



Key Note



Volume 101

Northeast Texas Association of Paralegals, Inc.
An Affiliate of the National Association of Legal Assistants, Inc.
Editor, Mona Hart Tucker, ACP

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President's Message

Many moons ago, I started working with an attorney (who, for the record, I just adore), and the first time I walked into his office and began to speak, he looked me right in the eyes and said "no pronouns please." Although I couldn't see my face, I'm pretty sure it was saying something along the lines of "what?" "huh?" "am I in the twilight zone or on *Punk'd*?" What do you mean by "no pronouns?"



So, my head is spinning - pronouns are words like he, she, it, them ... right? I begin to question myself and sweat profusely. How in the world am I going to complete a sentence without using pronouns? He couldn't possibly be serious! So, I began again. "So, I called John and he said ...". The attorney repeats back to me "he who?" I'm thinking to myself "JOHN! WHO ELSE COULD 'HE' BE???" I took a deep breath and I began AGAIN! "I called John and John relayed to me ...". I got through the conversation, but it took a lot of brain matter and super concentration.

From that day on, I have always tried to limit my use of pronouns in both speech and writing. You must try it! You will be surprised at how much more effectively you communicate and get your message across. It is rather hard to implement in day-to-day speech, but it's fairly simple in writing. Of course, you can't and shouldn't try to eliminate all pronouns because you would probably sound like someone from the *Third Rock From the Sun*. But definitely give it a try.

Sandi Clarke, CP
NTAP President, 2013

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Employment - Andrea Brunson, CP
Newsletter - Mona Tucker, ACP
Scholarship - Javan Johnson, ACP
Technology - Shannon Bjork
Auditor - Andrea Brunson, CP
Social - Andrea Brunson, CP



Why Run From E-Discovery?

By Kelly Twigger, Esq.

I speak on electronic data discovery four to five times per year. It never fails that most of the presenters at these events preach fear as the motivation for learning about e-discovery. Happened just last week. What are the fears? Let's see - fear of sanctions, fear of spoliation, fear of not preserving the entire planet of information, fear of not knowing where every byte of potentially relevant information exists, etc. Sound familiar?

I've never bought into the fear mantra, and I'm not planning to start. Here's why. It's kind of funny if you think about it - the fear sales pitch isn't supported by the data. Yup, an e-discovery geek is telling you that your fears regarding e-discovery aren't supported by the statistics.

According to an article from Mark Diamond, in



Inside Counsel (aptly named "Fibs Your E-Discovery Vendor and Law Firm Might Tell"), only 0.0065% of the cases filed have resulted in sanctions for failure to preserve. That includes Judge Shira Scheindlin's decision in *The Pension Committee of the University of Montreal Pension Plan, et al. v. Banc of America Securities, et al.* (Note: I respect Scheindlin immensely, but heartily disagreed with that decision and have been happy to see judges curtail it.)

Truthfully – of your colleagues that you know who have managed or engaged in e-discovery – how many of them have faced sanctions for spoliation? So, if not fear, then what? "E-discovery is a nightmare. I don't have time for it. I don't understand technology." To that I say – pshaw. E-discovery is an *opportunity*. A powerful opportunity.

Here are just a few reasons you should be diving into EDD and grabbing this opportunity with gusto:

1. ESI is a treasure trove of information. People say things in electronic communications that they would never even say out loud. Ten years ago, you were confined to memos and files where no one put the bad stuff in writing. Now, we get CEOs claiming they'll do anything to bring down the competition and Facebook pages showing the disability claimant who can't walk just climbed a mountain in Africa. It's a gold mine, and your case needs those gold nuggets.

2. Information is power. How you use your power is up to you. I like to use it to find out the facts faster and resolve matters more efficiently. Think about how we used to do paper discovery – the case was filed, the complaint sat on your desk, discovery didn't start until six months in, and the initial meet and confer was useless because we always modified the schedule. We *never* talked about discovery.

