



Law in Motion

Message from the President...

By Debbie Reber

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We've come to that time where nominations have been submitted and the SBPA will be voting on their new Board of Directors for 2009 at our upcoming meeting this month. This has been a very successful and exciting year with the SBPA members and its Board being involved in many activities such as:

- CAPA Board Meeting, hosted by the SBPA, in February, 2008, Santa Barbara;
- Springtime MCLE program co-hosted by the Ventura County Paralegal Association, Ventura, April, 2008;
- Teen Court Law Bowl (in conjunction with the Santa Barbara County Legal Secretary's Association – SBSLA) as part of Santa Barbara County's *Law Week*, April, 2008;
- 20th Annual Educational Conference (CAPA) in Santa Clara, June, 2008;
- Paralegal Day, Canary Hotel, Santa Barbara, June, 2008;
- The 33rd Annual NALA Convention in Oklahoma City, OK, July, 2008;
- CAPA Board Meeting, Healdsburg, CA, November, 2008.

I must take this opportunity to give a *huge "Thanks"* to the Board members for all their work, most of whom went well over and above the call of duty, this past year. So --- thank you to:

Elizabeth (Madrigal) Seidel

VP Membership

Jill Jackman-Sadler

VP Programs & Job Bank

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Message from the President...
By Debbie Reber

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- Sue Suttner Secretary
Rebecca Riggs Treasurer
Josefina Martinez CAPA Primary Representative
Cyndi Hitsman NALA Liaison
Debra Wheels CAPA Secondary Representative
Sandra Biesinger Newsletter, Advertising & Website
Jean Linn Parliamentarian

I could NOT have made it through this year if it had not been for these exceptional people with all their hard work, efforts and good advice. Sadly, three (3) of our Board Members will not be back next year and those individuals elected to fill their positions will have a much easier time of it because of their efforts. Jill Jackman-Sadler, Sue Suttner and Cyndi Hitsman will be leaving their duties, but I'm in hopes that they will maintain their contact with the SBPA and come back to us soon. Thanks to you ALL!

While perusing the most recent issue of Legal Assistant Today, I came upon an article about Jean M. Cushman, an Advanced Certified Legal Assistant as well as a California Advanced Specialist in Business Law, from the Los Gatos area, and who helped establish the PASCCO (Paralegal Association of Santa Clara County) who recently passed away, but

not without leaving an amazing legacy behind. She was the embodiment of a paralegal who, it seems was just about perfect in her profession. She selflessly gave of herself to her colleagues, friends and family and was an unbelievable credit to her profession as any one could hope to be. I reflected on the article and the amazing things that she had done and the honors that were bestowed upon her shortly before her death.

What causes an individual to give so much of herself when it would be just as easy to sit by and let someone else to the work? In Ms. Cushman's case, it was an inner belief of a responsibility wherein she felt that she needed to give back to her profession (as a paralegal) and tried to do just that by being a role model, a friend, a co-worker, an instructor and yes, even a teacher (or mentor). Would that we could all feel that way and strive to give back to the profession that we've been blessed to be a part of, for more years than most of us care to count.

It is incumbent upon us to serve, as practicing paralegals, to help others, take a keen interest in what we do even if that means we have to stretch ourselves to include those areas of law that, perhaps, aren't in our own bailiwick in order to be a "complete" package. That means we must strive to understand, communicate, assist and yes, offer our own expertise in areas to others that may not have been introduced to your areas of law.

It is incumbent upon us to "give back" to the profession that has given us the opportunity

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Message from the President...

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to practice what we've been taught and learned through OJT (on-the-job-training) through the years.

It is incumbent upon us to support our local paralegal organization, because this organization is not one person --- it is many people from varied backgrounds and focused on different areas of law. We can learn from each other and become role models, friends, better co-workers, instructors and yes, even mentors to others. Many of you have been approached by the UCSB students to be interviewed for one of their class projects. Kudos to those of you who took the time to be the "interviewee" and give those students insight into why you wanted to be a paralegal in the first place and why you've stayed in this business. Those of you who chose not to help missed an incredible opportunity to share something that is so meaningful and lacking in this world today --- face-to-face contact with someone seeking your advice and personal contact.

