021 Board positions. Following the candidate speeches, the Delegates elected: Theda Yandell, RP®, Vice President and Director of Profession Development; Thomas Stephenson, ILAP, Vice President and Director of Membership; Ronell B. Badua, Vice President and Director of Marketing; and Lori Wagner, RP®, IRP Treasurer and Director of Finance. Region Delegates gathered to elect their Region Directors: Brenda Cauthery, Region I Director; Lisa Lynch, CRP, CEDS, Region II Director; Tracey Woolsey, RP®, Region III Director; Rebecca Reedy, Region IV Director and Catherine D. Allard, CP Region V Director. Ms. Welch then announced the election for NFPA’s American Bar Association Approval Commission Representative. Mindi L. Schaefer, M.S. RP®, OSBA, AACP was nominated and subsequently elected.

At the annual Awards Luncheon, NFPA awarded members for their significant contributions to their community, service to the profession and outstanding career achievements. Read more about the award and scholarship winners on page 18.

The day concluded as members from each region met to have informal region dinners in Rochester.

**SUNDAY**

On Sunday, Deborah J. Wilcox Mabry, Convention Host Association Coordinator of PAR passed the torch to Amy Conrad and Maren Schroder, MBA, RP®, MnCP, Convention Co-Host Association Coordinators, Minnesota Paralegal Association, in preparation for the 2020 Convention, Paralegals Making a Splash in the Land of 10,000 Lakes. The colors were retired and the Policy Meeting adjourned on Sunday afternoon after the adoption of the 2020 budget and installation of the newly elected officers.
First Timer’s Perspective on NFPA Annual Convention and Policy Meeting

By Shelby Weber

Pam Toseki, Treasurer, and I attended Annual Convention this fall as representatives from the Lycoming County Paralegal Association. This was the first NFPA Convention a representative from Lycoming County Paralegal Association has attended in many years.

As a small association, it seems like we have been fighting to just stay afloat, focusing our attention locally. We have been trying to reach to capture new members, unsuccessfully, for many years. This year alone we have tried reducing our membership prices at the beginning of the year for new members who joined, as well as sending personalized emails to the attorneys of the Lycoming Law Association.

The discontinuance of the Paralegal Degree Program at the local Pennsylvania College of Technology has definitely hurt our membership. When I saw the annual convention for NFPA was a mere three hour drive from Williamsport, it felt like a good time to look into attending and to take a look at the much bigger NFPA picture.

Becky Reedy, Region IV Director of NFPA, was the key person in assisting us with attending this Convention. Due to her efforts, Becky raised $455 for Shelby to attend the Policy meeting on Saturday and Sunday as a voting delegate, Friday and Saturday luncheons as well as the Friday evening social at the George Eastman House. A huge thanks to Becky, as well as the other Region IV Associations who donated funds so Lycoming County Paralegal Association could attend and be counted in the vote. It is my sincere hope someday LCPA will be able to pay it forward and assist another financially struggling association.

Also, many thanks to Marshall Parker & Weber, LLC and Miele & Rymsa, PC whose sponsorship allowed Shelby and Pam respectively to attend the CLE sessions on Thursday.

The four sessions I attended, were very useful in what I do daily as a paralegal in Pennsylvania: “When Things Go Wrong-Contested Probate and Accountings,” “Social Security Disability and Supplemental Income,” “Fiduciary Income Tax: Planning and Preparation” and “Ethics for Seasoned Paralegals” (Pam also attended this session). The speakers were engaging and information - top notch really. I wasn’t sure how a national conference would provide CLE credits for multi-state attendees, but was very pleased to see the sessions had multiple choices for each of the four sessions, and cross state applicable, especially the ethics session.

On Friday, Pam and I were able to attend the Fall Region IV Meeting. I had been on a few phone calls with Becky as well as a few conference calls with all Region IV delegates who would be attending the conference in Rochester. It was so very nice to meet these folks in person and it was clearly apparent they were happy to have Lycoming County Paralegal Association in the house!

I will always remember the kindness of these members and cannot wait to meet them again. On this note, one of the region topics was setting up the Spring Region IV 2020 meeting which is going to be held in Philadelphia on April 18, 2020. LCPA is already looking to attend this meeting.

I can’t even begin to explain the feeling of being in attendance on Saturday at the Policy Meeting and being able to say “here” when Lycoming County Paralegal Association’s name was called for the Association Roll Call!! And, everyone in the room applauded again - wow, I do believe our presence has been missed! Also was impressed by the number of paralegals in attendance, who was either RP credentialed (PACE exam) or PA.C.P. (Pennsylvania Certified Paralegal) or both. I
I can tell you these are both going to be personal goals of mine for the next year.

As a past President of a local large woman’s organization, and a veteran of multiple annual conferences in the 2000s, I was very pleased to see the table alignment for the Association delegates as well as the marked Point of Information and Point of Order placards. And, the presence of a parliamentarian at the right hand of the President – spot on! That is when I knew the meetings would be running smoothly, and they did.

I was also pleased that a mentor could be requested for new attendees and many thanks to Tom Holmes from the Oregon Paralegal Association for his guidance prior to the event and during the convention.

What impressed me the most overall, was the amount of planning that had to have gone into this event in order to keep things organized and on track – KUDOS to Paralegal Association of Rochester, Inc. on a job well-done.

When Becky told me how essential the Policy Meeting attendance was and how I would come back invigorated for my organization, she was so very right. It was great to get a look at the BIG picture in person. 2019 may have been my first NFPA Convention, but I am sure it will not be my last!

SHELBY WEBER

Shelby L. Weber has been a paralegal since 1985 and works at the Law Firm of Marshall Parker & Weber, LLC, Williamsport where she specializes in Estate and Trust Administration. She is the President of the Lycoming County Paralegal Association and also serves as the NFPA Primary Delegate.
Welcome to Convention 2019!

KEYNOTE SPEAKER, CLE, EXHIBITOR RECEPTION

MEET THE EXHIBITORS. A wide variety of products and services for paralegals showcased throughout the exhibits.

MEET ALL THE EXHIBITORS!

REGISTRATION. Barbara Helmeke Peppersack welcomes attendees.
KEYNOTE. Deb Mabry (left) and Bobbi Ahearn (right) welcome Keynote Speaker Deborah Hughes, President and CEO of the Susan B. Anthony Museum and House.

EXHIBITORS RECEPTION. The day ended with casual networking through the exhibits.

WELCOME STUDENTS. Monroe Community College brought several students to the convention.

PROFESSIONAL DEVELOPMENT. Four tracks of CLE education ran throughout the day.
FRIDAY

REGION MEETINGS, NETWORKING LUNCH, SOCIAL EVENT

REGION II.

REGION III.

REGION IV.
GEORGE EASTMAN MUSEUM. Evening began with a catered reception and chance to view the museum exhibits relating to photography.

GEORGE EASTMAN HOUSE. The tour of Eastman’s beautiful home was enhanced by the talents of resident organist Joe Blackburn.

HAPPY 45! Celebrating NFPA’s 45th anniversary.
POLICY MEETING, AWARDS LUNCH, REGION DINNERS

PAST PRESIDENTS. Valerie Wilus, RP, PaC.P.; Tracey L. Young, RP; Lisa Vessels, RP, CP, FRP; Georgette Pecoraro, RP; Kristine Farmer, PhD

COMMUNITY SERVICE AND PRO BONO. Certificates of recognition presented.

DELEGATES. Becky Kerstetter, OSBA Certified Paralegal and Jessica Kubiak, RP, OSBA Certified Paralegal
WEBINARS. Illinois Paralegal Association recognized for conducting a webinar in 2019.

WINNER. Pamela Hokanson one of two purses raffled to benefit the convention charity.


POLICY FLOOR. Agenda topics discussed from the policy floor.

MEMBERSHIP. Presidents Challenge membership goal met.
THANK YOU. Delegates thank the outgoing members of the NFPA 2017-2019 Board of Directors.

PASSING THE TORCH. Coordinators from the Minnesota Paralegal Association take the torch of convention planning.

RETIRing THE COLORS. Girl Scouts from Troop #60602 retire the colors.
In-House Paralegal Committee Breakfast

Thank you to all the NFPA In-House Paralegals for attending the In-House Paralegal Committee breakfast!

I work In-House as a corporate Paralegal and this year I was appointed as the NFPA In-House Paralegal Coordinator. This newly formed committee has been three-years in the making. My committee was very excited to kick off our In-House Paralegal Committee in Rochester, NY.

I want to thank my committee members Yvonne DeAntoneo, Chris Hansen, Larice Davis, and Tracey Woolsey for all their support this year! I want to especially thank CT Corporation (“CT”) for sponsoring our inaugural In-House breakfast in Rochester! It was an amazing Grand Hyatt breakfast and an awesome bento box gift item from CT.

As an In-House Paralegal, I utilize CT as one of my preferred vendors. My company uses CT as a registered agent and I am using their hCue system daily for tracking my legal entities. If you want more information about hCue and CT as your registered agent please contact CT directly at (888) 724-9870.

As In-House Paralegals, whether you’re working In-House in Litigation, Real Estate, IP, Corporate, or Government, we are faced with different issues. This committee was established to share our ideas, thoughts, and knowledge. Please watch for more to come from our committee!

