

Paralegal Focus

INSIDE

Member Spotlight 4-7

NFPA News 11-14

Real Estate Corner 17-18

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Paralegal Focus is the quarterly newsletter of the Vermont Paralegal Organization.

Vermont Paralegal Organization is a Member of the National Federation of Paralegal Associations (NFPA).

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President's Message

By Lucia White, CP®

Hello!

What do you love about the VPO? What ideas, interests, or skills do you have that could help us improve? What do you tell colleagues who ask why they should join the VPO?

Your VPO Board is making recruitment a priority for this term. To this end, we have a new recruitment subcommittee which is currently focusing on Southern Vermont. My sincerest appreciation to subcommittee members Carisa Warren, Tina Wiles, and Robyn Sweet. We look forward to expanding on their contacts by hosting some events in the southern region, like a recruitment Meet & Greet and, in the future, Lunch 'n Learns.

We would love to do something similar in the Northeast Kingdom. If you are a member there, or have contacts in that area, and you would be willing to help, please contact a Board member.

We are also evaluating our options for the VPO website. Due to the age of our web infrastructure and the available web services through our Wild Apricot membership platform, we are considering making some changes to our web services. This will result in a new look and most likely some new features. Look for more information on this in the next few months.

Another one of the Board's high priority goals is increasing and improving communication with our members. We are considering options other than the listserv. If you have ideas, suggestions, or would like to be part of the decision-making process, let us know.

Continued on Page 2

Continued from Page 1

Finally, if you are looking for pro bono opportunities, we have an option for you. The Steps to End Domestic Violence legal clinic could use another volunteer once or twice a month (details in this issue). Contact me at lwhite@dunkielsaunders.com for more information. If you are aware of or interested in helping to identify other pro bono opportunities, let us know.

The Vermont Paralegal Organization is a strong group because of your involvement. We encourage and welcome your input!

Editor's Message

By Louise Reese

Where did summer go, you ask? You are not alone in asking that question. The VPO board has been busy strategizing and developing plans for increasing and strengthening our membership, and offering more continuing legal education opportunities. You will see information about this work in this issue. Corinne and Ashley have also been busy preparing to attend the 2017 NFPA Annual Convention and Policy Meeting in New Orleans, Louisiana. There is a lot to accomplish, and Corinne has given us the rundown of the agenda topics submitted for consideration at Convention.

One of our new members, Carolyn Desch, is also our Member Spotlight for this issue. Please give a warm welcome to Carolyn and our other new members.

Please note the information in this issue about a pro bono opportunity at the Burlington legal clinic.

We also have some information in the Real Estate Corner courtesy of Vermont Attorneys Title Corporation.

As always, if you have an interest in joining any of our committees, please do not hesitate to contact a board member.

Enjoy!

MEMBER NEWS



As of August 23, 2017, we have 77 members: 60 voting; 14 associate;
2 students; and 1 sustaining.

Our newest members are: Carolyn Desch (see Member Spotlight),
Mary McGinnis, Dana King and Nichole Mason.
Welcome!

Pro Bono Opportunities

Help Veterans with Wills and Advance Directives

What: Vermont Volunteer Lawyers Project, Vermont Law School Veterans Program, and VBA Probate Section are putting together an event to help Veterans with wills and advance directives.

When: Friday, November 10, 2017 or Saturday, November 11, 2017—to be determined

Where: To be determined, but possible locations include Burlington, Montpelier, Rutland, and Springfield.

Details: More coming as the project takes shape.

For more information: Contact Carie Tarte, Carie@maleyandmaley.com.

Help at the Steps to End Domestic Violence Legal Clinic

What: Volunteer at the legal clinic at Steps to End Domestic Violence. The legal clinic helps pro se service users navigate the legal system, usually in custody or parentage proceedings.

When: Monday evenings from 5:45 to 8:00 pm

Where: The Steps to End Domestic Violence offices in Burlington.

Details: Steps to End Domestic Violence provides training to all volunteers, which would be required before starting.

For more information: Contact Lucia White, lwhite@dunkielsaunders.com.