I've contacted the nominees for the Board positions by writing a rather lengthy letter as I tend to become verbose in trying to explain myself, and I'm including this "letter" in my message in the hopes that those of you not nominated by your peers, would reflect on your abilities, your strengths and your sense of responsibility to give something back to the profession that has given you a job, a sense of self-worth and an ability to lift your head high and say: "I'm a paralegal. I provide a unique and worthwhile service to my employers, our clients, my community and ultimately, to myself." Give back to that

association, the Santa Barbara Paralegal Association, by promoting, volunteering, and yes, serving as Board Members to further this organization's ultimate goal. It's your organization, and it's only as strong and worthwhile as its members.

Here is my letter to those nominees --- and I hope that each of those nominees have opted to "give a little back" by accepting the nomination. Next year, we'll be looking for more Board Members --- perhaps you will consider nominating a co-worker or peer, or volunteering yourself and your energies to further this organization:

"I'm pleased to tell you that at our most recent board meeting of the Santa Barbara Paralegal Association, that you were nominated for the Board position of [TITLE]. While this has been my first year on the Board, I can tell you that we've had a great year of programs and sharing of ideas. We also face challenges in finding people to serve in board positions. We all realize that you have time constraints, family duties and other outside interests, but the SBPA is here to serve you in a professional capacity, and it cannot achieve that without the support of its membership and those willing to serve in board positions. So, before you answer me, I'd like to give you an overview of just what's entailed. I've also attached a copy of the descriptions of the positions for your information.

First, I want to tell you that the present Board has been a fantastic one and we are now seeking new faces to represent the Santa Barbara Paralegal Association. The SPBA is

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a wonderful group of people who offer a plethora of experience, expertise and ideas. If it weren't for this organization who provides you with virtually free CLE classes thus enabling you to keep up on your continuing education hours as required by B&PC §6450, it would be incumbent on the individuals themselves to seek their own CLE classes and incur those expenses --- out of one's own pocket, so to speak. We can neither fulfill nor provide that service, however, unless we have willing individuals to serve on the Board.

It's always a wonderful opportunity to get new, fresh ideas infused into an organization for programs and activities offered by the SBPA. And that --- is why I'm contacting you today in the hopes that you will agree to accept the nomination by one of your peers who proposed your name. Obviously, that person feels that you can offer a great deal to this organization and I trust that you will graciously accept their faith and trust in you by accepting the nomination. If there is another position for which you feel more qualified --- or you would like to be considered for another position *in addition to the one you've been nominated for* --- please let me know and I will most definitely add you to our "candidate list". There are many committees that you can assist on throughout the year, one of which includes the all-day, annual MCLE program that we host in conjunction with the Ventura County Paralegal Association.

While many people think that they don't have the time to give, let me just say that the Board will be meeting just once, every other month,

for the coming year. (This is in addition to the regular CLE lunch meeting/programs that we host for all the members, attorneys and other interested persons for which you receive your CLE credit.) The Board generally meets at one of our offices for lunch while we discuss the business of the SBPA, but sometimes we meet at a convenient restaurant. Being a Board member is an honorable and interesting position --- a chance for you to express your ideas and concerns. As I have said before, the SBPA is as only as strong and vital as its members --- all members, of which a few comprise the Board.

We would be honored if you would accept this nomination and hope that you will be one of our newest members on the SBPA Board if elected. It also provides you with a "link" to the many state-wide local paralegal associations, including CAPA, the California Alliance of Paralegal Associations. It's a wonderful network which is comprised of people like you, willing to assist and further the goals set forth by our profession.

I would like to speak to you in person, or by telephone, about this opportunity for you to serve the SBPA. Please let me know a time that is convenient for you and I'll be certain to get in touch with you. If you have any further questions, please feel free to contact me or any of the other Board members who will be happy to assist you. Thank you for your time and willingness to accept this nomination and to support your local SBPA.

Thank you and take care....

Deborah L. Reber, President, Santa Barbara Paralegal Association

Practice Makes Perfect

Paralegals can run the show with mock trials.

By Catherine Astl, CLA

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Broadway directors hold rehearsals of their hit plays countless times before the first performance. During these run-throughs, those involved find that some things work and some things don't. In other words, it's all about practice and feedback. The same holds true for civil litigation trials — practicing and gauging reaction makes for polished, professional performances.

When attorneys ask you to set up a mock trial, or ask you to assist in a run-through of certain aspects of a trial, they are not only seeking to rehearse their performance and practice their lines; they also are seeking advice, reaction and even criticism — all of which paralegals can help them obtain.

