

# **THE PARAVIEW**

**Quarterly Publication of the  
Metrolina Paralegal Association**



**2011**

P.O. Box 36260  
Charlotte, NC 28236  
[www.charlotteareaparalegals.com](http://www.charlotteareaparalegals.com)

**SECOND QUARTER  
EDITION**



## THE PARAVIEW

**The Metrolina Paralegal Association,  
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### ADVERTISING RATES

The Metrolina Paralegal Association publishes *The Paraview*, which includes substantive legal articles of interest and general news for the career paralegal. This publication is distributed to approximately 250 members of the MPA in the Charlotte area. The membership of the MPA includes paralegals from private law firms, corporations, title companies, government agencies, local community colleges, educators, and paralegal students. Advertising is available in *The Paraview*, which is the only local professional publication of this type in the Metrolina area. Our magazine will keep your display advertisement circulating in the legal community for a three-month period.

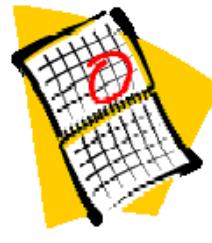
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## **MARK YOUR CALENDARS**

### **2nd Quarter 2011**

#### April 2011

Apr. 6-MPA Executive Board Mtg  
Apr. 14-MPA Elections  
April 18-Tax Day  
Apr. 22-Earth Day



#### May 2011

May 4-MPA Executive Board Mtg  
May 12-MPA Officers Installation  
May 8-Mother's Day  
May 21-Armed Forces Day  
May 30-Memorial Day

#### June 2011

June 1-MPA Executive Board Mtg  
June 9-MPA Monthly Meeting  
June 14-Flag Day  
June 19-Father's Day  
June 21-First Day of Summer

# STAY ON TRACK WITH THESE HELPFUL TOOLS

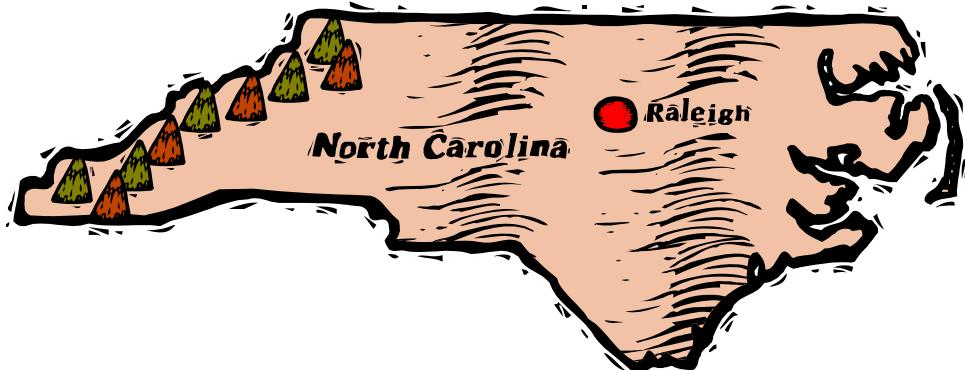


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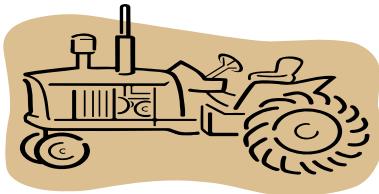


Medical malpractice paralegals may need to collect valuable information on the human body for research purposes. Check out Visible Body which is a web based application that includes 3D models of all major organs and systems of the body. Once you register at the website, you will have free access to these models. The website is located at <http://www.visiblebody.com/>

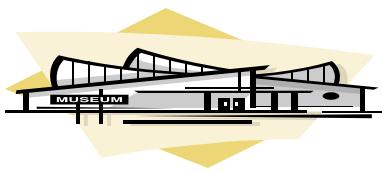




# NORTH CAROLINA NEWS



Got To Be NC Festival, a celebration of the agricultural goods of North Carolina, will be held May 20-22, 2011 at the North Carolina State Fairgrounds in Raleigh. The three-day celebration includes, Food and Wine Expo, Fiber Fair, carnival, music, antique tractors, draft horses, and more. The festival had free gate admission and free parking. The festival is sponsored by the North Carolina Department of Agriculture and Consumer Services. For more information, go the event's website at <http://ncagfest.com/>.