Q&A

Carolyn Desch
Member Spotlight

How old are you? 50

Describe your family? I live with my husband, 16 year old son, and 14 year old daughter. Both kids are very musical, playing cello and flute respectively.

Town in which you live? Montpelier

What is your favorite food? Thai!

Do have any pets? If so, what are they, and what are their names? For the first time in my adult life and my children's lives, we do not have any pets. We have had many, including cats, rats, fish, turtle, snails, and a pet fly named Otto. Would you believe that Otto's children come back to visit us each year?

What kind of hobbies do you have? I enjoy walking and cross-country skiing as much as I can.

How do you unwind at the end of a long work week? Pizza and a movie on Friday nights.

What is your educational background? I graduated from Johnson State College with a Bachelor's in Environmental Science, from Eastern Michigan University with a Master's in Land Use Planning, and recently from National Paralegal College with a Certificate in Paralegal Studies.

Where do you work? VOSHA Review Board in Montpelier

When did you first become a paralegal? Three years ago.

What area of law do you work in? Labor law; OSHA regulatory law.

What do you enjoy about working in that area of law? In any position I've held I want to know that my work matters and that making sure employees are safe matters.

If you could work in any other area of law, what would it be? Environmental

What is the one thing about being a paralegal you would change if you could? I can't think of anything. I really like the variety of work I do including bill paying, legal forms, case management and hearings.

How or why did you first enter the paralegal field?

Three years ago—my current position.

Did you hold other positions, or have a different career, prior to becoming a paralegal, and if so, what was it?

I have had a variety of experiences including zoning administrator, hazardous waste inspector, administrative assistant, and stay-at-home mom, among other things.

What do you love about the paralegal profession?

I enjoy helping others to do their job and this position allows me to do that. For instance, I particularly enjoy the hearings in which I handle the recording and exhibits. Behind the scenes, I enjoy legal research, which I conduct for the hearing officers and the Board.

What things about the profession do you dislike?

I haven't found anything yet.

How long have you been a member of the VPO?

I became a member of the VPO in July of this year, so not very long. I'm looking forward to networking with other paralegals.

Tell me about the skills or traits you possess that you find most useful in your position?

I am assertive and often take initiative, which has proven to be helpful in and out of the workplace. When I started my current position, it took initiative and assertiveness to close several cases that had been open for quite some time. I continue to use those traits to move present cases along.

What character oddities or personality traits do you find at odds with your career? I can be impatient for answers.

What brief advice or friendly tip would you offer to someone just entering the paralegal field? All of your experiences add up over time and are valuable to you and your employer. Don't forget that in any interview.



Association Spotlight

The Vermont Paralegal Organization (VPO) is pleased to return to the Association Spotlight after a very successful 2016 NFPA Convention in beautiful Burlington. Our members kicked in and put together a powerful day of CLE's and a memorable social event. Our keynote speaker, former Vermont Governor Howard Dean, M.D., gave a valuable, even humorous, speech. The high from convention lasted months later, as did the exhaustion that comes from putting on a national event for almost 200 people.

In May 2017, the VPO elected a new board of directors. With convention in the recent past, we can now shift our focus to increasing membership and providing more CLE opportunities to members and other paralegals in the community. The brainstorming is in the early stages, but we are already planning multiple lunch 'n learns in the southern Vermont area, with more to follow in other areas of the state. At our recent annual meeting, we had a roundtable discussion about the future of the VPO and the paralegal profession in Vermont. It was well-attended, and gave the new board information on what our membership believed the organization had done well and also identified areas for improvement and areas to focus on in the coming years. One of the greatest challenges for increasing membership in Vermont is being able to identify all who may be performing paralegal type work, regardless of title. Our state is small but it is widespread. Vermont also has many solo practitioners or small firms whose staff may wear multiple hats. In the roundtable discussion, we had members from several counties offer to help with identifying non-member paralegals and other legal support staff. We will use these connections to increase awareness of the VPO's presence in the state, and in turn, work on increasing our membership.

The VPO continues to communicate with its members through its quarterly newsletter *Paralegal Focus*. The newsletter keeps our widespread membership connected to each other, and informed about local and national changes affecting the profession. To keep the members involved in educating each other, the VPO editor recruits members to submit articles and other contributions, and identifies and recruits the VPO's own Member Spotlights.