Producing a Mock Trial

"By far, the most successful mock trials are the ones where a paralegal becomes an integral part of the preparation process," said Karen Lisko, Ph.D., a senior litigation consultant in Omaha, Neb., for Persuasion Strategies, a jury consulting firm based in Denver. Often, this is because paralegals have more power and control than a trial consultant to ensure that the attorney meets deadlines. Lisko sees the paralegal's role in assisting and partnering with the trial consultant, "as an onsite project manager at the law firm," and suggests that paralegals build their own line of communication with the trial consultant. "If the

trial consultant and paralegal partner together to help trial counsel stay on track, the project stands a far higher chance of staying under budget and under an unnecessary frustration level."

Switching gears from trial consultant to attorney, what do attorneys look to their paralegals to do for them in assisting with mock trials? "In many respects, a paralegal should prepare as he [or] she would for the actual trial," said Reed Sugg, an attorney at Sandberg, Phoenix & von Gontard, in St. Louis. "The paralegal should meet with the lawyer well in advance to determine what exhibits will be needed, and the actual preparation of exhibits will be dependent upon the available technology, e.g., PowerPoint or blow-ups." Sugg emphasized today's highly technological aspects of preparing for trial. "Our paralegals ensure that the presentations we want to make are compatible with the technology the consultant is arranging," he said.

In addition, Sugg said that trial consultants need background information on the case in order to prepare for the mock trial. "[Our] paralegals consult with our lawyers to determine what information should be provided to the consultant and [then] actually provide it."

A Small Budget Production

Many law firms don't conduct jury research on low exposure cases simply because it isn't economically feasible; however, what if your attorneys feel the need to conduct a low- or no-budget mock trial?

Lisko suggested that one way to cut costs is for the paralegal to make copies and assemble the mock trial notebooks. "He or she

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can save the client money that normally goes into the trial consultant's budget for preparation and shipping. This may sound like a small role but [it's], in fact, a critical and time consuming one," she said. Another way to reduce expenses is for the paralegal to assist at the actual mock trial, checking jurors in and handing out questionnaires. "[This] might mean the consulting team could provide a [leaner] staff onsite, thereby cutting costs," Lisko said.

There also are ways to save money by cutting back on how the actual mock trial is conducted. "While a live mock trial with a minimum of three groups and the full trial team in attendance is ideal, you can still learn a great deal by presenting videotaped arguments to two groups of mock jurors with the trial team watching remotely via live Internet video streaming," Lisko said.

However, even on a small budget, Lisko emphasized there are some aspects of a mock trial that never should be sacrificed, such as having at least two juries. "Without a second group as a double check, you never know if a single mock jury's reactions are based on your case strengths

[or] weaknesses, or if they are based on the unique personality of the group," she said. Recruiting jurors is another area that should not be sacrificed, Lisko noted, adding that trial consultants always should recruit in the most valid way possible using completely random persons to participate in the mock trial, as anonymity is the best way to obtain impartial jurors. "Bad research happens when bad recruiting occurs," Lisko said. "Bad recruiting includes ... pulling in friends and family as mock jurors, and using focus group facility databases."

But what if your firm isn't using a jury consultant and you have no budget at all? One very effective and very inexpensive way to predict possible outcomes is by looking to the past. In real trials I have worked on, we sent the jurors each a letter, asking them to contact us after the trial was concluded so we could talk to them. Many times, at least one juror did contact us and we gained insight into what worked and what didn't. For example, in one case, a juror didn't like the fact that a plaintiff complained of being cold all the time after an alleged nerve injury, yet, despite the courtroom itself being freezing, the plaintiff had on a sleeveless blouse and didn't seem to be bothered by the cold. This observation, according to the juror, was the presiding reason the jury rendered a defense verdict, and we learned that sometimes seemingly minor details can make a major impact. Such information now plays a part in our preparation for future trials.

When Money is No Object

Let's say you have a high-damages case and have a bigger budget to work with — what are some special services your firm can utilize to increase a mock trial's effectiveness and feedback? Lisko advised bringing a trial consultant in as part of the trial team early in discovery. "For example, if you have a strategy meeting, include your trial consultant, or when you prep a witness for deposition, bring in the trial consultant after you complete your substantive preparation and when you're ready to run through a Q-and-A practice," she said. A trial consultant can help with research early in the case as well. "A firm may wish to conduct focus-group research during discovery to help formulate the direction a case should go before it's too late to prepare the witness list," Lisko

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said.

If your firm has the budget, it can be advantageous to conduct several smaller mock trials earlier in the case to refine your most effective approach, instead of conducting just one large mock trial.