Now, you have to start engaging in discovery when you find out about the case to CYA, and lo and behold, you learn the facts *faster*. That allows you to plan your strategy based on the merits of the case while conducting EDD more efficiently and cost-effectively. Finding out what you are dealing with in terms of quantities and types of data allows for better decision-making and a less costly collection and review. I dare you to find a vendor who will disagree with me.

3. You can budget litigation more effectively. The days of open checkbooks in legal departments are over. In-house counsel needs better predictability in budgeting for litigation, especially when a huge matter comes out of the blue and the industry they work in is tanking. Remember – legal's job is to *support* the business, not *spend all the profits* on outside counsel.

4. Gather metrics to help understand your costs. The more control you gain over e-discovery and the less you rely on multiple law firms to handle each case differently, the more data you can collect about what you are spending and why.

5. Early planning and strategy saves greenbacks. One of my clients spent \$1,500 collecting one hard drive instead of \$200 because they forgot to mention that the custodian would be traveling. Her hard drive was mysteriously encrypted, requiring a special forensic collection at her hotel in Las Vegas in order to meet the production deadline. That may not sound like much, but it adds up over custodians and cases. Planning saves money in e-discovery.

6. The technology is fun. Reviewing documents one at a time (what we call linear review) is tedious and expensive. The right tools help you:

- **Cull data** down from a much larger set to what really needs to be reviewed.
- **Negotiate key search terms** based on terms that the witnesses really use and reduce your set further through agreement of counsel.
- **Filter data** and do what used to be three different levels of review (relevance, privilege, hot documents) all at one time.
- **Let the computer do the e-discovery work for you** by using sophisticated computer-assisted review tools.
- **Review documents on your iPad**, all with the swipe of a finger. Oh yeah. Document review has never been this much fun. We all know that cases are won and lost on the documents. Now, they are literally at your fingertips and you can search, store, and tag them.
- **Collaborate with outside counsel** so you can see the review process, understand the costs and see searches tagged with the information you want to review, all with your own username and password.

7. The potential costs and fear can push your organization or firm towards information management. The cost of dealing with e-discovery and the volumes of data is a great motivator for information management within your organization or law firm. Antiquated backup and data storage methods can be swiftly – and for the better – ushered out the door.

If you won't seize the opportunity of EDD, the Department of Justice will (and has). A recent NBC newscast included a story related to prosecutors at the DOJ secretly seizing the emails of AP and Fox News reporters on suspicion of conspiracy to violate the Espionage Act. A federal judge signed a warrant allowing the government to seize email directly from Google for a reporter's Gmail account based on probable cause that the reporter had solicited information related to North Korea. In the report, Matthew Miller, former DOJ spokesperson said, "It's easier to track these leaks now – if you email someone, if you call them on your cell phone – it's much easier to establish it than if you leave a flower pot on your stoop and go meet in a basement." (Report by Michael Isikoff, national investigative correspondent, *NBC News*.)

Give up the fear – the opportunities of e-discovery abound. I'm still waiting for a compelling argument (from anyone) that explains the willingness to be left behind while your competition and clients demand and pursue better service.

Attorney Kelly Twigger is the principal of ESI Attorneys, based in Boulder, Colo.

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Northeast Texas Association of Paralegals, Inc.
Minutes of the Membership Meeting
May 15, 2013

The monthly membership meeting of the Northeast Texas Association of Paralegals was

held at the Summit Club on Wednesday, May 15, 2013.

Members in attendance were Sandi Clarke, Andrea Brunson, Elisha Calhoon, Pat Aguilar, Mona Tucker, Lisa Liston, Cindy VanBlaricom, Shannon Bjork, William Runnels, Nadriette Hardeman, Cindy VanBlaricom, Devon Whatley, Lori Campbell, Mary Ann Ward, Pam Matthews and Crystal Roberts. Guests in attendance were Ashley West and Basilia Peña, family member of Ashley West (this year's scholarship award recipient.)

