



THE PARAVIEW



Quarterly Publication of the
Metrolina Paralegal Association

FALL 2014

IN THIS ISSUE

Helpful Website of the Quarter	4
Know Your Legal Terminology	4
Practice Area Spotlight: Environmental Law	5-9
10 Paralegal and Litigation Support Publications	10
North Carolina Legal News	11



Upcoming CLE Opportunities	12
5 Online Paralegal Resources	13
Arguments Against the Billable Hour	14
2014-2015 MPA Patrons	16
2014-2015 MPA Board and Executive Committee Members	17

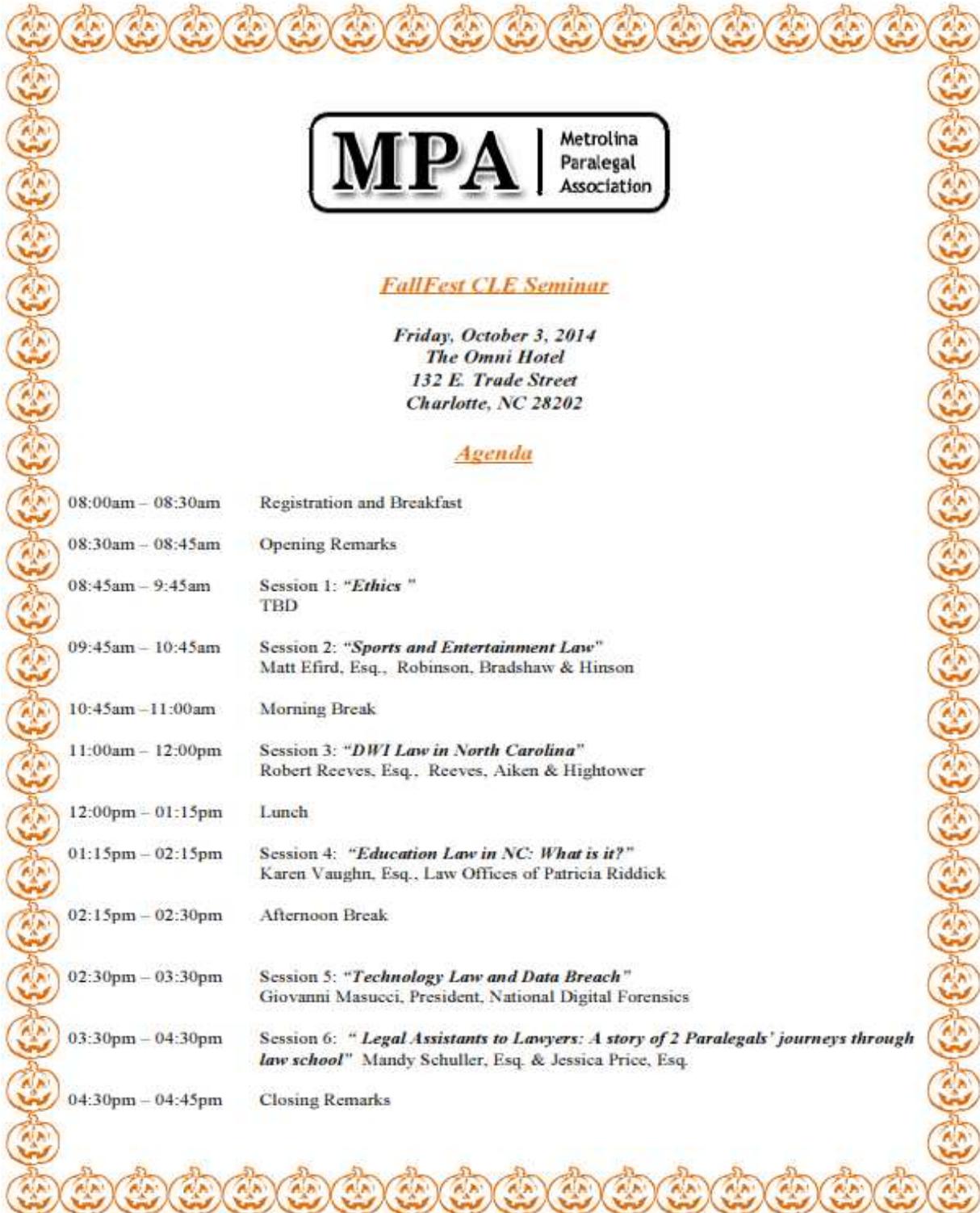
Note from the Editor

I have noticed while working on my fifth ParaView that it has become rather formulaic. If anyone would like to see something new in the next Paraview, I am very open to hearing some suggestions. Please email me at michelle.kass@alston.com with your thoughts and ideas.