Once the jury research and mock trials are over, if your budget allows, Lisko suggested using the trial consultant during the trial as well. "Include the consultant on site to help prep key witnesses and practice the opening," she said. "After the consultant assists with jury selection, keep the consultant at trial to provide feedback [during] breaks and nightly on effective strategy for witness examination, and to help prepare an ongoing outline for closing argument."

Listen to Your Audience

If mock trial arguments are prepared thoughtfully and thoroughly, and the research is done well, there is a strong correlation between the mock trial outcome and the real trial result. From an attorney's point of view, getting feedback and having the opportunity to test issues and testimony are extremely helpful components of a mock trial that can be utilized many different ways.

How do you obtain interesting and useful feedback? One way is to videotape witness testimony during the mock trial. This can provide insight into various areas of weakness for each particular witness.

Another crucial part of obtaining feedback during the mock trial is for the attorney and paralegal to observe juror reactions. "You want to see how jurors might react to a specific piece of evidence or a claim as to fault on the part of the plaintiff," Sugg

said. "You also want to see if jurors think certain evidence exposes the client to a claim for punitive damages. Knowing the size of potential plaintiffs' verdicts and the ease with which jurors reach those numbers can also be very helpful." Sugg also noted that jurors might pick up on issues that had not previously been highlighted, enabling the attorney to more fully develop those for trial. And juror reactions can help attorneys during jury selection. "Seeing how various persons serving on the mock juries feel about exhibits, arguments, damages, etc., provides information that can be used by lawyers in the selection of the actual jury," Sugg said.

Finally, simply

HAVING ACCESS TO MOCK JURORS' PRIVATE THOUGHTS OFFERS SUPREME INSIGHT INTO HOW ISSUES MIGHT BE VIEWED IN A CASE AND THE DIFFERENT INTERPRETATIONS JURORS CAN HAVE

This open and candid access provides an opportunity to correct, minimize or re-focus issues, which is one of the most important lessons to get out of conducting a mock trial.

From the casting call to the final curtain, the mock trial process brings valuable insight to the staging of an actual trial. Paralegals can be involved all along the way to help ensure that the legal team puts its best foot forward at trial.

Catherine Astl, CLA, is a civil litigation trial practice legal assistant working for T. Patton Youngblood, Jr., in Tampa, Fla., in the areas of personal injury, medical malpractice, criminal and entertainment law. Astl is the author of "Behind the Bar — Inside the Paralegal Profession" (iUniverse, 2003).

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PARALEGALS AND OVERTIME: WHAT YOUR BOSS DOESN'T KNOW MIGHT HURT YOU

By: C. Andrew Head

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Whether it's preparing for trial or working on a closing, if there is midnight oil to be burned, paralegals are there. More often than not, they do the work that attorneys sign off on as their own, and like the attorneys that rely so heavily on their expertise and problem-solving abilities, they are trusted professionals who shoulder major responsibilities without needing daily supervision. They work hard, they know their stuff, and they often command higher salaries as a result. So how can it be that the law generally treats them no differently than an hourly-paid cashier when it comes to overtime pay?

First, the basics. Under the Fair Labor Standards Act ("FLSA"), employees are generally "non-exempt" and therefore entitled to overtime pay at a rate of time and a half for all time worked over 40 hours in a given work week, unless the employee falls within one or more exemptions under the Act. It is the employer's burden to prove that an employee is exempt, and the exemptions are to be construed narrowly in order to give broad protection to the workers covered by the Act. If an employee brings a civil action and proves that his or her employer failed to pay overtime compensation as required by the FLSA, the employee is entitled to recover the amount of his or her unpaid overtime compensation for two years prior to the filing date (three years if the employee proves that the employer's violation was willful), in addition to an equivalent amount as liquidated damages (unless the employer can prove the objective and subjective elements of its good faith defense), plus a mandatory award of the amount of attorneys' fees and costs that the court deems reasonable. Moreover, employees can proceed as a collective action with others similarly situated rather than going it

alone, resulting in shared costs and other benefits to the employee litigant.

Next, a little common sense. Not all law firms and corporations are knowingly trying to short-change their paralegals. Some pay generous bonuses in recognition for hard work throughout the year; others have no idea that their trusted, experienced paralegals could possibly be "non-exempt." Many understand that salaried employees are expected to work the number of hours necessary to do the job in exchange for that salary, and erroneously believe that therefore only hourly employees can be "non-exempt."

