THE FRP ENRICHMENT COMMITTEE RAISES THE BAR

By: Lori M. Spangler, FRP

Did you know that the paralegal profession first emerged during the 1960s? During that time, there was a gap in the legal profession that needed to be filled in order to make legal services more accessible and affordable to the public. In response to this need, the American Bar Association (ABA) established a Special Committee on Lay Assistants for Lawyers endorsing the use of paralegals. In August 1968, the ABA Special Committee on the Availability of Legal Services proposed that the ABA House of Delegates adopt the following resolution:

Recognizing that freeing a lawyer from tedious and routine detail thus conserving his time and energy for truly legal problems will enable him to render his professional services to more people, thereby making legal services more fully available to the public, this Committee recommends:

1. That the legal profession recognize that there are many tasks in serving a client’s needs which can be performed by a trained, nonlawyer assistant working under the direction and supervision of a lawyer; [and]
2. That the profession encourage the training and employment of such assistants.

The language of the ABA Resolution is rather archaic as the profession has evolved exponentially during the past five decades. Although a small portion of work may be “tedious and routine detail” in nature, today’s paralegals perform substantive legal work under the supervision of a lawyer that would otherwise be handled by a licensed attorney. Not only are experienced paralegals in high demand, they have become an integral part of the legal profession.

After the Florida Supreme Court approved the Florida Registered Paralegal (FRP) Program in 2008, The Florida Bar established the FRP Standing Committee. This was the first big step made in order to hold a paralegal registrant to a higher ethical and educational standard as well as regulate the growing profession. The original Standing Committee spent ten years reviewing and tweaking the rules regulating Florida Bar Chapter 20.

In September 2018, as a means to address FRP members’ requests for more inclusion in Bar events, the Program Evaluation Committee bifurcated the FRP Standing Committee into two committees. The new committees (The Florida Registered Paralegal Eligibility and Compliance Committee, and the
Florida Registered Paralegal Enrichment Committee) were established so that each committee has its own distinct mission that it is charged to fulfill.

The Eligibility and Compliance Committee continues to oversee the eligibility of new member applications and renewal forms submitted by FRP applicants, propose rule amendments to Florida Bar Rule Chapter 20, and monitor compliance of the Bar’s 4,826 FRP members. The mission of the FRP Enrichment Committee is to create awareness of the FRP program, enhance communication about the benefits of FRP membership, develop educational programming, and create networking and social events to foster camaraderie and cohesiveness of FRPs and other paralegals/legal assistants.

I am honored to have been appointed to serve as Chair of the inaugural FRP Enrichment Committee (Committee). It has been a pleasure working alongside Co-Vice Chairs Wendy Toscano, Esquire, and Margo Valenti, FRP. Wayne LeRue Smith, Esquire, Liaison to the Board of Governors, and Frank Digon-Greer, Esquire, Assistant Program Director, have been instrumental in offering guidance and support to the new Committee. Collectively, we comprise the driving force that guides the 39-member Committee as we continue to raise the bar for all FRPs throughout the State of Florida.

At the 2018 Fall Florida Bar Meeting, the Chair and Co-Vice Chairs structured the Committee into the four distinct subcommittees listed below. (For a full list of the entire committee, please see the chart below.) At the first full committee meeting, each subcommittee met, elected a Chair, and established their own mission statement. Each Subcommittee Chair is charged with overseeing their committee and facilitating certain functions that relate to the Committee’s overall mission.

1. Communications Committee (Chair Margo Valenti);
2. CLE Committee (Chair Michelle Arty);
3. FRP Awareness Committee (Chair Patricia DeRamus); and
4. Special Events Committee (Chair Asha Mahara Lucas).

These enthusiastic and energetic Subcommittee Chairs host periodic telephonic meetings on a regular basis in order to conduct the work tasked to their subcommittee. The entire 39-member committee meets in person three times a year and works cohesively as a group in order to fulfill the mission of the Committee.

The Committee has already embarked upon accomplishing its mission within less than a year of its inception by hosting its first “official” CLE Seminar and reception at the 2019 Florida Bar Annual Convention in Boca Raton. Plans are currently in the formation stage as Asha Mahara Lucas and her subcommittee continue to work on hosting events at the 2020 Florida Bar Annual Convention in Orlando.

The CLE Committee, chaired by Michelle Arty, has already planned an exciting CLE Seminar and reception for the 2020 Florida Bar Winter meeting in Orlando. Please be on the lookout for upcoming registration information, and we hope to see you there!

Lori M. Spangler, FRP is a Senior Litigation Paralegal with Greenberg Traurig, P.A. Lori is Chair of the FRP Enrichment Committee, sat for two successive terms on the FRP Standing Committee, and has been a member of The Florida Bar since 2008.


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On January 18, 2019, the first meeting of The Florida Bar FRP Enrichment Committee (a bifurcation of the FRP Standing Committee) took place creating and establishing the parameters of the Committee. The Enrichment Committee is charged with creating awareness of the FRP program in accordance with RRTFB Chapter 20, including: 1) enhance communication to FRP members about the benefits of membership, 2) develop educational programs, and 3) create networking and social events to foster camaraderie and cohesiveness of FRPs and other paralegals/legal assistants.

The Florida Bar Enrichment Committee is the brainchild of Committee Chair, Lori Spangler.

At the first meeting, a budget was set for the Committee as well as the establishment of the number of member appointments, including 40 holding three year staggered terms, with one chair, one or two FRPs as vice-chairs and a majority of the remaining 38 or 37 members comprised of FRPs.

When did all this come to be? Where was the “Paralegal” as a profession borne from? How did The Florida Bar become the registrar of paralegals in Florida creating the Florida Registered Paralegal, FRP?

Let me provide a bit of history of your profession in order to give you a sense of the hardship and perseverance that came before you to create Your Profession.

How did Paralegal come to be?

Many paralegals are not aware of the long road traveled to formally establish the “Paralegal” profession and the even longer journey that was required for the establishment of the Florida Registered Paralegal designation. Many paralegals have no idea of our professional history. I am going to do my best to share that history with you. I am going to take you on the journey into the early years of the Paralegal profession and the growth of the field in Florida, which led to the Florida Registered Paralegal designation.