Thanks!
Michelle Kass, Paraview Editor

REMINDER: MPA FALL FEST CLE SEMINAR

Please join us for the MPA Fall Fest Seminar next Friday, October 3 in Uptown Charlotte at the Omni Hotel. Registration materials are available on the MPA website (charlotteareaparalegals.com) and are due by September 30. Any registrations received after that date will incur a \$20 late fee. Hope to see you there!



MPA | Metrolina
Paralegal
Association

FallFest CLE Seminar

*Friday, October 3, 2014
The Omni Hotel
132 E. Trade Street
Charlotte, NC 28202*

Agenda

08:00am – 08:30am	Registration and Breakfast
08:30am – 08:45am	Opening Remarks
08:45am – 9:45am	Session 1: " <i>Ethics</i> " TBD
09:45am – 10:45am	Session 2: " <i>Sports and Entertainment Law</i> " Matt Efird, Esq., Robinson, Bradshaw & Hinson
10:45am – 11:00am	Morning Break
11:00am – 12:00pm	Session 3: " <i>DWI Law in North Carolina</i> " Robert Reeves, Esq., Reeves, Aiken & Hightower
12:00pm – 01:15pm	Lunch
01:15pm – 02:15pm	Session 4: " <i>Education Law in NC: What is it?</i> " Karen Vaughn, Esq., Law Offices of Patricia Riddick
02:15pm – 02:30pm	Afternoon Break
02:30pm – 03:30pm	Session 5: " <i>Technology Law and Data Breach</i> " Giovanni Masucci, President, National Digital Forensics
03:30pm – 04:30pm	Session 6: " <i>Legal Assistants to Lawyers: A story of 2 Paralegals' journeys through law school</i> " Mandy Schuller, Esq. & Jessica Price, Esq.
04:30pm – 04:45pm	Closing Remarks

HELPFUL WEBSITE: FALL 2014 SELECTION



<https://law.resource.org/>

This website is run by a nonprofit organization dedicated to making government information easily accessible, including U.S. court decisions and millions of pages of key government documents, such as hearings and reports.

KNOW YOUR LEGAL TERMINOLOGY

Fruit of the Poisonous Tree

An extension of the exclusionary rule established in Silverthorne Lumber Co. v. United States, 251 U.S. 385 (1920). This doctrine holds that evidence gathered with the assistance of illegally obtained information must be excluded from trial. Thus, if an illegal interrogation leads to the discovery of physical evidence, both the interrogation and the physical evidence may be excluded, the interrogation because of the exclusionary rule, and the physical evidence because it is the “fruit” of the illegal interrogation. This doctrine is subject to three of important exceptions. The evidence will not be excluded (1) if it was discovered from a source independent of the illegal activity; (2) its discovery was inevitable; or (3) if there is attenuation between the illegal activity and the discovery of the evidence.



UPCOMING GENERAL MEETINGS

Foundation for the Carolinas – 220 North Tryon Street

November 18

December 16

PRACTICE AREA SPOTLIGHT: ENVIRONMENTAL LAW



Environmental law is a collective term describing international treaties and conventions, statutes, regulations, and common law or national legislation that operates to regulate the interaction of humanity and the natural environment, toward the purpose of reducing the impacts of human activity.

Environmental law encompasses three major areas: pollution control and remediation, and resource conservation and management and land use planning. The limitations and expenses that such laws may impose on commerce, and the often unquantifiable (i.e. non-monetized) benefit of environmental protection, have generated, and continue to generate, significant controversy.

Pollution control and remediation



-Air quality law is the area of environmental law governing the emission of air pollutants from human sources into the atmosphere. It may also refer to the regulation of indoor air quality for the protection of human health.

-Clean Tech Law contemplates a diverse set of legal and policy issues related to the development and commercialization of clean technology. These issues range from conventional natural resources law to cutting-edge intellectual property issues related to

synthetic genomics and advanced materials. Clean tech law could also address issues and conflicts surrounding the placement of such technologies (e.g., glare from solar panels).