Everyone will continue seeing more information from the In-House Paralegal Committee on webinars, articles, vendors, and even how to begin an In-House section at your local association. Have an idea or want to see additional information on certain topics? Please reach out to me directly.

As George said: “You push the button, we do the rest.” George Eastman

Again thank you everyone, including CT for helping us kick off this committee!

Another special quote to share: Which I heard in Rochester: “Failure is impossible.” Susan B. Anthony

Renee De la Cruz, ILAP
Email: rm_neiman@hotmail.com
In-House Corporate Paralegal; Member of the Illinois Paralegal Association (IPA) - Accreditation Chair at IPA; Member of NFPA - Region II and NFPA In-House Paralegal Coordinator
NFPA Award Winners 2019

WILLIAM R. ROBIE LEADERSHIP AWARD | DARDANEL (DARDIE) ROBINSON

NFPA congratulates Dardanel (Dardie) E. Robinson as the recipient of the organization’s prestigious 2019 William R. Robie Leadership Award.

NFPA established this award in 1993 to honor the memory of the late Chief Immigration Judge William R. Robie for his dedication to the expansion of legal services and equal justice for all Americans, and his commitment to the paralegal profession. The winner of the annual award must have made a lasting legacy through contributions to the community and paralegal profession.

Dardie is a “second career” paralegal, and since 1994, has had a 25 year paralegal career. She has a passion for providing pro bono services in her spare time to those who cannot otherwise afford legal assistance, and she serves consistently as a mentor in the Oregon Paralegal Association (OPA) Mentor/Mentee program, works with students and provides internship opportunities through her employer. Dardie has demonstrated lifetime service to the community at large. She is dedicated to providing the best service to the legal community and leadership in the paralegal profession while consistently promoting the formal education of paralegals. Dardie’s commitment to paralegal students include contributions to their continuing education by presenting various seminars, sitting on panels, and always being available to mentor and answer questions from any OPA member related to her practice.

PARALEGAL OF THE YEAR AWARD | SHEILA WHITE

NFPA presented the Paralegal of the Year award to Sheila White.

Ms. White has been a paralegal for nearly 25 years, with experience in several areas of law, including finance, lending, banking, contract, corporate, entity formation and management, real estate, merger and acquisitions, securities and intellectual property.

For the past 11 years, Ms. White has served as a Girl Scout Troop Leader having an immeasurable impact to her group and community. Joining the Dallas Area Paralegal Association (DAPA) in 1995, she has dedicated and served in many roles while mentoring paralegal leaders at DAPA and other members of the legal department which she currently is employed.

Ms. White is also an active volunteer for her church teaching Sunday school. She is described as the go-to person for tasks far outside of her Senior Paralegal position.

The Paralegal of the Year Award recognizes an individual NFPA member whose on-the-job achievements, including contributions to his/her employer, colleagues and the paralegal profession, have contributed to expansion of the paralegal profession in general.
NFPA presented the Outstanding Local Leader award to Brenna C. Dickey, RP®.

This year’s recipient, Brenna C. Dickey, RP®, has been a paralegal for 25 years, 21 of which she has worked as a corporate paralegal at Miller Nash Graham & Dunn LLP. Brenna has devoted significant time in being actively involved in the Oregon Paralegal Association (OPA), serving on OPA’s Board in almost every position available.

Brenna understands the importance of leadership succession and has stepped aside several times in her OPA leadership roles to make room for other leaders in OPA, understanding an organization cannot continue to grow with the same leaders switching seats all while recruiting and mentoring other leaders. Brenna leads by speaking at various CLEs and events in the legal community, promoting the paralegal profession, sharing knowledge and providing mentorship.

In addition to her commitment to paralegal leadership, Brenna prepares model leadership in her community. She works to prepare young people for future lives of leadership by participating as a mentor for Minds Matter of Portland, a nonprofit organization for high-achieving and motivated high school students from low-income families. She also works with the Oregon Food Bank and national organizations related to hunger relief and organizations aiding the homeless and victims of domestic violence. As former President of OPA, Brenna organized a successful celebration of OPA’s 40th Anniversary, raising over $9,000 for the Lawyer’s Campaign for Equal Justice at this event.

The Outstanding Local Leader Award recognizes an individual NFPA member for outstanding local leadership contributions to his or her local association.

NFPA presented the Certification Ambassador of the Year Award to Glenna Fugazzi, RP®, CKP (Certified Kentucky Paralegal).

Fugazzi has gone beyond in her efforts to promote NFPA’s certification programs through Greater Lexington Paralegal Association’s (GLPA) membership including through biweekly newsletters and explaining benefits through GLPA’s monthly continuing legal education seminars. As the Certification Ambassador for GLPA, she also conducts study sessions and offers scholarships to take the Paralegal Advanced Competency Exam or Paralegal CORE Competency Exam.

This award recognizes outstanding achievement in promoting NFPA’s Paralegal Advanced Competency Exam® (PACE®) and Paralegal CORE Competency Exam® (PCCE®) exams and the Assurance of Learning Program. This award is sponsored by the Advanced Paralegal Institute.
NFPA announced the Paralegal Association of Central Ohio (PACO) received the Pro Bono Association Award.

PACO’s Pro Bono Committee executes its pro bono services through Brief-Advice Legal Clinics and its flagship program, the Pro Bono Wills Clinic in the Greater Columbus/Central Ohio area. This year, PACO celebrates its tenth year of the Wills Clinic program. To date, the Committee has conducted 138 events and served over 1,200 senior citizens. Brief-Advice Clinics are conducted at 14 different locations across the city each month, and the Wills Clinics are offered twice a month at various low-income senior citizen retirement communities from January through October.

PACO works in collaboration with the Legal Aid Society of Columbus, whose overall mission is to help provide legal services to low-income individuals across the Central Ohio area and facilitate opportunities for paralegals to assist attorneys in delivering those services.

ANGELA M. VOHSING, accepted the award.

NFPA announced that Teresa Scharf has been awarded the Individual Pro Bono Award.

Teresa has led the Paralegal Association of Central Ohio Pro Bono Committee since 2009. During her leadership, this Committee has served thousands of low-income individuals throughout Central Ohio. Teresa spearheads PACO’s flagship program, the Pro Bono Wills Clinic, while also being involved with the Brief-Advice Legal Clinics.

Teresa’s passion and leadership with the Wills Clinic program has garnered tremendous success and is always in demand. Through the positive impact of this effort and the attention it has brought to serving low-income senior citizens throughout Central Ohio, several vendors and law firms have supported the Wills Clinic program in tangible ways. The Legal Aid Society of Columbus has featured Teresa on its web site: https://www.columbuslegalaid.org/portfolio/teresa-scharf/.
Bonnie has been with Woods Oviatt Gilman in Rochester, NY for 19 years and is a paralegal in the firm’s litigation department. She is also adjunct faculty with Monroe Community College as part of their ABA—approved Paralegal Studies Program teaching future paralegals in the areas of legal research and writing and personal injury law. Bonnie has volunteered in several programs through the Volunteer Legal Services Project, including its family law custody clinic, landlord/tenant court, divorce clinic and Willow Domestic Violence Center (formerly Alternatives for Battered Women).

She also volunteers at the 7th Judicial District Court Help Center as part of the court’s “Access to Justice” initiative assisting unrepresented individuals with procedural and court information necessary for them to navigate the court system. Bonnie is also the coordinator for her firm’s Meals on Wheels program where she volunteers and coordinates volunteers to provide meals to home-bound elderly and/or disabled community members. She has also been part of her law firm’s United Way Day of Caring team for over 15 years assisting at various non-profits and has volunteered with Habitat for Humanity in building homes for low income residents in underprivileged neighborhoods.

The Justice Champion Award recognizes a practicing paralegal whose conduct, actions and activities demonstrate extraordinary dedication to diversity and inclusion as defined in NFPA’s Position Statement on Diversity, Inclusion and Equity. The Justice Champion Award is given in honor of the late Heather Danielle Heyer, a paralegal who exemplified dedication to the expansion of civil rights, social justice and the expectation that all people be treated with dignity and respect. Ms. Heyer was killed while peacefully protesting at a rally in Charlottesville on August 12, 2017.
NFPA is pleased to announce that Marilyn Wagner of Portland, Oregon, has been selected as the recipient of the Thomson Reuters/NFPA Paralegal Student Scholarship.

Marilyn is enrolled at Portland Community College, where she is pursuing her A.A.S. Paralegal degree. She works part-time doing corporate paralegal work, which fits well with her background. Marilyn has an M.B.A. and has experience working in real estate, business analysis, project management and software engineering.

As part of the application process, nominees submitted an essay on the impact that licensing programs for non-lawyers (such as Washington State’s LLLT program) have on the paralegal profession and on access to justice. The winning essay is reprinted here:

**NFPA SCHOLARSHIP 2019 ESSAY**

In 2012 the Washington State Supreme Court passed Admission and Practice Rule 28(APR28), which established a licensing program that allows non-lawyers, called LLLTs (Limited License Legal Technicians), to give legal advice without the supervision of an attorney. Consequently, Washington became the first state in the country to allow non-lawyers to practice law: for now they practice in one area, family law. Utah has recently followed suit, creating a licensing program modeled after Washington’s LLLT program. Utah’s “LLLTs” are called LPPs (Licensed Paralegal Practitioners), and they can help clients facing eviction, debt collection and family law issues.