## FREE MUSEUM ADMISSION

Did you know that on the first weekend of every month that Bank of America and Merrill Lynch credit card/debit card holders can get free admission to several museums around Charlotte? Mint Museum, Bechtler Museum of Modern Art, the NACAR Hall of Fame, and the Harvey B. Gantt Center for African-American Art and Culture are on the list. May 7th and 8th; June 4th and 5th; and July 2nd and 3rd are eligible weekends.

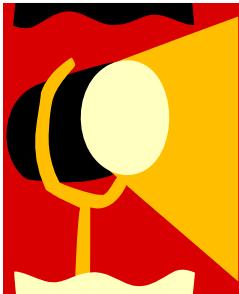
For more details, see  
<http://museums.bankofamerica.com/>



## Charlotte-Secure Your ID Day

There will be a free Shred-It event held at Friendship Baptist Church (3400 Beatties Ford Road) and Shred-It's Charlotte Office (3421 Axar Road) on Saturday, April 16, 2011 from 9:00 am to 1:00 pm. Bring pre-approved credit card offers, old bills, and other items containing your personal information for shredding. There is a limit of 3 bags or boxes per person. This event is sponsored by the Better Business Bureau of Southern Piedmont, Shred-It, Charlotte Mecklenburg PD, and the Mecklenburg County Consumer Fraud Task Force.





## MPA SPOTLIGHT



*The MPA Spotlight for this quarter is Michelle M. DeBrocq, NCCP*

Michelle is a litigation paralegal at Family Dollar Stores, Inc. which is headquartered in Matthews, North Carolina.

Michelle was lead to the paralegal field for a couple of reasons. One influence was her twin sister, Missy, who had been a family law paralegal for several years and loved her career. Also, Michelle had worked as a legal secretary at a couple of law firms and admired (and envied) the broad range of tasks that paralegal had.

Michelle has been a paralegal for 10 years.

Michelle's favorite part of being a paralegal is assisting in the investigation of the cases and "putting the pieces of the puzzle together". She has been fortunate in her career that her supervising attorney(s) have always shown confidence in her abilities and encouraged her to learn new things.

Michelle has been a MPA member for six years.

Michelle's family is comprised of her daughter, Kayla who is 20; her son, Justin who is 17, and their dog "Chomp."

Michelle enjoys volunteering. She has been a CMPD volunteer for 7 years. She also volunteers at the Animal Care & Control as well as the Charlotte Men's Shelter.

## PARALEGALS AND THE ATTORNEY-CLIENT PRIVILEGE

Professor Sandra D. Jordan

Charlotte School of Law

The attorney-client privilege has special implications for paralegals assisting attorneys in their law practice. It is critical that the paralegal profession to be fully aware of the current law on the scope of the privilege, especially with the explosion in electronic discovery. Paralegals are extensions of the attorney handling the case, furthering cost-effective legal representation by assisting lawyers in their management of legal matters.

The attorney-client privilege protects confidential communications. Confidentiality of the communication is at the core of the privilege, so the key initial question is whether there has been a communication from the client to the attorney. The client holds the privilege, exercising the invaluable right to have communications protected against disclosure to third parties, including the investigative arm of the government. The client, secure in the protection of the privilege, may speak freely to the attorney and paralegal confident that the matter will not be revealed to others.

### **I. Confidential Communications**

The attorney-client privilege applies to a (1) client (2) making a confidential (3) communication (4) to an attorney (5) for the purpose of obtaining legal assistance. The first key question is when the client becomes a “client.” Recall the 1994 legal thriller “The Client,” featuring a young child who witnessed a killing and was being hunted by the authorities. Needing an attorney for protection, the child placed his one dollar on the table; thus the attorney-client relationship was formed. The privilege does not exist until the relationship is firmly established. A paralegal should not assume that the relationship exists or lead a prospective client to believe the relationship exists prematurely.

### **II. The role of the paralegal in creating the privilege**

Paralegals are often the initial contact in establishing the attorney-client relationship. As a result, what paralegals do and say in launching the client relationship is key, and how they represent themselves, is critical. Paralegals can be instrumental in establishing a privileged relationship.

Examples of paralegals on the frontlines in creating the attorney-client relationship include paralegals who work in a hospital setting acting on behalf of the hospital legal

## **PARALEGALS AND ATTORNEY-CLIENT PRIVILEGE-CONT.**

department. The paralegal may be the first representative of the lawyer in conducting the initial interview with patients after an unfortunate medical incident. The summaries of these interviews must be maintained and protected because they surely contain matters protected by the privilege if the patient becomes a client.

