



# THE PARAVIEW



Quarterly Publication of the  
Metrolina Paralegal Association

SPRING 2015

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## MPA ANNUAL CLE SEMINAR RECAP



After a weather-related false start on Friday, February 20, 2015, the MPA's Annual CLE Seminar was held on Wednesday, February 25, 2015 at the Omni Hotel in uptown Charlotte. As is her custom, seminar organizer Jennifer Sawtell-Day put together another excellent roster of interesting speakers and topics.

-Kim Andrews Harsey, Esq. presented on Estates Law, with a focus on decedents and incompetencies.

-Julie C. Spahn, Esq. spoke on representing immigrant children in uncontested custody hearings.

-Frank Stephenson presented an informative speech on crime prevention and personal safety.



-Mark Newbold, Esq. with the Deputy City Attorney's office offered a very entertaining presentation on community response to the use of police force as the ethics session.

-Lauren Newton, Esq. spoke on personal injury law in North Carolina, offering a start to finish perspective on a P.I. case.

-Marshall Walker, Esq. presented on litigating *qui tam* actions (i.e. whistleblower cases).

Several of MPA's patron members provided informational booths and door prizes, including CaseWorks, Nova, Special Counsel, Carolina Copy, Studio South, Ricoh and DTI. Please consider using these vendors if the need for their services arises in your practice.



## KNOW YOUR LEGAL TERMINOLOGY

*Amicus curiae* translates literally as "friend of the court" and is a non-party to a case who offers information that bears on the case but who has not been solicited by any of the parties to assist a court. This may take the form of legal opinion, testimony or learned treatise (the *amicus* brief) and is a way to introduce concerns ensuring that the possibly broad legal effects of a court decision will not depend solely on the parties directly involved in the case. The decision on whether to admit the information lies at the discretion of the court. The situation most often noted in the press is when an advocacy group files a brief in a case before an appellate court to which it is not a litigant. Appellate cases are normally limited to the factual record and arguments coming from the lower court case under appeal; attorneys focus on the facts and arguments most favorable to their clients. In prominent cases, *amici curiae* are generally organizations with sizable legal budgets. In the United States, for example, non-profit legal advocacy organizations, such as the American Civil Liberties Union, the Landmark Legal Foundation, the Pacific Legal Foundation, the Electronic Frontier Foundation and the American Center for Law and Justice frequently submit such briefs to advocate for or against a particular legal change or interpretation. If a decision could affect an entire industry, companies other than the litigants may wish to have their concerns heard. In the United States, federal courts often hear cases involving the constitutionality of state laws. Hence states may file briefs as *amici curiae* when their laws are likely to be affected, as in the Supreme Court case McDonald v. Chicago, when thirty-two states under the aegis of Texas (and California independently) filed such briefs.

Source: Wikipedia

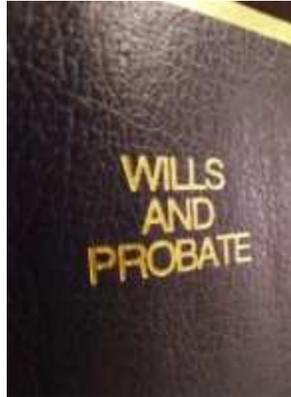
## UPCOMING AND AVAILABLE CLE OPPORTUNITIES



Date(s)	Sponsor	Location	Topics	Cost
Flexible	Lexis	Online	Various – “On Demand Webinars”*	Free
Flexible	Westlaw	Online	Various	Depends (several are free)
April 1, 2015	NALA	Online	Power Up! How to Boost Your Brain Power	\$80 – members \$105 – non-members
May 1, 2015	NALA	Online	Legal Research	\$80 – members \$105 – non-members
May 1 – 31, 2015	NALA	Various	CP Examination	\$250 – members \$275 – non-members

\*Recorded webinars are not eligible for CLE credit, but Westlaw often offers Live Webinars that are.

## PRACTICE AREA SPOTLIGHT: PROBATE LAW



Probate refers to the method by which your estate is administered and processed through the legal system after you die.