Regardless of what your boss may be telling you, paralegals generally do not fall within any of the exemptions to the overtime laws contained in the FLSA, the federal law applicable to most employers. In a series of opinion letters beginning in 1979 and continuing through 2005, despite various amendments to the FLSA regulations along the way, the Department of Labor ("DOL") has uniformly taken the position that paralegals failed to satisfy the FLSA's "administrative" exemption—the exemption most likely to be applicable to the majority of paralegals—because their primary duties involve producing the work product of their employer, rather than performing activities supporting their employer's administrative operations, and because their primary duties do not involve the exercise of discretion and independent judgment required by the regulations, because such discretion and judgment must be exercised by the supervising attorney in order to avoid the unauthorized practice of law by a non-lawyer. Although the

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DOL's opinion letters generally focused on the production work performed by paralegals employed by outside law firms rather than paralegals providing in-house administrative support to a corporate legal department, a 2006 opinion letter similarly found that a Senior Legal Analyst for a corporation was non-exempt and therefore entitled to overtime because 90% of his or her responsibilities included "analyzing facts, identifying the legal issues involved, and then providing [his or her] interpretation of the law in a memorandum format for an attorney's review," and only 10% of his or her responsibilities included administrative support such as reviewing new materials, cost analysis and formulating cost-savings plans, and training personnel. Thus, although certain in-house paralegals may be more involved in duties supporting the administrative operations of the company itself rather than producing the work of the legal department, it is not clear from the DOL's opinion letters whether even those in-house paralegals would satisfy the "administrative" exemption under the FLSA.

The result is no different under the FLSA's "professional" exemption even for those paralegals who engaged in a particularized course of study to obtain paralegal certification in addition to receiving a four-year baccalaureate degree, because the DOL has concluded that the actual duties of paralegals, while requiring specialized legal training, typically do not require the type of advanced specialized degrees contemplated by the regulations necessary to satisfy the requirements of the "professional" exemption. Unlike attorneys who must have a law degree as required by state law in order to obtain a license

to practice law, there is no similar requirement that a paralegal must have engaged in an extensive and specialized degree of study in order to perform the duties of a conventional paralegal (regardless of whether a particular employer indicates a preference for such advanced paralegal degrees during the hiring process), and an advanced specialized academic degree is not a standard prerequisite for entry into the field. The DOL expressly addressed the paralegal position under the "professional" exemption in 29 C.F.R. § 541.301(e), stating:

(7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption.

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Thus, the DOL has found that even those paralegals having a four-year college degree and a paralegal certificate do not satisfy the "professional" exemption if their job duties are that of a "conventional" paralegal. If, however, the paralegal possesses an advanced specialized degree in another professional field and is required to apply the advanced knowledge in that field as an expert in performing his or her paralegal duties (i.e., a CPA with an MBA performing expert forensic accounting work), then that particular paralegal may be exempt from the FLSA's overtime compensation requirements.

Some employers may look to the new "highly-compensated employee" exemption under the 2004 regulations in the hopes of not having to pay an overtime premium to paralegals who are already highly compensated. The "highly-compensated employee" exemption applies only to those employees: (a) who earn a total annual compensation of \$100,000 or more (which may include commissions and non-discretionary bonuses or other non-discretionary compensation), including a salary of at least \$455 per week; (b) whose primary duty includes performing office or non-manual work; and (c) who performs at least one of the exempt responsibilities of an exempt executive, administrative or professional employee.

Thus, even if the paralegal is earning over \$100,000.00 per year, this last provision makes it difficult to satisfy this exemption. Taking these in order, in order to satisfy the executive exemption, a highly-compensated paralegal would still have to either (i) supervise two or more other employees, (ii) have the

authority to hire or fire other employees, or (ii) effectively manage the company/firm or a customarily recognized department within the company/firm (e.g., the company's legal department). To satisfy the administrative exemption, the highly-compensated paralegal would still either have to (i) perform work directly related to the management or general business operations of the company/firm or of its clients, or (ii) exercise independent judgment and discretion with respect to matters of significance to the company/firm – both of which requirements the DOL has previously found that paralegals generally do not satisfy. Finally, with regard to the professional exemption, without an advanced degree in a specialized field that is required for expert work in that field as a specialized paralegal, even a highly-compensated paralegal would not satisfy the professional exemption.

In summary, law firms have objected to the treatment of paralegals as "non-exempt" under the FLSA for decades. The DOL has consistently overruled their objections, and the recent amendments to the FLSA regulations in 2004 did nothing to change the "non-exempt" status of most paralegals. So no matter how convincing your boss may sound when he or she explains that paralegals are exempt administrative or professional employees, better to get a second opinion from an attorney with experience in this area of the applicable wage and hour laws. What your boss doesn't know might hurt you, and every week that slips by without filing an action to assert your overtime rights is another week of overtime pay that is lost forever from that trial or closing two or three years ago.