A corporation under investigation usually conducts an internal investigation, the results of which will often be turned over to the government. An in-house corporate paralegal might initially meet with the employees and gather preliminary information in the wake of an investigation. Employees are often unclear about their legal exposure when speaking with a paralegal. The corporate attorney represents the corporation, not the individual employees. Thus, as a paralegal gathers information at the direction of the corporate counsel, the information may not be protected by the privilege. Many employees are unaware of this distinction and might make statements adverse to their individual interests. Moreover, paralegals may inadvertently make promises or representations to employees that will not hold up in court and that may ultimately expose the employees to criminal jeopardy.

In bankruptcy litigation, paralegals often review financial records of the client. These matters may be confidential. Courts will make a distinction between legal matters and purely business or financial advice, which does not fall under the protection of the attorney-client privilege. Accountants and consultants are outside of the scope of the privilege. This distinction is a key factor in business and financial matters that are part of legal consultation.

In addition, a client's agents and family members are generally outside of the scope of the privilege. Thus, no information provided by the client should be shared with the client's family members unless there has been an express, documented waiver as to these family members and information.

### ***III. The paralegal's role in avoiding waiver***

Careless revelations can jeopardize the privilege. Sloppy document handling, talking in elevators, restaurants, restrooms, at parties, at home, and in other public places can destroy the privilege. Mistakes are made when a paralegal pushes the "send" button and privileged email is disseminated. Sometimes, privileged documents are accidentally included when complying with a production order. Delivery of documents to an outside vendor for copying has a high potential to reveal privileged information.

## **PARALEGAL AND ATTORNEY-CLIENT PRIVILEGE-CONT.**

Paralegals should be diligent in maintaining a “privilege log” as part of the document production process. This log will detail which information is privileged and, perhaps more importantly, why such information is privileged.

### ***IV. Consequences of improper disclosure***

A paralegal that makes an inadvertent disclosure should be quick to alert the supervising attorney to lessen the damage to the litigation. Any delay in this reporting could itself constitute waiver of the protection. Fortunately, the new Federal Evidence Rule 502 addresses these inadvertent disclosures establishing more moderate consequences.

If improper disclosure occurs, attorneys can be subjected to ethics charges, possible malpractice claims from the client, disbarment, or suspension from the practice of law, and certainly the loss of employment.

### ***V. Pending Supreme Court decision and FRE 502***

The United States Supreme Court will decide a case this term discussing the fiduciary exception to the attorney-client privilege. The decision can have serious implications for the nuanced interpretation of the privilege, and can affect the status of the privilege in the future, depending on the outcome of the decision. A ruling is expected to be issued in the spring of 2011. (*United States v. Jicarilla Apache Nation* (No. 10-382)).

Depending on the jurisdiction, an inadvertent disclosure can waive all evidence related to the subject matter of the released documents. The new Federal Evidence Rule 502 has addressed this harsh consequence of inadvertent disclosures of protected information, and creates a presumption against subject matter waivers. Given the greater reliance on electronic communications in discovery, FRE 502 is likely to be followed in many state jurisdictions. I will discuss the *Jicarilla* decision and FRE 502 in a future issue of the *Paraview*.

*Professor Sandra A. Jordan, J.D., is an the Evidence, Criminal Law and Pretrial Litigation professor at Charlotte School of Law. She has taught at the University of Pittsburgh School of Law in addition to the Charlotte School of Law. Professor Jordan earned her Juris Doctorate from the Legal University of Pittsburgh School of Law.*



## 36th Annual NALA Convention & Exhibition

Dallas/Plano Marriott  
at Legacy Town Center

Scenic parks and ponds surround this resort-like hotel just 19 miles from downtown Dallas. Upscale shopping, entertainment, and dining are within walking distance, and a complimentary shuttle goes to other attractions within a three-mile radius. Guest rooms are "wired" for business and feature flexible workspace, freshly appointed bathrooms, and luxurious bedding. Other amenities include an outdoor pool, hot tub, fitness center, the Copper Bottom Grille restaurant, and Chaddick's lounge. Covered self-parking is free for guests.

### The 2011 Convention Program

This is NALA's first "All Institute" convention and will feature seven institutes:

- Corporate
- Essential Skills
- Estate Planning/
- Social Security
- Personal Injury
- Real Estate
- Administration
- Litigation/Technology

The special NALA guest room rate of \$119/day is available three days before and three days after the meeting dates. Contact the Dallas/Plano Marriott directly at (800) 228-9290 or (972) 473-6444. (Be sure to invoke the special NALA rates.) Reservations must be made by Tuesday, July 5, 2011 for the special rates to apply.