Because there is more data on Washington’s LLLT program, henceforth the writer will focus her attention on LLLTs, not LPPs, and when discussing licensing programs will focus on the LLLT licensing program. The LLLT was created to respond to Washington’s 2003 Civil Legal Needs Study, which stated “80 percent of people in Washington with low or moderate incomes had a legal need and went without help because they couldn’t afford legal services.” Today, just as in 2003, there are still many people with low and moderate incomes who cannot afford legal services. Some decide to represent themselves and rely on the Internet, family and friends, and other sources for unauthorized legal advice; consequently, there is a good chance their legal needs will not get met.

To assess the impact of these licensing programs on the access to justice we should ask the next question, access for whom? In other words, are the rates charged by LLLTs affordable to people of low income or just moderate income? When the LLLT chooses to work for a law firm, she is billed out at rates dictated by firm policies, which can be high for the average community that LLLTs can adequately serve the public. Looking at the substantial educational and work experience requirements the LLLT must satisfy to get certified, one could assume he is adequately serving the public. In Washington, 3,000 hours of substantive law-related experience must be completed prior to the application, and in Utah, 1,500 hours.

Nevertheless, attorneys complain that the documents they receive from LLLTs are not completed correctly. In 2016, study committees at both the Illinois State Bar Association and the Virginia State Bar had a concern that “the competency of the legal paraprofessionals as a general matter is not yet established.” Will the LLLTs “fail to provide competent legal services? Or will their inherently limited scope stifle their value?” Margaret Phillips, J.D. and Guest Columnist with the Buffalo Law Journal writes that “many of us are worried about watering down the requirements to practice law and offering second-class legal representation to the poor.” According to Ruth Laura Edlund, former chair of Washington state bar’s Family Law Section, “all we’re providing is access to injustice, because the class of individuals described is not going to have the competency to actually do for the poor what needs to be done. Just because you’re poor doesn’t mean your legal problems are simple.”

To assess the impact of these licensing programs on the access to justice we should ask the next question, access for whom? In other words, are the rates charged by LLLTs affordable to people of low income or just moderate income? When the LLLT chooses to work for a law firm, she is billed out at rates dictated by firm policies, which can be high for the average
low-income person. However, when the LLLT has a solo practice, she determines what to charge her clients. In June 2019, the writer interviewed some LLLTs with solo practices. She found that one LLLT charged on a sliding scale to make his services affordable to low income people.

The rest of the LLLTs charged hourly rates of $100 to $175/hour; these rates were quite high, but fair, when taking into account the overhead expenses they had to cover: malpractice insurance, licensing fees and office rent, just to name a few. Many LLLTs admitted they could not attract enough clients to sustain a viable business; they had to supplement their income with paralegal contract work. So even though LLLTs charge less than that of attorneys, it’s hard to see how someone at or below the Federal Poverty Level can afford an LLLT.

In addition to addressing access to justice, we should address the impact licensing programs have on the paralegal profession. Has the introduction of licensing programs caused all paralegals and paralegal candidates to change course and become LLLTs? No. In fact, some paralegals prefer to stay paralegals because they can communicate with opposing counsel, something prohibited by LLLTs. Other paralegals or paralegal candidates cannot easily meet the substantial work experience requirement prior to the LLLT application, which acts as a barrier to entry. For someone considering a solo practice, it is sobering that most active LLLTs cannot make a full-time living as an LLLT; they must supplement their income with paralegal work.

Do paralegals need to worry about competition with LLLTs? Some would say yes. From a law firm’s perspective, the benefit to hiring an LLLT is that unlike a paralegal, the LLLT can operate without direct supervision of an attorney. The LLLT can “take in clients, meet with them and perform the allowable services with a fair amount of independence.” Additionally, law firms may see the LLLT as a source of business, because if the LLLT’s clients have legal needs she cannot meet, she will need to refer them to an attorney.

It is important to take into account, however, that there is still genuine resistance of family law attorneys to hire LLLTs, which could work to a paralegal’s advantage. The writer spoke to some LLLTs in June 2019, who say attorneys view them as direct competition to their business. Additionally, there are only 36 active LLLTs in the entire state of Washington, so competition between paralegals and LLLTs is somewhat limited. And while paralegals and LLLTs can work in a number of practice areas, the only practice area in which the LLLT has an “edge” over the paralegal is in family law; LLLTs cannot legally practice in other areas. The expectation, however, is that as more high-demand practice areas are identified, the LLLT role will expand to include those practice areas as well.

In summary, licensing programs were designed to meet the needs of low-income people, but have provided no substantive analysis demonstrating this goal has been met. The hourly rate charged by LLLTs is, quite simply, beyond the ability of low-income people and it is unclear whether LLLTs adequately serve their clients’ legal needs. Consequently, the licensing programs are not a clear win for increased access to justice.

In terms of the licensing programs’ impact on the paralegal profession, the impact appears to be minimal for now. Numbers of active LLLTs are low, barriers to entry are high, and there is a huge resistance to LLLTs from lawyers, an important hiring source for LLLTs. Running a business is another hurdle for the LLLTs with solo practices. Consequently, all paralegals will not be replaced with LLLTs anytime soon.

**REFERENCES**


Margaret Phillips, J.D. “Changing times: Are paralegals the answer?” (June 27, 2016) <www.bizjournals.com>


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Attorneys from Buckfire & Buckfire, P.C., a Michigan-based personal injury law firm, are excited to award their 2019 Paralegal Scholarship in conjunction with NFPA to San Francisco State paralegal studies student Brenda Buenrostro Peterson.

Buenrostro Peterson is currently enrolled in the San Francisco State Paralegal Studies program and will graduate in December 2019. She previously completed her Bachelor of Law degree at Intercontinental University (UIC), an Intensive Legal English certification from University of California San Diego, and Master of Comparative Law degree from California Western School of Law.

Buenrostro Peterson previously worked as an attorney in Mexico City, Mexico for eight years before moving to the United States. She has since been involved with many legal associations and non-profits around San Francisco, volunteering and working with organizations to help low-income families translate legal documents from English to Spanish.

Buenrostro Peterson said “one of the biggest challenges that could arise is maintaining [my] motivation and [keeping a] positive attitude while dealing with [these] challenges. While I stay aware of this difficulty, I am less concerned by it because the challenges and adversity I have faced throughout my life have prepared me for what is to come.”

Buenrostro Peterson was recognized as the 2019 Buckfire Law Paralegal Scholarship recipient at the 2019 National Federation of Paralegals Association Annual Convention and Policy Meeting on Oct. 13 at the Hyatt Regency in Rochester, New York.

NFPA announces the election of members of the board of directors who assumed their duties on October 13. The elections were held at NFPA’s Annual Convention in Rochester, NY on October 12.

**NEWLY ELECTED NFPA BOARD MEMBERS ARE:**
- Vice President & Director of Profession Development Theda Yandell, RP, Forsberg & Umlauf, P.S., Seattle, WA
- Vice President & Director of Membership Tom Stephenson, ILAP, Keller Lenkner, LLC, Chicago, IL
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- Director, Region II Brenda Cothary, Coordinated Care, Tacoma, WA
- Director, Region IV Becky Reedy, State of New Jersey, Department of Child Protection and Permanency, Burlington, NJ

**CONTINUING TO SERVE ON THE NFPA BOARD OF DIRECTORS ARE:**
- President Nita Serrano, RP, AACP, LaCava & Jacobson PA, Tampa, FL
- Vice President & Director of Positions and Issues Lori Boris, RP, MnCP, Nilan Lewis, PA
- Vice President & Director of Paralegal Certification Linda Odermott, RP, OCP, Dunn Carney, Portland, OR
- Secretary & Director of Operations Mianne L. Bezer, Whiting Petroleum Corporation, Brighton, CO
- Lisa Lynch, CRP, CEDS, Pinnacle, Dallas, TX elected to serve as Region II Director
- Lori Wagner, RP, IRP, Burt, Blee, Dixon, Sutton & Bloom, LLP, Fort Wayne, IN elected to serve as Treasurer & Director of Finance
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**ELECTED AS EDUCATION COORDINATOR**
- Mindi L. Schaefer, MS, RP, OSBA, AACP, Poling, Columbus, OH

**ENDING THEIR BOARD SERVICE ARE:**
- Vice President & Director of Profession Development Mindi L. Schaefer, MS, RP, OSBA, AACP, Poling, Columbus, OH served on the board from 2017 to 2019
- Vice President & Director of Membership Yvonne DeAntoneo, State Farm, St. Petersburg, FL served on the board from 2015 to 2019
- Treasurer & Director of Finance Barbara Helmeke Peppersack, Larkin Hoffman Daly & Lindgren Ltd., Minneapolis, MN served on the board from 2017 to 2019
- Director, Region V Josie Estes, Frasca & Frasca, PA, Salem, NH served on the board from 2015 to 2019
- Director, Region II, Ed Schneider, MA, Faegre Baker Daniels, LLP, Denver, CO served on the Board in 2019
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- Kelly Derby, RP, MnCP

**POLICY MEETING 2019**

**THANK YOU FROM PARALEGAL ASSOCIATION OF ROCHESTER, INC.**

The Paralegal Association of Rochester, Inc., as the Host Association for the 2019 NFPA Convention and Policy Meeting, would like to thank all the attendees, CLE and workshop speakers, sponsors, vendors, exhibitors, Deborah Hughes (our keynote speaker), the NFPA Board and our management team for a truly wonderful Convention. We were honored to be the host and to showcase our hometown - Rochester, NY. Thank you!

