3

The Paralegal Workplace

DIGITAL RESOURCES

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  - Preparing for a Job Interview: Resume Advice
  - Preparing for a Job Interview: Interviewing Advice
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- Technology Resources
A lawyer’s time and advice are his stock in trade.”

*Abraham Lincoln*

**Paralegals at Work**

*Law Offices*  
*Goldenberg, Craigie, and Luria*

**INTEROFFICE MEMO**

TO: Natasha Weiser  
FROM: Cary Moritz, Office Manager  
SUBJECT: Mentoring for New Hires

All of us at Goldenberg, Craigie, and Luria welcome you to our firm. We know you had other job opportunities but believe you will be professionally satisfied and challenged by working here.

The paralegal profession has changed dramatically since I first started in this field, and the one thing we can count on is more change. Please know that you can call on me at any time for advice and guidance. No question is too big or too small.

After all these years I have seen a number of major changes in the profession. When I started out, we were hired based on our keyboarding skills and basically operated as secretaries. Today, more and more lawyers treat us as a part of the legal team and demand as much, if not more, of us than they do new law graduates.

In your new job as a paralegal for Goldenberg, Craigie, and Luria, you frequently will represent our firm as the client’s first point of contact and be responsible for conducting initial interviews with clients. As you prepare your interview strategies, please use me as a sounding board. It is important to build rapport so clients will feel comfortable sharing sensitive and personal information with someone who is, at first, a complete stranger. As time goes on, clients often become most comfortable with the paralegal assigned to their case.

As a paralegal, you will be expected to follow a case and do much of the administrative work, such as keeping track of the time and costs associated with each case. Bookkeeping and accounting skills can be a real plus! When I first started, I did only litigation work. When the lawyers in my firm found out that I had been a bookkeeper and had taken accounting classes, I was asked not only to work in the estates area but also was given responsibility for some of the in-office accounting. This is something to think about.
INTRODUCTION FOR THE PARALEGAL

As the paralegal profession has evolved, so, too, have the duties and roles of the paralegal within the legal system and elsewhere. The earliest legal assistant was probably a legal secretary who developed specialized skills while working for an attorney in one of the legal specialties. As the need for specialized skills became more obvious, legal assistant programs and paralegal programs were created to teach the requisite skills.

In the classic sense, a paralegal performs those tasks and activities that assist the supervising attorney in representing clients. In the broader view, the paralegal performs many of the same functions that attorneys perform, under the supervision of an attorney but limited by laws and regulations on the unauthorized practice of law (UPL). The paralegal’s actual tasks and functions vary according to the type of practice, size of the firm or organization, and skill of the individual paralegal.

Arrangements and Organization of Law Offices and Firms

The classic image of the law firm was of the practitioner working alone in a small office in a small town. The more modern view portrayed in movies and on TV is that of a large national or global law firm. In between are small partnerships and other environments—corporations, insurance companies, government agencies, and consulting firms composed of accountants, lawyers, and management consultants. Exhibit 3.1 shows organization charts for four typical types of arrangements in which the paralegal may find work.

Solo Practice

Solo practice refers to one lawyer practicing alone without the assistance of other attorneys. The solo practitioner still exists, not only in small towns but in large metropolitan areas as well. The solo practitioner may well be the employer who most depends on the skills of the paralegal in running the office, working with clients, and assisting at trial. A solo practice offers perhaps the greatest challenge for the paralegal who wishes to be involved in every aspect of a law practice. Tasks that otherwise might be assigned to an associate will fall to the paralegal to perform.

In a litigation practice or a practice in which the attorney is frequently out of the office attending meetings, the paralegal becomes the main point of contact and coordination between clients and the supervising attorney. Jobs that might be done in larger firms by an accounting staff, such as preparation of payroll and maintenance of client escrow accounts, frequently are done by the paralegal in solo practices. Many solo practitioners consider their paralegal to be a key resource in the practice of law.

Small Offices

Small-office arrangements range from individual practitioners sharing space to partnerships. For the small practitioner, the cost of maintaining an adequate law library,
conference room, office space, and office support services such as photocopy and fax machines is daunting. Therefore, practices frequently share these common services while separating client practices. The lawyers might have a similar type of practice, such as criminal law or family law, or dissimilar practices, such as family law and insurance defense work. Depending upon the arrangement, the practitioners might refer clients back and forth. The responsibility for the client and the client relationship is a personal one for the attorney.

Depending upon the arrangement, personnel, such as the receptionist, secretary, or paralegal, might be shared. In these situations the paralegal must be certain which of the attorneys is the supervising attorney with regard to each client. The paralegal who is working for more than one attorney in a sharing arrangement might be privy to confidential information that may not be shared with the other attorneys in the office unless they are working on the same case. In some respects this can be thought of as an “ethical wall” environment. At the very least, the paralegal and the attorneys must clearly understand the ethical issues involved.
**Partnership**

Two or more natural (human) or artificial (corporation) persons who have joined together to share ownership and profit or loss.

**Partnerships**

In a *partnership* arrangement, two or more natural (human) or artificial (corporation) persons have joined together to share ownership and profit or loss. Partnerships in small-office arrangements may take the form of true partnerships, sharing all aspects of the practice, or may be partnerships in name only. In the latter case, the same ethical issues that the paralegal faces in the pure office-sharing arrangement must be considered.
If all of the attorneys are partners with complete responsibility for each other and the practice, paralegals may find themselves working for more than one of the partners. In effect, the partners share the paralegal’s services. This can give rise to certain issues for the paralegal when more than one of the partners demand something at the same time with the same sense of urgency. The fact that each of the partners will consider himself or herself to be “boss” can create a delicate situation for the paralegal.

A common solution in many offices is for one of the partners to be the primary supervising attorney for the paralegal, through whom the other partner (or partners) funnels work and requests. From an ethical point of view this solves the problem of who the supervising attorney is for the clients and files on which the paralegal is working and at the same time clarifies the lawyers’ responsibilities under the lawyers’ Rules of Professional Conduct.

**Large Offices**

Historically, what are now viewed as large law offices are an outgrowth of traditional law offices that have expanded over the years, adding partners and associates along the way. Initially, the larger law firms were regional, confined to major cities such as

**Large law offices** Large law offices are an outgrowth of traditional law offices that have expanded over the years, adding partners and associates along the way.
New York, Chicago, Philadelphia, and Los Angeles. With the growth of government at the national level, many firms found themselves establishing offices in the nation’s capital to service clients appearing before federal agencies.

Continued growth of the national economy and business and corporate clients around the country resulted in many firms establishing offices in other large cities, giving them a presence on each of the coasts as well as central locations such as Chicago, with offices in Washington, D.C., and elsewhere. Growth of the global economy has taken us one step farther, with law firms establishing offices in foreign countries. As a result, the large law firm has taken on the characteristics of many corporations, with firms merging to bring specialty areas of law within one firm while expanding the global availability of legal services.

For the paralegal the large office can be an exciting and dynamic area of practice. Paralegals may be called upon to travel with other members of the legal team or on their own as part of the practice. Even when no travel is required, the paralegal might be called upon to work with clients who have diverse backgrounds, both domestically and internationally. One of the values of the large law firm for clients is the availability of a number of legal specialties within one legal services provider. For the paralegal this offers the opportunity to work in different areas of legal specialty.

Working in a large law firm also has some disadvantages. The larger the firm, the greater is the potential for fewer personal relationships and contacts with clients and other members of the legal team. In some firms, just as in any large organization, “playing politics” becomes very real. A paralegal’s status, as well as some of the perks and benefits of the job, may depend on the status of the individual’s supervising attorney. At the same time, the opportunities for advancement in a large firm might outweigh the disadvantages.

**Large Firms**

Unlike the small office, in which the paralegal also might be the bookkeeper, office manager, receptionist, and second chair in litigation, a department within a large firm typically hires support staff for each of these functions. The first contact for a paralegal with a large firm may be with the human resources department as part of the job-application process. Bookkeeping or accounting departments usually handle payroll, check requests, and other financial issues. In the larger firms, even the function of making copies takes place in a duplicating department, and the firm might have a mailroom for handling incoming and outgoing mail.

The large law firm has specialized components. In some ways this is similar to the structure of the English legal system, in which the solicitor deals directly with clients and the barrister litigates the cases. United States law firms frequently have litigation specialists who spend their time in the actual litigation of cases while other attorneys within the same firm rarely, if ever, go to court. The role of the latter is to work with clients and, when the need arises, prepare the materials for the litigation department.

Just as the law has become more complex, lawyers also have come to specialize in narrow areas of practice such as environmental law, intellectual-property law, healthcare law, insurance law, tort law, and family law. This means that paralegals in large law firms also become specialists within their supervising attorney's primary field of law. Large-practice firms encourage clients to use the firm for all of their legal needs, so a lawyer within the firm frequently refers clients to other specialists in the firm while maintaining primary contact with the clients. Some firms have lawyers whose expertise is in getting new clients. These lawyers, often former politicians and government officials, frequently are referred to as the “rainmakers.” They use their contacts to obtain clients and then refer the clients to the specialists within the firm.

Compensation for attorneys within large firms is generally based on how much new business the attorney has brought in, as well as how many billable hours the supervising attorneys have been able to bill for themselves and their paralegals. In this kind of environment, the paralegal who is able to maintain relationships with clients is an invaluable asset to the firm.
General Practice

A general law practice is one that handles all types of cases. This is what people usually think of as the small-town lawyer, the generalist to whom everyone in town comes for advice. The reality is that the same generalists practice in cities as well as small towns throughout the country. Their practices are as diverse as the law itself, handling everything from adoptions to zoning appeals. As general practitioners, they serve the same function in law as the general family practice doctor does in medicine.

Lawyers in this type of practice often work in several areas of law within the same day—attending a hearing in small-claims court in the morning, preparing a will before lunch, having a luncheon meeting with an opposing attorney to discuss settlement of an accident case, then helping someone who is forming a corporation, and finally appearing at a municipal government meeting in the evening to seek a zoning approval. For many, the general practice is the most exciting type of practice, with a continually changing clientele offering all sorts of legal challenges. The paralegal in this environment has the opportunity to work with different types of clients on different types of legal matters on a constant basis. The challenge in this type of practice is to stay current in each of the areas of law of the practice.

Specialty Practice

A specialty practice is involved in one area of law. Lawyers with specialty backgrounds, such as engineering, might choose to work in patent law or intellectual-property law. Those coming into the legal profession with accounting backgrounds might specialize in tax matters. Others have special interests and passions such as working with senior citizens, a legal area that can be a challenging but rewarding practice.

Paralegals in Practice

PARALEGAL PROFILE

Ann W. Price

Ann W. Price, RP, has been a paralegal for over 25 years, working in different sized law firms in diverse practice areas. Ann is currently employed as a Litigation Paralegal Specialist in the U.S. Department of Justice’s Environment and Natural Resources Division in Washington, D.C. She is a PACE™ Registered Paralegal which means she has passed the Paralegal Advanced Competency Exam, a certification test developed by the National Federation of Paralegal Associations (NFPA).

In my first few paralegal positions, I was either the only paralegal in the office, or one of two paralegals supporting several attorneys. Because these were small law firms, I was given a large degree of responsibility right from the start. I routinely prepared client correspondence, assisted with discovery (gathering and managing evidence), interviewed clients, and attended trials.

Next, I worked in larger law firms, specializing in food and drug law and environmental law. As a food and drug law paralegal, I researched congressional reports, the Federal Register, and other news and legal databases to summarize findings that might be of interest to the firm’s clients. As an environmental law paralegal, I worked on all phases of discovery, trial preparation, and arbitration proceedings in Superfund cases that mostly involved municipal landfill clean-ups.

My next two jobs were both related to paralegal management for large law firms with hundreds of attorneys. In one of these positions, I was an active paralegal in addition to my management duties. Eventually, I became a paralegal manager where my duties were entirely managerial. I currently work for the U.S. Department of Justice’s Environment and Natural Resources Division where I provide litigation support to approximately 60 attorneys.

There are pros and cons in every type of legal work setting. Paralegals in large law firms are usually paid a larger salary, but the work they perform is often far less substantive than the work performed by paralegals in smaller firms. Large firms often give the most substantive work to the associate attorneys, particularly those right out of law school. In smaller firms, every person is expected to be able to meet any need the case requires. Also, in larger firms, there is often pressure to meet a specified number of client billable hours; many smaller law firms do not even set a minimum.

In my various jobs, the basic skills used and the work performed did not change significantly from practice area to practice area. However, the terminology and legal resources varied considerably. Continuing legal education opportunities are more prevalent in larger law firms than smaller ones. In smaller firms, education is generally limited to on-the-job training. Most law firms in the metro D.C. area, particularly the large ones, require a four-year degree, and many want a paralegal certificate as well. Individuals with two-year degrees are more likely to find employment at smaller firms, at least for their first paralegal job.
Legal Nurse Consultants and Nurse Paralegals

**Nurse paralegals** or **legal nurse consultants** are nurses who have gained medical work experience and combine it with paralegal skills.

Nurse paralegals or legal nurse consultants are nurses who have gained medical work experience and combine it with paralegal skills. Becoming a legal nurse consultant or a nurse paralegal is an ideal career opportunity for nurses with clinical nursing experience who want to work in the legal environment. Entry to most education programs requires a current license as a Registered Nurse and a minimum of 2,000 to 6,000 hours of clinical nursing experience, usually one to three years. Some programs are open to those with an associate degree in nursing, but usually a bachelor's degree in nursing is requested or desired.

Nurse paralegals draw upon their knowledge of medical terminology, medical procedures, and nursing practice to decipher medical records for the legal community. The most obvious advantage is their ability to analyze medical records from both medical and legal standpoints. Their experience also enables them to conduct more effective interviews with clients, fact witnesses, and expert witnesses in cases of medical malpractice and cases involving injury and damage investigation. Graduates of these programs often work as independent nurse consultants for law firms and insurance companies. Others find positions with insurance companies and law firms specializing in medical malpractice and personal injury.