**July 27-30, 2011**

Check the NALA website for costs and registration information – [www.nala.org](http://www.nala.org)

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## **4 Tips to Help Paralegals Communicate Effectively**

**By Gloria Koss, ServeNow.com**

Communication skills are something that come to us, as sociable beings, somewhat naturally. While communication can be easier for some than others, it is an important skill set to manage because those who can communicate well are in high demand in the workforce. Paralegals who have a firm grasp of these skills not only invite new employment opportunities for themselves, they can also further cement themselves in a position they currently hold and enjoy.

For those not as skilled as they would like to be in the art of communication, some very simple tips can immediately begin improving how you interact with attorneys, clients and other professionals around the office.

### **The importance of communication for paralegals**

The National Associate of Colleges and Employers (NACE) recently released a study conducted to discover the most desirable skills that employers sought in potential employees. These same desires apply to existing employees, especially in the legal profession. What was at the very top of their list? Communication skills. That's right, a good communicator is more desirable to employers than those with sharp analytical skills, good team players, those with sharp technical abilities, and even individuals with a solid work ethic. What types of skills fall into this most-wanted category, and why are they so important?

Obviously, communicating means the ability to effectively transfer information to other individuals. More specifically, there are three general types of communication skills: expressive, listening, and overall management. Body language, facial expression, and word choice all fall into the category of expression. Being able to absorb information through hearing falls into listening, and works in close conjunction with expressive skills. These skills work together to gather spoken information and then relay it to the area that interprets the information in conjunction with the speaker's body language and facial expression. The overall management function then brings the entire experience into one melting pot, which allows the individual to interpret the encounter and react appropriately to it.

On the surface, these functions manifest themselves in individuals who are effective public speakers, those who can produce high-quality written presentations and communications, and those who conduct themselves with grace in the courtroom, in meetings, or with clients. Superficially, it seems like something we do naturally, almost unconsciously. However, as with every other aspect of life, there are always some who do it more effectively than others, and those individuals are more likely to get the coveted position you are competing for. Why is that?

Employers want to hire effective communicators because they want people who can present their firm as the most professional, educated, and capable to their clients. Clear and concise communication, whether written or verbal, does that.

Employers also state that paralegals who are great communicators reduce confusion, stress, and errors in the workplace. Also, while this skill set is the most desired by employers, they also state that it is the rarest. With that said, how do we make sure we are showing top-notch communication skills in the office?

### **1) Be a contributor**

Show your interest in your firm by contributing at meetings or other times when feedback is solicited. By taking an active role, not only do you ooze confidence, you show your co-workers and bosses that you are invested in your job. Weekly firm meetings can sometimes be tedious, but participating early on shows your bosses and co-workers that you take your position seriously and can contribute to the overall success of the firm. Speaking up in the first third of the meeting shows you are eager, but willing to let others speak first.

### **2) Radiate confidence**

Many times when we are trying to be polite we actually undermine our credibility or emanate a lack of confidence. Look others in the eye when speaking to them or when they speak to you. Hold their gaze, as being the first to drop eye contact can sometimes be seen as submission.

Also, when speaking and writing, choose your words carefully. Avoid beginning sentences with words such as "I could be wrong ...," "I could be forgetting something ...," or other defensive signal phrases because they undermine you as an individual. Avoid ending statements with "OK?" or "don't you agree?" because these words can make it appear that you are seeking the approval of others or are otherwise unsure of your decisions or statements. By making better word choices paralegals can project an air of confidence and professionalism to those around them in the workplace, instilling a reciprocal sense of worthiness in the eyes of those around them.

### **3) Look prepared, even when you're not**

When arriving for or sitting through meetings, avoid fidgeting, shifting your eyes frequently, and making other types of harried movements, as they make you appear unprepared. The fewer movements you make, the stronger the message you send others that you are cool, calm, collected, and in control. Numerous shifty or fidgety movements indicate exactly the opposite; you can appear nervous, uncertain, or otherwise project a negative image to your co-workers and clients, making them question your ability to manage the situation at hand.

### **4) Make the most of small talk**

Being able to talk with co-workers, bosses, and clients comfortably projects respect, confidence, and professionalism in the workplace. Take an interest in those around you and use tidbits of information to your advantage. For instance, remembering that a client has a grandson in kindergarten and asking a question about him while you wait with that client in the hallway for your case to be called not only makes you appear more personable and caring, it can also help to calm nerves in otherwise unpleasant circumstances.