President Sandi Clarke welcomed members and guests to NTAP's 25th Anniversary Celebration and called the meeting to order at 12:04 p.m.

Reports:

Secretary - The minutes from the April membership meeting were provided to each member. Nadriette Hardeman made a motion to approve the minutes. Elisha Calhoon seconded the motion, and the minutes were approved as printed.

Treasurer - The Treasurer's Report was presented by Shannon Bjork. Shannon made a motion to approve. Mona Tucker seconded the motion, and the treasurer's report was approved, pending audit.

Membership - Cindy VanBlaricom announced she had received a new member application for Debbie Hamilton. Debbie meets all the qualifications for student membership. Cindy made a motion to accept Debbie Hamilton as a student member. Pam Matthews seconded the motion and the motion was approved by the membership.

Speaker - Andrea Brunson announced that our June speaker will be Jonathon Wharton. He will discuss probable cause and reasonable suspicion. She also announced that our July speaker will be Andrew Eichner.

Key Note - Mona Tucker announced that she was missing articles for the *Key Note* but it would be out before the end of May.

Employment - Andrea Brunson announced there were employment opportunities available with Jerry Harris, Chad Everingham, Kelley Heitkamp and Dan Sorey.

Charities - The Marine Corps League collects used ink cartridges to raise money for their Toys for Tots drive. If you have any used cartridges please drop them off at the Alpine location or bring them to the monthly meeting.

Wills Clinic - Andrea Brunson announced that the Patriot Guard Riders would be meeting at Leon's on June 15th from 12-6. NTAP will be able to set up a table at the event to promote the Wills Clinic. Volunteers would be appreciated.

Recognition of Officers - Sandi Clarke called up each officer and recognized them for their hard work, presenting each of them with a notebook received from NALA.

Scholarship Presentation - Javan Johnson presented this year's scholarship to Ashley West from Kilgore College.

Presentation of Appreciation to Javan Johnson - Sandi Clarke and Andrea Brunson presented Javan Johnson an appreciation award for her 25 years of membership and dedication to NTAP.

Door Prizes - Sandi Clarke and Andrea Brunson drew names for gift cards from VISA, Subway, Target and Pure Nail Spa.

Slideshow Presentation - Andrea Brunson presented a very memorable slide show from NTAP's commencement to the present.

Mona Tucker introduced our speaker, Ruth S. Conley, ACP who spoke on the new specifications for the certified paralegal exam. Ms. Conley is the NALA District IV Director, and drove up from Houston to join us for our 25th anniversary celebration. Andrea presented her with a nice appreciation gift.

Sandi Clarke recognized Andrea Brunson for her hard work by presenting her with a nice bottle of wine.

With no further business, the meeting was adjourned at 1:05 p.m.

Respectfully submitted,
Patricia Aguilar, Secretary



NALA Certifying Board
Announces New Examination Specifications

The NALA Certifying Board has announced new specifications for the Certified Paralegal examination effective with the September 2013 testing window. These modifications are based on a careful and detailed analysis of the findings of the 2012 Job Task Analysis study conducted by the Board in consultation with PSI Psychometric Consulting Services.

The new examination specifications call for minor adjustments to the number of points per topic within all sections of the examination. No new topics were introduced in any examination area.

The most significant modification is the elimination of several practice area tests under the Substantive Law section. The Job Task Analysis study demonstrated that, on a nationwide basis, a low percentage of paralegals utilize the knowledge and skills tested by these practice area examination sections on a regular and routine basis in the workplace.

In addition, the option to test in certain specialty practice areas will no longer be available to examinees. All examinees will take the same Substantive Law section of the examination, as is the case with all other sections of the Certified Paralegal examination.