The probate process helps an individual transfer their estate in an orderly and supervised manner. An estate must be dispersed in a certain manner (debts and taxes must be paid before beneficiaries receive any inheritance, for example). The probate process can be seen as the "script" that guides the orderly transfer of an estate according to local and state statutes.

Many people think that probate only applies to individuals who have a will. This is an incorrect assumption - an estate will be probated whether or not a will exists. If there is a valid will, then it will determine how an estate is transferred during probate and to whom. If there is not a will, or if someone dies *partially intestate* (where only part of an estate is covered by a valid will), the laws of the state in which the deceased lives will control the disbursement of an estate.

### **The probate process**

The probate process involves two steps: paying any debts owed by the deceased and transferring any assets to the deceased's beneficiaries. A state court called the *probate court* oversees the probate process. Because probate courts are state courts and not federal courts, the processes they follow may vary from one state to another. Yet despite their differences, these courts all pretty much follow the same basic processes and steps, which typically include:

- Swearing in a personal representative;
- Notifying heirs, creditors, and the public that an individual is deceased;
- Inventorying the deceased's property; and
- Distributing the estate (including paying bills and any taxes owed).



### **Swearing in a personal representative**

In a will, the deceased names their personal representative — that is, the person they want in charge of their estate after they die. However, the court determines the personal representative on your estate under the following circumstances:

- One dies without a will;
- A will exists but for some reason it didn't specify a personal representative; or
- The person selected as the personal representative has died or for some reason can't fulfill the obligations of personal representative.

A family member, such as a spouse or an adult child, can request that the court appoint him or her as the personal representative to an estate. Regardless of who is finally selected, the court gives the personal representative official rights to handle the estate's affairs. As evidence that this person has the authority to act on behalf of the estate, the court gives the personal representative a certified document titled "*Letters of Administration*" or "*Letters Testamentary*".

In either case, the personal representative named in a will or determined by the court has to first be formally appointed by the court before officially "entering into office". Usually this involves that the personal representative take an oath of office, after which he or she will then receive the official documentation showing his or her status. The personal representative then files a document called a "*Petition for Probate of Will and Appointment of Personal Representative*" with the probate court. This petition begins the probate process. If there is a will, the probate court issues an order admitting the will to probate, which acknowledges the will's validity.

### **Notifying creditors and the public**

Some state laws require a personal representative to publish a death notice in the local paper. The death notice serves as a public notice of the estate's probate and enables people who think they have an interest in the estate (such as creditors) to file a claim against the estate within a

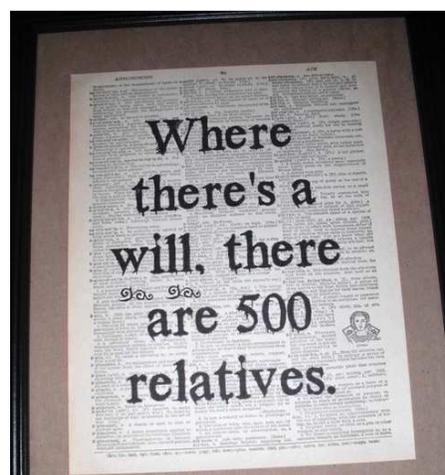
specified time period. The notice is part of the process to make the matters of the estate part of the public record.

### **Inventorying property**

The personal representative must inventory the different types of property — real and personal — that make up an estate so that the estate value can be determined. This inventory is important for a couple of reasons:

- To make sure the deceased left enough to cover any debts and distributions to beneficiaries. If the estate doesn't meet the monetary obligations of both creditors and property transfers to your beneficiaries, it's subject to *abatement statutes*, meaning that one or more beneficiaries may receive less than the deceased had intended or even nothing at all.
- To ensure that all property is accounted for. The personal representative is in charge of collecting and inventorying the estate's assets to make sure that all property is available for distributing at the end of the probate process. If property is missing or not owned at the time of death, *ademption statutes* become relevant. These statutes determine if a replacement asset or cash equivalent should replace the missing property intended for any beneficiaries.