*Gloria Koss is a former paralegal and a staff writer for ServeNow.com, a trusted network of local, pre-screened process servers. ServeNow.com also offers ServeManager - a web-based software to help legal professionals assign, track and manage service of process all in one place. Learn more at [www.ServeNow.com](http://www.ServeNow.com) or [www.ServeManager.com](http://www.ServeManager.com).*



CASE IN POINT

by Tom Fishburne



## The Keyboard is King

# CLA/CP Exam on Computer

By Kendra Dais, CLA

When I learned the CLA/CP Examination was transitioning from paper to the computer, I was relieved.

In December of 2009, I sat for the full exam in its paper format. Much to my dismay, I was advised that I would have to re-take the Judgment and Analytical Ability section of the exam. I am happy to report that my September re-take was successful and I am now a NALA Certified Paralegal. Those "CLA" initials behind my name mean the world to me (see byline).

The Judgment and Analytical Ability section of the exam was difficult for me from the start. Having to compile my thoughts in a concise, logical manner while "on the clock" seemed impossible. Not only that, but I am probably among legions of neo-computer people who are challenged by pencil-and-paper writing. My thoughts seem to flow better through a computer keyboard.

As luck would have it, I scheduled my retake for the very testing window that introduced the computerized exam. The scheduling was primarily through e-mail, beginning with receiving my "Authorization to Test." That e-mail instructed me to await another e-mail from the ACT Center that would assign

a username and password to access their Website to locate a testing center close to me. Once I chose a convenient location, I selected my testing date from a list of available times and reserved that date by paying the proctor fee with credit card on their Website. Easy.

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**Those "CLA"  
initials behind  
my name mean  
the world to me  
(see byline).**

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With excitement, I arrived at the ACT Testing Center on the day of my retake. I immediately noticed a benefit of taking this section on the computer was not having to bring a plethora of sharp pencils (such small things are significant when you are sweating bullets over taking the exam).

After logging onto the exam on the testing center's computer, I began to

visually scan the screen for the format. It was fairly basic and intuitive. There was a feature that was both a friend and a foe for the next two-and-a-half hours—a digital timer that starts with the time allotted to take the section and inexorably counts time down until it expires. This made my time management more efficient, as it eliminated calculating the time remaining based on a standard clock.

As I proceeded with the exam, I encountered a question I felt needed more consideration, but wanted to be certain I had enough time for the essay portion of the section. The computerized exam allows you to mark any question for further review once you have reached the end of the exam, provided that there is time left to spare.

When I was through with the multiple-choice portion of the exam, it was on to the dreaded essay. At the beginning of the exam I was provided with a printout of the essay question and a small dry-erase board to make notes. After reading the question and gathering my thoughts, I began to type my essay.

Being able to type instead of write, I felt that my thoughts came together faster and more coherently because I can type



much quicker than I can write. There is no worry about penmanship, although typos are something to beware of.

There were a few minuscule drawbacks such as the inability to cut-and-paste within the document, and not being able to select multiple words for deletion. Using the "delete" key multiple times, however, was a vast improvement over using an eraser to smear your pencil writing.

I had every intention of reviewing my multiple-choice answers and to review my essay more thoroughly, but the timer was not to be denied. My computer screen displayed a friendly, if somewhat taunting, notification that my time had "expired." At least it did not flash "You're Finished!"

There was only a slight moment of panic afterwards before the ACT proctor was able to assure me that my essay had been saved. I love the computer format, but thank goodness there are still live people in the room to lend a human touch as proctors.

Another aspect of the computer exam that is advantageous is the option to take the five sections separately on multiple

days if desired, so long as the entire exam is completed within the month's testing window. This can be a huge help for those with crowded work and family schedules.

My opinion of the computer exam is based solely on the advantage I felt that it gave me according to my strengths and weaknesses. I suspect that many in my statistical cohort of the population have developed the same dependency on keyboards. Will the next step be an exam administered through personal digital assistants?

\*The Certifying Board rules and procedures allow examinees to complete the exam across several testing windows. Examinees have two years, from the first date of testing, to complete the exam.

Kendra Dais, CLA, is a Legal Assistant at Smith Bakke Porsborg Schweigert & Armstrong in Bismarck, ND. She received her Associate Degree in Administrative Legal Assisting from Bismarck State College in 2007 and her CLA designation in 2010. She is a member of the Western Dakota Association of Legal Assistants and serves as region director and State Bar/NDTLA Liaison.



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If you have any questions or comments concerning the MPA or its activities, please feel free to contact any one of the following MPA Board Members.

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