Effective with the September 2013 testing, the Substantive Law section will consist of questions on the following subjects:

- American Legal System
- Civil Litigation
- Business Organizations
- Contracts

With these modifications, the Certifying Board listened to member and nonmember paralegals, and applied findings of the Job Task Analysis study to the exam specifications. The Certifying Board strives to link the Certified Paralegal examination directly to the day-to-day duties and responsibilities of paralegals in the workplace. The modifications announced for the September 2013 examination are a continued effort to ensure the Certified Paralegal examination remains an accurate and relevant



reflection of the duties and responsibilities of today's paralegals.

A detailed list of specifications for the Certified Paralegal examination may be found on the NALA web site under "Certification/Certified Paralegal Exam Description" as well as a more detailed statement of these modifications.

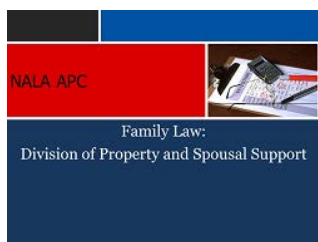
Please contact NALA Headquarters if you have any questions: www.nala.org.



APC Board Releases ...

Family Law - Division of Property and Spousal Support APC Course

The NALA Advanced Paralegal Certification Board has just released "Family Law - Division of Property and Spousal Support." The second of four advanced programs for family law



paralegals, this course concentrates on practice and procedure in the area of alimony and property division. Modules in the course cover the general topics of the legal framework through which alimony and property division obligations are imposed and enforced; property and support during marriage; identification of property for purposes of drafting agreements and litigation resolution; premarital and marital agreements; basic principles and particular issues in property distribution; alimony awards and agreements; discovery issues and alimony and property distribution; income tax consequences to awards; and modification and enforcement of alimony and property division agreements and orders.

The APC Board has determined that an ACP designation in Family Law will be awarded to Certified Paralegals who complete the following courses:

- Child Support, Visitation and Child Custody
- Division of Property and Spousal Support
- Adoption and Assisted Reproduction
- Dissolution Case Management - to include critical information related to management of a case from intake to decree. This would include information related to litigation of the case, reading tax returns and unusual instances such as dissolution of same sex marriages.

Successful completion of all 4 courses will lead to a certification in Family Law.

For more information on this and other ACP courses, go to www.nala.org.



Checking Military Status

Several times on the Paralegal Division's e-group, the question has come up on how to determine a person's military status. Keep this website link in your "Good to Know" file: www.dmdc.osd.mil/appj/scra/scraHome.do. It is a military verification database. At minimum, you must search with a last name and SSN, or birth year, month, and day.



Paralegals Fly to Vienna & Prague



The State Bar Paralegal Division has finalized its plans for the 2014 Trip to Europe to Vienna and Prague from April

18 - 26, 2014. **Register by June 20, 2013 and save \$100.**

Trip details can be found on the Paralegal Division's website Home Page under NEWS - PD 2014 Trip to Europe at www.txpd.org. Register at <http://www.travelandcompany.com/register/> by selecting the REGISTER tab above the logo on the top left on the home page, choosing Participants, and signing in using: Group Leader ID 91260 and Group Leader Last Name: Hackler. Click on the appropriate circle for your departure city for the "Heart of Old Europe" trip and fill in your information.

Trip fee includes airfare, hotels, breakfasts, three lunches, two dinners, transportation, tours, guides, etc. Fees may be paid by credit card, checks, money orders, or automatic payments.





June Meeting

The membership meeting will be at noon on June 19 at the Summit Club in Longview. Our speaker is Jonathan Wharton, who will discuss probable cause and reasonable suspicion.

Please RSVP your menu selection to Andrea Brunson, AndreaB@NixLawFirm.com, by Tues., June 18.

\$10.00 (includes tea, water and gratuity)

Chicken Quesadillas - Grilled chicken fajitas with onions, peppers and cilantro sandwiched between grilled flour tortillas, served with pico de gallo and a side of fruit.