-Drainage law is a specific area of water law related to drainage of surface water on real property. It is of great importance in areas where freshwater is scarce, where flooding is common, or where water is in high demand for agricultural or commercial purposes.

-Energy laws govern the use and taxation of energy, both renewable and non-renewable. In contrast, energy policy refers to the policy and politics of energy. Energy law includes the legal provision for oil, gasoline, and “extraction taxes.” The practice of energy law includes contracts for siting, extraction, licenses for the acquisition and ownership rights in oil and gas both under the soil before discovery and after its capture, and adjudication regarding those rights.

-Waste law is the area of environmental law governing the treatment, storage, disposal, management and transport of waste, of whatever type. These laws also include recycling laws.



-Water quality law is the area of environmental law governing the emission of pollutants from human sources into the hydrosphere. It may also refer to the regulation of drinking water quality for the protection of human health.

Resource conservation and management

-Fisheries law is the study and analysis of different fisheries management approaches, such as catch shares. This specific legal area is rarely taught at law schools around the world, which leaves a vacuum of advocacy and research. Fisheries law also takes into account international treaties and industry norms in order to analyze fisheries management regulations. Fisheries law also covers seafood safety regulations, which include a large diversity of fisheries management schemes including quota or catch share systems. Fisheries law also includes the study of aquaculture laws and regulations.

-Forest law is part of environmental law and administrative law. The purpose of forest law is to regulate reforestation, protection and use and to form the legal preconditions for the management of all ownership type forests upon equal sustainable forestry principles, ensuring a rational use of the forest resources, including non-timber forest products, by supplying with the industrial material, preservation of the biodiversity, increase of forest productivity, landscape stability and environment quality possibility to perform the ecological, economic and social functions without inflicting damage to other ecosystems.

-Game laws are statutes which regulate the right to pursue and take or kill certain kinds of fish and wild animals. Their scope can include the following: restricting the days to harvest fish or game, restricting the number of animals per person, restricting species harvested, and limiting weapons and fishing gear used. Hunters, fishermen and lawmakers generally agree that the purposes of such laws are to balance the needs for preservation and harvest and to manage both environment and populations of fish and game. Game laws can provide a legal structure to collect license fees and other money which is used to fund conservation efforts as well as to obtain harvest information used in wildlife management practice.



-Land law is the form of law that deals with the rights to use, alienate, or exclude others from land. In many jurisdictions, these kinds of property are referred to as real estate or real property, as distinct from personal property. Land use agreements, including renting, are an important intersection of property and contract law. Encumbrance on the land rights of one, such as an easement, may constitute the land rights of another. Land rights are such a basic form of law that they develop even where there is no state to enforce them: squatting, the occupation of land without ownership, is globally ubiquitous.

-Mining law is the branch of law relating to the legal requirements affecting minerals and mining. Mining law covers several basic topics, including the ownership of the mineral resource and who can work them. Mining is also affected by various regulations regarding the health and safety of miners, as well as the environmental impact of mining.

-The United Nations Convention on the Law of the Sea (UNCLOS), also called the Law of the Sea Convention or the Law of the Sea treaty, is the international agreement that resulted from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982. The Law of the Sea Convention defines the rights and responsibilities of nations with respect to their use of the world's oceans, establishing guidelines for businesses, the environment, and the management of marine natural resources. UNCLOS came into force in 1994, a year after Guyana became the 60th nation to sign the treaty. As of August 2013, 165 countries and the European Union have joined in the Convention.



-Property law is the area of law that governs the various forms of ownership and tenancy in real property (land as distinct from personal or movable possessions) and in personal property, within the common law legal system. In the civil law system, there is a division between movable and immovable property. Movable property roughly corresponds to personal property, while immovable property corresponds to real estate or real property, and the associated rights and obligations thereon. The concept, idea or philosophy of property underlies all property law.

-Water law is the field of law dealing with the ownership, control, and use of water as a resource. It is most closely related to property law, but has also become influenced by environmental law. Because water is vital to living things and to a variety of economic activities, laws attempting to govern it have far-reaching effects.



-The term 'wild law' was first coined by Cormac Cullinan to refer to human laws that are consistent with Earth jurisprudence. A wild law is a law made by people to regulate human behavior that privileges maintaining the integrity and functioning of the whole Earth community in the long term, over the interests of any species (including humans) at a particular time.