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What to do with leftover “convention stuff”

**DONATED SCHOOL SUPPLIES**

On Thursday, October 24, 2019 I had the honor of delivering foamcore used for signage at the 2019 NFPA Annual Convention and Policy Meeting, left over pens, and remaining bag “stuffing” items to the Adlai E. Stevenson School No. 29, located in Rochester, New York.

On that day I was welcomed into the school by smiling students who happily opened the doors for me and was greeted warmly by the school’s Principal, Joseph Baldino and Head Secretary, Linda Carter. As we talked Mr. Baldino and Ms. Carter spoke of the many ways the students at School No. 29 help each other and those that live within their community.

As Mr. Baldino and Ms. Carter helped me unload the “treasures” from my car they shared how grateful they were to be contacted to “recycle” the items I delivered and were confident that the students and faculty at School No. 29 would put all items to good use in the days and weeks ahead!

I left School No. 29 knowing that we contributed less to the growing landfills and more to the Rochester community and its citizens. In sharing our stories with YOU we hope that others will be inspired to imitate our work as “imitation is the sincerest form of flattery” and this—in my opinion—would be the best “unintended” compliment we could get!

Thank you to NFPA for again thinking of those in need in our community and encouraging all of us to pay it forward!

**BOBBI L. AHEARN, President, Paralegal Association of Rochester, Inc.**

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**DONATED FLOWERS**

On Thursday, October 10, 2019 through Sunday, October 13, 2019 paralegals from across our nation convened in Rochester New York to attend the 2019 NFPA Annual Convention and Policy Meeting hosted by the Paralegal Association of Rochester, Inc. (PAR).

The tables at convention were adorned with gorgeous bouquets of sunflowers and peruvian lilies which had been donated to PAR for the convention by Jenni Ventimiglia Polimeni, owner of Floral Expressions by Jenni. Mianne L. Bresser, Secretary and Director of Operations of NFPA suggested to PAR’s President, Bobbi L. Ahearn that PAR donate the center pieces to someone who could enjoy the remaining life of the flowers. When Bobbi asked me if I knew of an organization that might enjoy receiving the flowers, I immediately thought of the House of Mercy.

The House of Mercy was started thirty-four years ago by Sr. Grace Miller, a Sister of Mercy. More than just a shelter, the house provides food, clothing, counseling, emergency shelter, love, acceptance, forgiveness, and compassion to anyone who needs it. I am honored to be a volunteer for such a welcoming place where all guests are treated with dignity and respect and that operates more like a busy (free) motel than a homeless shelter.

On Saturday, October 12, 2019, after the final convention luncheon, Bobbi, Natalie Shryock, Certifications & Meetings Manager of NFPA, the Hyatt staff, and I gathered up the flowers and boxed the bouquets for delivery! Then on that same beautiful sunny day I delivered the arrangements to Sr. Rita Lewis at House of Mercy. Sr. Rita was overjoyed and used the bouquets to brighten up the dining room, conference room, and offices at the House of Mercy for all to enjoy! The NFPA had also donated two beautiful NFPA fleece jackets, which I gave to Sr. Rita and Sr. Grace.

Thank you to NFPA for thinking of those in need in our community and encouraging us to pay it forward!

**FRANCINE MCANDREW, Professional Development, Paralegal Association of Rochester, Inc.**

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**DONATION TO SUSAN B. ANTHONY MUSEUM & HOUSE**

On Saturday, October 12, 2019, Bobbi L. Ahearn presents Deborah Hughes with a contribution for almost $1,500 from NFPA in the room that Susan B was arrested in for voting in 1872!
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Diversity and the Blind Recruitment Strategy

By Jimece (Sage) Black

One evening after work, I was watching the show So You Think You Can Dance, the dance competition show that airs on the Fox Network. While watching the show, I started to think about other competition shows such as The Voice where they use blind auditions to remove bias, and to ensure that only the very best singers get the chance to compete on the show, regardless of their appearance. I began to contemplate whether the show’s concept of blind auditions can be used in the initial stages of the hiring process to remove bias and to help advance diversity and inclusion in the workplace.

Resumes can reveal identifying information that may introduce bias into the candidate selection process, especially at the initial stages where names can provide insight to a candidates’ race, sex or ethnicity. One proposal that has emerged for dealing with this type of bias in the employment recruitment process is the use of blind or anonymous resumes. In an effort to help eliminate discrimination and boost diversity, some employers are exploring this practice and finding creative ways to mask or hide the job seeker's name, ethnicity, gender, age and educational background during the application review stage. The benefit of companies using blind resumes by removing names can avoid biases by hiring managers at the initial stages of the review process.

On the television show The Voice, the auditions were blind, which ensured all singers would have equal consideration to compete on the show regardless of their appearance. As in the business world, The Voice is seeking pure talent. The coaches/judges are impressed with the contestant’s talent, only then will they be allowed to turn their chairs around to see what the contestant actually looks like and try to convince them to join their team.

In the 1970s and 1980s, the symphony orchestra eliminated bias against women by using blind auditions where candidates are situated on a stage behind a screen to play for a jury that cannot see them. In the blind audition, the identity of the performer is concealed from the judges so as to prevent bias. The performance takes place behind a curtain so that the judges cannot see the performer. Blind auditions are now a standard in symphony orchestras and have been shown to increase the hiring of women.

What if the same concept of blind auditions, as used for the television show The Voice and with symphony orchestra auditions, is utilized in the business/legal world to mask job seekers’ ethnicity, gender, age and educational background during the application review stage? Would that aid the goal of increasing diversity in the workplace? Let’s take this a step further. If you were making a decision about hiring someone, wouldn’t you want to find the best talent, be fair in your evaluation process and eliminate your implicit biases to get a different impression about the qualifications of applicants to add to your team?

We inadvertently disadvantage people of color and women without even realizing it. Candidates should be considered from a diverse cross-section of people and criteria to find the best fit for the company. In advancing diversity and removing biases, the benefit of companies using blind resumes by masking or removing names can assist in avoiding discrimination by hiring managers.

The Ohio State University’s Kirwan Institute for the Study of Race and Ethnicity defines implicit bias also known as “implicit social cognition as the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.” Additionally, they added that “these biases, which encompasses both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control. Unconscious bias occurs when individuals make judgments about job candidates based on gender, race or other prohibited factors without even realizing they’re doing it.” A study by the National Bureau of Economic Research found resumes with “white-sounding” names received approximately 50 percent more callbacks than those with “black-sounding” names. Additionally, a 2014 study published in the Proceedings of the National Academy of Sciences found that managers of both sexes were twice as likely to hire a man as a woman. Finally, they found candidates with a foreign sounding name also had a more difficult employment search.

When Kedar Iyer, a Silicon Valley entrepreneur, recognized that talented coder job applicants were being overlooked by hiring managers due to the fact they did not attend prestigious colleges, he created software that hid the candidates’ names, faces and personal information from employers during the initial hiring process. Mr. Iyer’s software company, GapJumpers, is based on the blind hiring principle. According to GapJumpers’ website, its mission “is to eradicate workplace bias and to create a positive impact in the workplace.” GapJumpers is redesigning how we work and its use has increased the chances of diverse and female applicants being offered a first-
The approach of using blind resumes does play an important role in recruiting diverse talent, at least in the initial stages. Blind auditions are not a new phenomenon to the music industry. Compared to standard resume screening, using blind resumes increases the chances of inclusivity in a company, thereby creating a competitive advantage in a diverse world which ultimately boosts an organization's efficiency and effectiveness.

Ed's HR Corner: Reverse Mentorship

By Ed C. Schneider, M.A.

REVERSE MENTORSHIP: A WAY OF DISCOVERING NEW TALENT AND BUILDING MUTUAL RESPECT IN THE PROFESSION

Throughout history, traditional mentorship has been the backbone of training for many great careers such as law or medicine. Even with advanced education in a specific field, such education still needs to be paired with a sound training program that is dynamic, forward-thinking, and sustainable to ensure the success of any new team member and thus, the profession, or in the spirit of this article, our home and national paralegal associations. Those of us who have been in the profession for any length of time are often asked how are we guaranteed to keep our skills, stay sharp as time and technology move forward and keep up with the new talent? Well, that question is not so easily answered. As we might have heard in the past, it is assumed that as things (technology, competencies, skills) advance, so do we. This is clearly not always the truth.

Since the 2008 market crash and proceeding economic depression, many employers struggled to find the right people at the right time and for the right roles all while managing expenses and overhead relating to training. This has also translated into leadership of our organization. Clearly, the front end has been addressed when it comes to the new or inexperienced, the back end of the matter now needs to be examined. As the saying goes, “You can’t teach an old dog new tricks,” but that couldn’t be further from the truth. With millennials chomping at the bit to be a positive impact in their day-to-day work and to gain respect in both their work places or in volunteer work, such as NFPA or local associations, it is time to engage in reverse mentorship opportunities to bridge the gap between generations, reduce lapses in communication or reduce inefficient communication, as well as boost professionalism and morale for the growth of an organization.

WHAT IS REVERSE MENTORSHIP?