\$10.00 (includes tea, water and gratuity)

Mediterranean Chicken - Grilled breast of chicken sautéed with red onion, tomato, and basil, tossed in angel hair pasta topped with feta cheese.

\$3.00 (includes tea, water and gratuity)

**Tortilla Soup or
Soup Du Jour**

PLEASE HAVE EXACT CHANGE OR A CHECK MADE PAYABLE TO NTAP.



Paralegal Division Membership Renewals

The 2013-2014 membership renewal forms were mailed to the current 2012-2013 members (members with expiration date of May 31, 2013) of the Paralegal Division the week of April 15, 2013. Membership renewal payment postmarked after July 1 requires a \$20 late fee in addition to the normal dues payment; any renewal postmarked after July 31 will be returned to you and not be processed. No exceptions for these deadline dates. Members who have recently joined and have a membership expiration date of May 31, 2014 will not receive a membership renewal notice.

If your address or email address has changed, please make sure your address is correct on the Paralegal Division's Membership Roster. For instructions on how to update, go to <http://txpd.org/page.asp?p=Address%20Change>.

All ACTIVE and ASSOCIATE members must obtain 6 hours of CLE by May 31 (between June 1, 2012 and May 31, 2013) to renew membership in the Paralegal Division for 2013-2014. If you are working as a paralegal and are currently an Active or Associate member, the CLE requirement is mandatory to continue your membership in the Paralegal Division.



TAPS 2013 Scholarship Announced

Texas Advanced Paralegal Seminar (TAPS)
October 2-4, 2013
Omni Hotel, San Antonio

The Paralegal Division of the State Bar of Texas will award up to two educational scholarships for the three-day registration to attend the 2013 Texas Advanced Paralegal Seminar, a three-day CLE seminar. **Deadline to apply is July 15, 2013.**

Access the Scholarship application from the Division's home page, <http://txpd.org>.

Note: Must be a member of the Paralegal Division to apply.



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CLE Calendar

For additional information about CLE across the State see the SBOT - PD web site at www.txpd.org. Also, don't forget that the PD and NALA both offer on-line CLE.

(Online) Texas Veterans Legal Assistance Project Webinar, Mondays 11:45 A.M. - 1:00 P.M. The Texas Legal Services Center offers a free webinar each Monday on topics related to veterans. All courses have been approved by the State Bar for one hour of participatory credit (no ethics). For upcoming topics, go to www.tlsc.org.

(Online) Texas Bar CLE free online seminars. TexasBarCLE offers a complimentary half hour of participatory MCLE credit. You will find a new topic available every other month. The current topic is "How to Use the Internet to Get Information for Your Case" (online class/mp3). www.texasbarcle.com. Please note: *NALA will not accept courses under 50 minutes in length*, but the Paralegal Division does accept these 30-minute online classes.

(Online) Ethics. If you need ethics CLE hours check out www.lexvid.com. All the courses are *free*. Or also see what is available for free from the Texas Bar, www.texasbarcle.com/CLE/OLETHICS.ASP.

(Online) NALA Campus Live! has many topics to choose from, and the Texas Board of Legal Specialization has approved certain courses for certification and re-certification. More information is available at www.nala.org.

Articles published herein do not necessarily represent the opinions of the Northeast Texas Association of Paralegals. Calendar listings and seminars should not be considered as endorsement of any such program or seminar.

NTAP EMPLOYMENT REFERRALS

One of the benefits of your membership is NTAP's employment referral service. We receive calls from firms offering employment opportunities. If you are seeking a position or considering a change, we encourage you to use NTAP's employment referral service. If your firm is searching for qualified paralegals, ask your attorney or firm administrator to let us know about current openings.

If you are interested in being listed with the service, mail a current resume and contact information to:

Andrea Brunson, CP
AndreaB@NixLawFirm.com
NTAP, P.O. Box 2284, Longview, Texas 75601