Sit back, put your feet up for a few minutes, ignore your in-box, Facebook, Twitter, Instagram, and let us travel into the Paralegal and FRP world.

The Paralegal story is over 50 years old. Fifty years doesn’t seem that long ago. However, to place it in better context, think: IBM Selectric typewriters, carbon paper of various colors, “white out” in colors to match the carbon paper, mimeograph machines, no computers, no internet, new facsimile, dictation machines and transcribers, and shorthand was not an uncommon requirement for employment; it is a long time ago.

In every law office there were seasoned legal secretaries. These professionals were so seasoned they were able to draft pleadings, help answer discovery, draw up real estate closing papers, put together corporate documents, prepare the attorneys for depositions, hearings, and trial; sometimes even attend trial to assist the attorneys (does this sound familiar?). These seasoned legal secretaries were the backbone of an attorney’s practice even while facing resistance from the
same attorneys using their skills more and more. These seasoned legal secretaries were already “paralegals”, but did not have the title to recognize their contribution. That was about to change.

In the 1960’s, the American Bar Association (“ABA”) started conducting studies on the use of these seasoned legal secretaries and their desire to be called paralegals. The studies revealed that attorneys resisted paralegals in theory, but were using them more and more in practice. In 1967, the ABA endorsed the concept of paralegals and in 1968 established its first Committee on Legal Assistants (the name changed in 2003 to the Standing Committee on Paralegals due to the preference for the title paralegal).

Paralegal is a Profession

The advent of the ABA’s recognition of the title: Paralegal, was followed by the rise of schools to begin formal training of paralegals.

In the 1970’s there were 11 formal paralegal training programs. These first 11 were spread out across the 50 states. In recognition that the need and interest in paralegal education was taking off, in 1974 the ABA stepped in again and adopted guidelines for paralegals; and, in 1975 the ABA approved paralegal education programs based on those guidelines. https://www.americanbar.org/topics/paralegal/

Today, there exists a multitude of paraprofessional legal study programs, including Paralegal Certificate Program, Associate Degree in Legal Studies, Bachelor of Legal Studies/Paralegal Program, and even a Master’s Degree in Legal Studies/Paralegal.

Paralegals: Credentialing and Association(s) And The Government Wakes Up to Paralegal

Since the ABA recognized Paralegal as a formal profession and set guidelines for education, the next logical step was to organize and create associations for these professionals. The national associations gave Paralegals a voice and established nationally recognized credentialing. With the credentials, paralegals were able demonstrate their serious dedication and commitment to the Paralegal Profession. With their ability to pass nationally standardized examinations of Paralegal they demonstrated their knowledge. The first national association, the National Federation of Paralegal Associations (“NFPA”), was established in 1974. NFPA is a non-profit organization created to act as an issue-driven, policy oriented professional association for the paralegal profession. Subsequently, in 1975, some members of NFPA spun-off and the National Association of Legal Assistants (“NALA”) was formed. Both NFPA and NALA created their own certification exam and credentialing criteria to establish paralegal competency.

In light of the ABA’s recognition and guidelines, the formation of national associations and the establishment of credentialing criteria, the government, not wanting to be left behind, decided to formally recognize Paralegal as an occupation and created a new job classification for the profession.

SHOW ME THE MONEY Paralegal fee recoverability:

Despite all of the advancements in the Paralegal Profession, attorneys were still resisting the existence of career paralegals albeit utilizing them more in their own practice. Finally, in 1989 that resistance began to waiver. In 1989, in re: Missouri v. Jenkins, attorneys appeared before the Supreme Court. Missouri v. Jenkins was the first case wherein the Supreme Court heard argument and ruled on the recoverability of paralegal fees under section 1988 of the Civil Rights Attorney’s Fee Awards Act of 1976. Petitioner was seeking an award for recovery of attorney and paralegal fees in a lengthy litigation. Counsel for the Petitioner argued that the work of paralegals, law clerks and recent law graduates could and should be reimbursed at fair market rates dictated by the work they performed, instead of the cost of attorneys (wages). The Court wrote:

“By encouraging the use of lower cost paralegals rather than attorneys wherever possible, permitting market-rate billing of paralegal hours, encouraging cost-effective delivery of legal services, and by reducing the spiraling cost of civil rights litigation, furthers the policies underlying civil rights statutes.”

Nine years later Richlin v. Chertoff, came before US Supreme Court and as with Missouri v. Jenkins, the Court was asked to review if paralegal fees could be reimbursed at market rates under the Equal Access to Justice Act. Citing Missouri v. Jenkins, the court affirmed that paralegal fees may be awarded at market rates.

Today, it is standard to include paralegal fees in Motions for Attorney’s Fees. However, it was Missouri v. Richlin who set the dye for paralegal time to be reimbursed at market rates under fee shifting statutes. In these landmark cases, the Court recognized paralegal time should be billed the same as other professional staff performing legal work.

FLORIDA REGISTERED PARALEGAL How Did The Florida Bar Begin Registering Paralegals In Florida?

Today, Paralegals are voluntarily educating themselves for their
profession. They are recognized by the ABA, and billable time can be awarded in litigation. They are a money-making profession with national recognition! Paralegals are doing it all on their own. There is no “required” regulation of our profession. All the money spent on classes, degrees, and certification/designation and, to this date, anyone can call themselves a “Paralegal.” Florida Paralegals wanted mandatory regulation of the paralegal profession. In 2005, the Florida Alliance of Paralegal Associations (FAPA) (a member association of NFPA) submitted HB 1519 to the Florida Legislature. This immediately prompted a meeting of FAPA members, Representative Zapata, the House sponsor, and Senator Nancy Argenziano, the Senate sponsor. At that meeting, it was agreed that they would not move forward on legislation on the condition that The Florida Bar study the issues and propose a regulatory scheme prior to the start of the 2006 legislative session. ABA President, Alan Bookman, immediately appointed the “Special Committee To Study Paralegal Regulation (Committee).” The Committee was comprised of 22 members, including four paralegals – three of which were active or in leadership positions in FAPA, three paralegal educators, Representative Zapata and various members of The Florida Bar from various geographic areas and practices of law. After several meetings, public hearings, review of written testimony, review of rules from other states and many hours of debate, the committee voted to recommend to the Board of Governors of The Florida Bar approval of Chapter 20. On November 15, 2007, the Supreme Court entered the Order amending the Rules Regulating the Florida Bar by adoption of Rule 20 establishing the Florida Registered Paralegal Program. The Rules went into effect March 1, 2008 at 12:01 a.m. 