Reverse mentorship is defined as taking less experienced employees who may have unique experiences or backgrounds in technology or other skills, pairing them up with more experienced leaders to teach them new tricks on advancing technology, profession specific practices, and more. It is a rather simple concept; however, implementation is not as easy as the concept may elude.

Reverse mentorship programs can help existing leaders discover other individuals who may have skills or interests in being the leaders of the future; those individuals who may have strengths to look to in managing other aspects of the association; as well as encourage cross-generational engagement, which I have seen happening in some associations but lacking in others.

VALUE OF REVERSE MENTORSHIP IN ASSOCIATION SUCCESSION PLANNING

Knowing of the history of our organization and the still uncertain future of our associations, we need to look to reverse mentorship to discover the future leadership pipeline so many of us experience. Creating relationships between existing leaders and more novice members of your respective boards or even the general membership, allows you and your fellow leaders to find that sweet talent pipeline we so badly want for the future success of the association, both nationally and locally. This will encourage engagement, put an end to common communication roadblocks, identify shared interest in the end goals, and build membership across the generations.

Another key value of reverse mentorship at the association level is to learn from the next generation of leaders what is important for the future? It could alter the way we address what we feel is important rather than “bandwagoning” a policy item because we, as the existing leaders, feel it is important when it could really prove detrimental to the future. Reverse mentorship creates a more global mindset when looking at problems and solutions and allows organizations to tap into a resource of information and get it directly from the source, rather than make presumptions of what is important and getting it wrong.

SAGE is member of NFPA's Diversity, Inclusion, and Equity Committee. She is currently a litigation paralegal in Kansas City, MO and holds a B.A in Organizational Leadership from Rockhurst University and an AA in Paralegal Studies from Oakland Community College. Photo by Zelda216 Media Photography
One last value point which need be addressed is the value in enhanced credibility with future generations and the fostering of mutual respect among all. Creating and embracing a mutual respect environment can be quite easy when one implements a sound reverse mentorship program. The more novice are being seen and heard by the experienced and in the end, do not feel as if they are outcasts in the overall scheme of things. Breaking down the barrier can change the dynamic between experienced and novice more rapidly than a war of wills in trying to earn respect from each other. This change could result in more members, more money, and more of a powerful and credible voice to the local and national organizations.

IMPLEMENTING A REVERSE MENTORSHIP PROGRAM

As I have said, reverse mentoring is a rather easy program to create, but a far more complex one to implement and put into action. When creating a plan, it is critical to examine the situation as it stands today in the organization

a. What does the training and mentorship program look like today?

b. What is the general input of the existing programs, if any exist?

c. What stakeholders need to provide buy in for this role?

d. How does one work to implement such a program?iii

Once all questions are answered, a selected group of professionals, whether novice or experienced, should be tasked to examine the culture of the organization and how such a program would be seen, and could it work with the culture of your association and if not, what needs to be changed?

Next, create a plan of implementation with benchmarks to measure success and progress. Do not just implement a new mentoring model without creating a set of goals to be achieved to show progress in the relationship between mentor and mentee.

To ensure overall success, use sound communication methods to inform, education, and encourage the new program using the right level of leadership encouraging the program and ensure there is buy in from all levels of the organizationiv. In today's day and age of immediate and frequent communication, it is critical informative and productive information sharing occur to ensure all involved understand the “what” and the “why” for the successful incorporation of any new program, but especially one like reverse mentorship. Further, ensure communication remains respectful, (courageous and) collaborative, and open minded. Throw egos to the wind and come at a problem believing everyone, novice or experienced has a solution to share.

IN CLOSING

It should go without saying that any type of training program requires an immense amount of leg work and research to be successful. Incorporating any programming without good solid research, a structured implementation program, and critical buy-in from the necessary stakeholders is without a doubt the best way to sign the death warrant for any program.

Reverse mentoring programs or programs that encourage development and relationship building among all levels of an organization can build on overall satisfaction; feed the leadership talent pipeline of an organization; and create a truly positive and collaborative environment. Remember, implementing a program similar to reverse mentorship could create an environment of authentic leadership and enhances credibility amongst the ranks. Instead of fearing the young or experienced, there is an environment where all ideas and contributions are embraced and appreciated. The future is here and the leaders of today need to prepare to give way to the leaders of tomorrow. Using a program which has a history of success with proven benefits is a win-win situation for any organization. It is a critical component of any organization’s succession planning.

In closing, it is very important to remember there is, and never has been, a no one size fits all solution when it comes to a program or strategy such as reverse mentorship, however, this solution can be adapted to any industry, which makes it a very durable solution to ensure the future viability of any one organization.

ED C. SCHNEIDER, M.A.
is the California and Colorado Practice Group Staff Supervisor for the western offices of Faegre Baker Daniels, LLP. He has nearly eleven years of litigation and appellate paralegal experience and possess his Master of Arts in Legal Studies as well as his Bachelor of Arts in Law and Criminology. Presently, he is a Doctoral Candidate in Public Administration (Judicial and Legal Administration). Ed is also the immediate past president for the Rocky Mountain Paralegal Association and is currently a member of the NFPA Advisory Council.

REFERENCES


Paralegal Regulation and the Bright Future Ahead

By Tom Stephenson, ILAP

2019 has been an exciting year for the intersection of regulation and Access to Justice for paralegals and the legal community across the country! In my capacity as Regulation Review Coordinator, I have spent the last year updating the developments in each state and am happy to report that the updated Regulation Review Chart is posted online. In short, there have been at least 12 state updates and more than 15 new citations for the appendix. Currently there are 17 states which have developed a voluntary paralegal certification.

Of the most recent changes in 2019, the Utah Supreme Court approved and enacted the final rules for a new class of legal professionals, called licensed paralegal practitioners (LPPs), who will provide legal advice and assistance to clients in certain areas of law without the supervision of a lawyer. Utah now follows in the footsteps of Washington who pioneered the limited licensed model with its Limited License Legal Technician (LLLT) program in 2012.

Although it has been almost 7 years between Washington and Utah’s enactment, more and more states are discussing innovative solutions to address the limited licensing for legal professionals.

- Arizona has created a task force to review the regulation of the delivery of legal services, including recommending revisions to the existing Legal Document Preparers program and examining whether non-lawyers should be allowed to provide limited legal services.
- In California, the State Bar included recommendations on new technologies and business models used in the delivery of legal services, with a special focus on enhancing access to justice for non-lawyers. This includes allowing legal technicians to offer legal advice and non-lawyers to hold a financial interest in law firms.
- In Colorado, so-called “Sherlocks” assist self-represented litigants in finding pro bono services, apprise them of court rules, explain their legal options, and review documents before hearings to ascertain that they meet procedural requirements.
- In Illinois, a task force was created to examine regulatory reform and increasing access to legal services, including providing opportunities for non-lawyers.
- In Minnesota, an Implementation Committee for a Legal Paraprofessional Pilot Project has been established that will expand the role of paralegals to include giving legal advice and, possibly, appearing in Court, under the supervision of a licensed Minnesota attorney in one of three practice areas: housing, family, or debtor-creditor.
- The New Mexico Supreme Court has appointed a work group to consider whether the state should allow licensed legal technicians to provide civil legal services, and must submit a report with recommendations by January 2020.
- The New York State Bar Association released an updated Report and Recommendation on Guidelines for the Utilization by Lawyers of the Service of Paralegals, recommending a Paralegal Division within the Bar Association aimed at enhancing the profession and further studying potential regulations with respect to the ethical standards and qualifications of paralegals. Additionally, the Empire State Alliance of Paralegal Associations voted in favor of continuing to take steps towards a voluntary regulation program.
- Oregon is another state to head in this direction, currently considering LLLT programming to license paraprofessionals.

So much has already changed in the past forty-five years. The paralegal profession has grown considerably in terms of numbers and expanded into all areas of law practice and into all sectors of the legal services industry. Our profession continues to discuss and develop various certification and registration systems to set itself apart from those who are not doing paralegal work or are not qualified to do so. As state regulations continue to evolve and develop, be sure to stay up-to-date on all the happenings throughout the country. Many thanks to Lori Boris RP, MnCP, Vice President & Director of Positions and Issues, for her continued support and passion of these regulatory issues that will directly affect the association and our profession!

Tom Stephenson, ILAP works as a paralegal at Keller Lenkner, LLC. He is NFPA’s Vice President and Director of Membership responsible for attracting and retaining members.
A Day in the Life of a Not Quite (but Hopeful) Paralegal

By Courtney Tharp

I thought about starting this article with the quintessential opening, “the alarm went off at 5:00am…” but, who are we kidding? The real story starts around 2:45am when our brains want to play twenty questions. My mind this morning is playing Tetris with my schedule and contemplating how I can grow into the profession and position I aspire to have: Paralegal.