The deceased should already have a pretty good idea of what their estate is worth so that they can make intelligent choices for their estate plan. The personal representative needs to know this information, too, so the deceased should make sure that their personal representative has easy access to the list that shows what the estate includes and what assets are worth. Even a slightly out-dated list can serve as a starting point so that a personal representative doesn't have to create an inventory from scratch.



## **Distributing the estate**

The final step in the probate process is the distribution of the estate property. Creditors that have a valid claim are likely to be paid in the following order (though the order varies from state to state):

1. Estate administration costs (legal advertising, appraisal fees, and so on)
2. Family allowances
3. Funeral expenses
4. Taxes and debt
5. All remaining claims

Whatever is left after any creditors get the money due them is distributed to any heirs or to the beneficiaries named in the will. When someone dies without a will, the laws of the state in which they lived will determine how the deceased's property is distributed.

If probate proceeds according to plan and all notices and communications are properly handled, the personal representative is usually protected against any subsequent or late-arriving claims. Furthermore, the personal representative will be protected after some specified time period expires.

## **Some complicating factors to the probate process**

- What's probated where: Differences between states

All states have probate, and all the types of property that make up an estate — real and personal — may be part of an estate's probate. Tangible and intangible personal property, like personal collectibles and a stock portfolio, are probated in the state where one lives, but real estate is probated where the property is actually located. Therefore, if one lives on a farm in North Carolina and also own a vacation condo in Florida, there will be two probates.

- Probate or not: Differences between types of property

Another common misconception is that probate applies to all of the deceased's estate. Actually, probate handles the processing of all assets in the "*probate estate*". One's probate estate is made up of all the property that's distributed through probate; the remaining property is called "*nonprobate property*". In a general sense, probate assets are those are owned by the deceased alone, while nonprobate assets are owned jointly with others to whom those assets will pass automatically upon death. Nonprobate assets also include assets that pass to a named beneficiary (a life insurance policy, for example). Because these nonprobate assets pass to someone automatically, there is no need for probate.

## 2015 MPA EXECUTIVE BOARD NOMINATIONS



**The MPA will hold its annual elections** at the April 16, 2015 general meeting. Below are listed the positions and nominees for same. Please note that there are a few open positions. If you are interested in running for one of these positions, please contact the our Elections Chairperson Satyra Riggins at [sriggins@rbh.com](mailto:sriggins@rbh.com). Alternatively, you can nominate yourself or a fellow member from the floor at the April 16<sup>th</sup> meeting.

### **OFFICE OF THE PRESIDENT**

**Michelle Kass CP**, is a senior paralegal with 20 years of experience in New York City, South Carolina and North Carolina. She has served as Third Vice President, First Vice President, Parliamentarian, and Paraview Editor for MPA. She is also an active member of NALA and received her paralegal certification in March 2009.

### **OFFICE OF THE FIRST VICE PRESIDENT**

**Carrie J. Marshall, NCCP**, graduated from Southeastern Louisiana University in 1993 with a Bachelor of Arts in Management, and earned her Paralegal Certification from Louisiana State University in 1997. Carrie has worked as a paralegal/legal assistant for 15 years. She is currently employed as a Litigation Paralegal at the law firm of Parker Poe Adams & Bernstein LLP, and works with the Antitrust, Business Torts and White Collar Crime group. She has been a member of the Metrolina Paralegal Association since 2010, and has served as the Secretary for MPA since 2012. Carrie is married and has two children.

### **OFFICE OF THE SECOND VICE PRESIDENT**

**Tyler Helms** is a North Carolina native (Newton, NC to be exact) and has been working in the legal field since 2010. A graduate of Pfeiffer University and CCCC's Paralegal Technology program, Tyler is employed as a corporate paralegal at a telecommunications company. Tyler served as MPA Student/School Liaison for 2014-2015. Tyler and his partner, Eddie, live in Mint Hill with their schnoodle (schnauzer + poodle), Molly, and cat, Ritchie.