https://www.paralegals.org/files/Florida_Paralegal_Registration_Supreme_Court_Order_06_1622.pdf

With the opening of Paralegal registration on March 1, 2008, a grandfathering clause was included for those seasoned legal secretaries who were experientially skilled and working as paralegals to register without having to hold any of the credentials or formal education that were made part of the registration requirement. For these seasoned professionals, their experience and years of experience, as attested to by an attorney or attorneys, they had worked in the capacity as a paralegal for five years before March 1, 2008, were sufficient for credentialing requirement. By September 1, 2008, there were 2,111 FRPs registered. As of the writing of this article, there are 4,776 FRPs. Florida Registered Paralegals bring approximately $716,400 in annual revenue to The Florida Bar.

Lori Spangler, a member of the FRP Standing Committee wanted more for Florida Registered Paralegals. Lori wanted FRPs to have a presence at The Florida Bar Conventions, a newsletter just for FRPs, seminars just for FRPs. In addition, she wanted FRPs to be predominantly in charge of the Enrichment Committee offering these benefits to FRPs. Lori Spangler is the drive and motivation of your FRP Enrichment Committee. It is she who fought for this Committee for Paralegals, for you.

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**Annual Renewal Update:**

**FRP certificates and ID cards available for printing on demand**

Great news! Florida Registered Paralegal Program members can now print FRP cards and certificates — anytime, anywhere — directly from the MyFloridaBar Member Portal.

Log in to the portal. If you are an active FRP, you’ll see links for “FRP Certificate” and “FRP ID Card” under Additional Links in the left sidebar (as shown!). Print and/or download: Follow the links to open a printable copy of your certificate or card. You can print directly from the screen or save the file to your local device and print later.

Please note: the FRP ID card is formatted to print on one side of the paper (versus front and back like the old cards). If you want to have your ID card laminated, take it to a local copy shop or use a self-sealing laminating product such as Scotch Self-Sealing Laminating Pouches, Business Card Size, or 3M Self-Laminating Pouches for Business Cards.

Download Detailed Instructions

https://member.floridabar.org/
Making It Personal: The Effects of Alcohol and Substance Abuse In the Legal Community

By: Judge Faye L. Allen

Since I joined the bench as a county judge in the Ninth Judicial Circuit in 2005, it has been my mission to do my part to enhance the legal profession. Fortunately, there is not a lack of opportunities to participate in educating and mentoring legal practitioners, law students and others. When the Chair of the Florida Bar Registered Paralegal Enrichment Committee asked me to present during the Summer meeting of the 2019 Florida Bar Convention about substance and alcohol abuse in the legal profession, I was delighted to accept her invitation and pursue my mission by addressing these important issues.

Although I looked forward to participating, my initial thought process was that I would outline my presentation in general terms. I would address awareness and statistics, without including real life stories relating to alcohol or substance abuse behavior in the profession. After all, also joining the panel was none other than Professor Jane Dwyer Lee. Prof. Dwyer Lee and I had worked together in the past to educate students on alcohol abuse and awareness, and I knew she had a compelling personal story. Alcohol misuse and abuse had tragically impacted her life, resulting in the death of a loved one and ultimately leading to her conviction on a charge of DUI Manslaughter. Unfortunately, as a younger woman, Jane Dwyer Lee served five years of incarceration. Her story, and her willingness to tell it has impacted numerous audiences and would be integral to our presentation.

At the outset, I was quite content to contribute to a talk about alcohol abuse while remaining safely out of the glare of any scrutiny of people, places or things that I had any personal knowledge of. I knew about Professor Dwyer Lee’s story – how alcohol contributed to a destructive lifestyle and I see the evidence of the same behavior in cases I preside over. Regrettably, the professional community is not immune from destructive alcohol and drug abuse. I am reticent to say that from the moment I came to the conclusion to limit my input I knew it was solely because I was uncomfortable (definitely), and fearful (somewhat), about becoming too personal. Even though I would absolutely never mention specific people by name or title, thus carefully protecting all identities – quite candidly, I did not want to “overshare” in the presentation.

Why was I reluctant to share any knowledge I had about behavior that would enlighten a legal audience about substance or alcohol abuse in the legal profession? This question could generically be asked of most people, because all too often we are reluctant to speak about professionals who abuse drugs or alcohol. The reasons are varied. Some people are afraid of offending anyone, some are afraid of repercussions to them or their jobs, others may not wish to speak candidly for fear of facing their own abuse or addiction. Some people simply do not wish to seem weak, or, conversely, judgmental. My reasons were twofold: (1) I did not know in great detail of any individual’s substance or alcohol abuse or misuse, and, (2) I did not want to publicly share my reservations in communicating with any legal professional who I heard might be abusing alcohol or using drugs.

In a 2015 study on lawyer impairment, in collaboration with The Betty Ford Hazleton Foundation, the ABA Commission on Lawyer Assistance Programs conducted a comprehensive survey of 12,825 licensed and employed lawyers to assess alcohol use, drug use and symptoms of depression. The results showed that 20.6% of respondents scored at a level consistent with problematic drinking, 28% of respondents reported experiencing mild or higher levels of depression, 19% of respondents reported mild or higher levels of anxiety and 11.5% reported having suicidal thoughts at some point during their career. Even more alarming is that the results show that younger lawyers are at an even greater risk for alcohol abuse. Here is a compelling conclusion … if one/fifth of the legal profession experiences problems with alcohol, everyone in the legal profession has a problem with alcohol.