Although the ABA considers the nurse paralegal and legal nurse consultant to be part of the paralegal profession, the American Association of Legal Nurse Consultants (AALNC) views this role as a subspecialty of nursing. In March 1998, the then named Standing Committee on Legal Assistants of the American Bar Association, now named the Standing Committee on Paralegals, decided that “legal nurses and legal nurse consultants fall squarely within the ABA definition of ‘paralegal/legal assistant.’” By contrast, AALNC has defined the legal nurse consultant as a specialty practitioner of nursing whose education should be developed and presented as specialty nursing curricula by nurse educators in partnership with legal educators. The ethical code and regulations that must be followed may depend on which profession they are associated with.
Real Estate
Paralegals with real estate experience in sales or from title insurance agencies can perform many of the tasks associated with a real estate practice, such as communicating between buyers and sellers, coordinating the documentation for settlement, and preparing documents for recording purposes. In most jurisdictions, becoming a licensed salesperson or a real estate broker requires completion of a course of study that provides a foundation in the practices and procedures of real estate practice and equips the paralegal with a terminology base that facilitates effective communication with the supervising attorney.

Complex Litigation
Complex litigation takes many forms, from class-action lawsuits to complex product-liability cases. Paralegals working in complex litigation typically oversee the requests for document production and maintain indexes, usually on computer databases, of the paperwork generated from litigation. In large cases the paralegal might supervise a staff of other paralegals or law students in summarizing discovery documents. At trial, these paralegals frequently coordinate the production of exhibits.

Environmental Law
Environmental law covers everything from toxic waste dumps to protection of wildlife and the environment. A challenge for the environmental paralegal is in locating and obtaining public records and other documents necessary to establish the areas of concern and claims, some of which predate computer records, such as toxic waste dumps created during World War II and the early 1950s.

Intellectual Property
In a survey by The Affiliates, a company providing temporary and full-time legal personnel, 48 percent of the surveyed attorneys indicated intellectual property as the fastest growing field in law. The intellectual-property paralegal is concerned with the formalities of protecting intellectual-property interests including patent rights, trade secrets, and copyrights and trademarks. The two main areas are (a) prosecution, which involves establishing the priority of the claims that will result in granting of the patent or copyright, and (b) litigation, which protects those rights against claims by others, such as in patent-infringement cases.

Elder Law
With the aging of the population has come an increased need to protect the rights of the elderly and obtain all the benefits to which they are entitled. This includes simple tasks such as helping individuals to apply for Social Security, Medicare, or Medicaid benefits. It also entails working with the elderly to create estate plan documents, powers of attorney, and health-care directives. More and more, the paralegal or legal assistant is becoming an advocate for the elderly, in many cases working in a pro bono capacity or through social service agencies. Elder law has come to include the additional issues of helping the elderly work through the maze of health care and government benefits.

Paralegal Managers
As paralegal staffs have grown, even at some of the smaller firms, the position of paralegal manager has emerged. With higher turnover rates and increased specialization comes the associated need for someone to hire, supervise, train, and evaluate paralegals. In many firms this person is the interface between the paralegal and the attorneys.
As paralegals gain specialized knowledge in specific fields, they find themselves working for different attorneys in specialties, such as intellectual property, real estate, or securities law that require paralegals with specific expertise. Attorneys, for the most part, do not have the time to handle the nonlegal aspects of managers, such as acting as leader, mentor, employee advocate, supervisor, trainer, evaluator, problem solver, and resource manager.

The largest firms appoint a managing partner to handle the management tasks and human resources issues. In many smaller firms, these duties fall to the individual with the title of paralegal manager. This new specialty is well recognized and supported by its own organization, the International Paralegal Management Association.

**Pro Bono Paralegals**

*Pro bono* means working without compensation on behalf of individuals and organizations that otherwise could not afford legal assistance. Increasingly, the legal profession has taken on the role of working without compensation in legal aid offices and community legal service programs. As members of professional associations, paralegals participate in pro bono activities at varying levels and time commitments. For example, the Massachusetts Paralegal Association supports a number of pro bono projects. In one of these, the Family Law Project, paralegals partner with attorneys to help handle domestic violence cases without compensation. Pro bono work is seen as part of an ethical obligation of the legal profession.

**Government Employment**

Federal, state, and local governments are large employers of paralegals, and paralegals are expected to be utilized even further in government employment at every level in the future. Many of the federally employed paralegals are found in administrative agencies. A good example is the work of paralegals in the Social Security Administration as decision writers, case schedulers, and case specialists. Just as the private law firm has discovered the value of the paralegal on the legal team, so have government law offices such as the U.S. Attorney’s Office and the Office of the Solicitor General. These offices are involved with both criminal prosecutions and civil litigation where the government is a party. Many other agencies that conduct administrative hearings utilize paralegals at all levels.

**Legal Departments of Corporations**

Many people think of a corporate legal department as a laid-back, conservative environment with little activity other than drafting minutes of meetings and filing corporate records with federal and state governments. The reality today is that, in the global economy, more and more corporations with in-house staffs are engaged in international trade. A whole body of law relates to compliance for imports and exports.

For example, the transfer and sale of certain high-tech equipment and technology must have prior government approval. Sales involving shipments to other countries require letters of credit and currency conversion. International trade creates a host of unique issues related to the laws of the countries with which the domestic corporation may be doing business.

The paralegal is in the middle of these transactions, juggling the requirements from both the legal perspective and the sales/marketing perspective. Paralegals with foreign language skills find themselves in even greater demand in handling communication issues. Those with cultural ties to, or background in, the countries with which the corporation is doing business will find their knowledge frequently tapped to avoid cultural mistakes resulting from miscommunication.

DuPont is one of the largest corporations in the United States. In an effort to reduce costs, DuPont changed the way it uses legal assistants—elevating the work, positions, and numbers of legal assistants. Legal assistants have been given more responsibility in handling documents, technology, and investigations. In doing so, DuPont reportedly reduced by almost 90 percent the number of outside law firms and services it formerly used.
As of 2000, the DuPont legal department had 51 paralegals working with 140 lawyers. In the DuPont model, the legal department acts as counsel to the other DuPont-owned companies and deals with them as clients much in the way that the outside law firms did in the past.  

**Self-Employment**

The paralegal has some opportunities to be self-employed, although state regulation may limit the opportunities or restrict paralegal self-employment. Where authorized by federal law, the paralegal may actively represent clients without the supervision of an attorney, such as before the U.S. Patent Office or Social Security Administration. Many paralegals work as freelancers for different attorneys, usually on a case-by-case basis. In addition to the normal ethical obligations regarding confidentiality and conflict of interest, the freelance paralegal must observe the ethical guidelines on advertising in the local jurisdiction and avoid creating the appearance of being available to render legal advice except where authorized.

**Networking**

Regardless of the size or type of working environment, networking is important for the individual. It establishes contact with others with whom questions and information are shared. Many paralegals develop a referral list of other paralegals they can call to get a quick answer in their own jurisdiction and in others. Most paralegals facing a deadline are not too proud to call their contacts—whether they are across the street, across the state, or across the country—to meet a deadline or get the necessary form. During interviews, hiring attorneys have been known to ask about the paralegal’s networking activity.

For the paralegal, networking may also be the key to obtaining a job. As you’ve heard no doubt, it is not what you know but whom you know. Knowing the right person or a person who can refer you to the right person is a valuable asset.

**Paralegal Tasks and Functions**

The actual tasks and functions the paralegal performs vary according to the type of practice, size of the firm or organization, and skill of the individual paralegal. Some of the more generic tasks include:

- conducting interviews
- maintaining written and verbal contacts with clients and counsel
- setting up, organizing, and maintaining client files
- preparing pleadings and documents
- reviewing, analyzing, summarizing, and indexing documents and transcripts
- assisting in preparing witnesses and clients for trial
- maintaining calendar and tickler systems
- conducting research, both factual and legal
- performing office administrative functions including maintaining time and billing records

**Client Interviews**

Many paralegals act as the first line of contact with clients. Although paralegals may not ethically or legally give legal advice or set legal fees, they frequently conduct the initial interview with the client. This might involve taking the initial client information.

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and preparing the client data sheet (see Exhibit 3.2) or conducting a more in-depth interview to determine the facts of the matter for the attorney’s review. Frequently, the paralegal continues to function as the contact point with the client and the supervising attorney or the law firm. Paralegals frequently establish rapport with clients and earn their confidence.

The paralegal always must be keenly aware of the ethical limitations in dealing with clients. This is especially true when the client develops a high level of confidence in dealing with the paralegal. Clients come to the attorney for advice. When they have confidence in a paralegal, they might tend to ask the paralegal for advice and recommendations instead of “bothering” the attorney. Providing such advice or recommendations may be in violation of UPL restrictions.

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**Exhibit 3.2** Client data sheet

<table>
<thead>
<tr>
<th>CLIENT DATA SHEET</th>
<th>ACTION TAKEN/REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Client Name:</td>
<td></td>
</tr>
<tr>
<td>2. Client/Matter Number:</td>
<td></td>
</tr>
<tr>
<td>3. Client Address:</td>
<td></td>
</tr>
<tr>
<td>4. Phone: Work:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Home:</td>
</tr>
<tr>
<td></td>
<td>Fax:</td>
</tr>
<tr>
<td>5. Email address:</td>
<td></td>
</tr>
<tr>
<td>6. Social Security No.:</td>
<td></td>
</tr>
<tr>
<td>7. Date of Birth:</td>
<td></td>
</tr>
<tr>
<td>8. Marital Status:</td>
<td></td>
</tr>
<tr>
<td>9. Client Contact:</td>
<td></td>
</tr>
<tr>
<td>10. Matter:</td>
<td></td>
</tr>
<tr>
<td>(a) Adverse Party:</td>
<td></td>
</tr>
<tr>
<td>(b) Date of Incident:</td>
<td></td>
</tr>
<tr>
<td>(c) Statute of Limitations Period:</td>
<td></td>
</tr>
<tr>
<td>(d) Statute of Limitations Date:</td>
<td></td>
</tr>
<tr>
<td>11. Opposing Counsel:</td>
<td></td>
</tr>
<tr>
<td>12. Opposing Counsel Address:</td>
<td></td>
</tr>
<tr>
<td>13. Opposing Counsel Phone:</td>
<td></td>
</tr>
</tbody>
</table>
For example, to the client, the question, “Should I make my son my power of attorney?” seems simple. But the answer is not so simple and involves many legal consequences, so it must be referred to the supervising attorney. Another UPL might be to help the client complete blank legal forms, such as bankruptcy forms or will forms purchased at a retail store.

Investigations
The paralegal may be asked to act as the direct representative of the supervising attorney in conducting an investigation into a pending case. A paralegal trained in the specific area of law understands the factual needs of a case and the sources of information available. A paralegal who has had the opportunity to observe or work with an attorney and has watched the presentation of evidence in a trial obtains a good sense of what will make good demonstrative evidence, such as models and photographs.

In the case of photos, an understanding of the kind of questions that might be asked in direct examination and cross-examination about the photographs offered as evidence enables the paralegal to be certain that the photographs are taken from the correct angles with the correct landmarks or measurements included. Interviews conducted by the paralegal in preparation for trial could qualify as privileged for the attorney–client privilege just as they do when conducted by attorneys. The paralegal must be aware of how interview material may be used and potentially obtained by opposing parties and act to protect clients’ privileged communication with the paralegal as a representative of the supervising attorney.

Legal Writing
Paralegals frequently are called upon to maintain the written communications with clients, opposing attorneys, and the court. These may be in the form of correspondence, memos of law, or briefs for the court. Many paralegals become extremely adept at drafting complaints and supporting memoranda of law and briefs. Although the content is the ultimate responsibility of the supervising attorney, the paralegal with good writing skills is an invaluable asset. Well-written and well-reasoned documentation is easy to review for signature and transmittal and is a major time-saver for the attorney.

Legal Research
In the modern law office, legal research is conducted with hardcopy books and also with electronic media, including extensive use of the Internet. The ability to conduct research into case law, statutory enactments, and regulatory rules and procedures gives the paralegal a major advantage in getting the job in the first place and advancing in most firms. Legal research today requires the ability to use online legal services such as Lexis, Westlaw, VersusLaw, and Loislaw, as well as the ability to find information on government websites and private websites.

What Paralegals in Legal Specialties Do
In addition to the various generic tasks that most paralegals or legal assistants perform, paralegals working in specialty areas find themselves performing additional and more specialized tasks that frequently require special knowledge, education, or skill beyond the basic skills and knowledge required of all paralegals. Following are some of the tasks that paralegals in specialty practice perform.

General business practice:
- Draft lease agreements
- Draft partnership agreements
- Draft noncompetition agreements
- Prepare agreements of sale and attend real estate settlements
Draft contracts for business arrangements and new ventures
Draft employee agreements

Debtor rights and creditor remedies:

Draft correspondence complying with state and federal regulations concerning debt collection
Prepare documentation to support garnishment proceedings
Arrange for execution and support judgments, including publication of notice of sales and levies on personal property
Transfer judgments to other jurisdictions
Prepare, file, and terminate Uniform Commercial Code financing statements
Assist clients in filing bankruptcy petitions, including the preparation of schedules and proofs of claim
Prepare Chapter 11 debtor's financial statements
Attend Chapter 13 confirmation hearings

Corporate practice:

Determine availability and reserve fictitious or corporate name
Prepare and file fictitious name registrations
Prepare articles of incorporation, minutes, and bylaws for corporation
Prepare, issue, and transfer stock certificates
Prepare shareholder agreements
Prepare applications and file for employer identification numbers and tax registration numbers
Prepare and file annual reports
Prepare and file articles of dissolution
Prepare and file securities registrations and required filings with state regulatory agencies and with the United States Securities & Exchange Commission

Environmental law:

Track information with regard to Superfund sites
Determine applicability of brown fields to client property
Research history of properties to determine environmental activity
Obtain the appropriate information about sites from state and federal environmental agencies
Obtain documentation and assist in the preparation of environmental audits
Organize and index documentation

Family law:

Collect information from clients with regard to marital status and prior marital status
Interview client and collect information with regard to child support (see Exhibit 3.3)
Draft prenuptial agreements
Draft divorce complaints and responsive pleadings
Prepare motions for support
Prepare motions for custody and visitation
Prepare property settlement agreements
Prepare protection-from-abuse petitions
Prepare petitions for termination of parental rights
Prepare adoption petitions
# Exhibit 3.3 Child support data form

THIS FORM MUST BE FILLED OUT
(If you are self-employed or if you are salaried by a business of which you are owner in whole or in part, you must also fill out the Supplemental Income Statement which appears on the last page of this Income and Expense Statement.)

