



The PARAVIEW



Photo: United States Capital Building, Washington, DC

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Metrolina Paralegal Association

Fall/Winter 2015-2015 Edition

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A Paralegal's Motto

If I don't know how to do it, I will figure it out!

MPA's Quarterly Goal

Connecting with members for constructive input & suggestions

Calling all Writers!

Want to be published? Have a good short story, poem, anecdote, recipe or article?

Email it to RenaElam@gmail.com for consideration.

If you submit an article on a legal subject or the paralegal profession, we will consider featuring it in an upcoming issue of the Paraview. Won't *that* look good on your résumé?

Ready, Aim, Fire!



Enhanced Legal Vocabulary (from Webster's Dictionary of the Law)

grantee a person or entity to which something is granted, especially an interest in real property.

grantor a person or entity that grants something, particularly an interest in real property.

living will a document that states what medical measures an individual desires in the event of terminal illness.

relation back dating back to an original event, such as dating back to an original complaint so that the statute of limitations does not bar the claim.

scienter knowledge of facts or circumstances that would render one criminally or civilly liable for one's actions, especially involving fraud.

Elementary Civics

The North Carolina General Assembly

North Carolina's Legislative body is known as the General Assembly, which consists of the Senate and the House of Representatives. The Senate has 50 members and the House has 120 members. Each member represents a Senatorial District or a House District. For example, Mecklenburg County is represented by five state senators and twelve members of the state's House of Representatives. Each member of the House and Senate serves a two-year term, except the Lieutenant Governor, who presides over the Senate and serves a four-year term.

The General Assembly's main function is to make laws, called statutes, for the state. The process may be quite short, or in some instances, may take years to complete. The following is the basic outline of how a statute is adopted in North Carolina.

- Someone has an idea and thinks, "this ought to be a law!"
- The person with the idea presents it to a legislator (a member of the House or Senate, it doesn't matter which), who drafts a "bill" and files it with the Principal Clerk, who assigns it a number.
- The bill is introduced to the members of the section to which its sponsor (the legislator who drafted the bill and who presents it to the legislature) belongs, and is normally passed on to a committee for further review and possible amendments. This introduction is called the "first reading."
- If, after having passed through one or more committees, the bill is approved, it will pass on for second and possibly third readings, amendments and debates. If approved, it goes to the other section of the legislature that has not yet heard the bill.
- When the other section of the legislature has put the bill through its required readings, amendments and votes, it sends the amended bill back to the house of its origin for approval and votes. If the house of origin approves, the bill is sent to the governor to be signed into law.
- Finally, the law is no longer considered a "bill," but is now called an "act." It is published in session laws until it is canonized into the North Carolina General Statutes.

Recent Changes to Federal Rules of Civil Procedure

The amendments to the Federal Rules of Civil Procedure went into effect on December 1, 2015. The rules that were amended are 1, 4, 16, 26, 30, 31, 33, 34, 37, 55, and 84. The Appendix of Forms was also amended to reflect the changes.

Below is an overview of some of the rule changes and what it will mean to many of you as you assist attorneys that practice civil litigation.

Hint: Text in *italics* reflects some of the additions or changes to the language of the rules.

Rule 1

Language was added to emphasize that “*the court and the parties*” are responsible “to secure the just, speedy and inexpensive determination of every action and proceeding.”

Rule 4(m)

A summons and complaint must be served within *90 days* of filing (instead of 120 days). By making this change, congress shortened the time for the issuance of a scheduling order.

Rule 16(b)(1)(B)

Language was removed that a scheduling conference may be held by telephone, mail or other means. This will encourage parties to meet and confer in person.

Rule 16(b)(2)

The time to issue the scheduling order is reduced to 90 days after service or appearance by any defendant.

Rule 16(b)(3)

“The scheduling order may: (iii) provide for disclosure, discovery, *or preservation* of electronically stored information.

Rule 26 [now we get to the good stuff]

Language was both added and deleted from this section. In essence, it says that parties may obtain discovery that is “relevant to any party’s claim or defense and *proportional to the needs of the case...*” Among other things, the following language was stricken, “*Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.*”

The effect this change will have is that you will no longer see this phrase misapplied and/or misused by attorneys in discovery responses. Further, language stating that *its burden outweighs its likely benefit* has also been stricken from the text.

Rule 34

It is no longer required that document requests cannot be served until after the scheduling conference. “*More than 21 days after the summons and complaint are served on a party, a request under Rule 34 may be delivered.*” However, the 30-day time limit for responding does not begin to run until after the rule 26(f) conference.

To print or download a PDF copy of the new rules, visit:

http://www.supremecourt.gov/orders/courtorders/frcv15_5h25.pdf

Some Basics of Fraud Examination

What is Fraud? Simply stated, fraud occurs when someone (1) deliberately provides a (2) false statement that is (3) relied upon by a victim which (4) results in damages.