These results are more than red flags, they are neon pulsating red lights indicating that every lawyer and judge must take ownership of these outcomes. Lawyers and judges are under an inordinate amount of stress, as are law students. In fact the pressure begins in law school with stressors such as long study hours, student loans and the pressure to excel in the top percent-age of the class to attract the best employment opportunities. After graduation comes the pressure to pass the bar exam with potentially more loans during the bar study period. For those who are fortunate enough to land a job quickly, the challenge then becomes billing hours, achieving favorable results in cases and making the boss happy.
all while contending with adversarial parties. Along with professional tension are personal and family concerns, which have their own set of stressors. It is little wonder, then, that attorneys are under such a burden that we experience depression at an alarming rate, and we suffer from problematic drinking in great numbers.

As we began preparing our presentation, Prof. Dwyer Lee and I were pleased to have Attorney Bruce A. Blitman, a certified County, Family and Circuit Mediator, from Palm Beach County join our panel. Attorney Blitman has done much toward bringing awareness to issues of mental health in the legal profession. I found myself encouraging him to include a more personal story in his presentation because I thought it would make his comments more meaningful. So, I reconsidered my own presentation.

Nobel Prize Recipient, Marie Curie said "[n]othing in life is to be feared, it is only to be understood. Now is the time to understand more, so that we may fear less." Ultimately, I decided my presentation needed to include a real life story that I thought would help the audience to understand just how critical alcohol abuse is in our profession. The story I shared involved an attorney who would come to court smelling of the odor of alcohol. I noted that courtroom personnel would quite enthusiastically address the evident impairment of a party litigant, but no one wanted to talk about the lawyer's evident impairment, other than anecdotally. The lawyer’s story had an undesirable outcome. Now I question if the outcome would have been better if someone had been willing to address the attorney and perhaps refer them to the completely confidential Florida Lawyer Assistance Program. In sharing details of a personal story I hoped the audience would see my own passion for bringing awareness and healing to the reality that these issues plague our profession.

PREPARING FOR TRIAL

By: Jorge Astorga
Senior Litigation Paralegal – Greenberg Traurig, LLP

Preparing for a trial is not just a process, it is a form of art, it isn't simply taught, it also requires a creative mind, attention to detail and a flexible attitude. Early in my career, I had the opportunity to observe and take in the styles of two very seasoned Senior Paralegals and how each prepared for trials. When done correctly, it can feel like you are the conductor of an orchestra, bringing all the pieces together like instruments while keeping them on beat to create a harmonious synergy.

It all begins with the trial order, also known as the scheduling order, which will dictate when the “conductor” must start preparing. In some cases, the court will issue the scheduling order early on and allow sufficient time to calendar-in all the key deadlines and dates. The deadlines from the original trial order will be tentative as dates may change as more case orders come in. This is where the conductor’s flexibility and agility to change will begin to be tested, after all, the show must go on, even with new dates.

The filing of the Pre-Trial Stipulation is the next important step in preparing for trial. The Pre-Trial Stipulation is usually filed jointly by both parties and it includes each side’s trial exhibits and witness lists. Once the Pre-Trial Stipulation is filed, both parties can disclose and share their trial exhibits either electronically or hard copies. Similar to a conductor sharing his original music sheet and musical arrangement with a competing conductor. A large amount of work goes into this phase of trial prep. The paralegal must ensure that every document is complete before exhibits can be exchanged. For example, documents in another language must have translation along

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with a corresponding certificate of authenticity in order to be able to use it in trial. Additionally, the set of trial exhibits exchanged with opposing counsel need to have the trial exhibit sticker on the first page of each document and each particular court has its own set of requirements.

Once trial exhibits are exchanged, the paralegal needs to dedicate time to creating a punch list of all possible items that may be needed during trial. This is the time to get creative and think outside the box at all possible scenarios as far as requests, there is nothing worse than having the trial team ask for something and not having it readily available. Here is a sample list of basic materials needed for most trials: TRIAL MATERIALS (A conductor’s original score)

- An original set of your trial exhibits
- Four copies of trial exhibits (to be used by witness, opposing counsel, Judge, and one extra copy)
- One copy set of opposing counsel’s trial exhibits
- Two to three sets of binders for each witness that is part of the case (including transcripts, exhibits, errata sheets, declarations and/or affidavit of each witness)
- Two sets of Expert Witness Binders along with the expert’s reliance materials
- Two binder sets of the Motion for Summary Judgment briefing (including exhibits and caselaw)
- Two binder sets of the Motions in Limine briefing (including exhibits and caselaw)
- A trial notebook for each attorney on the case (includes the key pleadings and order in the case)
- Two binder sets of the Deposition Designations
- Three copies of the highlighted deposition transcripts of all designations for each witness (each copy should have its own folder)
- An internal trial exhibit tracker which details the exhibits admitted for trial, including which witness the exhibit is related to, the date each exhibit was introduced, and whether it was during direct or cross examination
- A cross-reference trial exhibit list that identifies all of the trial exhibits both sides have in common.
- A box with multiple copies of all key pleadings and orders of the case in folders
- A box of trial supplies that includes anything from flags, sticky notes, paperclips to staplers, highlighters and so on.
- A daily supply of water bottles for the team and for witnesses to have available when they go on the stand

THE WEEK BEFORE TRIAL

The week before trial, the paralegal should provide their trial consulting company - if one is being used - electronic copies of trial exhibits for both sides. Stay proactive and also provide them copies of all document productions, deposition transcripts and exhibits and lastly, all videotaped depositions.

Next, visit the courtroom where the trial will take place. To do this, set up a meeting with the courtroom deputy and have your consultant attend as well. Normally, the deputy will show you the courtroom technology and provide insight into the rules of the court and how the Judge prefers to run their courtroom. During the meeting with the deputy, the trial consultant should take the opportunity to test all of their equipment and confirm that it works. While at the courthouse, take pictures and draw a diagram of the courtroom layout so that when you return to your office, you can use these to create an electronic mock-up of the Jury Pool and the Galley. The mock-up should include a box for each juror so that your team can use this as a grid to take notes during Juror Deliberation.