INCOME AND EXPENSE STATEMENT OF

I verify that the statements made in this Income and Expense Statement are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: _______________________ Plaintiff or Defendant: ________________________________________________

INCOME
Employer: __________________________________________________________________________________________
Address: _____________________________________________________________________________________________
Type of Work: _________________________________________________________________________________________
Payroll Number: ____________________________________________________________________________________
Pay Period (weekly, biweekly, etc.): ______________________________________________________________________
Gross Pay per Pay Period: $ ____________________________________________________________________________

Itemized Payroll Deductions:  
Federal Withholding $ 
Social Security ____________________ 
Local Wage Tax ____________________ 
State Income Tax ____________________ 
Retirement ____________________ 
Savings Bonds ____________________ 
Credit Union ____________________ 
Life Insurance ____________________ 
Health Insurance ____________________ 
Other (specify) ____________________ 

Net Pay per Pay Period $___________________

OTHER INCOME: (Fill in Appropriate Column)

<table>
<thead>
<tr>
<th>Weekly</th>
<th>Monthly</th>
<th>Yearly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Dividends</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pension</td>
<td></td>
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<tr>
<td>Annuity</td>
<td></td>
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</tr>
<tr>
<td>Social Security</td>
<td></td>
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</tr>
<tr>
<td>Rents</td>
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</tr>
<tr>
<td>Royalties</td>
<td></td>
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</tr>
<tr>
<td>Expense Account</td>
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<td></td>
</tr>
<tr>
<td>Gifts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unemployment Comp.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workmen’s Comp.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL INCOME</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>
Immigration law:
- Prepare applications and petitions for filing with the Immigration and Naturalization Service (INS) (see Exhibit 3.4 for a sample)
- Coordinate translation of foreign documents
- Prepare immigration and nonimmigration visa applications
- Coordinate activities with clients in foreign jurisdictions seeking visa and entry into the United States

Exhibit 3.4 Sample immigration and naturalization service form

Notice of Entry of Appearance as Attorney or Representative

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. Availability of Records - During the time a case is pending, and except as otherwise provided in 8 CFR 103.20(n), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he may, in addition, be furnished a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copy and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free of charge; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

In re: Lim Chi

Date: 09-15-2002
File No. A13157

I hereby enter my appearance as attorney for (or representative of) and at the request of the following named person(s):

Name: Lim Chi

Address: (Apt. No.) 275 Swamp Road
(Number & Street) Newtown, PA 18940
(State) (Zip Code)

Check Applicable Item(s) below:

☐ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia, and am not under a court or administrative agency order suspending, expunging, disbarment, or otherwise restricting my in practicing law.

☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is not recognized by the Board:

☐ 3. I am associated with

☐ 4. Others (Explain Fully)

SIGNATURE

COMPLET ADDRESS

138 North State Street
Newtown, PA 18940

NAME (Type or Print)

Thomas P. Goldman

TELEPHONE NUMBER

215 555 4321

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS:

Thomas P. Goldman

(NAME OF ATTORNEY OR REPRESENTATIVE)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:

Name of Person Representing

Signature of Person Representing

Date

(Note: Declaration of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)

This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is contained in 8 CFR 103.10 and 103.20 El Ser. Form G-28 (09/26/97)
CHAPTER 3 The Paralegal Workplace

- Assist clients in obtaining work visa to work in foreign countries
- Assist clients in the preparation of documentation to prove claim of marital status for submission to INS

**Intellectual property:**
- Prepare patent search
- Prepare trademark search
- Prepare applications for patent, trademark, or copyright (Exhibit 3.5 is a sample)
- Assist in preparation of documentation in opposition, interference, infringement, and similar proceedings
- Coordinate activities and filings with foreign patent, trademark, and copyright attorneys and agents
- Work with engineers in preparation of applications and defense of patents and trade secrets
- Draft licensing agreements for intellectual property items

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**Exhibit 3.5 Copyright form**

![Copyright form](image-url)
Human resources law:
- Draft plan documents for tax-sheltered employee benefit plans
- Draft deferred compensation plans
- Prepare and file for Internal Revenue Service determination letters of plans
- Prepare and file annual reports including 5500 series Internal Revenue Service forms
- Calculate employer and employee contribution levels and limitations
- Draft, review, and distribute summary plan descriptions

Litigation:
- Investigate factual allegations of case
- Help to locate witnesses and physical evidence
- Draft summons, complaint, answers, and other defenses and responsive pleadings
Organize and maintain litigation files
Assist in the preparation of trial notebooks
Gather, review, summarize, and index documents for use at trial
Locate and arrange for interviews with expert witnesses
Prepare written interrogatories
 Assist in preparing and conducting oral depositions, including videotape
depositions
Prepare or obtain subpoenas (see sample in Exhibit 3.6) and arrange for
service upon witnesses
Coordinate, assist, and arrange for trial exhibits
Obtain jury-pool information, and assist in the selection of appropriate
jury members
Attend trial and assist in handling of witnesses, exhibits, and evidence
Prepare contemporaneous summaries of witness statements during trial

Administrative Procedures
in Law Offices and Firms

Certain administrative procedures, such as conflict checking and time keeping, are
common to most, if not all, law offices. Depending on the size of the law firm and the
nature of the practice, a paralegal also may be called upon to perform what might be
thought to be accounting or financial activities, such as preparing invoices, maintain-
ing client escrow accounts, maintaining trust accounts, preparing payroll records,
preparing court required accounting, and completing real estate settlement forms.

Conflict Checking

Conflict checking is necessary to verify that current and prior representations of par-
ties and matters handled will not present a conflict of interest for the firm in accepting
a new client or legal matter. Checking for conflicts of interest is an essential function
designed to avoid the ethical violations of representing competing interests. Many of-
ices use computer database software for conflict checking. Names of clients, opposing
parties, counsel, and law firms can be quickly searched electronically. Some firms still
rely on a manual check of paper lists and file-card indexes containing the names of
clients, opposing parties, and opposing attorneys in cases. To determine conflicts
where there has been only indirect representation is difficult.

Attorneys and paralegals who change firms may have to do a preliminary conflict
check before they accept or start employment. The conflict comes when the former
firm and the new firm are, or were, on opposite sides of a case. It may be a conflict for
someone who has had access to information about a case to switch to the firm repre-
senting the opposing party. Confidential disclosure for the limited purpose of check-
ing for a conflict before starting employment could prevent a serious or perceived
ethical breach in the form of a breach of confidentiality or conflict of interest. In some
cases, the conflict of interest may result from a financial interest such as stock own-
ership or investments. Making full disclosure of these potential conflict situations to the
supervising attorney or to the appropriate conflict checker with the firm is important.

In many cases, the conflict can be resolved by isolating the individual from informa-
tion about the case—sometimes called building an ethical wall. An ethical wall, also known
as a Chinese wall, is an attempt to shield a paralegal or lawyer from access to information
about a case when there is the possibility of a conflict of interest. Most courts permit the
establishment of an ethical wall to protect the parties from the conflict of interest or breach
of confidentiality. As commented by a Connecticut trial court in an unpublished opinion:

... The court does not subscribe to the argument that, as a matter of law, screening
would be ineffective when a nonlawyer switches employment to ‘the other side.’ The
ABA opinions indicate that a law firm can set up appropriate screening and
administrative procedures to prevent nonlawyers from working on the other side of
those common cases and disclosing confidential information. . . .

(Jul. 1, 1997).

The Nevada Supreme Court specifically addresses the issue of paralegals in the
Leibowitz case.
The Nevada Supreme Court in overturning a 1994 ethics opinion [Ciaffone v. District Court, 113 Nev. 1165 (1997), 945 P.2d 950] that prohibited paralegals from working for a firm that represents any client that had an adversarial relationship to any client of the former employer law firm, summarized the rationale for the ethical wall and provided an instructive guide . . .

. . . As pointed out by the amici’s brief, the majority of professional legal ethics commentators, ethics tribunals, and courts have concluded that nonlawyer screening is a permissible method to protect confidences held by nonlawyer employees who change employment. Nevada is in a minority of jurisdictions that do not allow screening for nonlawyers moving from private firm to private firm.

Imputed disqualification is considered a harsh remedy that “should be invoked if, and only if, the [c]ourt is satisfied that real harm is likely to result from failing to invoke it.”

This stringent standard is based on a client’s right to counsel of the client’s choosing and the likelihood of prejudice and economic harm to the client when severance of the attorney-client relationship is ordered. It is for this reason that the ABA opined in 1988 that screening is permitted for nonlawyer employees, while conversely concluding, through the Model Rules of Professional Conduct, that screening is not permitted for lawyers. The ABA explained that “additional considerations” exist justifying application of screening to nonlawyer employees (i.e., mobility in employment opportunities which function to serve both legal clients and the legal profession) versus the Model Rule’s proscription against screening where lawyers move from private firm to private firm. In essence, a lawyer may always practice his or her profession regardless of an affiliation to a law firm. Paralegals, legal secretaries, and other employees of attorneys do not have that option.

We are persuaded that Ciaffone misapprehended the state of the law regarding nonlawyer imputed disqualification. We therefore overrule Ciaffone to the extent it prohibits screening of nonlawyer employees.

When a law firm hires a nonlawyer employee, the firm has an affirmative duty to determine whether the employee previously had access to adversarial client files. If the hiring law firm determines that the employee had such access, the hiring law firm has an absolute duty to screen the nonlawyer employee from the adversarial cases irrespective of the nonlawyer employee’s actual knowledge of privileged or confidential information.

Although we decline to mandate an exhaustive list of screening requirements, the following provides an instructive minimum:

(1) “The newly hired nonlawyer [employee] must be cautioned not to disclose any information relating to the representation of a client of the former employer.”

(2) “The nonlawyer [employee] must be instructed not to work on any matter on which [he or] she worked during the prior employment, or regarding which [he or] she has information relating to the former employer’s representation.”

(3) “The new firm should take . . . reasonable steps to ensure that the nonlawyer [employee] does not work in connection with matters on which [he or] she worked during the prior employment, absent client consent [i.e., unconditional waiver] after consultation.”

In addition, the hiring law firm must inform the adversarial party, or their counsel, regarding the hiring of the nonlawyer employee and the screening mechanisms utilized. The adversarial party may then: (1) make a conditional waiver (i.e., agree to the screening mechanisms); (2) make an unconditional waiver (eliminate the screening mechanisms); or (3) file a motion to disqualify counsel.
PART I The Paralegal Profession

IN THE WORDS OF THE COURT (continued)

However, even if the new employer uses a screening process, disqualification will always be required—absent unconditional waiver by the affected client—under the following circumstances:

(1) “[W]hen information relating to the representation of an adverse client has in fact been disclosed [to the new employer]; or, in the absence of disclosure to the new employer;

(2) “[W]hen screening would be ineffective or the nonlawyer [employee] necessarily would be required to work on the other side of a matter that is the same as or substantially related to a matter on which the nonlawyer [employee] has previously worked.”

Once a district court determines that a nonlawyer employee acquired confidential information about a former client, the district court should grant a motion for disqualification unless the district court determines that the screening is sufficient to safeguard the former client from disclosure of the confidential information. The district court is faced with the delicate task of balancing competing interests, including: (1) “the individual right to be represented by counsel of one’s choice,” (2) “each party’s right to be free from the risk of even inadvertent disclosure of confidential information.” (3) “the public’s interest in the scrupulous administration of justice,” and (4) “the prejudices that will inure to the parties as a result of the [district court’s] decision.”

Time Keeping and Billing

Keeping track of billable time is a critical function to ensure that the law firm will be compensated properly for its advice and efforts on behalf of clients. Tracking time extends beyond just the efforts of attorneys to paralegals and, in some cases, secretaries and clerks.

Billing is the most important function in a law firm. Without billings there is no revenue to pay expenses and salaries. As important as it is, in many offices billing is not treated with enough importance. Time records are the basis for most law firm billings. Without accurate time records, billings cannot be made.

The propriety of fees is addressed in Rule 1.5 of the Model Rules of Professional Conduct.

The Utah Rules of Professional Conduct provide:

Rule 1.5. Fees.

(a) A lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(a)(1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;

(a)(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(a)(3) the fee customarily charged in the locality for similar legal services;

(a)(4) the amount involved and the results obtained;

(a)(5) the time limitations imposed by the client or by the circumstances;

(a)(6) the nature and length of the professional relationship with the client;

(a)(7) the experience, reputation and ability of the lawyer or lawyers performing the services; and

(a)(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.
CHAPTER 3 The Paralegal Workplace

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge or collect:

(d)(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(d)(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(e)(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;

(e)(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

(e)(3) the total fee is reasonable.

The billing of clients is not limited to the time of lawyers but may include that of paralegals as the 11th Circuit Court of Appeals has stated:

We have held that paralegal time is recoverable as part of a prevailing party's award for attorney's fees and expenses, [but] only to the extent that the paralegal performs work traditionally done by an attorney." Quoting from Allen v. United States Steel Corp., 665 E.2d 689, 697 (5th Cir. 1982): “To hold otherwise would be counterproductive because excluding reimbursement for such work might encourage attorneys to handle entire cases themselves, thereby achieving the same results at a higher overall cost.