In the coming months, the VPO board would like to increase its pro bono contribution. We continue to offer paralegal support twice a month at the legal clinic at Steps to End Domestic Violence in Burlington (formerly Women Helping Battered Women). In the past, we also participated in a similar clinic in Barre, Vermont. Due to change in the availability of appropriate legal staff, we have been unable to participate in the Barre clinic for the past year. The new VPO board hopes to continue VPO's involvement in these legal clinics or to pursue other pro bono opportunities in the state.

The VPO also encourages certification and offers a \$250 annual scholarship for the recipient's use in taking PACE® or PCCE™. The VPO now has 12 PACE Registered Paralegals® and 3 CORE Registered Paralegals™. Since the 2016 Convention, the VPO has also added 10 new members, which along with new RP's, meets two of the three President's challenges put forth at Convention.

The 2017-2019 VPO Board of Directors has a tall order to fill, but the enthusiasm is strong and the energy is fresh. We not only want to increase our membership, but we want to maintain our membership by providing relevant benefits, including CLE opportunities that are equal to or higher in quality than outside opportunities, but at a lower cost. The VPO has received strong support from area law firms and businesses, from which we have been able to identify and recruit high caliber presenters willing to donate their time during the day to increase the knowledge of our members and other paralegals in the community.

The 2017-2019 VPO board of directors looks forward to the next two years and strives to accomplish our goals.

The new VPO board consists of the following members:

President	Lucie White, CP
Vice President	Louise Reese
Treasurer	Sara Boyden, RP
Secretary	Karen Farnsworth
NFPA Primary	Corinne Deering, RP
NFPA Secondary	Ashley LaRose, RP
Membership Chair	Evelyn Wetzel
Finance Chair	Diane Brown
Professional Liaison	Kristin Provost, RP



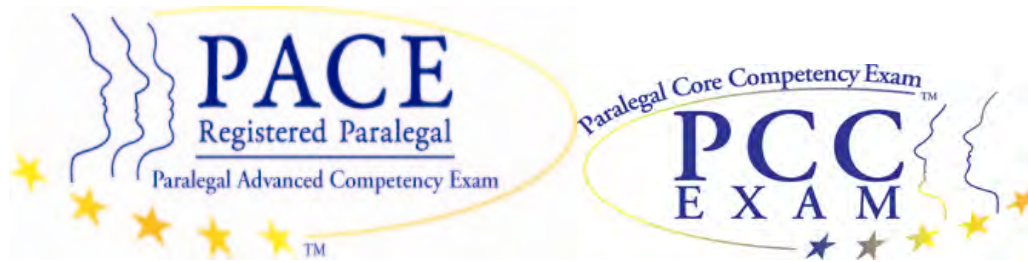
Treasurer, Sara Boyden, RP; Vice President, Louise Reese; and then interim Vice President, Pam Pinard



VPO's 2017 Annual Meeting and Conference – Roundtable Discussion



VPO's 2017 Annual Meeting and Conference - Lunch



NFPA News

*By Corinne Deering, RP®
NFPA Primary Representative*

It's that time of year when your NFPA delegates are preparing to represent the VPO at the 2017 NFPA Annual Convention and Policy Meeting. Corinne Deering, RP, and Ashley LaRose, RP, your Primary and Secondary NFPA Representatives, will be attending "Mardi Gras in October" from October 12th through October 15th in New Orleans, Louisiana.

The agenda topics recently submitted for consideration at the Policy Meeting are summarized below. If anyone is interested in reviewing the agenda topics in full, please reach out to either Corinne or Ashley for copies of the agenda topics.