During this week, arrange logistical needs. Work with the legal assistants to coordinate meals for the team to have during trial, this also may include coordinating meals for evening and weekend prepping sessions. Lastly, coordinate transportation for the trial team to get to and from court.

THE WEEKEND BEFORE TRIAL

The weekend before trial, the team will normally be in the office prepping this time needs to be used wisely, this is the last opportunity to ensure everything is in order and all supplies and items needed are ready to go. Start packaging all materials in boxes for trial, review the trial prep list and confirm all items on the list are ready. Once all items are reviewed and packed, arrange for a courier service to transport all the boxes, demonstrations and tripods to the courtroom.

ONCE AT TRIAL

The first morning of trial, find accommodations for all your team’s boxes, some courthouses have breakout rooms that can be used to store the boxes. Take this opportunity to meet the court reporter and set up your team’s daily trial transcript needs according to priority. The paralegal will oversee and manage the trial exhibit boxes and witness boxes. During trial, monitor the courtroom for news reporters, especially if the case is of a sensitive nature or topic. All in all, be prepared for anything, there’s a different beat to every trial, just like every symphony, some are more dramatic and stressful than others. Keep an open mind, remain flexible to sudden changes and most of all- enjoy the harmony of the symphony you just helped to conduct!
Professional Proactive Paralegals

By: Patricia C. DeRamus, CP, ACP, FRP
Paralegal - Office of the Attorney General – CP Division

Fundamental to the success of any professional is personal integrity and professional ethics both of which inspired me to share some insights. It is important that we, as paralegals continuously update our education and training to be knowledgeable on current law and governmental rules. We must be highly aware of client confidentiality and adhere to the doctrine of attorney-client privilege. This duty of confidentiality is perpetual. Whether you are a Florida Registered Paralegal, NALA Certified Paralegal or a Florida Certified Paralegal we are expected to act ethically. We are bound by the same rules as attorneys and we need to make sure that we are following them.

There are two basic undeniable truths about our legal career: Our work is deadline-driven and detail-oriented, and our career success is solely our responsibility.

Professional Proactive Paralegals engage in long-range planning by focusing on future activities, projects and events and then anticipate needs, potential problems and future outcomes. The end result - Goals are met and disasters are averted.

Professional Proactive Paralegals are always looking ahead, planning for the future and implementing strategies to enhance their professional ability.

It is important to continue to enhance your skills and knowledge through continuing legal education and paralegal certification programs along with career development workshops. Become a Florida Bar - Florida Registered Paralegal and at minimum receive an associate degree in paralegal studies from an ABA approved program. By doing this, you increase your credibility in the profession. Our profession is changing so we continuously strive to seek legal education opportunities looking to the future and what it holds for our profession.

Equally important is staying atop emerging technologies along with the changing nature of our profession. Tap others’ expertise. Mentors and other colleagues can make professional introductions and share legal experience. Get out and network. Learn from your peers. Become a member of your County Bar Association – Paralegal Committee as well as our statewide association – Paralegal Association of Florida, Inc.

Mingling with other members of the paralegal community to stay on top of professional expectations by networking and joining professional organizations helps paralegals maintain their career goals, community service and professionalism—this is a means to an end. Once again, true career goals, community service and professionalism are an “attitude.” The question you need to ask yourself is - “Are you in this profession for the right reasons?”

We have the ground work for our professional expectations—let me remind you about the FRP Rule 20 and the new “Florida Bar Professionalism Expectations.” On September 10, 2015 the Supreme Court of Florida amended the Code for Resolving Professionalism Complaints by deleting references to “The Florida Bar Ideals and Goals of Professionalism” and replacing them with “The Florida Bar Professionalism Expectations.” This not only affects attorneys but includes, paralegals, staff, and Judicial Assistants. You can find the guidelines and rules at www.flabar.org under the Professionalism link at the top of the home page and scrolling down to the section on “Regulating Professionalism.” Paralegals should be aware of the contents of Rule 20-7 Code of Ethics and Responsibility and specifically Sections (b) to (h).

The Rules of Professional Conduct contain specific provisions regarding conflicts of interest and other ethical issues, and lawyers along with their paralegals and staff should be able to rely on those rules for guidance. An attorney, paralegal and/or staff member must continue to look to the Rules of Professional Conduct for the fundamental ethical principles that govern the profession.

Becoming a Professional Proactive Paralegal will have a positive influence on your future. The Florida Bar takes Professionalism very seriously and so should paralegals and all law firm staff.
Following on the heels of the 2018 Florida Constitution Revision Commission’s work which saw seven of eight amendments covering a variety of topics appearing on the November 2018 general election ballot, the Legislature of the State of Florida held its 2019 Regular Session from March 5th through May 3rd. During that time, two amendments dealing with Florida’s Courts made their way through the legislative process before ultimately being signed into law by Governor Ronald (“Ron”) DeSantis.

Ch. 19-095, § 2, Laws of Fla., creates a new § 25.025, Fla. Stat., providing for those Supreme Court justices who are not residents of Leon County to have, if they so request, a private chamber within a district court of appeal courthouse, county courthouse, or the like within his or her district of residence as their official headquarters pursuant to § 112.061, Fla. Stat. The amendment further provides for a subsistence payment and reimbursement for travel expenses related to such official headquarters.

For those paralegals whose attorney(s) practice in the Ninth and Twelfth Circuits and Citrus and Flagler Counties, Ch. 19-095, § 1, Laws of Fla., provides an increase in the number of judges by one for each. Thus, the Ninth Circuit shall now have 44 judges, the Twelfth Circuit shall have 22 judges, and Citrus County and Flagler County shall each have 2 judges.

Both of these measures contained within Ch. 19-095 became effective July 1, 2019.