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1. Note that many states have enacted their own wage and hour laws that may also apply in addition to the FLSA, and which provide even broader coverage than the FLSA. In the interest of brevity, this article will limit its focus to the federal overtime laws rather than attempting to present a state-by-state analysis.
2. See, e.g., *Alba v. Brian Loncar, P.C.*, No. 03-CV-1295-M, 2004 U.S. Dist. LEXIS 20477 (N.D. Tex., May 19, 2004) (collective action under FLSA involving putative class of all current or former legal assistants and paralegals of various law firm employers).
3. See DOL Wage and Hour Op. Ltrs., August 17, 1979; September 27, 1979; June 12, 1984; April 13, 1995; February 19, 1998; January 7, 2005; see also DOL Wage and Hour Ruling December 16, 2005, FLSA 2005-54, 2005 DOLWH LEXIS 68. Under the American Bar Association's Code of Professional Responsibility, a delegation of legal tasks to a lay person is proper only if the lawyer maintains a direct relationship with the client, supervises the delegated work, and has complete professional responsibility for the work produced.
4. See DOL Wage and Hour Op. Ltr., July 24, 2006, FLSA 2006-27, 2006 DOLWH LEXIS 37.
5. See DOL Wage and Hour Op. Ltr., January 7, 2005; DOL Wage and Hour Ruling, FLSA 2005-54, December 16, 2005.
6. See DOL Wage and Hour Ruling, FLSA 2005-54, December 16, 2005 (stating that Paralegal C who possessed an MBA and an accounting degree and passed the uniform CPA exam might have qualified for exemption if she performed primarily expert work in her advanced field of study, but because her duties "appear[ed] to be those of a conventional paralegal," there was insufficient evidence to conclude that Paralegal C satisfied the exemption.)

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* Your telephone company may apply usual charges for making a phone call or receiving an SMS. You will not be charged any additional 411 fee.

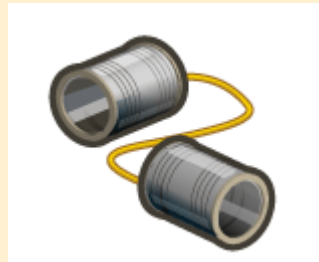
1



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4



1. State the location and business type
2. Dial 1-800-GOOG-411 from any phone
3. Connect to the business for free
4. Done!

Finding Workplace Happiness Secrets to a stress-free career.

By Chere B. Estrin

As seen in the November/December 2007 issue of *Legal Assistant Today*. Copyright 2007 James Publishing, Inc. Reprinted courtesy of *Legal Assistant Today* magazine. For subscription information call (800) 394-2626, or visit www.legalassistanttoday.com.

Stress doesn't scare me; it's part and parcel of our lives. Why, might you ask, would anyone say that? Probably because in the second half of my work life, I have found the secrets to a relatively stress-free career.

I used to be the most stressed-out person I knew. I averaged 90-hour work weeks in the legal field as an executive at a \$5 billion corporation, traveling three weeks of every month, answering to big shots who thought they owned the planet, and managing hundreds of employees. It was not much different when I was a paralegal manager. There were critical deadlines I had to meet, difficult attorneys to juggle, anxious clients to handle and something called a "minimum billable hours" requirement, now referred to as "suggested" hours in a more politically correct and less actionable environment. I recently looked at a picture of myself during that era. I was holding my newborn niece, Cristina, a joy to behold, and I looked like I just escaped from a train wreck and stopped by to say howdy.

In November 2000, the *California Bar Journal* published "Stress and Impairment of Attorneys," an article by Richard Carlton, author of "Don't Sweat the Small Stuff," that cited: "Among members of the medical community, there is a growing acceptance that stress from long working hours ... may contribute to the onset of clinical depression. A study of 10,000 adults by a team from Johns Hopkins University discovered that among all the occupational groups represented, attorneys had the highest prevalence of signs and symptoms of clinical depression. In fact, the rate of depression among the attorneys studied was 3.6 times the norm for all occupations." The article

further stated that, "Psychologists observe that attorneys, who are trained to be impersonal and objective, often apply the same approach to their personal problems and are reluctant to focus on their inner emotional lives." Wow! Examining the state of mind of those around you in relation to why your atmosphere seems stressful is very revealing indeed.