That simple statement includes the four elements of fraud, which must all occur to meet the legal definition of fraud.

Who commits fraud? Employees, executives, company owners, consumers and others. Why do people commit fraud? Many reasons, including greed, thirst for power, financial difficulties, substance abuse, and peer or family pressure.

Fraud has many faces, including Ponzi schemes, identity theft, larceny, skimming, check tampering, cooking the books, payroll schemes, straw purchasers, and false invoices, to name a few. Let's identify and discuss two types of frauds.

Ponzi scheme: this occurs when a person convinces others to invest in a business venture, usually promising fantastic returns. The schemer uses money from other investors to pay a portion of the "returns" to convince the victim the venture is legitimate. What is really happening is the fraudster is taking the money, usually to furnish a lavish lifestyle. A recent example of the mastermind of a well-known Ponzi scheme is Bernie Madoff. Read more about the Madoff Ponzi scheme here:

<http://www.businessinsider.com/how-bernie-madoffs-ponzi-scheme-worked-2014-7>

Mortgage Fraud: Some types of mortgage fraud are committed by using straw buyers, or straw purchasers. The "strawman" puts his or her name on loan documents, but the purchase is really for someone else. The straw purchaser usually receives money for his/her involvement in the scheme, but are sometimes left holding the bag and are responsible for the debt. Mortgage fraud is a prime target for the use of straw purchasers. Read more about mortgage fraud here:

https://www.fanniemae.com/content/fact_sheet/mortgage-fraud-schemes-and-characteristics.pdf

How are these frauds discovered?

Ponzi schemes are usually discovered when investors begin demanding the promised returns on their investments, or refunds of the invested money, and the fraudster is unwilling or unable to accommodate. Upon performing research, the victim discovers his/her money has not been invested at all, but used to further the scheme or to satisfy the greed of the perpetrator.

The use of straw purchasers may be discovered when mortgages are in default because the property does not sell as anticipated by the fraudster and the mortgage company demands payment, which the strawman does not have or is not willing to make.

Want to learn more about becoming a fraud examiner? Check out ACFE, The Association of Certified Fraud Examiners.

www.acfe.com

Conducting Investigations – Helpful Links

Try the links under each heading and add them to your “favorites” if it is something you plan to use. Tip: when searching for a free public database, look for .gov or .us, and sometimes .org. Otherwise, there is usually a paid subscription or fee required.

Courtlink (a Lexis product – subscription required)

Provides court filings from many states and all federal court filings (except those filed under seal) are available through Courtlink. A subscription is required through Lexis Nexis.

<https://courtlink.lexisnexis.com>

PACER (a federal government product – subscription required)

PACER is the federal courts’ website for all public filings. You pay per page, but you won’t be charged unless the monthly billing reaches \$15.00. Anyone can get a PACER account. (If you don’t want to pay the subscription fee, you can go to the clerk’s office and get the information for free.)

<https://www.pacer.gov>

CLEAR (A Thompson/Reuters Product – subscription required)

CLEAR is available through Thompson/west. CLEAR has a public records search function, but certain restrictions apply. You must have a subscription to use CLEAR.

<https://clear.thomsonreuters.com>

Lexis Advance (subscription required)

Lexis has a public records search feature for individuals and businesses. It provides information similar to that of CLEAR, but both CLEAR and Lexis have their own unique capabilities.

<https://advance.lexis.com>

County Links

Mecklenburg County Register of Deeds (free)

<http://meckrod.manatron.com>

Mecklenburg County Tax Collector

<http://charmec.org/mecklenburg/county/TaxCollections/PTS/Pages/PTS.aspx>

Mecklenburg County Sheriff – Arrests, Inmates, Civil Inquiries, Arrest Warrants (free)

<http://www.mecksheriff.com>

Iredell County Register of Deeds (free – but you must create a user account)

<https://www.co.iredell.nc.us/533/Register-of-Deeds>

Catawba County Register of Deeds (free)

<http://www.catawbacountync.gov/depts/regdeed>

Gaston County Register of Deeds (free)

<http://www.gastongov.com/departments/register-of-deeds>

Union County Register of Deeds (free)

<http://www.co.union.nc.us/Government/RegisterofDeeds.aspx>

North Carolina Links

North Carolina Secretary of State – Search corporations, registered agents, UCC filings (free)

<https://www.secretary.state.nc.us>

EDGAR (free)

EDGAR is the Securities and Exchange Commission’s public database for all corporate securities filings.

<http://www.sec.gov/edgar/searchedgar/companysearch.html>

Need CLE Credits?

The **North Carolina State Bar Board of Paralegal Certification** requires certified paralegals to obtain 6 hours of continuing paralegal education annually, of which 1 hour must be an ethics course. Certifications are renewed at the beginning of the year, and now requires proof of attendance, so be sure to hang on to those signed course documents.

