

Paralegal Focus

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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).

Vermont Paralegal Organization
P.O. Box 5755
Burlington, VT 05402-5755
vermont@paralegals.org
www.vtparalegal.org

Newsletter Design By
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President's Message

By Lucia White, CP®

What do you need to do to take care of yourself? I asked myself this question recently to help get me out of the February funk I was experiencing after having a cold that wouldn't go away. My question wasn't so much about how to get myself physically healthy again, but about how to get myself in a more energized state of mind. And as I started to figure out the answer to this question for myself, I started to wonder how you all are doing.

Much has been discussed recently about the well-being of attorneys, law office employees, and law students. The Vermont Commission on the Well-Being of the Legal Profession recently released its report with recommendations on improving mental health and substance abuse outcomes for legal professionals. The report can be found on the Vermont Bar Association website (vtbar.org – search for the commission's name). The VPO was invited to participate on one of the subcommittees, so this work has been on my mind.

Attorneys and law students struggle with significantly higher incidences of mental health and substance abuse needs than the general public. I'm not aware of studies that looked specifically at paralegals and support staff, but clearly, if our work environments are high stress and our attorneys are not doing a good job of caring for themselves, it stands to reason that we could be struggling in similar ways.

How are you all doing? Are you doing what you need to do to take care of yourself? What do you do at the end of a long day to “erase” the stress of the day and recharge your batteries? What are your hobbies? Who are your “go to” people who understand you and who you can be yourself with? It's important to know some answers to these questions so you have a plan when it gets to be too much.

One way we can de-stress as paralegals is through camaraderie with others who understand the stresses of your job. I think this is part of why our Annual Meeting is such a popular event. This year, many of us will have a chance to “get away” at the Middlebury Inn on Wednesday, May 15. Be ready to learn and connect with your fellow paralegals... and let your office figure out what to do without you for a day!

Editor's Message

By Louise Reese

This is the start of another year and the Board and Committees are hard at work to provide members with valuable information, CLEs, and networking connections. Please save the date for the 2019 VPO Annual Meeting at the Middlebury Inn in Middlebury, Vermont. If you have any legal colleagues who are not members and might be interested in attending our event, please share this date with them. You can also have them contact me directly at lreese@dinse.com and I will make sure a brochure gets sent to them once finalized. More on this in the coming weeks.

Corinne and Ashley have provided us with a summary of NFPA news. They both term out this year as NFPA Primary and Secondary, so this will be their last summary for the *Paralegal Focus*. I could always count on Corinne to submit her detailed summaries on time, and considered them a valuable and necessary piece of every issue. Many thanks to both of you for your service to our organization!

Please take note of the announcement for the 2019 NFPA Annual Convention that is being held in Rochester, New York, in October. Having the convention on the upper east coast gives us an opportunity to attend. If you can spare the time, please consider it.

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Membership News

As of March 11, 2019, we have 74 members who are new or have renewed for 2019 year: 57 voting; 15 associate; 1 sustaining corporate; and 1 sustaining individual. Please get your renewals in to avoid missing out on valuable communications from the Board and committees!

Please welcome the newest members to the VPO family - Renee Vigneau, Denise Wood and Nona Morris. Welcome!

Our very own Cassandra Franklin has joined the NFPA Pro Bono Committee. Thank you, Cassandra!



The VPO will be holding its 2019 Annual Meeting and Conference at the Middlebury Inn in Middlebury, Vermont on Wednesday, May 15, 2019. It has been 10 years since we have held this event in Middlebury, and we are excited to return. The Middlebury Inn has been renovated and refreshed since our last time there, so we are excited for you all to see it.

We have seven new presenters, and will have three litigation sessions, and three real estate sessions available. We are still finalizing the topics, but you can expect to learn about title insurance, social media in Employment Law, child support guidelines and custody agreements, solar transactions, interviewing witnesses, responding to discovery, understanding conservation easements, conveyances to/from probates estates, and more! Please tell all of your southern Vermont friends.

For those of you who may consider traveling a bit to get there, Middlebury Inn has offered some rooms at a discounted rate while available. If you are interested, please contact Louise at lreese@dinse.com.

NFPA News

By Corinne Deering, RP® and Ashley LaRose RP®



As we near the VPO 2019 Annual Meeting, Ashley and I will be ending our terms as NFPA Secondary and NFPA Primary Representatives. This may be our swan song NFPA update. We hope that new members will take over these positions with a passion for the VPO and NFPA, and continue to represent the VPO on a national level. The last few years have been a mixture of fun, excitement, travel, good friends, new acquaintances, networking, challenges, and a little bit of drama thrown in there. We did our best to keep you advised of the inner workings of NFPA and the VPO's involvement with NFPA.