Indeed, the alarm does go off at 5am. I contemplate the snooze button, but I know that won’t end well. So, up I get and head straight for coffee while I check my e-mail and calendar. As I finish my brew, I flip through the flashcards for my CORE exam preparation course work due at midnight. Appurtenance, Abatement, Actus Reus, Alimony, Ancillary Administration…

By 6am it’s time to get the kids up, fed, out the door (an article unto itself) and head to the office. I’m a Legal Administrative Assistant with paralegal aspirations. My path meandered a bit before I found myself here. I started off with thoughts of law school and received my psychology undergraduate degree in 2009 and started my paralegal certificate. As often happens, however, plans changed. A husband and two kids later I found myself finishing my undergraduate degree and putting the certificate on hold. My work history has a little of everything from medical records, marketing director for a small start-up, program director, personal assistant, Realtor®, and Project Manager. This year I went back to finish the four classes I needed for my paralegal certificate and rediscovered my love for the law. I had doubts. Many, actually. I have found most paralegals start early and are laser focused on achieving experience and specialization. I felt as though I was a jack of many trades, master of none, and now attempting to catch up in a new industry. What I lack in focused experience I make up for in determination to use my varied knowledge and skills to jump-start my career. What does that look like on a day to day basis? Getting involved, a learning spirit, a strong professional network, and good old-fashioned hard work.

7:45AM GETTING INVOLVED

I’m in the office early today for a meeting scheduled late yesterday. The lawyers are planning for paralegal appreciation day. Of course, I want to be there to plan something great for my mentors. I’m working with some amazing paralegals, but there is another reason I couldn’t miss this meeting. I’m still new in this field but I can safely say, high-powered attorneys are good at many things. Coordinating a party isn’t necessarily one of them. As I start to hear phrases like “execute the thank you notes” and “choosing an agent to find vessels” for the gift baskets, I offered to help pull the plan together. After complimenting their well-thought out and analyzed ideas, I volunteered to be said agent and accumulate the aforementioned supplies. They’ve already got the conference room reserved and as a parting question I make sure one of them remembered to invite the paralegals? No problem, I’ll take care of that too. After a good laugh at why we are so thankful for paralegals, we adjourn.

8AM LISTEN AND LEARN

It’s straight to my next meeting, approving calendar requests for my attorneys as I walk. One of the attorneys I support is the head of Labor and Employment and I’m sitting in on the team meeting. We’re reviewing quarter 4 claims and discussing the challenges we face at a particular plant. Remember those amazing paralegals I mentioned working with? One of them is a Lifetime Achievement Award winning, published paralegal, and I’m sitting right next to her. These are my osmosis moments. I soak up everything I can and imitate often.

12PM NETWORKING

Today is the monthly paralegal association luncheon and I’ve been looking forward to it. The speaker is discussing e-Discovery. The treasure hunter in me, the proverbial dog with a bone, is fascinated by tracking down the document that will break the case. During the program I contemplate getting an advanced certification in the area. One step at a time, Courtney. Nevertheless, these meetings are a great way to stay motivated, surrounded by more amazing professionals. I’m short on time so I hustle the four blocks back to my office.

1:30PM A BIG OPPORTUNITY

The Intellectual Property team is swamped, and they want a fresh pair of eyes to learn about the processes, map it out, and streamline everything possible. A project? Learning? Interviewing others? I volunteered immediately. I have a few meetings a week for this project but it’s all coming together. I have a recom-
mendation ready to send up the ladder to the Chief IP Counsel. No pressure.

3:00PM USING MY VARIED SKILLSET

Remember those random skills I sometimes doubt will serve me in the legal field? It turns out we need some fun animated videos for training the business units on legal obligations. So, I spend some time in the afternoon finalizing the second of ten videos. Maybe these skills will come in handy a lot more than I think.

4:00PM HEADS DOWN WORK

The rest of the day is spent doing all the things. Troubleshooting tech for a webinar, calendaring, emails, mailings, preparing documents. On my way out, I stop and ask one of the paralegals about this idea I have for an article (let me know how I’m doing). By 5pm I’m off to collect the kids for some family time. Once the house is quiet I manage to turn in that course work for CORE exam prep before I fall in bed. I’ll need a little shut-eye before the show starts again at 2:45am.

No matter your experience or what aspirations you hold, a little hard work, a purposeful network, and jumping in where needed makes even the widest of skillsets transferrable to this profession. Just another day as a hopeful paralegal.
Law of the Aloha Spirit

By Ronell B. Badua

Aloha is generally used as a greeting. "Alo" means the presence and "ha" means breath translated to "breath of life". Rooted in cultural traditions, aloha also means love, compassion and peace with no obligation in return. One commonly known expression of aloha is giving and receiving a lei – sharing a breath of life, part of your essence. The model of Hawaii’s aloha spirit embodies compassion, tolerance and social harmony. There is a strong belief that residents from Hawaii maintain a great deal of harmony in our relations with others.

In my former capacity as an NFPA Region Director, I had the opportunity to communicate with many people in and beyond the United States, and several have noticed my virtual email signature inscribed with live aloha. Living aloha brings each person to the self and to think and express good feelings to others.

In 1986, Hawaii enacted a law to consider the definition of the Aloha Spirit. Hawaii Revised Statute §5-7.5 (a) Aloha Spirit is the coordination of mind and heart within each person . . . each person must think and emote good feelings to others . . .

"Akahai", meaning kindness to be expressed with tenderness;
"Lokahi", meaning unity, to be expressed with harmony;
"Olu’olu’, meaning agreeable, to be expressed with pleasantness;
"Ha’ahea’a", meaning humility, to be expressed with modesty;
"Ahonui", meaning patience, to be expressed with perseverance.

Symbolic and ingrained in culture and the way of life, the residents of Hawaii take the aloha spirit as words to live by in cultivating friendliness and openness while not actually enforcing the law. Aloha is a moral code that has a deeper symbolic meaning which embodies the traditional Hawaiian way of treating each other with love, compassion, hospitality, respect and is a concept for living in peace while working together in harmony.

My island home is the gateway to Asia, Europe and the continental United States. Hawaii is known to be the gathering place and melting pot of the Pacific as its residents consist of diverse cultures. There is no majority and everyone is a member of a minority. With the merging of cultures, we share personal experiences, values and views that arise from differences of culture and circumstance. Hawaiian residents attribute much greater significance to ethnicity, rather than racial groups. This principal is what dominates social relations and an intolerance for inequality. Hawaii’s population continues to lead the nation when it comes to racial and ethnic diversity.

Diversity includes more than just addressing basic elements. We can all learn from each other by being sensitive to the differences that exists among us. Society is best served by ensuring that all populations are represented equitably while embracing perspectives to root out prejudice and injustice. The aloha spirit can often be tested in today’s society, but when you apply the spirit of aloha and emote respect, compassion and respect for one another, it is also an opportunity to send and receive positive energy with mutual regard. The aloha spirit transcends race, differences and empowers equality – it is a unique way of living, the universal spirit of hospitality, the ultimate lifestyle and the secret to a happy life.

You have the option to plan a Hawaii getaway and experience the feeling of aloha, but also have your sights on spoiling others with the aloha spirit. Although the feeling of aloha is active in Hawaii, it is also universal and abundant. To live with aloha is to live with a set of values that ultimately guide your decisions and behaviors. Living with aloha is a daily reminder to respect others while bettering ourselves and the world around us. Embracing this spirit permeates and multiplies onto others.

Aloha is more than a word, greeting or salutation . . . it is the essence of relationships in which each person is important to every other person for collective existence . . . aloha means to hear what is not said, to see what cannot be seen and to know the knowable. Id. May the aloha spirit begin with you. Live Aloha.

WAYS TO LIVE WITH ALOHA

Kokua – to help others without the intent of personal gain
Mālama pono – take care of yourself
Kākou – practice "we" [will be able to unify our values and unite our behaviors]
Ho’ohanu – live mindfully
Alaka’i – lead with the initiative and with your good example
Exchange smiles with a stranger.
Cultivate meaningful connections.
Master your emotions and look on the bright side of things.
Embrace diversity while creating synergy.

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As leaders, we’ve all had that feeling of total failure. Whether you missed a deadline, lost board members, or had a major breakdown in communication, the feeling of failure is one that leaders must get comfortable with.

As someone who sits on several different boards and holds more leadership titles than I can count, I can comfortably say that I’m not the best leader I can be. Recently, I had a surreal experience - in a 72-hour period, I failed as a leader in one respect, but felt overjoyed at some leadership victories. It happens. I’m not perfect, nor do I strive to be, but I do strive to be better. This 72-hour period, and the ensuing time spent sitting on an airplane thinking about the failure and the wins, made me realize after seven years of leadership that it’s hard. I’m hoping that the lessons I have learned can help transform how you think of leadership.

THE PITFALLS OF LEADERSHIP

“True leaders always practice the three Rs: Respect for self, Respect for others, Responsibility for all their actions.” – Anonymous.

Great leaders make mistakes. You’re the one to take the heat when things go wrong, and you hold ultimate responsibility for what goes wrong on your watch. It’s a minefield out there, and any misstep can be tied to your tenure as a leader. However, great leaders will take responsibility for those mistakes, work to fix them, and move their team forward no matter how bad it gets - and it can get bad. The best leaders take the time to reflect and learn from those mistakes.

POSITIVITY MATTERS

“Being positive in a negative situation is not naive. It’s leadership.” – Ralph Marston, football player for the Boston Bulldogs in 1929.

When things go wrong, what is your response? Do you obsess on the mistake or do you learn from it and move on? Great leadership requires learning from your mistakes, and then moving forward doing better next time. How you interact with your team will set the tone for how your team addresses the mistakes, and you need a team to move on from mistakes - big and small. It takes a village.

THE BUS BOARD

“By failing to prepare, you are preparing to fail” – Benjamin Franklin.