1. Position Statement on Non-Lawyer Legal Professionals: This topic not only attempts to clarify a motion made at the October 10, 2015 Policy Meeting, but also presents for adoption a proposed Position Statement on Non-Lawyer Legal Professionals (NLLPs). The proposed Position Statement states that NFPA supports the concept of NLLPs delivering services directly to the public and views it as an extension of the paralegal profession. Based on this position, NFPA believes that minimum requirements for any NLLP should include education, training and experience as a paralegal as defined by NFPA's definition of a paralegal. The proposed statement also includes certain recommendations for any NLLP regulation plan in order to balance public protection with consumers' individual needs. It is recommended that any legislation include the following:
 - a. Exceptions from the Unauthorized Practice of Law;
 - b. Post-secondary education standards in the specialized area of law in which the NLLP will be practicing;
 - c. Ethical standards that are substantially similar to those defined by the ABA and NFPA;

- d. Three or more of the following criteria:
 - i. Paralegal credentials from one of the nationally recognized voluntary paralegal certification programs;
 - ii. Continuing Legal Education (CLE) consistent with NFPA's CLE Standards;
 - iii. Attestation by a licensed attorney familiar with the NLLP's substantive experience and work history;
 - iv. Fitness and Character criteria consistent with NFPA's Fitness and Character Model; and
 - v. Bonding or insurance requirements as set forth by the jurisdictional authority; and
 - e. A requirement that NLLPs submit to advanced competency testing as to specialty practice area and limitation of practice as prescribed by the laws, regulations, or court rules of the jurisdiction with regulating authority.
2. Administrative Topic Relating to Section 14.2.L of the Procedures Manual: This administrative topic is requesting language be added to Section 14.2.L of the Procedures Manual dealing with Annual Meeting Nominations and Election Process. The intent of the topic is to enable delegates to ask questions relating to the current performance of someone seeking a position within NFPA. The language states that it shall not be considered "campaigning" to answer questions relating to the performance of any candidate holding a NFPA position who is seeking election or re-election to a position provided they have first-hand knowledge of the performance of such candidate in their prior position.
 3. Agenda Topic to Correct Resolution 15-01: This topic seeks to correct the NFPA Policy Manual relating to Resolution 15-01 and replace Resolution 15-01 with the appropriate resolution which was passed by the delegates. At the 2015 Convention, a discussion topic was presented related to NFPA's support of Limited Licensed Legal Technicians (LLLTs) or similar entities. At the end of the discussion a motion was made that NFPA develop and issue a position statement that NFPA supports the concepts of Legal Technicians as an expansion of the paralegal profession. The discussion topic as written did not include a Resolution, and it was subsequently discovered that the language of Resolution 15-01 was exactly the same as 05-08 and mistakenly deemed to be the resolution requested by the agenda topic. This agenda topic seeks to replace Resolution 15-01 with the language of the motion made at the 2015 convention: "Resolved that NFPA develop and issue a position statement that NFPA supports the concepts of Legal Technicians as an expansion of the paralegal profession."

4. Agenda Topic to create an Ad Hoc Committee: This topic is asking for the creation of an ad hoc committee to identify and evaluate ways that NFPA can proactively address “rogue paralegals,” non-attorneys that call themselves paralegals and provide services directly to the public in violation of state unauthorized practice of law regulations. The agenda topic is asking NFPA to explore options for assisting member associations in combating rogue paralegals, evaluating those ideas for legality and practicality, and providing a recommendation to the delegates for discussion at the 2018 NFPA Convention.
5. Agenda Topic to Develop a Position Statement: In a related item, this topic asks for the appointment of an ad hoc committee to develop a position statement regarding (1) non-attorneys practicing law outside the scope of states’ laws and regulations; (2) guidance for paralegal educators on the unauthorized practice of law; (3) guidance and education for paralegals performing the unauthorized practice of law; and (4) guidance for local associations wanting to address paralegal unauthorized practice of law for adoption by the delegates at the 2018 NFPA Convention.

In addition, there are four NFPA Board positions open for election during the 2017 Convention: Vice President and Director of Membership, Vice President and Director of Marketing, Vice President and Director of Profession Development, and Treasurer. The Region Directors will also be elected. As of August 23rd, running for re-election are Yvonne DeAntoneo for Membership and Lisa Lynch, CRP for Marketing. They are both on the NFPA Board currently serving in these positions. The deadline for nominations is August 25th. Our current Region Director, Josie Estes, is running for re-election as Region V Director.