NFPA is currently working on a multitude of projects. One project is the upcoming Joint Conference in Denver on April 26-April 28th. The agendas for the Leadership, Regulation and Certification conferences are posted on the NFPA website and registration should be open by the end of February.

Additionally, there are two fun social events being planned. If you have never been to a Joint Conference, you should try to attend at least one. You will learn the most up-to-date information about regulation and certification, and well as learn leadership skills, tips and tricks, and it doesn't hurt to get some CLE credits while attending. The 2020 location for Joint Conference has recently been chosen and will be hosted by Tampa Bay Paralegal Association. If you want a reason to go to Florida in April, here is your opportunity! The 2020 Joint Conference will be held April 24-April 26, 2020, at the YPST Building at Hillsborough Community College located in Tampa, Florida.

Another project underway is the PACE® update. The beta testing period for the new updated exam is scheduled to begin in late March. The beta test period will be in place for 90 days, with an evaluation after 60 days to ensure that everything is on track to meet the 100-150 test taker data required to evaluate the exam. Once that is met, the test results will be analyzed, the pass rate decided upon, and the submitted exams graded with scored reports that will be provided to the beta test takers. Thereafter, PACE® will be unavailable from the end of the beta test period until the final exam is rolled out, most likely at some point between the end of June and September. Anyone interested in taking PACE® is encouraged to either take the exam during the beta testing period, or wait until summer 2019 to take the newly released exam. NFPA is planning to update the PCCE® in 2020, ultimately completely updating both exams by the end of 2020. The plan is to then "refresh" each exam, alternating each year until after the fifth year, when each exam would be on schedule to be completely updated again. In conjunction with these updates, the PACE® Handbook has been updated, and the Study Review Manual is also in the final stages of updating for publication in advance of the beta testing. NFPA is exploring the option of publishing the study manual as an e-book to make it more accessible.

The NFPA website is also on tap for transition to a new platform. Headquarters is beta testing a few options but indicated that the transition, once it has started, will happen quickly, with the goal for completion being late spring or early summer, and hopefully at least one or two months prior to the opening of registration for Convention. The Vice President & Director of Marketing is also working on a new webstore for NFPA logo items.

During the January Board Meeting, we were advised that the post-convention survey results reported an average assessment overall. The Board did receive some great feedback. It was noted that delegates and

attendees are cost conscious and concerned about the increasing costs, especially for the social event. It was also noted the attendees preferred more CLE sessions and less board meeting time.

The Board is attending leadership training sessions to discuss the NFPA strategic plan and to try to make a more cohesive Board. Volunteers for committees are always welcome. It is not necessary to be a VPO Board member or a NFPA delegate in order to be on a NFPA committee. If you have the desire to be involved in the path the paralegal profession is taking, or know someone else that might be interested, then NFPA needs your input and help on these committees.

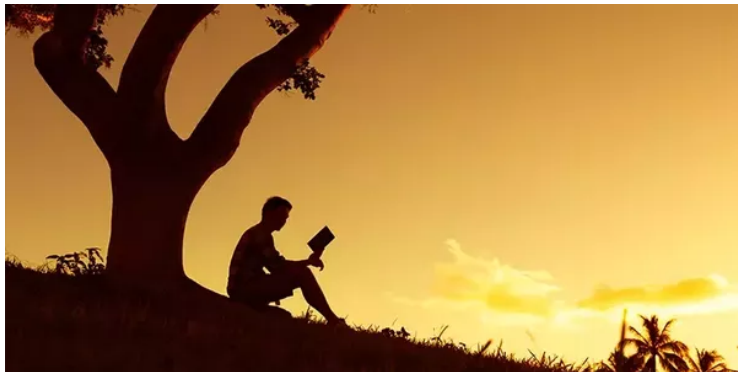
Further, there have been several revisions and updates to policies and procedures specifically involving the State of the Paralegal Profession Committee and the Diversity, Inclusion and Equity Committee. In addition, new policies have been established for NFPA Conferences and Events to ensure that incidents arising regarding harassment (in any form), or alcohol and/or cannabis consumption are handled effectively and consistently, including the appropriate reporting protocols.

Last, but of course not least, Ashley and I will be attending the Region V Spring Meeting in Manchester, New Hampshire, the weekend of May 4-5th. It will likely be our last Region Meeting, assuming new NFPA representatives are voted into the positions later in May at the VPO Annual Meeting. I am hoping to attend the Rochester, New York, Annual Convention this year as an observer and for the pure fun of it. It's time to pass to the torch to someone else to do the heavy lifting! We hope that all members will consider the challenge and step up to represent the VPO on the national level, bring in some new excitement and ideas, and move the VPO forward to represent all Vermont paralegals!