While looking on the bright side of things, we also must consider worst case scenarios. One of the questions you should ask yourself is this: “What will happen to my organization if I get hit by a bus tomorrow?” This question came from an attorney I worked with who kept a “bus board” of all the things they were working on so if the bus hit them tomorrow, others could pick up where they left off. This is part of succession planning. Of course, it’s more work to create lists and documents to help your successor, and maybe your predecessor didn’t provide that information for you, but planning ahead can keep your organization running like a well-oiled machine in a worst-case scenario.

LEADERSHIP DEVELOPMENT

“The task of leadership is not to put greatness into people, but to elicit it, for the greatness is there already” – John Buchan, Scottish novelist, historian, and former Governor General of Canada.

Leadership does not happen overnight. We’ve all had those people we look to for advice and support when things start going south. Do you talk to those people before things go awry? As leaders, we often get so caught up in the day-to-day that we forget we’re always continuing to develop our leadership skills.

More importantly, how do you help to develop the leaders around you? Mentorship is crucial in leadership or organizations get stale - quickly. Take the time to mentor newer leaders, and take the time to be the mentee. Also, importantly, learn from your mentees. Just because someone is newer to leadership does not mean they haven’t learned lessons valuable to their own leadership - and often you can learn from them as much as they learn from you.
What I Wish I Had Known Before Becoming a Paralegal

By Candess Zona-Mendola

One of the best questions a new paralegal has ever asked me is this simple question. This is not surprising. We all want the wisdom of those who have been where we have not yet trodden. We want to know what we are getting ourselves into before we take the leap. We want the secret sauce or the cheat code to get us to where we need to be from the beginning. Surely, that will make everything easier, right?

In my book, The Indispensable Paralegal: Your Guide to Getting It All Done, I dedicated an entire chapter to the top ten things I wish I knew before becoming a paralegal. I could probably give you over a hundred more. But would those answers really benefit the new paralegal or the currently practicing one? Would they offer insight that would make or break their decision to (1) become a paralegal or (2) get through the hard times in the profession? Would they actually give you any form of advice that would be life-changing?

I think “what I wish I had known” is a loaded question. It can easily be answered with a standard, semi-helpful response like any number of the following:

- I wish I knew legal terminology first.
- I wish I knew the typical paralegal’s starting salary.
- I wish I knew how to interview for a paralegal job.
- I wish I knew how to find everything I needed quickly and not stumble and learn lessons.
- I wish I knew what area of law made me happiest.
- I wish I knew that it would be hard to communicate with lawyers.
- I wish I knew the job would be stressful.
- I wish I knew I would be working long hours… sometimes.

Those are perfectly good answers. I think every paralegal in the field wishes they did know those things before starting out in their career. But none of these are my top ten responses. I think this may be because my career started differently or because I do not think these answers are helpful in the long-run. Although I wish I had indeed started my career with a little more knowledge under my belt and a lot more flexibility, those are not the answers I would recommend a new paralegal focus on. I don’t think knowing any of those things going in would benefit you once you are “in.”

As with the work, I like to encourage paralegals to look at the bigger picture.

HERE IS A BETTER ANSWER AND ONE I WISH I HAD MENTIONED IN MY BOOK:

I WISH I HAD KNOWN THAT MY CAREER WOULD BE A JOURNEY, AND ONCE I REALIZED THIS, I WOULD FIND HAPPINESS AND Fulfillment IN WHAT I DO.

My career has been a journey of discovering what I wanted out of work life, what I love to do, and where I fit in the overall

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The paralegal profession has become a career that allows me to do all of those things. But I never would have discovered that if I was always worried about being perfect as fast as I could. My career is a journey that I am still on today. I will likely continue to be on this journey until the day I retire – if that day ever comes.

By focusing instead on the journey, you can discern that you are not stuck, but rather at just the next stepping stone or bridge to the next stage. I hope this will allow you to not only continue to learn throughout your career, but also realize that, like Frodo, we don’t get to Mordor alone. We all need a Samwise or two to help us on our way. So much of being a paralegal is about what you give – be it your time, knowledge, compassion, experience, understanding, and so on. So, know this: Paralegals are givers. That is one of the traits I love most about others in my profession. Most paralegals I come across are always willing to offer a helping hand, a word of support or advice, and genuinely feel like they are making a difference. My practice is what it is today because others have taught me valuable lessons. When I was less experienced, I was so caught up in trying to be perfect that I did not see that this was one of the greatest strengths of our profession. We are an invaluable resource for one another.

To again answer the question, I wish I knew to enjoy the road. My advice is to take as many stops as you need to but remember this: the journey is yours. If you focus on your career as a journey, you will find all of the answers you need (hopefully, with a few less scrapes) along the way.

Candess Zona-Mendola is editor of MakeFoodSafe.com, a food safety law blog, a Senior Trial Paralegal, and the author of the legal publisher Trial Guides’ first paralegal book, The Indispensable Paralegal - Your Guide to Getting It All Done.

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1The nerd in me is delighting in the opportune time to throw in a Lord of the Rings reference.
We hear a lot of environmental terms being tossed around of which fracking is near the top of the list. However, many people do not even know what fracking is, or the two-sided coin of the positive and the negative that surrounds this important topic. Part of the problem resides not only in political but economic impact. Although it has caused catastrophic impact to health and property, it also provides a cheaper alternative to using foreign sources and helps our economy. What’s a nation to do as it weighs the benefit versus the risk?

WHAT IS FRACKING?
Fracking is sometimes referred to as hydraulic fracturing. “Fracking is a proven drilling technology used for extracting oil, natural gas, geothermal energy, or water from deep underground. (https://www.ipaa.org/fracking/) The gas rich oil within the shale is in the earth. In order to retrieve it, a chemical is injected. The problem is that these chemicals can leak and eventually make their way into the ground water which in turn can contaminate the land as well as the water used for human and animal consumption.

“The modern version involves pumping large amounts of water down a well at high pressure, along with sand and chemicals that make up a tiny fraction of the volume. Together, this “stimulation fluid” fractures the rock and releases the gas or oil, which flows to the surface. The hole drilled for a well is about the size of a manhole cover.

The other big technological development that has made fracking economical is horizontal drilling. This means that several horizontal boreholes can be drilled off one well, like tributaries off a river, maximizing the amount of oil and gas that can be recovered. Fracking can also be undertaken on a well that has already been drilled and for which conventional techniques were unable to extract more hydrocarbons. (https://www.theguardian.com/news/2018/feb/26/fracking-the-reality-the-risks-and-what-the-future-holds).”

WHAT TYPES OF FRACKING CASES HAVE THE COURT HEARD?
Many cases have come before the court as a result of fracking. However, the results haven’t necessarily brought satisfactory resolution to the plaintiffs who have brought them. For example, in the case of Rodriguez v. Arbuzzo, (No. 3:12-cv-1458 (M.D. Pa June 30, 2014), the Plaintiff, a physician, alleged that his First and Fourteenth constitutional rights were violated because the contents of hydraulic fracturing fluids weren’t disclosed to him. The physician alleged that he had treated patients who had direct contact with hydraulic fracturing fluids, and that the requirements of the law interfered with ethical obligations in the medical profession.

The court held that the doctor didn’t have standing as there was no injury in fact and that he had not sufficiently alleged a link between information about local water and the laws restricting disclosure. The court further found that the question of whether the physician needed the information restricted by the state laws to treat patients remained “factually unsubstantiated.”

In the case of Crowder v. Chesapeake Operating, Inc., (No. 2011- 008256-1 (Tarrant Co. Ct. at Law May 23, 2014), the court merely awarded $20,000 to the Plaintiffs despite their claims of noise, odor and truck traffic associated with drilling near their homes.

There are various groups who oppose fracking including but not limited to the Concerned Health Professionals of New York who have developed “The Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (the Compendium) is a fully referenced compilation of evidence outlining the risks and harms of fracking. (https://concernedhealthy.org/compendium/). According to Sandra Steingraber, one of the authors of the Compendium, “The industry has taken off thanks to support for domestic energy development under successive administrations. In 2018, the United States eclipsed both Saudi Arabia and Russia in natural gas production. Natural gas is mostly methane, some thirty times more powerful a heat-trapping gas than carbon, in a fracking industry leaky both in gas extraction and transport. As the increased supply has lowered prices, the industry has sought to expand exports, building the infrastructure to export liquefied natural gas to other countries.

For Steingraber, who began collecting this data in 2012 as a member of a “front-line” community fighting fracking in her home state of New York, the notion that the United States would crack open its bedrock and fill its drinking water with known carcinogens in order to export energy to other countries is noth-

OTHER NATIONWIDE FRACKING ISSUES

WATER AND HELIUM

Other issues that have resulted from fracking include water degradation which happens when pollutants are directly or indirectly discharged into waterbodies without adequate treatment to remove harmful compounds.” Why are complaints dismissed? There is a lack of a centralized database regarding drilling mishaps and failure. For example, The EPA essentially used Pennsylvania DEP’s official tally of 271 determined cases. It’s unclear if the thousands of unreported fracking complaints were even analyzed. Data limitations preclude a determination of the frequency of impacts with any certainty.