Client expense records, by contrast, are usually well maintained because a check is usually written, which provides a documented record for billing purposes. But the time record must come from the recording of time spent by the attorney, paralegal, or legal team member. This information frequently is maintained manually on pieces of paper called time slips or time records. Client bills are prepared manually from these records.

More frequently, the client billing is prepared using a computer time and billing program, such as the popular AbacusLaw program. Most of these programs allow for random entry of the individual time record information and then automatically sort by client and project or case. These programs also allow for the entry and inclusion in the final billing report or printout of the costs expended in the current period and the costs and fees received from previous billing periods and the application of retainers.

Accounting in the Law Office

In the law office working environment, your ability to understand basic financial issues makes you a more valuable member of the law office team. A law firm is a business that, as Abraham Lincoln said, deals in time and advice, unlike retail, wholesale, or manufacturing businesses that trade in goods or commodities.

A major function of the legal support staff is to keep track of the time the lawyers and support staff spend on a case and then bill the client for the time expended. Financial account records must be kept accurately both for internal office activities and for matters related to specific clients. Expenses may be associated with specific clients or part of the overall cost of running the office. If accurate records are not kept for the law office operation, it may fail or close.

Web Exploration

View the comments to the Utah rules at http://www.utcourts.gov/resources/rules/ucja/ch13/1_5.htm.
When the funds involved belong to clients, errors can result in malpractice claims for improperly prepared documentation and the filing of inaccurate court documents and tax returns. At worst, errors may result in a loss or misappropriation of client funds, which can lead to sanctions, including disbarment or even criminal prosecution.

In addition to understanding the internal operations accounting needs of a law firm is the need to understand the accounting and financial affairs of clients. Understanding accounting and financial reports and documents is essential in many areas of law today.

**Family Law**

Every domestic relations case has concerns related to property settlement, support, and alimony. In today’s marital climate, there is an increasing demand for full financial disclosure in prenuptial agreements. A basic understanding of the nature and the sources of the family financial information will enable you to prepare the necessary documents. As an example, Exhibit 3.7 shows selected pages from the New Jersey Family Part Case Information.

**Commercial Litigation**

Commercial litigation typically involves actions resulting from claims of breach of contract or interpretations of provisions of a contract stating the obligations of the parties. It has become more complex—in no small matter because of the financial implications of contract breaches and remedies. The tasks of finding, analyzing, and presenting financial matters increasingly fall on litigation paralegals.

**Litigation**

Even in the simplest of litigation matters, a measure of damages has to be computed. Calculations of wages lost, projection of future losses, and the current or present value may have to be computed or reviewed for accuracy.

**Maintaining Law Firm Financial Information**

Law firms, like any other business, have numerous forms of financial obligations. Utility bills and employees have to be paid on a regular basis. Accurate records have to be maintained to determine which costs are chargeable to individual clients. Office operations frequently involve record keeping for client funds in the form of escrow accounts.

Records of the various receipts and disbursements are used to prepare the firm’s tax returns, including quarterly and annual employee withholding and employer tax returns, income tax returns, and informational tax returns, such as reports for nonemployee compensation and independent contractors such as freelance paralegals, or reporters and investigators.

Regular use of a systematic system simplifies the completion of financial reports. By using a standard system of accounting, lawyers, bookkeepers, paralegals, and secretarial personnel can easily communicate, contributing information of charges and revenues that are usable for all concerned including the outside accountants and auditors.

Reconstructing the financial information is a common task in many law offices. In many cases, clients deliver piles of financial documents and expect the law office personnel to sort, classify, and organize seemingly unrelated pieces of paper into tax returns, estate tax returns, and documents with which settlements and major decisions will be made. Knowing how to attack the piles of paper can save time, stress, and frustration.

Safekeeping of client property and segregation of client funds from those of the law firm is an ethical obligation imposed under Rule 1.15 of the Model Rules of Professional Conduct of which that of South Dakota provides in part:

**Rule 1.15. Safekeeping Property.**

(a) A lawyer shall hold property of clients or third persons that is in a lawyer’s possession in connection with a representation separate from the lawyer’s own property.
**PART D - MONTHLY EXPENSES** (computed at 4.3 wks/mo.)

Joint Marital Life Style should reflect standard of living established during marriage. Current expenses should reflect the current life style. Do not repeat those income deductions listed in Part C–3.

<table>
<thead>
<tr>
<th>Joint Marital Life Style</th>
<th>Current Life Style</th>
</tr>
</thead>
<tbody>
<tr>
<td>Family, including _______ children</td>
<td>Yours and _______ children</td>
</tr>
</tbody>
</table>

**SCHEDULE A: SHELTER**

If Tenant:
- Rent $_________________ $_________________
- Heat (if not furnished) $_________________ $_________________
- Electric & Gas (if not furnished) $_________________ $_________________
- Renter’s Insurance $_________________ $_________________
- Parking (at Apartment) $_________________ $_________________
- Other Charges (Itemize) $_________________ $_________________

If Homeowner:
- Mortgage $_________________ $_________________
- Real Estate Taxes (if not included w/mortgage payment) $_________________ $_________________
- Homeowners Ins. (if not included w/mortgage payment) $_________________ $_________________
- Other Mortgages or Home Equity Loans $_________________ $_________________
- Heat (unless Electric or Gas) $_________________ $_________________
- Electric & Gas $_________________ $_________________
- Water & Sewer $_________________ $_________________
- Garbage Removal $_________________ $_________________
- Snow Removal $_________________ $_________________
- Lawn Care $_________________ $_________________
- Maintenance $_________________ $_________________
- Repairs $_________________ $_________________
- Other Charges (Itemize) $_________________ $_________________

Tenant or Homeowner:
- Telephone $_________________ $_________________
- Mobile/Cellular Telephone $_________________ $_________________
- Service Contracts on Equipment $_________________ $_________________
- Cable TV $_________________ $_________________
- Plumber/Electrician $_________________ $_________________
- Equipment & Furnishings $_________________ $_________________
- Internet Charges $_________________ $_________________
- Other (Itemize) $_________________ $_________________

**TOTAL** $_________________ $_________________

**SCHEDULE B: TRANSPORTATION**

- Auto Payment $_________________ $_________________
- Auto Insurance (number of vehicles) $_________________ $_________________
- Registration, License $_________________ $_________________
- Maintenance $_________________ $_________________
- Fuel and Oil $_________________ $_________________
- Commuting Expenses $_________________ $_________________
- Other Charges (Itemize) $_________________ $_________________

**TOTAL** $_________________ $_________________

(continued)
### Exhibit 3.7
New Jersey family case information *(continued)*

#### PART E - BALANCE SHEET OF ALL FAMILY ASSETS AND LIABILITIES

**STATEMENT OF ASSETS**

<table>
<thead>
<tr>
<th>Description</th>
<th>Title to Property</th>
<th>Date of purchase/acquisition.</th>
<th>Value $</th>
<th>Date of Evaluation Mo./Day/Yr.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Real Property</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Bank Accounts, CDs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Vehicles</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Tangible Personal Property</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Stocks and Bonds</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Pension, Profit Sharing, Retirement Plan(s) 401(k)s, etc. [list each employer]</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. IRAs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Businesses, Partnerships, Professional Practices</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Life Insurance (cash surrender value)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Loans Receivable</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Other (specify)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL GROSS ASSETS:** $___________

**TOTAL SUBJECT TO EQUITABLE DISTRIBUTION:** $___________

**TOTAL NOT SUBJECT TO EQUITABLE DISTRIBUTION:** $___________
Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation. A lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose. A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which two or more persons (one of whom may be the lawyer) claim interests, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(d) Preserving Identity of Funds and Property of Client.

(1) All funds of clients paid to a lawyer or law firm, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

   (i) Funds reasonably sufficient to pay bank charges may be deposited therein.
   (ii) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(2) A lawyer shall:

   (i) Promptly notify a client of the receipt of his funds, securities, or other properties.
   (ii) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.
   (iii) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accountings to his client regarding them.
   (iv) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

Accounting for Client Retainers and Costs

Law firms frequently request a retainer—a payment at the beginning of handling a new matter for a client. This amount may be used to offset the fees for services rendered or costs advanced on behalf of the client. Unless there is some other arrangement, agreed upon in conformity with applicable court rules and ABA guidelines, these funds belong to the law firm only when they have been earned by rendering of the service or actual cost expenditure. Unused amounts may have to be returned to the client and those expended accounted for to the client.

Increasingly, under the rules of professional conduct, many states also require a written fee agreement in contingent-fee cases, whereas in other types of cases, it is preferred but not required.

A new approach to providing legal services is sometimes called “unbundled” legal services or discrete task representation. The term refers to a broad range of discrete tasks that an attorney might undertake, such as advice, negotiation, document review, document preparation, and limited representation. A sample retainer agreement under Maine Bar Rule 3.4(I) is shown in Exhibit 3.8.
Exhibit 3.8  Limited representation agreement

Date: __________, 20__________

1. The client, __________, retains the attorney, __________, to perform limited legal services in the following matter:
   __________ v. __________.

2. The client seeks the following services from the attorney (indicate by writing "yes" or "no"):
   a. ______ Legal advice: office visits, telephone calls, fax, mail, e-mail;
   b. ______ Advice about availability of alternative means to resolving the dispute, including mediation and arbitration;
   c. ______ Evaluation of client self-diagnosis of the case and advising client about legal rights and responsibilities;
   d. ______ Guidance and procedural information for filing or serving documents;
   e. ______ Review pleadings and other documents prepared by client;
   f. ______ Suggest documents to be prepared;
   g. ______ Draft pleadings, motions, and other documents;
   h. ______ Factual investigation: contacting witnesses, public record searches, in-depth interview of client;
   i. ______ Assistance with computer support programs;
   j. ______ Legal research and analysis;
   k. ______ Evaluate settlement options;
   l. ______ Discovery: interrogatories, depositions, requests for document production;
   m. ______ Planning for negotiations;
   n. ______ Planning for court appearances;
   o. ______ Standby telephone assistance during negotiations or settlement conferences;
   p. ______ Referring client to expert witnesses, special masters, or other counsel;
   q. ______ Counseling client about an appeal;
   r. ______ Procedural assistance with an appeal and assisting with substantive legal argument in an appeal;
   s. ______ Provide preventive planning and/or schedule legal checkups;
   t. ______ Other:
____________________________________________________________________________________________________________
____________________________________________________________________________________________________________

3. The client shall pay the attorney for those limited services as follows:
   a. Hourly Fee:

   The current hourly fee charged by the attorney or the attorney’s law firm for services under this agreement are as follows:
   i. Attorney: $__________
   ii. Associate: $__________
   iii. Paralegal: $__________
   iv. Law Clerk: $__________

   Unless a different fee arrangement is established in clause b. of this paragraph, the hourly fee shall be payable at the time of the service. Time will be charged in increments of one-tenth of an hour, rounded off for each particular activity to the nearest one-tenth of an hour.

   b. Payment from Deposit:

   For a continuing consulting role, client will pay to attorney a deposit of $__________, to be received by attorney on or before __________, and to be applied against attorney fees and costs incurred by client. This amount will be deposited by attorney in attorney trust account. Client authorizes attorney to withdraw funds from the trust account to pay attorney fees and costs as they are incurred by client. The deposit is refundable. If, at the termination of services under this agreement, the total amount incurred by client for attorney fees and costs is less than the amount of the deposit, the difference will be refunded to client. Any balance due shall be paid within thirty days of the termination of services.
Exhibit 3.8  Limited representation agreement (continued)

c. Costs:

Client shall pay attorney out-of-pocket costs incurred in connection with this agreement, including long distance telephone and fax costs, photocopy expense and postage. All costs payable to third parties in connection with client case, including filing fees, investigation fees, deposition fees, and the like shall be paid directly by client. Attorney shall not advance costs to third parties on client behalf.

4. The client understands that the attorney will exercise his or her best judgment while performing the limited legal services set out above, but also recognizes:

a. the attorney is not promising any particular outcome,
b. the attorney has not made any independent investigation of the facts and is relying entirely on the client limited disclosure of the facts given the duration of the limited services provided, and
c. the attorney has no further obligation to the client after completing the above described limited legal services unless and until both attorney and client enter into another written representation agreement.

5. If any dispute between client and attorney arises under this agreement concerning the payment of fees, the client and attorney shall submit the dispute for fee arbitration in accordance with Rule 9(e)-(k) of the Maine Bar Rules. This arbitration shall be binding upon both parties to this agreement.

WE HAVE EACH READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Signature of client ___________________________________

Signature of attorney _________________________________

A lawyer may request a nonrefundable retainer. This is a common practice when the client does not want the law firm to be able to represent the opposing party in a pending legal action. This is seen most commonly in family law or divorce actions. Legal ethics prohibit taking on a client where there is a conflict of interest. In cases of nonrefundable retainers, a statement of application of the funds may or should be made as a matter of the financial accounting practice.

**Costs Advanced**

Law firms typically pay directly to the court any fees for filing documents for the client. In some cases, the cost of stenographers, expert witnesses, and duplication of records, travel, phone, and copying also will be advanced. The firm must keep proper accounting for these items to be able to bill a client properly or charge the amounts expended against prepaid costs or retainers. Good practice is to include in the initial client fee letter the nature and amount of costs that will be charged for these various items.

**Civil Practice: Fee and Cost Billing**

In a civil litigation practice, fees may be calculated on an hourly rate, a contingent fee, or a combination of the two. The time records for each member of the firm must be obtained, either from the hard copies of time records or the computer printout of hours spent working on the case. The actual time may be reported to the client chronologically, with all activity by each person who worked on the file integrated with all the others, but may be listed separately by the individual.