What I Have Learned Over the Years

By Louise Reese

As I think back about the hot issues affecting the paralegal profession in the last several years, I am reminded about the discussions during the VPO board meetings, NFPA conventions, or in legal publications, that bring to light those issues and explain the meaning behind why the issues are so “hot.” I have learned a great deal from my knowledgeable and passionate colleagues on the VPO board, my friends in other states from NFPA conventions, and from reading various legal publications. Whether it relates to the difference between “certificate” and “certification,” or the debate about educational requirements to take certification exams, I am better informed from my participation on our local board and my past attendance at NFPA conventions. If anyone can attend the 2019 NFPA Convention in Rochester, New York, I



encourage you to pack a bag and get ready for some stimulating conversation and debates, but also some laughter. And closer to home, if anyone can get involved on the Board or a committee, or just attend Board meetings, I strongly encourage you to do so. We are also fortunate to have had NFPA News articles from Corinne for our quarterly newsletter, *Paralegal Focus*, for a number of years. Corinne will no longer be our NFPA Primary, and her crafted summaries will be missed.

Save the Date!

National Federation of Paralegal Associations, Inc.
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ROCHESTER, NEW YORK | OCTOBER 10-13, 2019
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For more information and details, visit:

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Rochester Waterway



Rochester's magnificent waterways are among its top attractions for visitors. Happily, there is also an abundant number of ways to enjoy the natural beauty, as well as recreational and sporting opportunities, offered by these natural resources. From the charm and history of the Erie Canal to the power of the Genesee River and its waterfalls, the Rochester area offers watery treasures everywhere!

Genesee River, Located on the banks of the Genesee River in the southwest section of downtown, Corn Hill Landing is a fantastic scenic recreational area with something for everyone. It is walk able from hotels downtown with many restaurant choices.

High Falls, Rochester's 96-foot "metropolitan" waterfall, the largest to be found in the heart of any major city, has been an attraction for visitors since the 1800s when people traveled to see what was then a magnificent waterfall in the wilderness. Today, this visitor attraction from the past is once again a popular destination with travelers.

Fall Foliage in October



Autumn is the most popular tourist season for Rochester, New York due to the many diverse fall foliage tours offered. Rochester is blessed with a large assortment of broad-leaf trees. From the Rochester staging grounds, many autumn road trippers continue their vacations in the Finger Lakes Region, the Genesee Valley and Niagara Falls.

Letchworth State Park, renowned as the "Grand Canyon of the East," is one of the most scenically magnificent areas in the eastern U.S. The Genesee River roars through the gorge over three major waterfalls between cliffs--as high as 600 feet in some places--surrounded by lush forests.

Niagara Falls - located just 90 minutes west of Rochester. A North American natural wonder, Niagara Falls flows with scenic might through Niagara Falls State Park. And just beyond its waterfall vistas, Niagara is filled with splendid discoveries and fantastic

attractions. Pictures are great, but getting close enough to touch Niagara Falls inspires genuine awe.

Millions of gallons of water rocket over Niagara Falls every minute – about 750,000 gallons each second!

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Highlights



Susan B. Anthony Museum & House, The historic landmark home of the legendary American civil rights leader during the 40 most politically active years of her life, and the site of her famous arrest for voting in 1872.

www.susanbanthonyhouse.org

George Eastman House International Museum of Photography & Film,

The mansion and gardens of George Eastman, founder of Kodak is also now the International Museum of Photography and Film with the world's largest collection of photographic and cinematographic equipment.

www.eastmanhouse.org

Shopping



Park Avenue, Visit the coolest, most walk able strip Rochester. A vibrant mix of businesses, shops, salons, cafes, and galleries—a savory blend of old-fashioned and new wave, low key and sophisticated, funk and chic.

www.park-avenue.org

Craft Company No. 6, A craft gallery of handmade American and Canadian fine craft is located in a historic Victorian firehouse Engine Company No. 6, on *ARTWalk* in Rochester's Neighborhood of the Arts.

www.craftcompany.com

Rochester Public Market, Voted best farmers market in America by Farmland Trust, the Rochester Public Market has been open since 1905. It is open year round and hosts special events throughout the year.

www.cityofrochester.gov

Wineries



Finger Lakes Wineries are one of the Finger Lakes biggest claims' to fame. In the heart of the largest vineyards in the country,

you'll find award winning wineries offering wine tasting, wine tours, culinary delights and spectacular views.

www.fingerlakes.org

Casa Large Winery, located 15 minutes from downtown Rochester, offers tours, tastings, special event facilities and a unique gift shop.

What's in a Name? My Personal Thoughts on a Continuing Debate

By Tracy Lord, MSL, RP®

“A legal assistant or paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.” (American Bar Association, Current Definition of Legal Assistant/Paralegal)

In 1986, the ABA Board of Governors did not have a definition for the term ‘paralegal.’ They corrected this omission in 1997 when they added the term ‘paralegal’ to their definition of a ‘legal assistant.’ This addition created an ongoing debate among law office support personnel, and one that makes me strongly in favor of the licensure of those of us that have certain education, training or work experience.