Of broader impact to the profession are the changes codified within Ch. 19-058, Laws of Fla. While the bulk of the changes deal with the Clerks of Court and their obligations to collect and remit fees (the majority of which changes are retroactive to July 1, 2008), certain sections warrant special attention to the practicing attorney (and paralegal). Specifically, for the first time since 1990, the monetary jurisdictional limits of Florida’s county courts is being raised in a stepped pattern over the next four years as follows:

See, Ch. 19-058, § 9, Laws of Fla. Note, however, that the designation of a case as one belonging to “Small Claims Court” is a function of the rule-making authority of the Supreme Court of Florida and not a statutory authority subject to amendment by the Legislature. Thus, any attempt to raise the monetary jurisdictional limit of Small Claims Court must be made through petition to the Supreme Court rather than general bill or joint resolution submitted to the Legislature.

In conjunction with the changes to the monetary jurisdictional limits for county courts, the Legislature has provided that appellate-level jurisdiction for these new, higher-dollar-amount county cases will not, immediately, belong to the circuit courts. Instead, the district courts of appeal shall continue to review appeals of cases in controversy exceeding $15,000 until January 1, 2023, at which time this provision shall be repealed by its own operation.

Finally, in what appears to be an attempt to re-assess the monetary jurisdictional limits before the next 30 years, Ch. 19-059, § 9, Laws of Fla., provides:

By February 1, 2021, the Office of the State Courts Administrator shall submit a report to the Governor, the president of the Senate, and the Speaker of the House of Representatives. The report must make recommendations regarding the adjustment of county court jurisdiction, including, but not limited to, consideration of the claim value of filings in county court and circuit court, case events, timeliness in processing cases, and any fiscal impact to the state as a result of adjusted jurisdictional limits …

However, this requirement for a report appears to be more Legislative dicta than holding, as there is no further mandate within the amendment requiring the recipients of the report to take any specific action upon same.

3. Compare, § 34.01(2), Fla. Stat., and Rule 7.010, Fla. Sm. Cl. R.
4. 38.01(2), Fla. Stat., and Rule 7.010, Fla. Sm. Cl. R.
5. Ch. 19-059, § 1, Laws of Fla.
Michelle M. Arty, ACP, FRP has been a Certified Paralegal for 25 years and a Florida Registered Paralegal for over 10 years. In addition, she achieved her first Advanced Certification in Trial Practice in 2016 and followed that with an Advanced Certification in e-Discovery in 2018. A graduate of both Florida State University and Tallahassee Community College (with Honors, Phi Theta Kappa), Michelle has been actively involved in the Paralegal Association of Florida, Inc. (“PAF”) her entire career. She has the distinction of having received the very first scholarship awarded by PAF Tallahassee Chapter (n/k/a Big Bend Chapter) and to date has received professional development scholarships from such entities as PAF, TRU Staffing Partners, and iConect Development, LLC. Michelle’s contributions to the paralegal profession include her current term as a member of The Florida Bar’s FRP Enrichment Committee where she serves as Chair of the CLE Subcommittee, her various terms of office on the Chapter (both Tallahassee and Palm Beach County), Regional and State levels of PAF, CP review course instructor (bankruptcy), FCP review course instructor (family law), newsletter Editor and contributing author for both Tallahassee and Palm Beach County Chapters, and Committee Chair. She currently works as the litigation paralegal at Weiss, Handler & Cornwell, PA in Boca Raton, Florida where she finds herself involved in many different areas of law, but her specialties are family law and complex commercial litigation. Michelle lives in Palm Beach County with her husband, John, and their two cats. She is the mother of two grown children and grandmother of two beautiful granddaughters who are the apple of her eye.

Can a Practicing Paralegal Help Future Paralegals?

By: Jacquelynn M. Jernigan, ACP, FRP
Paralegal - Alley Maass Rogers & Lindsay, P.A.

The answer is Yes! In March 2019, I was invited by Palm Beach State College (PBSC) in Palm Beach Gardens, Florida, to participate in a focus group to provide an external assessment for revising and improving their existing Paralegal Program to meet American Bar Association guidelines.

The focus group was facilitated by PBSC representatives (not Paralegal Program faculty) and consisted of local practicing paralegals in Palm Beach County, Florida, from all areas of law with varying degrees of experience along with several recent graduates from PBSC’s Paralegal Program who are now entering the legal work force. The focus group provided an opportunity for practicing paralegals to listen to questions and concerns of recent graduates from PBSC’s Paralegal Program and share their insight regarding the ever-evolving paralegal profession, as well as to offer critical suggestions and recommendations to PBSC for ways to best meet the needs of the paralegal community.

The group’s discussion addressed the “nuts and bolts” of the role of the paralegal in a law office or other legal setting and the ways PBSC’s curriculum, activities and overall academic programming can best meet the needs of students to help them achieve success as paralegals after graduation. Discussion included the daily realities of the profession outside of the classroom, and suggestions for what the Paralegal Program can incorporate into the curriculum to best prepare students for those realities. Of particular interest was adding a time for local practicing paralegals to speak to incoming students during one of the Introduction to Paralegalism classes at the start of the Paralegal Program each term.

Those of us attending brought our insight on topics related to The Florida Bar Professional Expectations, the local 15th Judicial Circuit... continued, next page
Professional Networking

Simple Steps to Paralegal Networking

By Patricia C. DeRamus, CP, ACP, FRP

Paralegal - Office of the Attorney General – CP Division

We’ve all heard the advice that networking is an important step for career success as a paralegal. If you want to be successful, you need to spend time networking. We go to networking events and conferences, collect and handout business cards. It takes a village to have a successful career; people who provide you with information, connection to others, help to get a job done, advocate for you, mentor, guide and sponsor you. And to build this type of network, which supports your ambition and your efforts, your networking must be strategic, intentional and purposeful.

So what could possibly hold you back?
• your mindset;
• limiting your network;
• you are not strategic;
• you are not proactive;
• you don’t schedule time to network; and

In order to create a strategic network:
• Start with your professional goals:
  What do you hope to achieve in 3 – 5 years?
  Who do you know and who can help you reach that goal?
• Build mutually beneficial relationships;
• Find allies and advocates;
• Spend your time wisely by focusing on relationships and nurturing them;
• Attend organizational events to help connect with potential contacts.