The difficulty is in calculating the correct amount for each person at his/her respected hourly rate. It is not unusual to have a senior partner bill at one rate, a junior partner at another rate, and a paralegal at a third rate. It is good practice to calculate the total for each billable person separately, and then collectively. The totals of the individuals, of course, must equal the grand total. Therefore, the comparison acts as a check on mathematical accuracy.
Client bills can be prepared manually from paper copies of time records or other office records. More frequently, the client billing is prepared using a computer program. Most of these programs allow input of the individual time record in a random order that can be sorted automatically by client and project. In addition to the time billing, these programs allow for entry and inclusion in the final billing of costs expended in the current billing period and costs and payments received from previous billing periods and retainers.

**Timely Disbursements**

As part of the settlement of a case for a client, the opposing side may pay the amount of the cash settlement to the lawyer. These funds must be disbursed to the client and until disbursed, retained in a separate escrow account and not commingled with the lawyer’s own funds. Records of the receipt and disbursement of these funds must be maintained properly to avoid charges of misuse of client funds.

A lawyer is not required to make disbursements until the draft or check has cleared. A check or draft is deemed cleared when the funds are available for disbursement. But, lawyers cannot retain the amount for an unreasonable time. The client is entitled to earn the potential interest on the amount to be dispersed. The lawyer is not entitled to keep the amount and earn interest for his/her own account.

**Trust Accounts**

A trust account or fiduciary account contains the client's funds and should never be commingled with those of the firm or the individual attorney. A clear record of all trust transactions must be maintained. In many cases, such as trusts, estates, or cases involving children, detailed reports must be filed with the court following the court-imposed rules as shown in Exhibit 3.9 for the Probate Courts of the State of New Hampshire. When a checking account has been established, the check register is a primary source for creating any required or desired reports. With some larger accounts, checking accounts may not have been set up. Many trust and estate accounts are invested in money market funds, stocks, bonds, and mutual funds.

Keeping a clear record is made more difficult by the potential for periodic increases and decreases in value that are not actually realized—referred to as paper gains and losses. They exist on paper but have not been realized by the actual sale or transfer of the asset. For the attorney, the client or state law must authorize any investments of assets held in trust. Separate records should be maintained showing the activity in each of the trust accounts, including all deposits, interest earned, and disbursements, including bank charges.
IOLTA Accounts
Many states, by court rule, impose an obligation to deposit client funds, when the amount is too small to earn interest, into a special interest-bearing account, the IOLTA account (Interest on Lawyers Trust Accounts). Interest generated from these small accounts is paid to the court-designated agency, usually the local legal aid agency, to fund their activities. Because the cost of setting up individual small accounts is greater than the interest earned, or the amount deposited is so small that no interest would accrue to the client, everyone wins by having these funds generate some income for the public good. Reconciliation of this account is simpler because no accounting for the interest to the client has to be made.

Interest-Bearing Escrow Accounts
Lawyers frequently are asked to act as escrow agents or to retain client funds for future disbursements. In some cases the amounts may be significant. Prudent handling of the client’s monies dictates that the fiduciary treat them in the same manner as would any prudent investor. If the amount is sufficient to earn interest, the amount earned belongs to the client, not to the attorney, and must be accounted for, to the client.

If earning interest, it is good practice and expected to open up separate accounts for each client. In opening these accounts, the client’s Social Security number or other employer identification number should be used. If the law firm maintains the account under its tax identification number, it will have to report interest annually to the client and to the federal and state government.

A significant body of law has emerged to avoid money-laundering. In a law firm this may require reporting when significant amounts of cash are received. The problem is balancing the money-laundering rules and the attorney–client privilege. When amounts in excess of $10,000 are received in cash from a client, current legislation and regulation must be consulted.

To open an account with a financial institution requires a federal identification number. This identification number may be that of the client, the trust, the estate, or other legal entity having a current identification number. In some cases the financial institution may require copies of any documentation that created the client entity, such as the trust documents, death certificate, or decedent’s will. The concern of the financial institution is to properly comply with existing regulations on federal withholding and money-laundering or large-deposit reporting obligations. A state requirement is to complete the federal form W-9.

Court Accounting
In addition to the preparation of filing federal and state estate tax returns, the fiduciary often has to file an accounting with the local court that administers or supervises trust and estate matters. These court accounting reports are designed to show that the fiduciary has administered the estate or trust properly.

Reports to the court also are required in many jurisdictions in civil cases involving minors. Approval of tort actions involving a minor may be negotiated between the lawyers for the insurance company or defendant and the minor’s parent or guardian, subject to the approval of the court. This usually requires submitting a brief accounting of the expenses, including counsel fees, and the proposed disbursements to compensate for out-of-pocket expenses and proposed investments of the proceeds until the minor reaches a set age or by other order of court.

All of the parties are considered as acting as fiduciaries in the best interest of the minor. Local practice and court rules will furthermore dictate the form and methods of fiduciary accounting. The uniform system of accounts has been accepted by some jurisdictions without formal court rule and others by inclusion in the local court rules.

The basic objective of the uniform system of accounts is to present the financial information in a consistent manner that is understandable to the court and all the interested parties. The parties are entitled to full disclosure, clarity, and, when appropriate, supplemental information. Exhibit 3.10 is a sample of a model executor’s account template using the uniform system of accounts.
ORPHANS’ COURT RULES

MODEL EXECUTOR’S ACCOUNT

First and Final Account

FIRST AND FINAL ACCOUNT OF

William C. Doe, Executor

For

ESTATE OF John Doe, Deceased

Date of Death: November 14, 1978
Date of Executor’s Appointment: November 24, 1978
Accounting for the Period: November 24, 1978 to November 30, 1979

Purpose of Account: William C. Doe, Executor, offers this account to acquaint interested parties with the transactions that have occurred during his administration.

The account also indicates the proposed distribution of the estate.1

It is important that the account be carefully examined. Requests for additional information or questions or objections can be discussed with:

[Name of Executor, Counsel or other appropriate person]
[address and telephone number]

[Note: See discussion under Fiduciary Accounting Principle II with respect to presentation of collateral material needed by beneficiaries.]

Note

In Pennsylvania the date of first advertisement of the grant of letters should be shown after the date of the personal representative’s appointment.

1 Optional—for use if applicable.

SUMMARY OF ACCOUNT

<table>
<thead>
<tr>
<th>Proposed Distribution to Beneficiaries1</th>
<th>645</th>
<th>$102,974.56</th>
<th>$90,813.96</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Receipts</td>
<td>636</td>
<td>$160,488.76</td>
<td>$160,488.76</td>
</tr>
<tr>
<td>Net Gain (or Loss) on Sales or Other Disposition</td>
<td>638</td>
<td>$163,150.76</td>
<td></td>
</tr>
<tr>
<td>Less Disbursements:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debts of Decedent</td>
<td>639</td>
<td>$485.82</td>
<td></td>
</tr>
<tr>
<td>Funeral Expenses</td>
<td>639</td>
<td>$1,375.00</td>
<td></td>
</tr>
<tr>
<td>Administration Expenses</td>
<td>639</td>
<td>$194.25</td>
<td></td>
</tr>
<tr>
<td>Federal and State Taxes</td>
<td>639</td>
<td>$5,962.09</td>
<td></td>
</tr>
<tr>
<td>Fees and Commissions</td>
<td>639</td>
<td>$11,689.64</td>
<td></td>
</tr>
<tr>
<td>Balance before Distributions</td>
<td></td>
<td>$143,443.96</td>
<td></td>
</tr>
</tbody>
</table>
**Exhibit 3.10**

**Model executor’s account template sample—Pennsylvania**

*Orphan’s Court (continued)*

### FIDUCIARY ACCOUNTING STANDARDS

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Distributions to Beneficiaries</td>
<td>$52,630.00</td>
</tr>
<tr>
<td>Principal Balance on Hand</td>
<td>$90,813.96</td>
</tr>
<tr>
<td><strong>For Information:</strong></td>
<td></td>
</tr>
<tr>
<td>Investments Made</td>
<td></td>
</tr>
<tr>
<td>Changes in Investment Holdings</td>
<td></td>
</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
</tr>
<tr>
<td>Receipts</td>
<td>$2,513.40</td>
</tr>
<tr>
<td>Less Disbursements</td>
<td>178.67</td>
</tr>
<tr>
<td>Balance Before Distributions</td>
<td>$2,334.73</td>
</tr>
<tr>
<td>Distributions to Beneficiaries</td>
<td>$2,334.73</td>
</tr>
<tr>
<td>Income Balance on Hand</td>
<td>$0.00</td>
</tr>
<tr>
<td>Combined Balance on Hand</td>
<td>$90,813.96</td>
</tr>
</tbody>
</table>

1Optional—for use if applicable.

### RECEIPTS OF PRINCIPAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Assets Listed in Inventory</strong></td>
<td></td>
</tr>
<tr>
<td><em>(Valued as of Date of Death)</em></td>
<td></td>
</tr>
<tr>
<td><strong>Cash:</strong></td>
<td></td>
</tr>
<tr>
<td>First National Bank—checking account</td>
<td>$516.93</td>
</tr>
<tr>
<td>Prudent Saving Fund Society—savings account</td>
<td>2,518.16</td>
</tr>
<tr>
<td>Cash in possession of decedent</td>
<td>42.54</td>
</tr>
<tr>
<td><strong>Tangible Personal Property:</strong></td>
<td></td>
</tr>
<tr>
<td>Jewelry—</td>
<td></td>
</tr>
<tr>
<td>1 pearl necklace</td>
<td>515.00</td>
</tr>
<tr>
<td>Furniture—</td>
<td></td>
</tr>
<tr>
<td>1 antique highboy</td>
<td>2,000.00</td>
</tr>
<tr>
<td>1 antique side table</td>
<td>60.00</td>
</tr>
<tr>
<td>1 antique chair</td>
<td>55.00</td>
</tr>
<tr>
<td><strong>Stocks:</strong></td>
<td></td>
</tr>
<tr>
<td>200 shs. Home Telephone &amp; Telegraph Co., common</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>50 shs. Best Oil Co., common</td>
<td>5,000.00</td>
</tr>
<tr>
<td>1,000 shs. Central Trust Co., capital</td>
<td>50,850.00</td>
</tr>
<tr>
<td>151 shs. Electric Data Corp., common</td>
<td>1,887.50</td>
</tr>
<tr>
<td>50 shs. Fabulous Mutual Fund</td>
<td>1,833.33</td>
</tr>
<tr>
<td>200 shs. XYZ Corporation, common</td>
<td>6,000.00</td>
</tr>
<tr>
<td><strong>Realty:</strong></td>
<td></td>
</tr>
<tr>
<td>Residence—</td>
<td></td>
</tr>
<tr>
<td>86 Norwood Road</td>
<td></td>
</tr>
<tr>
<td>West Hartford, CT</td>
<td>$50,000.00</td>
</tr>
<tr>
<td><strong>Total Inventory</strong></td>
<td>$146,278.46</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts Subsequent to Inventory <em>(Valued When Received)</em></td>
<td></td>
</tr>
<tr>
<td>2/22/79 Proceeds of Sale—Best Oil Co., rights to subscribe received 2/15/79</td>
<td>$50.00</td>
</tr>
<tr>
<td>3/12/79 Fabulous Mutual Fund, capital gains dividend received in cash</td>
<td>32.50</td>
</tr>
<tr>
<td>5/11/79 Refund of overpayment of 1978 U.S. individual income tax</td>
<td>127.80</td>
</tr>
<tr>
<td>9/25/79 From Richard Roe, Ancillary Administrator, net proceeds on sale of oil and gas leases in Jefferson Parish, Louisiana</td>
<td>10,000.00</td>
</tr>
</tbody>
</table>

1Proceeds of sale of rights may be treated as an additional receipt, as illustrated here, or may be applied in reduction of carrying value as illustrated on page 646 of the Model Trustee’s Account. Either method, consistently applied, is acceptable.
Preparing Your Resume

Getting a job requires presenting your credentials including education and experience; a well-prepared resume is usually the first impression you will make on a prospective employer.

A resume is a short description of a person's education, a summary of work experience, and other related and supporting information that potential employers use in evaluating a person's qualifications for a position in a firm or an organization. Exhibits 3.11 and 3.12 provide examples. You should prepare a resume as you see yourself today. Look at your resume from the perspective of a future employer. What areas do you need to strengthen to demonstrate your ability to perform the type of job you would like to have?

You should look at your resume as being a continuing work in progress. Constantly update your resume to include any new job responsibilities, part-time employment skills and qualifications, and special achievements. Add meaningful items to your resume in the form of courses, skills, and outside interests that will land you that first paralegal job after you complete your training.

After you have gathered all of the necessary information, put it into a proper resume form, then review it. Does the resume reflect the information you want to communicate to a prospective employer? Try to look at it with an open, objective mind.