Planning, land use, and infrastructure

-Earth jurisprudence is a philosophy of law and human governance that is based on the idea that humans are only one part of a wider community of beings and that the welfare of each member of that community is dependent on the welfare of the Earth as a whole. It states that human societies will only be viable and flourish if they regulate themselves as part of this wider Earth community and do so in a way that is consistent with the fundamental laws or principles that govern how the universe functions, which is the 'Great Jurisprudence'. Earth jurisprudence seeks to expand our understanding of the relevance of governance beyond humanity to the whole Earth community; it is Earth-centric rather than anthropocentric. It is concerned with the maintenance and regulation of relations between all members of the Earth community, not just between human beings. Earth jurisprudence is intended to provide a philosophical basis for the development and implementation of human governance systems, which may include ethics, laws, institutions, policies and practices. It also places an emphasis on the internalization of these insights and on personal practice, in living in accordance with Earth jurisprudence as a way of life. The specific applications of Earth jurisprudence will vary from society to society, while sharing common elements.

-Environmental engineering law is a profession that requires an expertise in both environmental engineering and law. This profession requires both licensure in professional environmental engineering and admittance to one bar. Environmental engineering law is the professional application of law, science and engineering principles to improve the environment (air, water, and/or land resources), to provide healthy water, air, and land for human habitation and for other organisms, and to remediate polluted sites. Environmental engineering lawyers seek to promote the advancement of technical engineering knowledge in the legal profession and to enhance informed legal analysis of complex environmental matters. An environmental impact assessment is a formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior the implementation decision, it proposes measures to adjust impacts to acceptable levels or to investigate new technological solution. Although an assessment may lead to difficult economic decisions and political and social concerns, environmental impact assessments protect the environment by providing a sound basis for effective and sustainable development.



-Land use is the human use of land. Land use involves the management and modification of natural environment or wilderness into built environment such as settlements and semi-natural habitats such as arable fields, pastures, and managed woods. In environmental law, the polluter pays principle is enacted to make the party responsible for producing pollution responsible for paying for the damage done to the natural environment. It is regarded as a regional custom because of the strong support it has received in most Organization for Economic Co-operation and Development (OECD) and European Community (EC) countries. The polluter pays principle underpins environmental policy such as an ecotax, which, if enacted by government, deters and essentially reduces greenhouse gas emissions. Some eco-taxes underpinned by the polluter pays principle include the Gas Guzzler Tax. The U.S. Superfund law requires polluters to pay for cleanup of hazardous waste sites, when the polluters can be identified. EPR seeks to shift the responsibility dealing with waste from governments (and thus, taxpayers and society at large) to the entities producing it. In effect, it internalized the cost of waste disposal into the cost of the product, theoretically meaning that the producers will improve the waste profile of their products, thus decreasing waste and increasing possibilities for reuse and recycling.

Source: Wikipedia

10 PARALEGAL AND LITIGATION SUPPORT PUBLICATIONS

1. Legal Assistant Today

Legal Assistant Today is the only independent legal news resource covering the paralegal profession.

2. Litigation Support Today

The premier publication of the litigation support profession.

3. Facts & Findings

This quarterly journal is published by the National Association of Legal Assistants (NALA).

4. The National Paralegal Reporter

This bi-monthly publication is the official publication of the National Federation of Paralegal Associations (NFPA).

5. Law Technology News

Law Technology News is a monthly magazine.

6. @Law

This quarterly magazine, published by NALS, the association for legal professionals,

7. The Alliance Echo

A quarterly publication of the American Alliance of Paralegals, Inc., The Alliance Echo contains information regarding the American Alliance Certification Program (AACP), news articles, legislation updates, and other information affecting the paralegal profession.

8. ALSP Update

ALSP Update is the monthly newsletter of the Association of Litigation Support Professionals.

9. Paralegal Management

Paralegal Management is a quarterly magazine published and distributed by the International Paralegal Management Association (IPMA).

10. Know: A Magazine for Paralegals

Know is a quarterly publication full of timely articles on substantive issues, trends, careers and success stories.