I have been in law firms where attorneys refer to every member of their support personnel as ‘legal assistants’ and bill for clerical tasks that could be performed by a person with no specialized knowledge. Not only is billing for non-substantive work an ethical violation, some paralegals who have put in the time and effort to advance in their careers may find this practice a bit demeaning.

I am an advocate of having three levels of legal support personnel (this is not to include staff such as a librarian, and investigator, etc.). My suggested three levels would be: legal secretary; legal assistant; and paralegal. Each of these levels gives the support person the ability to advance to the next level, while allowing for no confusion in that person's title and expectation of tasks related to that title. At a minimum, I suggest the following requirements for each of the three levels:

Legal Secretary:

- High school diploma or equivalent
- Substantial secretarial experience (three years or more)
- Typing [in a professional format - knowledge of basic grammar is a must]
- Filing
- Dictation/transcription
- Communication – spoken and written
- Legal terminology and spelling
- Confidentiality

Legal Assistant: includes the above, plus:

- Calendaring appointments
- Calendaring follow-ups / tasks
- Calendaring legal deadlines (such as court dates, contractual deadlines, etc.)
- Pleading format
- Contract format
- Advanced organization of files
- Advanced knowledge of client files and issues
- Understanding the difference between an escrow/trust account vs. general bank account

Paralegal:

- Certificate or degree in paralegal or legal studies from a nationally recognized institution, continuing practical work experience as a paralegal in the tasks listed below, or state licensure as a paralegal
- Understanding of legal processes and procedures in a variety of law types
- Interview clients/witnesses
- Drafting documents
- Ability to discuss files with attorneys with and suggest courses of action
- Bills for time spent performing substantive work
- Research: legal and factual
- Review/summarize file materials (depositions, discovery documents, contracts, etc.)

It is time for the legal profession to draw a line between the terms 'paralegal' (using the definition provided by the ABA), and 'legal assistant.' This will benefit the legal community (and paralegals) by supporting a stronger sense of professionalism in the legal profession. This is true not only in the Vermont legal community, but throughout the United States.



In February, the United States District Court for the District of Vermont announced two changes to the Administrative Procedures for Electronic Case Filing which appears on the courts website.

The first revision is the elimination of Subsection (G)(5) which previously read as follows: Service by electronic means shall be treated the same as service by mail for the purpose of adding three (3) days to the prescribed period to respond.

This provision was originally drafted in order to be consistent with F.R.Civ.P. 6(d) which provided a three day grace period for responses to ECF filings. This

provision was eliminated in the 2016 amendments for electronic filing. It remains in place for other forms of service. The Advisory Committee Notes explain in detail how concerns about potential delays in electronic filing have been alleviated by improvements in technology and better skill in using electronic transmission.

It is necessary to eliminate the three-day grace period in order to bring our Administrative Procedures into compliance with Rule 6(d).

The second revision concerns the electronic filing of attachments to motions such as the exhibits submitted in support of a motion for summary judgment. Most lawyers do not provide an index or table of contents even for voluminous exhibits. The consequence is that the judges and court staff devote a significant amount of time to opening multiple attachments in search of a particular exhibit.

The court has amended Subsection (L)(1) to include the following sentence:

If the number of attachments exceeds five (5), the party filing the attachments shall include a separate index describing each exhibit. This index shall be the first attachment.

The Administrative Procedures for Electronic Case filing can be viewed on the courts website at: http://www.vtd.uscourts.gov/sites/vtd/files/Administrative_Procedures.pdf

##

An Amendment to Rule 18(d) of the Vermont Rules for Family Proceedings is effective April 8, 2019.

Rule 18(d)(1) is amended to clarify the process for appointment of a mediator when appointment has been ordered under subdivision (b). Under subparagraph (A), represented parties may choose the mediator. Under subparagraph (B), if the parties do not agree on a choice, or one or more of them is self-represented, the parties and the court may agree on a mediator from the Family Division Mediation Program's list of mediators. If the parties cannot agree on an individual, the court may appoint a mediator from the list. If no mediator from the list is available, the court may appoint a mediator whose credentials are at least comparable to those for inclusion on the list. Those credentials include domestic-violence training.

An Amendment to Rule 902 to the Vermont Rules of Evidence is effective March 11, 2019.

The addition of Rule 902(13) reflects the enactment of 12 V.S.A. § 1913, a statute pertaining to the admissibility of evidence contained in blockchain records. Rule 902(13) mirrors the language and conditions set forth in § 1913(b)(1), a section declaring that blockchain records are self-authenticating.

##

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