Once again, if you are interested in any of the Convention topics or have input that you would like to share, please reach out to either me or Ashley before Wednesday, October 11th, as we will be traveling to Convention on that day.

The 2017 Convention Charity is SOLACE which stands for “Support of Lawyers/Legal Personnel – All Concern Encouraged.” SOLACE provides a way for the Federal Bar Association (FBA) legal community to reach out to FBA members and those related to them in the legal community who experience a death, or some catastrophic event, illness, sickness, injury, or other personal crisis. Examples of past requests and responsive help include securing a medical evacuation airlift from a foreign country, donating furniture to a solo practitioner whose office was consumed by a fire, contributing frequent flyer miles or hotel points for families who cannot afford the travel costs associated with medical treatment, and many other meaningful and compassionate situations in which assistance was needed. Attendees at Convention are encouraged to contribute to the charity during the registration process. Donors who give at least \$5.00 are invited to wear jeans on Friday of convention.

If you are interested in more information about the 2017 NFPA Convention, I encourage you to check out the NFPA website under the Events tab for Annual Convention. Ashley and I are looking forward to representing the VPO as well as seeing the sights of New Orleans. Look for our report on Convention in the last quarterly issue of the newsletter.

Mark your Calendars for September 18, and a V.R.C.P. 5 rule amendment you may not be aware of

By Lynn C. Wdowiak, RP®

New Certificate of Service Rules for Vermont Superior Courts Civil and Probate cases and new discovery Rules in the Civil Division go into effect on September 18, 2017!

Certificate of Service Rules:

Amendments to V.R.P.P. 5(e) and to V.R.C.P. 5(h) become effective September 18, 2017.

V.R.P.P. 5(e): Rule 5(e) is amended to adopt language virtually identical to V.R.C.P. 5(h) as simultaneously amended, requiring a certificate of service to be filed after service of any document under Rule 5. This rule amendment can be found at <https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATEDVRPP5%28e%29.pdf>

V.R.C.P. 5(h): Rule 5(h) is amended to clarify and make uniform the procedures under it. In some clerks' offices it has been interpreted to (1) require a separate form for each item served, (2) require that the form be on a separate document from the items it identifies, and (3) allow court staff to return filings that lack a certificate, rather than accepting them and then having the judge determine how to handle the absence. The amendment clarifies that the certificate may be incorporated in the document filed or be on a separate page and may embrace multiple documents. Further, the amendments to paragraph (3) clarify that a document filed without a certificate should be accepted for filing, subject to compliance with the order of the judge concerning the filing of a proper certificate. The rule amendment can be found at <https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATEDVRCP5%28h%29.pdf>

A CHANGE TO V.R.C.P. 5 YOU MAY NOT BE AWARE OF: This rule change was effective on February 20, 2017:

V.R.C.P. 5(b)(2) change: (2) *Mailing*. Mailing of a copy within this rule means: sending by ordinary first-class mail; sending by third-party commercial carrier; or, if required or permitted by paragraph 4, sending by electronic means.

New V.R.C.P. 5(b)(4): [emphasis added]

(4) *Sending by Electronic Means.*

(A) Documents must be sent by electronic means if required by the Vermont Rules for Electronic Filing.

(B) Documents **may** be sent by electronic means when not required by the Vermont Rules for Electronic Filing if the sending and receiving parties agree to electronic transmission in a **writing filed with the court** that specifies the type of electronic transmission to be used.

(C) The sender of any document by electronic means under this rule must follow any applicable standards regarding electronic transmission of confidential documents.

(D) Any e-mail address or addresses used under subparagraph (A) or (B) must match those that the attorney or party has registered under the judiciary's electronic filing system, and the registration information must be provided in all pleadings and other papers served or filed by the attorney or party.

(E) All attorneys and parties must immediately notify other attorneys and parties of any e-mail address change during the pendency of the action or proceeding.

This rule can be found here: <https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATEDVRC5.pdf>

Discovery Rules.

V.R.C.P. 1, 26, 34(b), 37(f), and 55(c): The amendments to the civil rules incorporate or adapt recent changes to the federal rules.