NORTH CAROLINA LEGAL NEWS



August 27, 2014

The city of Wilson, North Carolina, about an hour east of Raleigh, is asking the Federal Communications Commission to override North Carolina's telecommunications law. The city's unusual legal claim was made possible only in the past few months, after FCC Chairman Tom Wheeler announced, through a blog and at an industry conference, that the federal agency will consider pre-empting local laws that stifle broadband competition. The case is expected to have national repercussions if the FCC adopts broader rules, or if federal courts rule on Wilson's requests when the FCC's decision is appealed by the losing parties. The 18-year-old law says federal and state officials "shall encourage" deployment of communications networks through various means to remove barriers to competition. North Carolina is one of 19 states that have banned or restricted municipal broadband, according to the Institute for Local Self-Reliance. North Carolina's law, called the Level Playing Field legislation, prohibits local governments from subsidizing municipal broadband from other funds, bars pricing the service below the cost of providing it, requires public hearings and referendums to borrow money, and requires municipal broadband operators to make payments equivalent to taxes and fees paid by for-profit competitors.

August 29, 2014

The North Carolina 2013-2014 legislative session adjourned on August 20, but not before officially recognizing that marijuana has therapeutic benefits. On July 3, North Carolina Gov. Pat McCrory signed into law the North Carolina Epilepsy Alternative Treatment Act. This new law exempts a limited class of individuals with certain intractable epilepsy from criminal penalties for using and possessing hemp extracts derived from marijuana that has 0.3% or less THC and more than 10% cannabidiol (CBD). Only neurologists participating in a pilot study are allowed to recommend the use of hemp extract. While this is an improvement to current law, it leaves the vast majority of potential medical marijuana patients without legal protections, and it fails to provide an in-state source for cannabis extracts. If you are a resident of North Carolina, please email your lawmakers today and urge them to enact a comprehensive medical marijuana program. For more information, please see our summary of the law. While the legislature only took a small step this session, we hope that step is followed by other sensible reforms. Lawmakers like Rep. Kelly Alexander continue to beat the drums of change by introducing medical marijuana legislation and legislation to reduce penalties for mere possession. Support for sensible change continues to grow, and it's only a matter of time before a majority of Rep. Alexander's colleagues take notice.

UPCOMING AND AVAILABLE CLE OPPORTUNITIES



Date(s)	Sponsor	Location	Topics	Cost
October 3, 2014	MPA	Charlotte, NC	Various	\$100 (members) \$150 (non-members)
October 9, 2014	NALA	Online	Trademark Prosecution	\$80 (members) \$105 (non-members)
November 13, 2014	NALA	Online	Advanced Ethics	\$80 (members) \$105 (non-members)

LAWYER HUMOR

Question: Why don't lawyers go to the beach?

Answer: Cats keep trying to bury them.



A man was sent to Hell for his sins. As he was being taken to his place of eternal torment, he saw a lawyer chained to a beautiful woman. "What a rip-off," the man muttered. "I have to roast for all eternity, and that lawyer gets to spend it with a beautiful woman." Jabbing the man with his pitchfork, the escorting demon snarled, "Who are you to question that woman's punishment?"

5 ONLINE RESOURCES FOR PARALEGALS

1. Legal Talk Network

This website hosts several different podcasts by legal professionals covering a variety of legal topics that you can download at any time to at your convenience. You can subscribe to any of these podcasts via iTunes or an RSS feed, which means that once you find a podcast you like, you don't have to come back to check for new content.

Website: <http://www.legaltalknetwork.com>.

2. The Paralegal Mentor

This website has easy access to several great articles and a few really useful resources. This is more of a resource for paralegals who are having trouble with keeping everything in order but, even if this isn't a weak area of yours, it's still a recommended read.

Website: <http://paralegalmentor.com>



3. ABA Journal

If standard news format sites are more your thing, ABA Journal might be a perfect fit for you. They do have a podcast and legal blogs, which are well written and informative, but the news feed is the real draw here. Most legal websites that post news tend to do a daily update, maybe twice a day, but ABA seems to have a new article up every couple of hours.

Website: <http://www.abajournal.com>

4. Inter Alia

This blog is written by a legal technology expert.