## **.OFFICE OF THE THIRD VICE PRESIDENT**

THERE ARE NO NOMINEES FOR THIS POSITION AT THIS TIME

The Third Vice President shall be responsible for the Job Bank and maintenance of the Association's website. Responsibilities will include contacting law firms and agencies and may include scanning newspapers and publications for information with regard to job vacancies. The information obtained shall be made available to any party requesting same and shall be posted to the Association's website.

## **OFFICE OF FOURTH VICE PRESIDENT**

**Lynn Minton** has a passion for the legal industry and loves being a paralegal. Over the years she has worked in real estate, employment law and general practice. She is currently a workers compensation paralegal. Lynn has been a member of the MPA for many years off and on, and most recently held the position of Public Relations Coordinator. She looks forward to continuing with the association. Lynn lives in Charlotte with her husband, Jeff and three daughters Jordyn, Jessica and Joelle.

## **OFFICE OF THE SECRETARY**

THERE ARE NO NOMINEES FOR THIS POSITION AT THIS TIME

The Secretary shall be responsible for keeping accurate minutes of all meetings of the Executive Board and membership and shall see that all notices required by the Bylaws are duly given. The Secretary shall be the custodian of the records, books, and report and other documents of the Association. The Secretary shall make the minutes of any Association meeting available to the NALA President upon request.

## **OFFICE OF THE TREASURER**

**Selene C. Hendricks, NCCP**, obtained an AAS in Paralegal Technology from Central Piedmont Community College, a BBA in Business Management from Catawba College, and a MBA/MS in Leadership and Organizational Change from Pfeiffer University. Selene has worked as a paralegal for over 15 years and after most recently being employed as a Senior Paralegal in the Carolinas State Regulatory Group with Duke Energy Corporation for over six and a half years, decided to pursue other interests, including spending quality time with her first grandchild, Grayson, born December 16, 2014. Selene is a North Carolina Certified Paralegal and has served as Treasurer of the MPA since 2012.

## **OFFICE OF PUBLIC RELATIONS COORDINATOR**

THERE ARE NO NOMINEES FOR THIS POSITION AT THIS TIME

The Public Relations Coordinator shall be responsible to publicize the goals, purposes and activities of the Association via e-mail, social media, and the Association's website and publications. The Public Relations/Communication Coordinator shall plan and recommend to the Executive Board social activities and/or charitable fund-raisers for the Association and shall organize such approved activities.

## **OFFICE OF PARLIAMENTARIAN**

**Renaë Elam, CP, NCCP**, is a NALA and North Carolina Certified Paralegal who began her legal career in 2000 when she became the office manager for Thomas A. McNeely, a plaintiff's civil litigator, after having been a sign-language interpreter and behavior specialist at an elementary school in Gaston County. She simultaneously enrolled at Western Piedmont Community College, the only college in the area at that time to offer a combination Internet and classroom program for a degree in Paralegal Technology, which she could attend in the evenings and on weekends. A couple of years later, when Mr. McNeely began thinking of retirement, Renaë joined the firm of Rawls Dickinson & Scheer as a paralegal working in criminal defense for its senior partner, Eben Rawls. After graduation, she obtained both the NALA and North Carolina certifications during her tenure at Mr. Rawls's firm. After nine years at this firm and with more than ten years of criminal and civil litigation experience under her belt, she sought a return to the area of full-time civil litigation and accepted a position with the law firm of Dickie McCamey & Chilcote in its Southpark office. However, in late summer 2012, an opportunity arose for Renaë to advance her paralegal career at the U.S. Attorney's office, working for Forfeiture Support Associates in its contract position with the Federal government, where she remains. Renaë served as MPA's NALA Liaison from 2012-2015.

## **OFFICE OF THE NALA LIAISON**

**Susan Randolph, ACP, NCCP**, is an estate administration/tax paralegal with the Charlotte law firm of Robinson Bradshaw & Hinson where she has worked for eight years. She obtained her Bachelor's Degree in Business Administration from Covenant College (Lookout Mtn., TN) and her Paralegal Certificate from Central Piedmont Community College. She is a North Carolina Certified Paralegal and a member of the Legal Assistants Division of the North Carolina State Bar. Susan received her Certified Legal Assistant (CLA) designation in 2007. She has been a member of the MPA since 2005 and served as Historian 2007-2008, Treasurer 2008-2009, Audit Chair 2009-2010, Secretary 2010-2011, NALA Liaison 2011-2012, Parliamentarian 2012-2013, and First Vice President 2013-2015.