Exhibit 3.11 Sample functional resume

SARA MARKS

2222 Market Way
Brooklyn, NY 11223
(212) 555-8634 (Home)
(212) 555-9234 (Office)

EDUCATION
Reading College, Brooklyn, NY, 2008
Associate of Science degree, GPA 4.0
Paralegal Major—ABA-approved program
Dean's List, Vice President of the Honor Society

EMPLOYMENT HISTORY
Paralegal field work, Brooklyn, NY, 2006 to 2008
Advisor, Small Claims Court and the Brooklyn Department of
Consumer Affairs
• Assisted claimants with small claim forms
• Counseled individuals on consumer affairs issues
Registration and admissions clerk, Brooklyn, NY, 2004 to 2006
Reading College
• Registered incoming and returning students
• In charge of organizing the filing system, creating more efficiency in the office
Cosmetologist and Barber, Brooklyn, NY, 2000 to 2004
• Self-employed
• Handled all phases of business, including purchasing, bookkeeping, and payroll

SPECIAL SKILLS
• WordPerfect, Microsoft Office Suite
• Excellent ability to communicate with general public

PROFESSIONAL AFFILIATIONS
Manhattan Paralegal Association

Excellent references available upon request
**Exhibit 3.12 Sample chronological resume**

**MICHAEL C. SMITH**

2345 Oregon Street, #A
Portland, OR 98765
(363) 282-7890

**EDUCATION**
Paralegal Certificate, General Litigation, 2008
University of Portland (ABA approved)
Curriculum included:
- Family Law
- Criminal Law
- Civil Litigation
- Paralegal Practices and Procedures
- Legal Research and Writing
- Estates, Trusts, and Wills

Bachelor of Science Degree, Transportation and Distribution Management
Golden Gate University, San Francisco, CA

**EXPERIENCE**
Paralegal Practice
- Drafted memos to clients
- Prepared notice of summons
- Conducted research for misdemeanor appeal cases
- Prepared points and authorities for motions
- Observed bankruptcy and family law court proceedings
- Prepared necessary documents for probate
- Wrote legal memorandum

Administration and Management
- Participated in new division startup
- Dispatched and routed for the transportation of 80 to 120 special education students daily
- Supervised between 20 and 25 drivers
- Designed and implemented daily operation logs
- Liaison between drivers and school officials or parents
- Evaluated various conditions when assigning routes and equipment

**EMPLOYMENT HISTORY**
Susan Hildebrand, Attorney, Portland, OR 2008
Paralegal Intern
Laidlaw Transit, Inc., San Francisco, CA 2002 to 2008
Dispatch Manager
Hayward Unified School District 2001 to 2002
Teaching Assistant
San Mateo Union High School District 2000 to 2001
Office Clerk

Employers are looking for individuals who demonstrate a good work ethic, willingness to accept responsibility and take direction, and the skills necessary for the job for which they are applying.

Set your roadmap for the job you wish to obtain. What additional educational skills are required? This will determine your future course of study. Work–study programs in your field and cooperative education are good ways of demonstrating on-the-job training. Depending upon your goals, resources, and timeframe, a specialized certificate such as a paralegal certificate, an associate’s degree in paralegal studies, or a bachelor’s degree in paralegal studies will certainly demonstrate your level of interest and ability to achieve the minimum level of education for the job.
Resume Formats

Many formats may be used in preparing a resume: functional, chronological, reverse chronological, combination, technical, and electronic.

The **chronological resume format** presents education and job history in a time sequence with the most recent experience listed first. An alternative format is the reverse chronological resume format, with the latest job listed last. The **functional resume format** usually gives a summary of the individual's qualifications and current experience and education without emphasizing dates of employment. The combination resume format combines the chronological and functional resume formats.

There are no hard and fast rules for choosing a proper resume format, except perhaps to put your name and contact information at the top. Some suggest that the chronological resume is the form used most commonly in the legal field. Always remember that the main purpose of the resume is to get a job interview and, you hope, employment.

If responding to an ad in the paper, tailor your resume to the job description or to the job listing of the individual employer. You may have to develop resumes in more than one format if the employment opportunities presented require different skill sets. For example, the resume sent to an employer looking for someone with specific computer skills should show that functional skill first. A job description looking for depth of experience probably should use the chronological approach.

Common elements of most resumes include:

- Heading, with your name and contact information
- Career objective, concise and to the point, geared to the job description of the position you seek
- Education, generally at the beginning of the resume if you are a recent graduate, including specific academic honors and awards if applicable to the job
- Experience, including paid and unpaid activities showing the employer the skills you have to offer
- Activities, a brief listing unless directly related to the job description, including professional organizations and educational and volunteer activities

Cover Letters

Always include a **cover letter** with your resume. This applies to email applications, too. The cover letter creates the first impression. Brief though it is, it represents a sample of your writing skills and ability to communicate in writing. Take the time to be sure it properly reflects who you are and your skills. The cover letter should be brief, as your qualifications will be covered in the accompanying resume.

The cover letter should describe the job you are seeking, summarize your qualifications, request an interview, and express a desire for the job. If possible, address the cover letter directly to the person who is responsible for the hiring decision. Be sure to spell the person’s name correctly and include the correct job title.

Just as you may need different resumes for different jobs, you should personalize each letter for each job application.

References

References may be requested in responses to advertisements or you may wish to add them to your resume. Select your references carefully, they are frequently called or contacted for comment as part of the hiring process. Those you select must be contacted before you use their names and their permission secured. Faculty members and former employers are frequently asked to be used as references. In some schools and workplaces, there is a policy that limits the information that may be given out about dates or work or attendance. An employer following up on one of these references may take a negative inference from the limited information given. Keep in touch with those who do agree to give a reference and who will say good things about you to a potential
employer. Keep them informed on your latest work and other extracurricular activities like charity or pro bono work so they may speak knowledgeably about you if contacted.

Creating an Electronic Resume

A growing number of employers are using computers to search the Internet for job applicants and to sort electronically through the resumes they receive. Human resources managers search through resumes received online or through Internet sites by entering a few words or phrases that describe the required skills and qualifications for the position they are trying to fill. Only the resumes in the computer system that match these electronic sorting terms and phrases are considered for the job offered. To have your resume considered, you will need an electronic resume in addition to the traditional printed resume.

Computer programs that are used to search resumes generally look for certain descriptive words in the resume, these are called key words, like the key words used to conduct legal or actual research. For example, to highlight your initiative use words like initiated, started, created, introduced; for leadership skills, use words like directed, guided, organized; to attract interest to problem-solving skills, uses words like evaluated, reorganized, simplified, solved, eliminated. Be sure to use these types of key words in your electronic resume where appropriate to make your accomplishments stand out from the other resumes. A starting point is to gather all the information as shown in the Resume Checklist.

Converting a Traditional Resume into an Electronic Resume

If you plan to send your resume as an attachment to an email, the only way you can be sure the person you are sending it to can read it is if you send it as an ASCII file or in a universally usable format such as Rich text file RTF. If you already have created a resume using a word-processing program, open the file containing your resume and save it as a plain ASCII text file or RTF file. You will want to change the name of the new text file to distinguish it from the file name used for the traditional printed version.

Text-only files cannot accommodate type formatting and special characters, so be sure that your electronic resume appears in one simple font and one font size. You also

---

CHECKLIST Resume

**PERSONAL INFORMATION**
- Name
- Address

**EDUCATION**
- High school
  - Year of graduation
- College
  - Year of graduation
  - Degree
  - Grade point average or class rank

**WORK EXPERIENCE**
- Current or last employer
  - Position(s) held
- Prior employer
  - Position held and dates

**SPECIFIC SKILLS**
- Office skills
- Computer skills
- Language skills
- Other job-related skills

**OTHER**
- Organizational memberships
- Licenses/certifications
must remove line justification, tables, rules (lines), and columns. Align all text at the left to avoid indentation problems. Exhibit 3.13 is an example of an electronic resume.

The first line of your resume should contain only your full name. Type your street address, phone and fax numbers, and email address on separate lines below your name.

Because many human resource managers search by key words, you’ll want to include a key word section near the top of your resume. List nouns that describe your job-related skills and abilities. If you have work experience with specific job titles such as “paralegal,” list these key words as well. Also include language proficiency or other specialty qualifications such as “nurse-paralegal” or “fluent in Spanish.”

Exhibit 3.13  Sample electronic resume

JANE DOE
1234 N. Maple Street
Anytown, USA 90000
Home: (213) 555-1111 * Work: (213) 555-3333
jane.doe@att.net

LITIGATION PARALEGAL

Education
University of Paralegal Studies, Fremont, CA
Paralegal Specialist Certificate, 2002, Honors graduate
Approved by ABA
Course of study: Legal Research and Writing, Contracts, Torts, Ethics, Litigation Specialization

University of California at Berkeley
Bachelor of Arts Degree in History, 2001
Graduated Cum Laude

Skills and Abilities
• Ability to analyze documents, digest depositions, draft discovery, and prepare cases for trial
• Knowledge of torts and contract law, legal research techniques, and basic civil procedure
• Fluent in French, both written and spoken
• Proficient in Word for Windows, WordPerfect 6.0, and Excel

Legal Internship
Jones, Smith, Smythe and Smooth, Los Angeles, 2001–2002
• Digested depositions for complex litigation case
• Organized multiple documents using several software programs

Work Experience
Secondary School Teacher
• Arranged classroom materials
• Supervised student teachers
• Chaired English Department
• Created curricula for advanced students

Professional Associations
Los Angeles Paralegal Association
University of Paralegal Studies Alumni Association

References and writing samples available upon request.

After you have created your resume, save it again as an ASCII plain text file. Email the resume to yourself or to a friend to see how it looks when sent over the Internet. Think of getting a job as a process that starts with the resume and continues through the interview and the follow-up to the interview as shown in the Checklist for Interview Strategies.

CHECKLIST Interview Strategies

GETTING READY

☐ Write resume.
☐ Make contacts.
☐ Network.
☐ Make appointments from mass mailings, telephone solicitations, and network contacts.

BEFORE THE INTERVIEW

☐ Know your resume.
☐ Be familiar with a typical application form.
☐ Know something about the company or firm. Check the Martindale-Hubbell or Standard and Poor’s directories.
☐ Have a list of good questions to ask the interviewer, and know when to ask them.
☐ Rehearse your answers to possible interview questions, then rehearse again.
☐ Plan a “thumbnail” sketch of yourself.
☐ Know the location of the interview site and where to park, or become familiar with the public transportation schedule.
☐ Be at least 10 minutes early.
☐ Go alone.
☐ Bring copies of your resume, list of references, and writing samples in a briefcase or portfolio.
☐ Check local salary ranges for the position.
☐ Be prepared to answer questions regarding your salary expectations.
☐ Try to anticipate problem areas, such as inexperience or gaps in your work history.
☐ Be prepared to handle difficult questions, and know how to overcome objections.

THE INTERVIEW

☐ Provide all important information about yourself.
☐ Sell yourself—no one else will.
☐ Use correct grammar.
☐ Do not be afraid to say, “I don’t know.”
☐ Ask questions of the interviewer.
☐ Do not answer questions about age, religion, marital status, or children unless you wish to. Try to address the perceived concern.
☐ Find out about the next interview or contact.
☐ Find out when a decision will be made.
☐ Shake hands at the end of the interview.

AFTER THE INTERVIEW

☐ Immediately document the interview in your placement file.
☐ Send personalized thank-you letters to each person who interviewed you.
☐ Call to follow up.

Advice from the Field

THE PARALEGAL’S PORTFOLIO

Kathryn Myers, Coordinator, Paralegal Studies, Saint Mary-of-the-Woods College, Paralegal Studies Program

INTERVIEW

Q: How did the practice of assembling a portfolio come about?
A: This portfolio is actually based on the old concept of the “artist’s portfolio.” Anyone who is involved in a “hands-on” profession has utilized this concept for years.

Q: Instead of pictures, what do you mean when you speak of a portfolio for paralegal students?
A: A portfolio for paralegal students consists of two parts. One part is for my use in the program. The students have growth papers for each class, plus a series of other papers. I look at the collection of work to determine whether the paralegal program is doing what it says it will and whether it needs to be changed. I have modified a number of classes based on the material in this portfolio. The other part is a professional portfolio. The students pull material from the above portfolio and create their own professional portfolio to take on interviews. This contains a copy or copies of their resume, transcripts, selected writing samples, projects, or any other document they believe would be useful at the interview. Employers have been very impressed with this presentation.

Q: Do potential employers ever balk at seeing something that bulky? If so, how would you suggest handling it?
A: This has not been a problem for my students. As indicated earlier, we “create” two portfolios—one program-related and the other for professional purposes. I think this eliminates any problems at the interview.

Q: What is the most important thing about a portfolio?
A: The most important thing in the professional portfolio appears to be that the employer has another tool to assess the quality of the potential employee. Grades do not mean that much anymore. An “A” at [our college] may well come from a more demanding curriculum than an “A” at another institution. There is no basis for comparison unless the employer knows the grading scales/demands of the different programs. However, having a portfolio of material allows the employer to see what an interviewee can do.

Q: With that in mind, what should a paralegal student keep in mind when putting together the portfolio?
A: How a student puts a portfolio together says a lot about the student. I encourage students to incorporate both good and “not so good” work. That shows the employer that the interviewee can learn and can improve. Students collect material as they go through the program rather than waiting until the end.

Students should highlight their growth, their abilities, and their determination. They need to provide documentation that can show abilities that counter any poor grades that might appear on the transcript. This shows potential employers that test-taking is not necessarily the be-all, end-all to grades.

Most of all, the students need to let themselves shine through within the portfolio materials. Each student is unique and each has different talents to highlight. That is the value of the portfolio.

Kathryn Myers is Coordinator, Paralegal Studies, Saint Mary-of-the-Woods College, Paralegal Studies Program. Used by permission.

Interviewing for a Job

Most students today work at part-time or full-time jobs while pursuing their education. These might be summer jobs, holiday fill-in positions, or full-time jobs. The interview for a part-time, summer, or holiday position, or the interview for a new full-time position provides an opportunity to perfect your interviewing skills. Interviewing for a job can be highly stressful but careful preparation can reduce the stress and help you put your best foot forward so you can get that dream job you want.

After the interview, you should review what happened and the results of the interview as a way of learning how to improve your interviewing skills. Even if you obtain the job, you’ll want to learn what you did correctly that helped you to get the job, as well as what you could have done better, to prepare for future interviews.
The Interview

An interview for a job need not be intimidating. With a little preparation and research you can appear confident and make a good impression. The starting point is careful reading of the job description and the employer’s requested qualifications. Be sure that you can answer questions related to these qualifications, such as your experience in the particular area of law or special training in the use of specialty legal software. Research the firm by finding articles about the firm or lawyers online and by looking at its website. Prepare a list of questions that you want to ask that shows your interest in the firm and the particular job as shown in the Checklist of Interview Questions. After you leave the interview analyze how you did in the interview by reviewing the Checklist below. Then, prepare and send the thank-you note to the person with whom you interviewed to make a positive, lasting impression.