Website: <http://www.inter-alia.net>

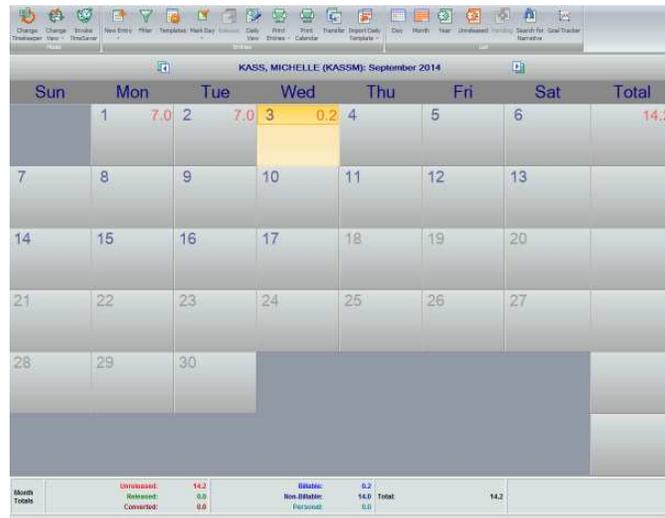
5. The Empowered Paralegal

TEP is another rather well written blog that contains a mind boggling number of articles. It's written by one man, Robert E. Mongue, and has been running pretty much nonstop since July 2009.

Website: <http://theempoweredparalegal.com>

ARGUMENTS AGAINST THE BILLABLE HOUR

Billable hour (*noun*): a unit of time used by an attorney, law clerk, or paralegal to account for work performed and chargeable to a client. Billable hours are usually divided into quarters or tenths of an hour. (*Black's Law Dictionary*, 8th ed. 2004).



Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total
	1 7.0	2 7.0	3 0.2	4	5	6	14.2
7	8	9	10	11	12	13	
14	15	16	17	18	19	20	
21	22	23	24	25	26	27	
28	29	30					
Month Totals	Unbilled: 14.2	Billed: 0.0	Not Billed: 0.0	Percent: 0.0	Total: 14.2		

Unreasonable Total Hours Requirements

The hours expectation for lawyers have risen every year. In the late 80s, the larger law firms required 1,750-1,800 hours a year for associates to be considered for bonuses. Today it is as much as 2,000-2,100—even 2,200 hours. Considering there are 8,736 hours in a year, firms have a lot of wiggle room before hitting that ceiling.

Pro Bono Suffers

The pressure to meet the billable hour requirement often leads paralegals and lawyers to pass up on pro bono projects. Many firms that used to have very minimal requirements for pro bono participation have lowered them even further or eliminated them altogether.

Conflict of Interest with the Client

Broken down to its lowest common denominator, lawyer's economic interests and the clients' are diametrically opposed. The market does not generally reward efficient lawyers who labor to hold down their fees in the recognition that this will lead to additional work. Add to that the fact that any given case has no limit to the potential issues, avenues for investigations or questions to be researched. Dollars times hours influences lawyers not to ask themselves what's most likely.

Fee Collection Issues

As a result of hourly billing, the fee collecting process has grown far more complicated. Clients are now engaging specialized law firms that specialize in disputing other firms' bills. Accusations of "running the meter" or "padding, i.e. engaging in unnecessary discovery, filing frivolous motions or foot-dragging before engaging in meaningful settlement talks abound.

The switch to flat fee litigation or ala carte pricing has been gaining momentum for years, but only time will tell if a system that has survived, even flourished, for decades can see itself into a new paradigm.

PATRON ANNOUNCEMENT



For Immediate Release

Contact: Kevin Patterson, Social Media Manager
7622 Bentley Rd
Greensboro, NC
336.464.8050
kevin@caseworksonline.com

CaseWorks, Inc. is Growing.

New regional offices and services make CaseWorks, Inc. the go-to for your court reporting, legal videography or video conferencing needs.

(Greensboro, NC, September 17, 2014) — In addition to their current offices in Greensboro, [CaseWorks, Inc.](http://www.caseworksonline.com) is expanding to five new locations in Winston-Salem, Charlotte, Raleigh, and Asheville, and launching a new service called *Virtual Depositions*. “It’s an exciting time here at CaseWorks. We’re proud to announce our recent expansion in both services and locations to further express our commitment to provide the most easy to use litigation support services in North Carolina and around the world!” Tony Wright, Director of Digital Marketing. All of these locations available immediately for depositions, client preparation, and video conferences.