## **OFFICE OF STUDENT/SCHOOL LIAISON**

THERE ARE NO NOMINEES FOR THIS POSITION AT THIS TIME

The School/Student Liaison shall be responsible for maintaining contact and communication between the Association and the educational institutions in the Metrolina area which maintain active paralegal training programs and enhancing the relationship between the Association and said education institutions. In addition, this officer shall be responsible for coordinating and promoting the Meredith R. Pollette Annual Scholarship Contest and the awarding of said Scholarship.

😜 LAWYER HUMOR 😜

Q: How many lawyers does it take to change a light bulb?

A1: How many can you afford?

A2: 46. Eight to argue, one to get a continuance, one to object one to demur, two to research precedents, one to dictate a letter, one to stipulate, one to depose, one to write interrogatories, two to settle and 28 to bill for professional services.

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A young lawyer, starting up his private practice, was very anxious to impress potential clients. When he saw the first visitor to his office come through the door, he immediately picked up his phone and spoke into it, "I'm sorry, but my caseload is so tremendous that I'm not going to be able to look into your problem for at least a month. I'll have to get back to you then." He then turned to the man who had just walked in, and said, "Now, what can I do for you?" "Nothing," replied the man. "I'm here to hook up your phone."

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A doctor told his patient that his test results indicated that he had a rare, incurable disease and that he had only six months to live. "Isn't there anything I can do?" the patient asked. "Marry a lawyer," answered the doctor. "It will be the longest six months of your life."

## 2014-2015 MPA PATRONS

 <p><b>Huseby.com</b> GLOBAL LITIGATION SUPPORT <i>Quality, Innovation &amp; Mobility since 1928</i></p> <p>Debbie Lawrence, Business Development Mgr. debbielawrence@huseby.com (800) 333-3339889 <a href="http://www.huseby.com">www.huseby.com</a></p>	 <p>Jason Ryan, President (704) 347-0055 frontdesk@novaoffice.net <a href="http://www.novaoffice.net">www.novaoffice.net</a></p>
 <p>Drake Forester, Manager (509) 768-2249 info@northwesterregisteredagent.com <a href="http://www.northwestregisteredagent.com">www.northwestregisteredagent.com</a></p>	 <p>Frank McNally, Executive Director of Sales g@caseworksonline.com (800) 955-0541 <a href="http://www.caseworksonline.com">www.caseworksonline.com</a></p>
 <p>Jenny Kazee, Placement Director Jenny.Kazee@@specialcounsel.com (800) 737-3436 <a href="http://www.specialcounsel.com">www.specialcounsel.com</a></p>	 <p>Ryan Sylvester, Account Executive rsylvester@carolinacopyservices.com (704) 375-9099 <a href="http://www.carolinacopyservices.com">www.carolinacopyservices.com</a></p>
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 <p>David Williams, CEO dwilliams@prestoservers.com (919) 386-9180 <a href="http://www.prestoservers.com">www.prestoservers.com</a></p>	 <p>Greg West, Account Executives gwest@dtiglobal.com (704) 342-1020 <a href="http://www.dtiglobal.com">www.dtiglobal.com</a></p>
 <p>Joy Peterson, Marketing Director Jpeterson@scheduledepo.com 704-573-3919 <a href="http://www.scheduledepo.com">www.scheduledepo.com</a></p>	 <p>Ruth Reynolds, Owner info@reynoldsprofessionalservice.com 800-814-8662 <a href="http://www.reynoldsprofessionalservice.com">www.reynoldsprofessionalservice.com</a></p>

## 2014-2015 BOARD AND EXECUTIVE COMMITTEE MEMBERS

### President

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Michelle Kass, CP

### Public Relations/Communication Coordinator

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### Parliamentarian

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michelle.kass@alston.com

### Audit Chair

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

### Student/School Liaison

M. Tyler Helms, CP  
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