CHECKLIST Questions to Ask at the Interview

- How does the firm evaluate paralegals?
- What is the growth potential for a paralegal in the firm?
- Why did the prior paralegal leave?
- How is work assigned?
- What support services are available to paralegals?
- What consideration is given for membership in paralegal associations?
- Does the firm provide any assistance for continuing education for paralegals?

CHECKLIST Analyzing How I Handled the Interview

- I arrived early for the interview.
- I greeted the interviewer warmly, with a smile and a firm handshake.
- I maintained good posture.
- I did not smoke or chew gum during the interview.
- I spoke clearly, using good grammar.
- I demonstrated enthusiasm and interest.
- I was able to answer questions asked of me.
- I sent a thank-you note within 24 hours after the interview.

Concept Review and Reinforcement

LEGAL TERMINOLOGY

- Chronological resume format 110
- Complex litigation 83
- Conflict checking 94
- Court accounting 105
- Cover letter 110
- Elder law 83
- Environmental law 83
- Functional resume format 110
- General law practice 81
- Government employment 84
- Intellectual property 83
- IOLTA account 105
- Large law offices 79
- Networking 85
- Nurse paralegals or legal nurse consultants 82
- Paralegal manager 83
- Partnership 78
- Pro bono 84
- Resume 108
- Retainer 101
- Self-employment 85
- Small offices 76
- Solo practice 76
- Specialty practice 81
- Trust account 104
**Arrangements and Organization of Law Offices and Firms**

<table>
<thead>
<tr>
<th>Arrangement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solo Practice</td>
<td>One lawyer practicing alone without the assistance of other attorneys.</td>
</tr>
<tr>
<td>Small Offices</td>
<td>Range from individual practitioners sharing space to partnerships.</td>
</tr>
<tr>
<td>Partnerships</td>
<td>Two or more natural (human) or artificial (corporation) persons who have joined together to share ownership and profit or loss.</td>
</tr>
<tr>
<td>Large Offices</td>
<td>An outgrowth of traditional law offices that have expanded over the years, adding partners and associates along the way.</td>
</tr>
<tr>
<td>General Practice</td>
<td>Handles all types of cases.</td>
</tr>
</tbody>
</table>

**Specialty Practice**

<table>
<thead>
<tr>
<th>Specialty</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Nurse Consultants and Nurse Paralegals</td>
<td>Nurses who have gained medical work experience and combine it with paralegal skills.</td>
</tr>
<tr>
<td>Real Estate</td>
<td>Paralegals with real estate experience in sales or from title insurance agencies.</td>
</tr>
<tr>
<td>Complex Litigation</td>
<td>Requires document production and maintaining indexes, usually on computer databases, of the paperwork generated from litigation.</td>
</tr>
<tr>
<td>Environmental Law</td>
<td>Covers everything from toxic waste dumps to protection of wildlife and the environment.</td>
</tr>
<tr>
<td>Intellectual Property</td>
<td>Concerned with the formalities of protecting intellectual-property interests including patent rights, trade secrets, and copyrights and trademarks.</td>
</tr>
<tr>
<td>Elder Law</td>
<td>Protecting the rights of the elderly and obtaining all the benefits to which they are entitled.</td>
</tr>
<tr>
<td>Paralegal Managers</td>
<td>Hire, supervise, train, and evaluate paralegals.</td>
</tr>
<tr>
<td>Pro Bono Paralegals</td>
<td>Work without compensation on behalf of individuals and organizations that otherwise could not afford legal assistance.</td>
</tr>
<tr>
<td>Government Employment</td>
<td>Paralegals are found in administrative agencies and federal offices involved with both criminal prosecutions and civil litigation.</td>
</tr>
<tr>
<td>Legal Departments of Corporations</td>
<td>Paralegals handle documents, technology, and investigations juggling legal, sales, and marketing perspectives.</td>
</tr>
<tr>
<td>Self-Employment</td>
<td>State regulation may limit the opportunities or restrict paralegal self-employment. Where authorized by federal law, the paralegal may actively represent clients without the supervision of an attorney.</td>
</tr>
</tbody>
</table>

**Networking**

Establishing contact with others to exchange questions and information.

**Paralegal Tasks and Functions**

1. Conducting interviews
2. Maintaining written and verbal contacts with clients and counsel
3. Setting up, organizing, and maintaining client files
4. Preparing pleadings and documents
5. Reviewing, analyzing, summarizing, and indexing documents and transcripts
6. Assisting in preparing witnesses and clients for trial
7. Maintaining calendar and tickler systems
8. Conducting research, both factual and legal
9. Performing office administrative functions including maintaining time and billing records
### Administrative Procedures in Law Offices and Firms

<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict Checking</td>
<td>To verify that current and prior representations of parties and matters handled will not present a conflict of interest for the firm in accepting a new client or legal matter.</td>
</tr>
<tr>
<td>Time Keeping and Billing</td>
<td>Keeping track of billable time.</td>
</tr>
</tbody>
</table>

### Accounting in the Law Office

<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintaining Law Firm Financial Information</td>
<td>A paralegal needs to understand the internal accounting needs of the firm and to understand and prepare client financial information.</td>
</tr>
<tr>
<td>Accounting for Client Retainers and Costs Advanced</td>
<td>A payment at the beginning of the handling of a new matter for a client. This amount may be used to offset the fees for services rendered or costs advanced on behalf of the client.</td>
</tr>
<tr>
<td>Civil Practice: Fee and Cost Billing</td>
<td>May be calculated on an hourly rate, a contingent fee, or a combination of the two.</td>
</tr>
<tr>
<td>Timely Disbursements</td>
<td>Lawyers cannot retain settlement funds for an unreasonable time.</td>
</tr>
<tr>
<td>Trust Accounts</td>
<td>The client's funds.</td>
</tr>
<tr>
<td>IOLTA Accounts</td>
<td>Where the amount is too small to earn interest, court rules require that the funds be deposited into a special interest-bearing account, and the interest generally paid to support legal aid projects (Interest on Lawyers Trust Accounts).</td>
</tr>
<tr>
<td>Interest-Bearing Escrow Accounts</td>
<td>If the amount held for a client is sufficient to earn substantial interest it should be deposited in an interest-bearing account for the benefit of the client.</td>
</tr>
<tr>
<td>Court Accounting</td>
<td>An accounting with the local court that administers or supervises trust and estate matters; these reports are designed to show that the fiduciary has properly administered the estate or trust.</td>
</tr>
</tbody>
</table>

### Preparing Your Resume

<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resume Formats</td>
<td>Brief description of a person’s education, a summary of work experience, and other related and supporting information that potential employers use in evaluating a person’s qualifications for a position in a firm or an organization.</td>
</tr>
<tr>
<td>Chronological Resume Format</td>
<td>1. Presents education and job history in chronological order with the most recent experience listed first.</td>
</tr>
<tr>
<td>Functional Resume Format</td>
<td>2. Gives a summary of the individual's qualifications with current experience and education without emphasizing dates of employment.</td>
</tr>
<tr>
<td>Cover Letters</td>
<td>The cover letter creates the first impression, and is a sample of your writing skills and ability to communicate in writing.</td>
</tr>
<tr>
<td>Creating an Electronic Resume</td>
<td>A growing number of employers use computers to search the Internet for job applicants, sorting resumes electronically.</td>
</tr>
<tr>
<td>Converting a Traditional Resume into an Electronic Resume</td>
<td>Traditional word-processing documents may not be readable in electronic form and need to be converted to a readable format.</td>
</tr>
</tbody>
</table>

### Interviewing for a Job

<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Interview</td>
<td>Careful interview preparation can help to eliminate some of the stress and help you put your best foot forward.</td>
</tr>
</tbody>
</table>
Download the Tips for Networking Success from the NALS website at http://www.nals.org/students/reading/networkingsuccess.html.

Review some of the job opportunities posted on the American Alliance of Paralegals. What are the common qualifications? http://aapipara.org/Jobbank.htm

Check and download from the websites of the various paralegal professional associations information on paralegal occupational opportunities:
- National Association of Legal Assistants at www.nala.org
- National Federation of Paralegal Associations at www.paralegals.org
- Legal Assistant Management Association at www.lamanet.org
- American Association of Legal Nurse Consultants at www.aalnc.org
- The American Association of Nurse Attorneys at www.taana.org
- American Corporate Legal Assistants Association at www.aclaa.org

What paralegal opportunities are posted at www.monster.com?

What online resources are available to help in creating resumes?
- Purdue University at www.owl.English.purdue.edu
- College of William and Mary at www.wm.edu/csrv/career/stualum/resmdir

What online career sources are available at:
- Career Resource Library at www.labor.state.ny.us
- America's Job Bank at www.ajb.dni.us/index.html
- Wall Street Journal at www.careers.wsj.com
- CareerWEB at www.employmentguide.com

What law firms in your area have a website that offers employment opportunities? Use the Martindale-Hubbell Legal Directory to find the law firms.

What are the different forms of practice arrangements that lawyers use?

What are the advantages and disadvantages of working for a lawyer in solo practice?

What are the advantages and disadvantages of working in a small multi-lawyer office or partnership?

What are the advantages and disadvantages of working in large law offices or firms?

Would working in a specialty practice be less stressful than working in a general practice?

What are the advantages and disadvantages of working in a corporate legal department?

Why would a law firm want to hire nurse paralegals?

What additional costs might a paralegal incur in working in a large-city practice in contrast to a small-town office?

Why would a paralegal who specializes in one legal field be at greater risk for unauthorized practice of law?

Other than revealing potential employment opportunities, what advantages does networking have for a paralegal?

Are interviews conducted by paralegals privileged?

Why is doing a conflict check important?
1. In changing jobs from one firm to another, how does the paralegal avoid a conflict of interest?
2. What ethical and UPL problems do freelance paralegals face that those working in a single firm do not?
3. What ethical issues might arise in determining the paralegal’s supervising attorney when the paralegal is working in a small firm of three attorneys?
4. Say you are working as a paralegal in a small law office, shared by three attorneys, each of whom is a solo practitioner. To save money, they share a law library and a fax machine, and they use a common computer network with separate workstations but with a common file server to save files because it has an automatic backup system. You work for each of the lawyers as the need arises, answering phones and generally performing paralegal services. [District of Columbia Ethics Opinion 303.] What issues of confidentiality should be considered? As the office paralegal, do you have any conflict of interest problems?

Paralegal Ethics in Practice
5. You hold a bachelor’s degree in paralegal studies from a prestigious college. You want to work as an independent paralegal. May you advertise in the local newspaper and put a sign on the door of your office that uses the term “paralegal,” according to your state law?
Develop your resume, using the functional format to prepare the resume you would like to have when you finish your education as a paralegal. List the skills you expect to develop or learn before you apply for your desired paralegal position.

**PARALEGAL PORTFOLIO EXERCISE**

Jean v. Nelson 863 F.2d 759 (11th Cir. 1988)

**Reimbursement for Paralegal Time under Federal Statute**

The district court awarded, and the 11th Circuit Court of Appeals upheld, reimbursement for time spent by paralegals and law clerks where the work normally was done by an attorney. The hourly rate awarded was $40, the rate at which the law firm whose paralegals and clerks were involved bills its clients.

The government challenges the rate awarded, and contends that paralegal time is compensational only at the actual cost to the plaintiff’s counsel. In the context of a Title VII case, [the court] held that paralegal time is recoverable as “part of a prevailing party’s award for attorney’s fees and expenses, [but]

only to the extent that the paralegal performs work traditionally done by an attorney. To hold otherwise would be counterproductive because excluding reimbursement for such work might encourage attorneys to handle entire cases themselves, thereby achieving the same results at a higher overall cost.”

**Questions**

1. Does this rationale encourage lawyers to use paralegals?
2. Does this decision facilitate the availability of lower-cost quality legal services?
3. Should an attorney be allowed to charge more than out-of-pocket costs for paralegal services?

**In Re Busy Beaver Bldg. Centers, Inc.** 19 F.3d 833 (3rd Cir. 1994)

**Paralegal Fees Based on Skill Level**

In deciding the propriety of awarding paralegal fees in bankruptcy cases, the court held:

As is true with recently graduated attorneys, entry-level paralegals perform the more mundane tasks in the paralegal work spectrum, some of which may resemble those tasks generally deemed “clerical” in nature. Yet, even with these tasks, paralegals may have to bring their training or experience to bear, thereby relieving attorneys of the burden of extensive supervision and ensuring the proper completion of tasks involving the exercise, or potential exercise, of some paraprofessional judgment. Of course, the appropriate rate the attorney will command for paralegal services will ordinarily parallel the paralegal’s credentials and the degree
of experience, knowledge, and skill the task at hand calls for. . . . [P]urely clerical or secretarial tasks should not be billed at a paralegal rate, regardless of who performs them. The short of it is that the market-driven approach of the [bankruptcy act] § 330 permits compensation for relatively low-level paralegal services if and only if analogous non-bankruptcy clients agree to pay for the same, and then only at that rate. [T]hose services not requiring the exercise of professional legal judgment . . . must be included in “overhead.” We cannot agree that in all cases the general ability of a legal secretary to perform some particular task determines whether a paralegal or a legal secretary is the appropriate, most efficient, employee to perform it at any given instant.

At times temporal constraints may foreclose the delegation option. At other times a paralegal—or, for that matter, an attorney—can more productively complete a clerical task, such as photocopying documents, than can a legal secretary.

**Questions**
1. How can the attorney prove the skill level of paralegals when seeking compensation for paralegal services?
2. Will this kind of reasoning by the court force attorneys to hire more skilled paralegals?
3. Would the existence of a certificate or degree in paralegal studies be useful in proving that the person who worked on a case was a paralegal?

**Phoenix Founders Inc. v. Marshall**

887 S.W.2d 831 (Tex. 1994)

Supreme Court of Texas

Read the following case, excerpted from the state supreme court’s opinion. Review and brief the case. In your brief, answer the following questions.