CaseWorks – Uptown Charlotte

401 Tryon Street Suites 1000
Charlotte, NC 28210

CaseWorks – Durham

4819 Emperor Blvd
Durham, NC 27703

CaseWorks – Charlotte SouthPark

6000 Fairview Rd. Suite 1274
Charlotte, NC 28210

CaseWorks – Downtown Winston-Salem

301 N. Main Street 25th Floor
Winston-Salem, NC 27101

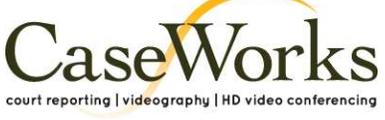
CaseWorks is providing a new service to its clients, *Virtual Depositions*. Virtual Depositions are web-based meetings that are customized to fit the needs of litigators. This platform on which the Virtual Depositions are built is so private and secure that it is widely used by the Department of Defense. The service allows lawyers to present and mark exhibits, in the cloud, eliminating the need to carry or coordinate delivery of sometimes voluminous exhibits. The platform also lets attorneys see a realtime feed of the transcript and video of the witness from any internet connected device.

To schedule visit CaseWork’s website at www.caseworksonline.com or call 1-800-955-0541

###

In nearly 30 years of doing business in North Carolina, CaseWorks has become recognized as the go-to provider for court reporting, legal videography, video conferencing service and sales. We pride ourselves in our ability to adapt and react, on the fly, to client demands. Whether you’re taking a deposition down the street or around the world, CaseWorks will ensure that your time is spent focused on your case, not logistics.

2014-2015 MPA PATRONS

 <p>Debbie Lawrence, Business Development Mgr. debbielawrence@huseby.com (800) 333-3339889 www.huseby.com</p>	 <p>Jason Ryan, President (704) 347-0055 frontdesk@novaoffice.net www.novaoffice.net</p>
 <p>Drake Forester, Manager (509) 768-2249 info@northwesterregisteredagent.com www.northwesterregisteredagent.com</p>	 <p>Frank McNally, Executive Director of Sales g@caseworksonline.com (800) 955-0541 www.caseworksonline.com</p>
 <p>Jenny Kazee, Placement Director Jenny.Kazee@@specialcounsel.com (800) 737-3436 www.specialcounsel.com</p>	 <p>Ryan Sylvester, Account Executive rsylvester@carolinacopyservices.com (704) 375-9099 www.carolinacopyservices.com</p>
 <p>Jeanne Carnahan, Vice President, Sales Jeanne@nationalcorp.com (800) 483-1140 www.nationalcorp.com</p>	 <p>Bill Schinman, President As98@bellsouth.net (704) 525-0296 www.studiosouthmedia.com</p>
 <p>Bryan Coffey, Managing Director bcoffey@scansolutionsyes.com (704) 698-8671 www.scansolutionsyes.com</p>	 <p>Colin Lerch, Service Support Representative clerch@ricoh-usa.com (704) 523-4143 www.ricoh-usa.com</p>
 <p>Joy Peterson, Marketing Director Jpeterson@scheduledepo.com 704-573-3919 www.scheduledepo.com</p>	 <p>Ruth Reynolds, Owner info@reynoldsprofessionalservice.com 800-814-8662 www.reynoldsprofessionalservice.com</p>

2014-2015 BOARD AND EXECUTIVE COMMITTEE MEMBERS

President

Penny H. Higdon, NCCP
Robinson, Bradshaw & Hinson, P.A.
phigdon@rbh.com

First Vice President, Membership

Susan G. Randolph, CLA, NCCP
Robinson, Bradshaw & Hinson, P.A.
srandolph@rbh.com

Second Vice President, Programs

Julie Allen, CLA
Moore & Van Allen, PLLC
julieallen@mvalaw.com

Third Vice President, Job Bank

Kelly Humiston
kellyahumiston@gmail.com

Fourth Vice President, Seminars

Jennifer B. Sawtell-Day, CP
seminolejen@yahoo.com)

Secretary

Carrie J. Marshall, NCCP
Parker Poe
carriemarshall@parkerpoe.com

Treasurer

Selene Hendricks
Duke Energy Corporation
selene.hendricks@duke-energy.com

Parliamentarian

Michelle Kass, CP
Alston & Bird LLP
michelle.kass@alston.com

NALA/NC State Bar Liaison

Renaë R. Elam, CP, NCCP
renaeelam@gmail.com

Audit Chair

Roxanne Crouch, ACP
BB&T Governmental Finance
rcrouch@bbandt.com

Paraview Editor

Michelle Kass

Student/School Liaison

OPEN

Public Relations/Communication Coordinator

Lynn Minton
tlynnminton@gmail.com