Stress Reduction Kit



Directions:

1. Place kit on FIRM surface.
2. Follow directions in circle of kit.
3. Repeat step 2 as necessary, or until unconscious.
4. If unconscious, cease stress reduction activity.

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The Stress Myths

Before we look at what to do about stress, let's debunk some workplace stress myths.

Myth No. 1: Stress is normal for anyone working in the legal community. The stakes are high and when the stakes are high so is the stress, right? Some people think stress is good for you because it pushes you to perform. Others have succumbed to the mindset that if you are not busy, you are not really crucial to the organization, particularly when you are rewarded for high billable hours. But being stressed and overworked doesn't mean you matter more to your firm. It either means that something is wrong at work or you are having difficulty prioritizing your tasks and your time. Worse yet, a high level of stress means you get less work done because stressed people tend to be less efficient, poor communicators and

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bad at making good decisions.

To accept stress as a normal condition of work is bad for people and bad for business. To declare that you thrive under stress is a justification for procrastination. Sure, there are people who can't figure out how to deliver anything until the last minute. But this is a crisis in confidence (fear of starting for fear of failing) rather than stunning brilliance unlocked by stress.

Myth No. 2: Stress is caused by working too much. If stress is caused by overworking then why do some people work 80 hours a week and feel great while other people work only 30 hours and become seriously stressed?

Here's why: *Stress has nothing to do with the number of hours you work, and everything to do with how you feel during those hours.* If you work 100 hours a week feeling great, having fun and taking pride in what you do, you won't be stressed. If you work 30 hours a week feeling inadequate, bullied or unappreciated, then you will be stressed.

Myth No. 3: Stress is cured by working fewer hours. Most workplaces react to stress by reducing employees' workloads, responsibilities or working hours or, in serious cases, by giving people long sick leaves. However, research over the years has shown that this could be a mistake. Reducing work or leaving work temporarily doesn't fix any underlying problems. Therefore, when employees return to work or to normal work conditions, nothing has changed and the stress returns quickly.

Myth No. 4: Stress is cured by working more. Falling behind at work from time to time is a given in this 24/7, Internet-accessed, Blackberry work world. Believing that if you work really hard for a while, you will catch up and then stress will go away is a fairy tale. It won't just go away for two reasons: No. 1: Workplace stress doesn't come from falling behind at work; it comes from how you feel about falling behind; and No. 2: In most law firm environments, people always will be behind. There is simply too much work. Finishing all your assignments means getting more work along with the career enhancing opportunity to push your billable hours even higher.

A temporary push to reduce a pile of work or meet a deadline is fine, but all too often that temporary push becomes the new standard. So the solution to stress is not "work harder to catch up" because in most law firms this is impossible. The solution is to feel good about the work you finish and not get too stressed about the work you don't finish. Don't stop caring or looking for a solution; just learn to avoid a vicious circle: Being stressed makes you less productive which means you get less work done and become more stressed.

Myth No. 5: Stress is cured by focusing on stress. This often is presented by stress consultants who privately compile their own list of stressors. At this point, I have one big ho-hum for all of that. Focusing on stress is not the way to remove it — it's a great way to create more stress. A better strategy is to focus on what gives you peace and happiness.

Taking Control

Work doesn't give you stress; feeling bad about work gives you stress. Changing your work hours, responsibilities, priorities or work environment is meaningless unless it also changes the way you feel at work. Most common sources of stress for

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legal professionals — deadlines, lack of control over time, difficult clients, no margin for error — are outside of their personal control. What truly determines how much stress these circumstances cause is the degree to which these givens are perceived or interpreted as threatening. Any perceived threat, real or not, triggers our body's "fight or flight" response. Over time, it's possible to modify how your body reacts by paying attention to how you perceive situations as threatening. Ask yourself whether an issue really justifies your current reaction to it, or whether it will matter at all a month later. If practiced regularly, you can keep matters in perspective so stress is relative to the importance of the situation.

Everyone can find a way out of stress and some might wish to seek professional counseling. Given that I have put down some standard stress-dealing methods, I do have a few suggestions that helped change my life around and might help you as well:

- **You can't change things if you don't acknowledge them.** OK, so Dr. Phil and I have the same general idea, but he hit it right on. When it was first brought to my attention that I was stressed-out, I was in total denial. Because I was fearful of being accused of failing and I wanted to do a great job, I denied the fact that I was stressed-out. To me, it was a sign that I could not deal with the job. What I really needed to change was my responses. Acknowledge your stress. Without that acknowledgement, you can't take action.
- **Learn to really laugh.** How long has it been since you laughed out loud, long and hard? I mean a good belly laugh? If you are stressed-out, it's probably been awhile. It's a well-known fact that laughter releases endorphins which are natural painkillers. In short, laughter is great medicine.
- **Make a friend at work.** When you have someone you can confide in, someone with whom

you feel secure, trust and can share the ups and downs of the workplace with, you feel better. The environment somehow doesn't seem all that bad.