1. What is the danger in hiring a paralegal who has worked at a competing law firm when handling a case on appeal?
2. What is the supervising attorney’s responsibility in hiring a paralegal who has worked at another law firm?
3. What steps must be taken when hiring a paralegal who worked at another law firm that represents an opposing party?
4. What instructions should the paralegal who worked at another firm be given when hired?
5. Under what general circumstances will a law firm be disqualified after hiring a paralegal?

**Spector, Justice, delivered the opinion of the Court, in which Hillips, Chief Justice, and Gonzalez, Hightower, Hecht, Doggett, Cornyn, and Gammage, Justices join.**

In this original proceeding, we consider whether a law firm must be disqualified from ongoing litigation because it rehired a legal assistant who had worked for opposing counsel for three weeks. We hold that disqualification is not required if the rehiring firm is able to establish that it has effectively screened the paralegal from any contact with the underlying suit. Because this standard had not been adopted in Texas prior to the trial court’s disqualification order, we deny mandamus relief without prejudice to allow the trial court to reconsider its ruling in light of today’s opinion.

The present dispute arises from a suit brought by Phoenix Founders, Inc. and others (“Phoenix”) to collect a federal-court judgment against Ronald and Jane Beneke and others. The law firm of Thompson & Knight represented Phoenix in the original federal-court suit, which began in 1990 and ended in 1991, and has also represented them in the collection suit since its commencement in 1992. The Benekes have been represented in the latter suit by the firm of David & Goodman.

In July of 1993, Denise Hargrove, a legal assistant at Thompson & Knight, left her position at that firm to begin working for David & Goodman as a paralegal. While at David & Goodman, Hargrove billed six-tenths of an hour on the collection suit for locating a pleading. She also discussed the case generally with
Mark Goodman, the Benekes’ lead counsel. After three weeks at David & Goodman, Hargrove returned to Thompson & Knight to resume work as a paralegal. At the time of therehiring, Thompson & Knight made no effort to question Hargrove in regard to potential conflicts of interest resulting from her employment at David & Goodman.

Three weeks after Hargrove had returned, counsel for the Benekes wrote to Thompson & Knight asserting that its renewed employment of Hargrove created a conflict of interest. The letter demanded that the firm withdraw from its representation of Phoenix. Hargrove resigned from Thompson & Knight the next week, after having been given the option of either resigning with severance pay or being terminated. The firm itself, however, refused to withdraw from the case. The Benekes then filed a motion to disqualify.

This Court has not previously addressed the standards governing a disqualification motion based on the hiring of a nonlawyer employee. With respect to lawyers, however, this Court has adopted a standard requiring disqualification whenever counsel undertakes representation of an interest that is adverse to that of a former client, as long as the matters embraced in the pending suit are “substantially related” to the factual matters involved in the previous suit. This strict rule is based on a conclusive presumption that confidences and secrets were imparted to the attorney during the prior representation [Coker, 765 S.W.2d at 400].

We agree that a paralegal who has actually worked on a case must be subject to the presumption set out in Coker; that is, a conclusive presumption that confidences and secrets were imparted during the course of the paralegal’s work on the case. We disagree, however, with the argument that paralegals should be conclusively presumed to share confidential information with members of their firms. The Disciplinary Rules require a lawyer having direct supervisory authority over a nonlawyer to make reasonable efforts to ensure that the nonlawyer’s conduct is compatible with the professional obligations of the lawyer.

The Texas Committee on Professional Ethics has considered the application of these rules in the context of a “right hand” legal secretary or legal assistant leaving one small firm and joining another that represents an adverse party. The Committee concluded that the Rules do not require disqualification of the new law firm, provided that the supervising lawyer at that firm complies with the Rules so as to ensure that the nonlawyer’s conduct is compatible with the professional obligations of a lawyer. This view is consistent with the weight of authority in other jurisdictions.

The American Bar Association’s Committee on Professional Ethics, after surveying case law and ethics opinions from a number of jurisdictions, concluded that the new firm need not be disqualified, as long as the firm and the paralegal strictly adhere to the screening process set forth in the opinion, and as long as the paralegal does not reveal any information relating to the former employer’s clients to any person in the employing firm. A number of courts have since relied on the ABAs opinion to allow continued representation under similar conditions.

Underlying these decisions is a concern regarding the mobility of paralegals and other nonlawyers. A potential employer might well be reluctant to hire a particular nonlawyer if doing so would automatically disqualify the entire firm from ongoing litigation. This problem would be especially acute in the context of massive firms and extensive, complex litigation. Recognizing this danger, the ABA concluded “any restrictions on the nonlawyer’s employment should be held to the minimum necessary to protect confidentiality of client information” [ABA Op. 1526].

We share the concerns expressed by the ABA, and agree that client confidences may be adequately safeguarded if a firm hiring a paralegal from another firm takes appropriate steps in compliance with the Disciplinary Rules. Specifically, the newly hired paralegal should be cautioned not to disclose any information relating to the representation of a client of the former employer. The paralegal should also be instructed not to work on any matter on which the paralegal worked during the prior employment, or regarding which the paralegal has information relating to the former employer’s clients to any person in the employing firm. A number of courts have since relied on the ABA’s opinion to allow continued representation under similar conditions.
nonlawyer has previously worked. Ordinarily, however, disqualification is not required as long as “the practical effect of formal screening has been achieved.”

In reconsidering the disqualification motion, the trial court should examine the circumstances of Harrgrote’s employment at Thompson & Knight to determine whether the practical effect of formal screening has been achieved. The factors bearing on such a determination will generally include the substantiality of the relationship between the former and current matters; the time elapsing between the matters; the size of the firm; the number of individuals presumed to have confidential information; the nature of their involvement in the former matter; and the timing and features of any measures taken to reduce the danger of disclosure. The fact that the present case involves representation of adverse parties in the same proceeding, rather than two separate proceedings, increases the danger that some improper disclosure may have occurred. Evidence regarding the other factors, however, may tend to rebut the presumption of shared confidences.

The ultimate question in weighing these factors is whether Thompson & Knight has taken measures sufficient to reduce the potential for misuse of confidences to an acceptable level. Because we have modified the controlling legal standard, the writ of mandamus is denied without prejudice to allow the trial court to reconsider the disqualification motion in light of today’s opinion. The stay order previously issued by this Court remains in effect only so long as necessary to allow the trial court to act.

Ramirez v. Plough, Inc.

12 Cal. Rptr. 2d 423 (Cal. Ct. App. 1992)*
Court of Appeal of California

Read, and if assigned, brief this case. Prepare a written answer to each of the following questions. Note the words of the California Supreme Court on appeal.

1. How does this case illustrate clients’ cultural differences?
2. Are the views and conduct of the parent in this case the same as you have and would have taken?
3. What ethical obligation does the paralegal have to be sure the client who does not speak the same language understands the advice given? Does it matter if it is medical directions, as in this case, or legal advice?
4. Does a law firm have a higher duty to a non-English-speaking client than a drug company, such as the defendant in this case, does in selling a product?
5. Does the law firm have a duty to explain cultural differences in the American legal system and its procedures to non-English-speaking, non-native born clients?

Thaxter, Judge

Jorge Ramirez, a minor, by his guardian ad litem Rosa Rivera, appeals from a summary judgment in favor of Plough, Inc. Appellant sued Plough alleging negligence, product liability, and fraud. The action sought damages for injuries sustained in March of 1986 when Jorge, who was then four months old, contracted Reye’s Syndrome after ingesting St. Joseph Aspirin for Children (SJAC). Plough marketed and distributed SJAC.

Reye’s Syndrome is a serious disease of unknown cause characterized by severe vomiting, lethargy, or irritability, which may progress to delirium or coma.

In December 1985, the Food and Drug Administration (FDA) requested that aspirin manufacturers voluntarily place a label on aspirin products warning consumers of the possible association between aspirin and Reye’s Syndrome. Plough voluntarily complied and began including a warning and insert in SJAC packaging. On June 5, 1986, the Reye’s Syndrome warning became mandatory.

In March 1986, SJAC labeling bore the following warning: “Warning: Reye’s Syndrome is a rare but serious disease which can follow flu or chicken pox in children and teenagers. While the cause of Reye’s Syndrome is unknown, some reports claim aspirin may increase the risk of developing this disease. Consult a doctor before use in children or teenagers with flu or chicken pox.” In addition, the SJAC package insert included the following statement: “The symptoms of Reye’s Syndrome can include persistent vomiting,
sleepiness and lethargy, violent headaches, unusual behavior, including disorientation, combativeness, and delirium. If any of these symptoms occur, especially following chicken pox or flu, call your doctor immediately, even if your child has not taken any medication. Reye’s Syndrome is serious, so early detection and treatment are vital.

Rosa Rivera purchased SJAC on March 12, 1986, and administered it to appellant, who was suffering from what appeared to be a cold or upper respiratory infection. She gave appellant the aspirin without reading the directions or warnings appearing on the SJAC packaging. The packaging was in English and Ms. Rivera can speak and understand only Spanish. She did not seek to have the directions or warnings translated from English to Spanish, even though members of her household spoke English.

The trial court granted Plough’s motion for summary judgment on the grounds that “there is no duty to warn in a foreign language and there is no causal relationship between plaintiff’s injury and defendant’s activities.”

It is undisputed that SJAC was marketed and intended for the treatment of minor aches and pains associated with colds, flu, and minor viral illnesses. The SJAC box promised “fast, effective relief of fever and minor aches and pains of colds.” . . . In March 1986, federal regulations requiring a Reye’s Syndrome warning had been promulgated and were final, although not yet effective. . . . The scientific community had already confirmed and documented the relationship between Reye’s Syndrome and the use of aspirin after a viral illness. There is no doubt Plough had a duty to warn of the Reye’s Syndrome risk.

The question thus is whether the warning given only in English was adequate under the circumstances. Respondent argues that, as a matter of law, it has no duty to place foreign-language warnings on products manufactured to be sold in the United States and that holding manufacturers liable for failing to do so would violate public policy.

While the constitutional, statutory, regulatory, and judicial authorities relied on by respondent may reflect a public policy recognizing the status of English as an official language, nothing compels the conclusion that a manufacturer of a dangerous or defective product is immunized from liability when an English-only warning does not adequately inform non-English literate persons likely to use the product.

Plough’s evidence showed that over 148 foreign languages are spoken in the United States and over 23 million Americans speak a language other than English in their homes. That evidence plainly does not prove that Plough used reasonable care in giving an English-only warning. Plough, then, resorts to arguing that the burden on manufacturers and society of requiring additional warnings is so “staggering” that the courts should preclude liability as a matter of law. We are not persuaded.

Certainly the burden and costs of giving foreign-language warnings is one factor for consideration in determining whether a manufacturer acted reasonably in using only English. The importance of that factor may vary from case to case depending upon other circumstances, such as the nature of the product, marketing efforts directed to segments of the population unlikely to be English-literate, and the actual and relative size of the consumer market which could reasonably be expected to speak or read only a certain foreign language. Plough presented no evidence from which we can gauge the extent of the burden under the facts of this case.

Ramirez submitted evidence that Plough knew Hispanics were an important part of the market for SJAC and that Hispanics often maintain their first language rather than learn English. SJAC was advertised in the Spanish media, both radio and television. That evidence raises material questions of fact concerning the foreseeability of purchase by a Hispanic not literate in English and the reasonableness of not giving a Spanish-language warning. If Plough has evidence conclusively showing that it would have been unreasonable to give its label warning in Spanish because of the burden, it did not present that evidence below.

. . . [I]f we accepted Plough’s arguments in this case, in effect we would be holding that failure to warn in a foreign language is not negligence, regardless of the circumstances. Such a sweeping grant of immunity should come from the legislative branch of government, not the judicial. In deciding that Plough did not establish its right to judgment as a matter of law, we do not hold that manufacturers are required to warn in languages other than English simply because it may be foreseeable that non-English-literate persons are likely to use their products. Our decision merely recognizes that under some circumstances the standard of due care may require such warning.

Because the evidence shows triable issues of material fact and because Plough did not establish its immunity from liability as a matter of law, its motion for summary judgment should have been denied.
California Supreme Court on Appeal—Ramirez v. Plough, Inc.

6 Cal.4th 539 (1993), 863 P.2d 167, 25, Cal.Rptr.2d 97

Opinion

Kennard, J.

IV

... We recognize that if a Spanish language warning had accompanied defendant’s product, and if plaintiff’s mother had read and heeded the warning, the tragic blighting of a young and innocent life that occurred in this case might not have occurred. Yet, as one court has aptly commented, “The extent to which special consideration should be given to persons who have difficulty with the English language is a matter of public policy for consideration by the appropriate legislative bodies and not by the Courts.” (Carmona v. Sheffield (N.D.Cal. 1971) 325 F. Supp. 1341, 1342, affd. per curiam (9th Cir. 1973) 475 F.2d 738.) (4b) We hold only that, given the inherent limitations of the judicial process, manufacturers of nonprescription drugs have no presently existing legal duty, within the tort law system, to include foreign-language warnings with their packaging materials. . . .

Mosk, J.

I concur. I write separately to emphasize the majority’s caveat that “We do not . . . foreclose the possibility of tort liability premised upon the content of foreign-language advertising. For example, we do not decide whether a manufacturer would be liable to a consumer who detrimentally relied upon foreign-language advertising that was materially misleading as to product risks and who was unable to read English language package warnings that accurately described the risks. No such issue is presented here. . . .”

. . . Evidence of the content, timing, duration, and scope of distribution of foreign-language advertising bears substantially on the question whether a non-English-literate consumer has been materially misled about product risks, and a trial court must consider that evidence if properly presented.

The majority do not define “materially misleading as to product risks,” leaving that issue for another day—a day likely to arrive soon, given the high probability that foreign-language media will continue to expand in California.