The **National Association of Legal Assistants (NALA)** renews its paralegal certifications every five years, counting from the date of the original certification. Although it does not always require proof of attendance, it conducts random audits and you may need to prove attendance, so again, be sure to keep up with the required signed certificates of attendance.

CLE Opportunities:

MPA

www.charlotteareaparalegals.com

2016 Annual CLE Seminar

Date TBA

Mecklenburg County Bar

1/12/16 **Video Replay: Analyzing Financial Statements: the Basics for**
2 p.m. **Attorneys (1/12/16)**
to Bar & Foundation Center (2850 Zebulon Ave.)
4 p.m.

1/22/16 **Business Formations: Getting Things Started (1/22/16) ~~~**
9 a.m. **Presenters: Heath Gilbert, Tad Cook, Chris Clark, Kathi**
to **Lucchesi, Harold Howell, Aaron Patel & Sabrina Winters ~~~**
3:30 Bar & Foundation Center (2850 Zebulon Ave.)
p.m.

1/27/16 **An Ethical Guide to Old School and New School Communication**
3 p.m. **Skills (1/27/16) Presenters: Dianne Chipps Bailey, Heather Culp,**
to **Chris Fialko & Bill Powers ~~~**
5 p.m. Bar & Foundation Center (2850 Zebulon Ave.)

2/9/16 **Video Replay: Western North Carolina Bankruptcy Seminar**
12 p.m. **2015: An Attorney's Perspective on Recovery**
to Moore & Van Allen (100 N. Tryon St.; Ste. 4700)
1 p.m.

Letter from the Editor

Happy Winter! The Metrolina Paralegal Association welcomes you to become involved in all of its activities. We had a wonderful holiday party at Maggiano's at Southpark on December 10, and are looking forward to a very productive and fruitful new year.

We are excited about the happenings coming our way, and we want to take the opportunity to touch base with our membership to get your thoughts, feelings and suggestions for 2016 and hopefully for years to come.

You will soon receive a survey via Email, and we invite you to be open and honest about how you think the MPA can improve its overall meeting attendance. Our Annual Seminars and Fall Fest CLE Seminars are always well-attended, but sometimes our general meeting attendance is low.

Please take a moment to respond to the survey, and we, the MPA Executive Board, will do our best to respond in a positive way by implementing your suggestions. If you just can't find time to take the survey, please send a brief Email with your thoughts.

Thank you, and we wish you all the best for the new year to come.

Please visit our website at www.charlotteareaparalegals.com.

Winter Paraview Recipe

Best Chili Ever

1 to 1-1/2 pound ground beef, pork or turkey
1 onion, chopped
2 fresh, diced tomatoes (or 1 can diced tomatoes)
1 can tomato sauce (12 to 16 oz)
1 green bell pepper, diced (1/4 to 1/2 cup)
1/4 cup diced carrot
1 cup of freshly cut corn (or 1 can whole-kernel corn)
1 package of chili mix (any brand you like)

In a large pot, sauté the onion and bell pepper over medium heat for about 15 minutes. Add the meat, mashing and stirring to break into small pieces.

Cook, stirring and mashing, for another 10-15 minutes.

When the meat is thoroughly cooked, add tomato sauce, tomatoes, corn, and carrots. Stir in chili mix and simmer for at least 30 minutes.

Serve hot with your choice of sour cream, corn chips, sliced jalapeno peppers, or cornbread.

Enjoy!

Happenings

Theatre Charlotte

Oscar Wilde's The Importance of Being Earnest

Jan. 22 through Feb. 7, 2016

The Miracle Worker

Mar. 18 through Apr. 3, 2016

The Addams Family

May 13 through May 29, 2016

501 Queens Road, Charlotte, NC

<http://theatrecharlotte.org>

The Charlotte Museum of History

Twelfth Night

Jan. 9, 2016

3500 Shamrock Dr.

Charlotte, NC 28215

<http://www.charlottemuseum.org>

The Fillmore Charlotte

Queen City Brewers Festival

Feb. 6, 2016

1000 North Carolina Music Factory Blvd.

Charlotte, NC 28206

<http://qcbrewfest.com/>

Historic Latta Plantation

Latta Celtic Festival

Mar. 12 through Mar. 13, 2016

5225 Sample Road

Huntersville, NC

<http://lattaplantation.org/latta/index.php?page=home>

Belk Theater at Blumenthal Performing Arts Center

Star Trek: The Ultimate Voyage

Feb. 1, 2016 - 7:30 p.m.

www.blumenthalarts.org

2015-2016 MPA Patron Sponsors



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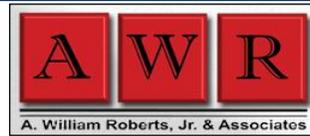
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