The amendment to Rule 1 is intended to encourage increased cooperation among the parties by clarifying that parties as well as courts have a responsibility to achieve “the just, speedy, and inexpensive determination of every action.”

The amendment to Rule 26 redefines the scope of discovery. Discovery must now be relevant to any party’s claim or defense, as opposed to being reasonably calculated to lead to the discovery of admissible evidence. A proportionality requirement has been added, saying that discovery may now only be obtained if it is “proportional to the needs of the case” as defined by five factors.

The amendment to Rule 34(b) requires the grounds for objection to be stated specifically consistent with the requirement that an objection must state whether materials are being withheld.

The amendment to Rule 37(f) clarifies the consequences for failing to preserve electronically stored or other evidence.

This rule change can be found here: https://www.vermontjudiciary.org/sites/default/files/documents/PROMULGATEDVRCPI_26_34%28b%29_37%28f%29_55%28c%29-Discovery-Rules_0.pdf

Coming Soon:

The “Day is a Day” rule changes for all divisions are going into final edit and may be approved at the Vermont Supreme Court’s August administrative meeting. The final version of the rules **kept the 3-day for mailing rule**, but we will have to see the final rule as promulgated to be sure.

CLE Updates

*By Louise C. Reese
Vice President*

Lucia White has already updated you on our plans for the coming term. Although we had hoped to schedule a few Lunch ‘n Learns this fall, we determined that it would be best to first focus on increasing awareness of the VPO and its benefits by smaller law firms and non-members around the state. We have started this process by creating a recruitment subcommittee for the southwest portion of the state (a “cell”). We intend to create cells in other parts of the state that will include members practicing in those geographic areas, and with opportunities to connect or interact with non-member legal support staff and employers. Together, we can reach across the state and help to provide support and benefits to those in various legal support staff positions. If you are interested in becoming a part of a subcommittee on recruitment, please do not hesitate to contact me, at lreese@dinse.com, or Lucia White, at lwhite@dunkielsaunders.com.



Vermont Attorneys Title Corporation has given us permission to reprint the following information from its June 2017 newsletter.

Trust Account Scams

Trust account scams are on the rise. Not a week passes that we don't hear about a new way that scammers and hackers are trying to mess with law firms. It was recently brought to our attention that a Vermont attorney emailed her clients (buyers) on the morning of closing, notifying them of the amount to wire to her trust account for closing. The attorney never heard back. At closing, when she asked the buyers why they never responded, they told the attorney they'd been communicating (via email) with her all morning! Of course, it was a hacker posing as the attorney. Fortunately, the funds were recovered.

In another case, buyers received an email from their real estate agent indicating that they needed to wire their funds to the closing attorney immediately if they wanted to close on time. They did, no questions asked. You know the rest...

Followers of Mike Kennedy's blog, Ethical Grounds, may have seen his recent post regarding trust account scams. Mike contends that falling for such widely-publicized scams may very well be an ethics violation.

Our advice; read our newsletters, remain skeptical, and educate yourselves and your staff members.

Top 3 Policy Preparation Errors

1. Policy lacks a policy number.

If using PrepExpress Online, please be sure to request an electronic jacket before printing the policy.

2. Policy lacks an updated property description.

Always include a property description which recites the most current conveyance for all types of policies, including Short Forms.

Example for long form policy:

Being all and the same land and premises conveyed to [Buyer/Borrower name] by deed of [Seller name] dated October 21, 2014 and recorded in Book ____, Page ____ of the Town/City of _____ Land Records and more particularly described as follows:

Example for short form policy:

Being all and the same land and premises conveyed to [Buyer/Borrower name] by deed of [Seller name] dated and recorded in the Town/City of _____ Land Records on or about even date herewith and more particularly described as follows:

3. Short Form Policies

We all know that Mortgage amounts and closing dates often change throughout a real estate transaction. Do the following if you have already setup your file in PrepExpress Online:

- a. Pass through the Premium Calculator to make sure the premium has calculated correctly;
- b. Check the Schedule A (first page of the Short Form) to confirm that the Mortgage Date and Date of Policy are the date of the closing;
- c. Confirm that the Policy Amount and the Mortgage Amount match and are the same (amount of the loan).



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