Networking is an important skill which brings value to your work and even enhances your career. Networking consists of meeting and interacting with paralegals, attorneys and others in the legal community to exchange information. There are various ways networking occurs, from handing out those business cards to speaking with someone in your legal community. The more you practice communicating with your peers, the more your confidence grows and the more likely you will be to succeed in the paralegal profession.

It is customary to speak about:
• Your work and responsibilities;
• Your skills and expertise;
• Professional challenges;
• Professional achievements;
• Experiences; and
• Goals.

Practicing paralegal, from page 11

Administrative Orders and Rules, navigating the 15th Judicial Circuit’s website, as well as the importance of networking with other paralegals through our local chapter of the Paralegal Association of Florida, Inc. and our local Bar Association at monthly CLE dinner meetings, seminars, meet and greets, etc. Everyone agreed that it is crucial for the long-term integrity and recognition of the paralegal profession to obtain state and national credentials following graduation such as the Florida Bar’s Florida Registered Paralegal (FRP) designation and the Certified Paralegal (CP) and Advanced Certified Paralegal (ACP) designations by the National Association of Legal Assistants (NALA).

Whether you are a newly practicing or a seasoned paralegal, you have valuable insight to contribute and other college paralegal programs throughout the State may benefit from a similar focus group opportunity.
Transfer of Development Rights ("TDR") programs are beneficial programs that are not typically well known or understood but may impact property owners and development plans in many ways. Thus, attorneys and paralegals of all disciplines should be aware of how TDR programs work and stand to benefit or otherwise impact property-owner clients.

TDR programs are government programs that facilitate the free exchange of development rights in discrete areas without the exchange of real property. Typically, TDR programs are instituted to protect natural resource areas, coastal lands, and historic landmarks, but they are also used to influence development and curb government liability for takings claims arising from downzoning or other restrictive efforts.

TDR programs, in their most basic form, involve the designation of "Sending" and "Receiving" Zones within a given area. While Sending Zones tend to be protected areas where development is more restricted by local government, development tends to be encouraged in Receiving Zones. Under a TDR program, the owner of a Sending Zone parcel may elect to grant an easement—generally a conservation easement—to the government in exchange for Transfer Development Credits ("TDR Credits"). Such easements typically result in a permanent adjustment to height limits or density thresholds. TDR Credits may then be purchased by property owners in Receiving Zones who can use the TDR Credits to augment the development potential of their own land.

The manner in which a Receiving Zone parcel is impacted by a TDR transaction, such as the one described above, varies among TDR programs but commonly includes: reduction of height limits or setback requirements, frontage or environmental waivers, increased or decreased density thresholds, exceptions to residential or commercial zoning, or elimination of impact fees. While some TDR programs use a straightforward method of allowing TDR Credits to be applied to Receiving Zone parcels as a matter

In order to build professional status, it’s important to be visible to others – from work colleagues to potential employers. Here are some tips to keep in mind when attending networking events:

- Listen attentively;
- Remember names;
- Follow-up on conversations – especially when promising to send contact details;
- Offer your expertise and knowledge;
- Network often so you increase your chance of meeting the right people.

These steps show that you are trustworthy, supportive and knowledgeable. The more you know, the more desirable you are. Learning what other paralegals are doing is beneficial for everyone in the legal community and promotes growth and maintenance of high standards in the profession. Your network fundamentally becomes a resource for you to use in your career.

There are many national and local professional associations you can join, and these associations host networking events, CLE seminar, workshops, conventions, and fun events. Push yourself out of your comfort zone, make small talk, exchange business cards, add to your paralegal knowledge, and make friends. I promise you won’t regret it.

With today’s technology, social media plays a big role in networking, and it has made professional networking even easier. Many paralegals use Facebook and Twitter, but the primary professional networking platform is LinkedIn.

To ultimately advance your paralegal career – you simply have to put in a little effort to connect with legal professionals around you, whether in school, at professional events, or online.

So get out there and start building your paralegal professional network!
of right, other TDR programs require committee hearings, evaluations, and other processes prior to the augmentation of development rights.

A hypothetical TDR transaction in which TDR Credits are exchanged for a reduction in the Sending Zone parcel’s density cap, resulting in the eventual increase in the density cap of a Receiving Zone parcel, is shown here:

In this example, the base density cap in the Sending Zone is 10 homes per 100 acres. This is contrasted by the density cap in the Receiving Zone of 3 homes per 3 acres. The owner of a 100-acre Sending Zone parcel who has a single home on his or her land may liquidate his or her “unused” development rights by exchanging them for TDR Credits, thereby decreasing the parcel’s density cap to 1 home per 100 acres. The owner of a 3-acre Receiving Zone parcel may then increase his or her development rights by purchasing those same TDR Credits and applying them to the Receiving Zone parcel.

Notably, the TDR Credits exchanged here increase the density cap of the Receiving Zone parcel at a 1-to-1 ratio. In other TDR programs, density caps may be reduced to provide for larger properties on which to build a single structure or altered further by way of right-to-credit transfer ratios. Thus, TDR programs are a useful tool for developers and municipalities who seek to alter development prospects in a particular area and also prove useful for property owners who can liquidate rights they do not intend to use.

TDR Programs in Florida

Florida’s Land Development Regulations statute not only permits, but encourages, municipalities to develop TDR programs. Florida courts consistently uphold TDR programs as a legitimate exercise of governmental authority.

Orange County, Florida, implemented a TDR program relating to the 23,000-acre Horizon West planning area, located in southwest Orange County, north of the I-Drive corridor. Generally, Horizon West is planned to be comprised of many communities, each surrounded by a preserved greenbelt. Thus, the greenbelt parcels are subject to conservation easements when sold and are packaged with development rights, not for purposes of physical development, but for purposes of participation in the TDR program. In addition, the TDR program is used to preserve lands that are valuable to Florida’s aquifer system. Ultimately, the Horizon West TDR program permits developers to use TDR Credits to augment their development rights and build above or below density designations within Receiving Zones.