The Sierra Club and WildEarth Guardians in Arizona has taken issue with fracking occurring near the Petrified Forrest in Arizona as well. The plaintiffs, including the Sierra Club and Wild Earth Guardians claim “the oil and gas leases are a thin veil for the extraction of helium, which has become an important resource as the world faces a shortage of the element and prices rise. Regulations require lease applicants to agree “not to develop oil and gas wells ‘with the principal purpose of recovering the helium component of natural gas’ without express permission from the Secretary of the Interior,” according to the 38-page complaint. "When the bureau issued the drilling leases last year near the Petrified Forest National Park, it used decades-old environmental impact data, according to the Center for Biological Diversity and other plaintiffs who filed the suit in the U.S. District Court for Arizona. The plaintiffs claim the agency failed to consider new drilling technologies or environmental science, including predicted effects of climate change. (https://www.courthousenews.com/environmental-groups-sue-to-stop-fracking-near-petrified-forest/)

WHAT IS BEING DONE ABOUT FRACKING?

FRACKING FOR REMEDIATION.

One possible means of remediation is by pumping a cocktail of chemicals into the ground, consisting of water, sand to prop open fissures, detergent, and nutrients/amendments which stimulate the process of chemical breakdown. The irony is that the same process that potentially and often causes environmental problems can be lessened by the same process. There is also the Environmental Response Com-

pen
tion and Liability Act (42 U.S.C. §9601 et seq. (1980) ) It “provides a Federal “Superfund” to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment.”

PHYTOREMEDIATION

There is also the process known as phytoremediation. Plants and trees are planted so that the roots absorb the contaminant is a possible solution for cleaning up the damage caused by fracking. The use of Chinese Ladder Fern to absorb arsenic, Genetically Modified Cottonwood trees are corrective actions used to detoxify mercury and transgenic mustard is used to soak up selenium. Additionally, incorporating ground water remediation by inoculation to degrade the contaminants is also a possible way to thwart further fracking damage as well.

OTHER SUGGESTIONS TO HELP WITH REMNANTS OF FRACKING

Some feel that the use of longer vertical steel casing, as well as proper encasement for the storage and disposal of drilling waste, as well as flow-back-fluids and produced water be considered as potential solutions. Further, treating soil and ground water at polluted sites using phytoremediation and bioremediation of organic pollutants as well as establishing federal and world law for safe practices in fracking should be considered. Additionally, some have suggested that requiring the disclosure of chemicals contained in the fracking fluid could be helpful.

REGULATORY COMPLIANCE

The Risk Management Plan (RMP) Rule implements Section 112(r) of the 1990 Clean Air Act amendments. RMP requires facilities that use extremely hazardous substances to develop a Risk Management Plan. These plans must be revised and resubmitted to EPA every five years. Nonetheless, damages still occur irrespective of these plans being filed.
OPTIONS REGARDING FRACKING

FEDERAL SUPERFUND PROGRAM

The Federal Superfund program was created in part to decontaminate sites in 1980 as well as to identify hazardous waste sites as well as test conditions of the sites and generate cleanup plans. Congress thereafter enacted the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In order to get on a National Priorities List, the EPA is guided in deciding on which sites require remedial actions based on their assessment of human, health and environmental risk. Thereafter the states are notified whether financed remedial action may be appropriate.

COMPLAINING TO STATE OFFICIALS

In theory, this is a great suggestion. It doesn’t usually go any further than the initial complaint. For example, if in Pennsylvania making a complaint, one may start at the Pennsylvania Department of Health whereby this Department will give information on how to file a complaint through doctors and primary care clinics. Even though the department’s website will emphasize environmental health and indicates that it will coordinate with the Department of Environmental Protection when complaints concern the DEP, most cases never move along any further than the initial complaint.

PRODUCT LIABILITY AS A BASIS FOR A FRACKING CLAIM

Common law principles of liability are still relied upon when attempting to resolve fracking claims, however, the biggest problem is determining the sufficiency of the Plaintiff’s claims. The Plaintiff must show more than the presence of hazardous substances or run the risk of his/her claim being dismissed. The U.S. Supreme Court in Ashcroft v. Iqbal, 556 U.S. 662, 129 S.Ct. 1937, 1949 (2009), which requires plaintiffs to plead facts sufficient to permit a “court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” The Supreme Court in Iqbal stated that a plaintiff must plead facts sufficient to move his or her claims “across the line from conceivable to plausible. “

BIG ISSUES OF FRACKING LITIGATION

We are in a precarious position as a planet from several stand points. First, this area of the law is relatively new despite fracking not being a new concept. Also, we have the Halliburton Loophole to contend with, as well as claims by the Environmental Protection Agency’s groundwater contamination studies reflecting that there isn’t enough data to lend itself in support of fracking litigation.

PROS OF FRACKING

Proponents of fracking argue that the industry supports 1.7 million jobs and could increase to three million by 2020. Federal and state government revenues could reach as much as 113 billion by 2020. Although it is stimulating the economy and fostering competition globally, it won’t last forever. “Natural gas is not a permanent solution to ending our addiction to imported oil. It is a bridge fuel to slash our oil dependence while buying us time to develop new technologies that will ultimately replace fossil transportation fuels.” Natural gas is the critical puzzle piece RIGHT NOW. It will help us to keep more of the $350 to $450 billion we spend on imported oil every year at home, where it can power our economy and pay for our investments in a smart grid, wind and solar energy, and increased energy efficiency.

By investing in alternative energies while utilizing natural gas for transportation and energy generation, America can decrease its dependence on OPEC oil, develop the cutting-edge know-how to make wind and solar technology viable, and keep more money at home to pay for the whole thing.” —Pickens Plan, a site outlining BP Capital founder T. Boone Pickens’ proposed energy strategy. (https://www.nationalgeographic.com/environment/energy/great-energy-challenge/big-energy-question/how-has-fracking-changed-our-future/)

“My town was dying. This is a full-scale mining operation, and I’m all for it. Now we can get back to work.” — Brent Sanford, mayor of Watford City, a town at the center of the North Dakota oil boom, in “The New Oil Landscape” (NGM March 2013 issue).”

CONS OF FRACKING

“According to a number of studies and publications GAO reviewed, shale oil and gas development poses risks to air quality, generally as the result of

• engine exhaust from increased truck traffic,

• emissions from diesel-powered pumps used to power equipment,

• gas that is flared (burned) or vented (released directly into the atmosphere) for operational reasons, and

• unintentional emissions of pollutants from faulty equipment or impoundment-temporary storage areas.

Similarly, a number of studies and publications GAO reviewed indicate that shale oil and gas development poses risks to water quality from contamination of surface water and groundwater as a result of erosion from ground disturbances, spills and releases of chemicals and other fluids, or underground migration of gases and chemicals.”— General Accounting Office report on shale development, September 2012

By the time technologies for low-emission technologies are put in place, the programs which are extracting the resource(s) will be stunted thereby impacting the economy. According to Dan Kalil, chairman of the Williams County Board of Commissioners in North Dakota, in “The New Oil Landscape, “When the industry goes south, and it will go south, they will just walk away.” Translated: The economy and monetary gain from extracting natural resources without protective technology appears to outweigh the health, safety and welfare of our environment.
WAITING FOR THE WORLD TO CHANGE

We are literally caught between a rock and a hard spot especially with issues surrounding fracking and the lack of making companies take responsibility for their actions. They want individuals to show sustainable injury by demonstrating that the chemicals used caused the injuries and yet the government does not require that the chemicals be disclosed. CATCH 22! Pesticides and pollution have a slightly better chance at being cleaned up but by the time the damage is done, it’s hard to reverse the effects of the destructive conduct. When we eat foods and drink water that has been exposed to chemicals, we are subjecting ourselves to diseases such as cancer, COPD and a variety of other ailments.

Water is the center of our survival. With the damages caused by fracking and the inability to hold oil companies accountable for the chemicals that are ultimately damaging our water, as well as pollutants and pesticides that are injected into our environment, our water sources are being severely compromised. All actions lead to our water source which is imperative for planet’s survival. Ultimately the impact on the economy within our nation and globally appears to outweigh the need for keeping our nation safe.

PARALEGAL’S WANTING TO WORK IN THE ENVIRONMENTAL LAW SECTOR

Being a paralegal working in an office that handles environmental issues can be rewarding and intense. Paralegals interested in work in this area should not only have legal knowledge surrounding toxic torts, but also be versed and knowledgeable in science and the environment. Further, it’s advisable that the paralegal be familiar with administrative law, as well as organizations that protect the environment.

“Paralegals can find themselves working with scientists and other expert witnesses to establish claims or to depose or prepare them for testimony. They will spend hour upon hour reading dry statistical reports, then summarizing the results in briefs for attorneys or judges’ will often be responsible for organizing evidence and designing exhibits to convey complex environmental issues to judges or juries. Sometimes all it takes is one determined individual, like Erin Brockovich to turn a situation that appears to have no hope around and assist in holding companies accountable while preserving, protecting and helping keep our environment safe.

As with any sort of litigation, they can be expected to oversee the court calendar, to ensure that motions and responses are made on time, and to coordinate witness appearances. They may draft those motions or answers for review by the attorney on the case and will put in considerable amount of time researching both established precedents and the laws themselves (https://www.paralegaledu.org/environmental/).”

RAMONA ATKINS, JD graduated from Western State College of Law at Argosy University in Fullerton, CA. She’s worked with various legal entities including the County of Santa Barbara, County of San Luis Obispo, and the Department of Labor. Ramona joined Purdue University Global School of Legal Studies in 2008.

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