- **Make a decision.** The only way to transform your life is to make a decision to change and honor that decision. Decide how you want to live your life and then set about with complete certainty to create that life. The most critical point in my career came when I decided I wanted to create the environment that was right for me. I no longer wanted a fancy office in a Class A building in the middle of a prestigious district. I wanted to own my own business, work from home and call my own shots. I have not looked back since and I am happy as a clam.

Love 'em or leave 'em. Recently, a good friend mistakenly thought I was encouraging paralegals to abandon their jobs without demonstrating any loyalty to employers. What I do emphasize to anyone who will listen is this: You have to love what you are doing. You absolutely have to get up in the morning and be excited about the workday. There is no better career booster than a job you love, thrive at, and that remains fun and stimulating. That is what actually changed me around; I created a situation where I am passionate about what I do and I feel appreciated, challenged and excited just about every day. (There is no 100 percent avoidance in the war against stress.) With that attitude, it doesn't matter if I work 30 hours or 90 hours a week. I am thrilled by what I do and the time I spend doing it.



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Make It Happen

The secrets to a (relatively) stress-free environment? Make a decision to craft your career so that it works for you. Decide what you will stress about and what you will not. By loving the job you are in, stressors become challenges and challenges become invigorating. Trust someone who spent the first half of her career as sergeant of the stress battalion: A work environment that is pretty much stress free is true career happiness.

Chere B. Estrin is the CEO of Estrin LegalEd, a Los Angeles-based paralegal training organization. Founder of the Paralegal SuperConferences, she has written nine books on the paralegal field and is a national seminar speaker. She also is a co-founding member of the International Paralegal Management Association. She can be reached at www.estrinlegaled.com.



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Today the Governor has appointed two new judges to the Superior Court for the County of Santa Barbara; Jean Dandona has been appointed to the seat held by the late Judge Joe Lodge and Kay Kuns has been appointed to the seat vacated by the retirement of Judge Rodney Melville. The Governor honors us with these two exceptional appointments and we wholeheartedly welcome them to our bench!

J. William McLafferty
Judge of the Superior Court
Department 5
(805) 882-4709

2008 CALENDAR

CALENDAR



November 11, 2008– Veteran’s Day (court closed)

November 17, 2008— Last SBPA luncheon of the year. We will hold the election of the 2009 board and John Derrick will be speaking to us on the subject of his latest book “Boo to Billable Hours.”

November 27, 2008 – Thanksgiving Day (court closed)

November 28, 2008 – Day after Thanksgiving (court closed)

December 25, 2008– Christmas Day (court closed)

SBPA LUNCHEONS

This year’s final general membership meeting will be held on the following date and is open to you and your guests:

November 17, 2008 - 12:00 pm. - 1:30 p.m.

All luncheon membership meetings are held at Santa Barbara Bank & Trust, located at 1021 Anacapa Street, Santa Barbara. If you have questions regarding the program please contact Jill Sadler at jill@jackmansadler.com.

Catered Buffet Luncheon - \$18 members, \$20 non-members

RSVP to Jill Jackman Sadler at jill@jackmansadler.com

Please remember that food orders for the meetings are based on the RSVPs. Please cancel your RSVP before the food is ordered if you are unable to attend the meeting after all, otherwise the association will have to pay for the meal and too much food is left over. On the flip-side, please RSVP for meeting before the food is ordered (especially if you are part of a bigger group) to ensure that there is enough food for everyone. Thank you!

2008 OFFICERS AND COMMITTEE CHAIRS

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Second Vice President of Programs	Jill Jackman Sadler (jill@jackmansadler.com)
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CAPA Secondary Representative	Debra Wheels (dwheels_paralegal@yahoo.com)
NALA Liaison	Cyndi Hitsman (cwilhits@yahoo.com)

COMMITTEE CHAIRS

Annual MCLE Conference	Josefina Martinez
Newsletter Editor	Sandra Biesinger (sb@ppplaw.com)
Employment and Job Bank	Jill Jackman Sadler

If you are interested in serving on the board, please contact Deborah Reber. If you have comments, questions, or articles to submit for the newsletter, please email them to Sandra Biesinger. Thank you.



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