The value of a TDR program and related credits tend to fluctuate with real estate trends. For example, market preferences relating to lot sizes and the related supply and demand of the same change over time may curb a developer’s need to utilize the program as initially contemplated, depending on whether TDR Credits are intended to maximize or reduce density thresholds.

How TDR Programs Stand to Impact Property Owners

For owners of Sending Zone parcels, a TDR transfer may permit the exchange of development potential for cash—thereby allowing the owner to maximize the benefits of his or her interest without forfeiting ownership or possession. This cash may also be used to renovate properties or further develop nearby areas, rejuvenating local economies as buildings become more attractive to individuals and families. In some instances, a TDR transfer and its resulting easement could have the complimentary effect of reducing the tax burden of a property post-transfer—for instance, where the restriction imposed by a TDR transfer limits the highest and best use of the land, this may have the effect of reducing the value of the land (and, in some jurisdictions, its tax-assessed value).

continued, next page
For owners of Receiving Zone parcels, TDR Credits represent a cost-effective way to augment the development potential of land. This strategy serves to aid owners’ present development efforts and secure increased potential (and the corresponding increase in value) for future development.

For municipalities and other government entities, TDR programs can be a useful tool in reshaping the local landscape. For instance, TDR programs may be used to conserve land without resorting to eminent domain or downzoning—strategies which are often prohibitively expensive, politically unpopular, and vulnerable to legal challenge.

Alternatively, TDR programs present revenue raising opportunities where a government entity owns properties which are not intended to be fully developed.

1. A municipality may insulate its downzoning actions from a takings challenge through the award of TDR Credits, which may support a finding that the property owners were justly compensated. See Penn Cent. Transp. Co. v. New York City, 438 U.S. 104, 151 (1978).
3. FLA. STAT. § 163.3202 (2019) (“This section shall be construed to encourage the use of innovative land development regulations which include provisions such as transfer of development rights[.]”).
4. See City of Hollywood v. Hollywood, Inc., 432 So. 2d 1332 (Fla. 4th DCA 1983) (upholding a TDR program meant to preserve beachfront property as a valid, non-arbitrary use of the city’s police powers in furtherance of a legitimate public purpose); see also Glisson v. Alachua Cty., 558 So. 2d 1030, 1037 (Fla. 1st DCA 1990) (affirming dismissal of the plaintiffs’ eminent domain claims, in part, “because the [new land use] regulations permit most existing uses of the property, and provide a mechanism whereby individual landowners may obtain a variance or a transfer of development rights, the regulations on their face do not deny individual landowners all economically viable uses of their property”) (emphasis added).
7. In addition to conservancy efforts, TDR programs are commonly used to reduce urban sprawl; incentivize development of low-income housing; preserve historic sites; or raise funds for the municipality.

STAY CONNECTED!

Florida Registered Paralegals looking to “connect” on a local level can reach out to paralegal associations that are a little closer to home:

Central Florida Paralegal Association, Inc.
P.O. Box 1107
Orlando, FL 32802
407-672-6372
Association website: www.cfpainc.org/

Dade County Bar Association
123 NW 1st Ave
Miami, FL 33128
Association website: www.dadecountybar.org

Northeast Florida Paralegal Association, Inc. (NEFPA)
221 N. Hogan Street, Box 164
Jacksonville, Florida 32202
Association Website: www.nefpa.org/

Northwest Florida Paralegal Association, Inc. (NWFPA)
P.O. Box 1333
Pensacola, FL 32591-1333
Association Website: www.nwflparalegal.org

Orange County Bar Association, Paralegal Section
880 N. Orange Avenue
Orlando, FL 32801
Phone: 407-422-4551
Fax: 407-843-3470
Association website: www.orangecountybar.org/about/paralegal-section/

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Jacksonville, Florida 32202
Association Website: www.nefpa.org/

Northwest Florida Paralegal Association, Inc. (NWFPA)
P.O. Box 1333
Pensacola, FL 32591-1333
Association Website: www.nwflparalegal.org

Orange County Bar Association, Paralegal Section
880 N. Orange Avenue
Orlando, FL 32801
Phone: 407-422-4551
Fax: 407-843-3470
Association website: www.orangecountybar.org/about/paralegal-section/

Paralegal Association of Florida, Inc.
P.O. Box 14051
Clearwater, FL 33766
Phone: (727) 245-0072
Association website: www.pafinc.org

South Florida Paralegal Association, Inc.
123 S.E. 3rd Avenue, #367
Miami, Florida 33131
Association website: www.sfpa.info/home

Southwest Florida Paralegal Assn., Inc. (SWFPA)
P.O. Box 2094
Sarasota, FL 34230-2094
Association website: www.swfloridaparalegals.org/

Tampa Bay Paralegal Association, Inc.
P.O. Box 2840
Tampa, FL 33601
Association website: www.tbpa.org
The Florida Registered Paralegal Enrichment Committee hosted a free CLE seminar titled: Ethical Considerations in the Practice of Law: Alcohol and Substance Abuse, during the 2019 The Florida Bar Annual Convention in Boca Raton Florida, with distinguished guest speakers.

Opening remarks by Florida Supreme Court Justice Robert J. Luck.

Justice Robert J. Luck with FRP’s Enrichment Committee’s Chair, Lori Spangler, and Co-Vice Chair Wendy Toscano.
Guest Speaker Jane Dwyer Lee shared her real-life experiences with everyone in attendance.

FRP’s Enrichment Committee’s Chair, Lori Spangler, Co-Vice Chairs Wendy Toscano and Margo Valenti, and Frank Digon-Greer, Esq. FL Bar Assistant Director – Programs Division.

The Panel: Wendy Toscano, FRP Enrichment Committee Co-Vice chair, Judge Faye Allen, and attorney Bruce Blitman.

Paralegals Networking and Having Fun!

FRP Committee Chairpersons Shelly Zambro and Sharon E. Staples

Florida Registered Paralegals Dena Powell, Michelle Arty, Aracely Felix-Mayorga and Olga Patterson
Beautiful sunset after a successful convention day!