

By Specialty

Typical Paralegal Duties

Compiled By Barbara Berry, CP, RFP, et al

Introduction

When I was still new to the paralegal profession, I discovered an article in *Facts & Findings* featuring sample job descriptions for legal assistants (February/March 1986). I have drawn upon information in that article over the years to guide me through each change in my paralegal career.

What follows is a revised and updated version of that original article, organized by specialty area and in outline style for easy reference. When the article was first published, the paralegal profession was still straddling the fence between the duties of legal secretaries and true paralegal functions. The descriptions were originally compiled by legal assistants working in the various areas of specialty 20 years ago and job descriptions have changed significantly in some areas. Those changes are reflected in this compilation.

Not every paralegal in a given area of specialty performs all the “typical” duties indicated in the outlines, and the outlines are not purported to be exhaustive. Nor is every area of specialty represented, but paralegals and lawyers from across the nation (named in the headings for each area) have contributed to cover the major areas. The original outlines have been expanded, reorganized, and edited to emphasize paralegal tasks as opposed to secretarial and clerical duties.

I encourage you to make the outlines

your own—choose an area or areas of interest and add to the outlines those tasks that you already do, or have set as a goal. Review these with your supervising attorney during performance evaluations to show what you do, what you can do, or what you want to do.

Remember that all paralegal work must be performed under the supervision of an attorney and within the parameters of the ethics rules promulgated by NALA and the Bar of the state in which you work. You may need to remind your attorney of this on some points.

Barbara Berry, CP, RFP, has been a paralegal for more than 20 years and is now employed by the firm of Gramling & Fingar, LLP, in Tallahassee, FL. Her current specialty is environmental law and she has also worked in the areas of personal injury litigation, insurance defense, and bankruptcy. She is a member of NALA and has served as President of the Big Bend Chapter and as Ethics Chairman for the Paralegal Association of Florida. She has a BA degree from Angelo State University, San Angelo, TX.



berry@fgflaw.com



continued on page 22

Banking & Finance

—Ann L. Atkinson, *ACP*, Kutak Rock, LLP, Omaha, NE

—Lisa J. Morgan, *CP, FRP*, Bryant Miller Olive, Tallahassee, FL

- The primary responsibility of the public finance paralegal is to work with attorneys whose practice relates to the issuance of bonds. The duties will vary depending upon whether the firm acts as bond counsel, underwriters' counsel, special tax counsel, disclosure counsel, or as counsel to some other party to the transaction.
- Draft documentation, including resolutions, contracts, leases, deeds, trust indentures, bond certificates, agreements, opinions, and other legal documents relating to bond issuance, ensuring all steps are completed and deadlines met.
- Review and analyze the sufficiency of documentation as it relates to state law or federal tax law requirements.
- Draft *TEFRA* and other legal notices, and coordinate publication with local media.
- Participate in due diligence review.

- Regularly communicate with clients and other participants in the bond transaction to coordinate document review, execution, and timing matters.
- Assist attorneys in research, drafting, and revision of bond issue documents.
- Review ordinances or other regulations to ensure legality of bond issuance.
- Draft the *Preliminary Official Statement* and *Official Statement*; coordinate printing and/or posting the official statement.
- Coordinate tax legend language for the official statement and for disclosure review by tax lawyers.
- Prepare applications and submissions for governmental consents and approvals of the transaction.
- Review primary financing documents to determine whether conditions to closing have been satisfied.
- Review drafts of all documents for consistent use of defined terms and accuracy of cross-references.
- Circulate closing documents to all parties in the bond transaction for their review and comments.
- Prepare, obtain, and organize required

- closing certificates and legal documents for pre-closing.
- Draft closing certificates for review by the supervisory lawyer.
- Coordinate the acceptance of letters of representation and the delivery of the bonds with DTC or the FAST Trustee.
- Obtain items, such as good-standing certificates, required for the closing from the appropriate state agencies.
- Assist the supervising lawyer with matters involving rating agencies, swap providers, letter-of-credit providers, municipal bond insurers, and investment agreement providers.
- Assemble documents for signature and coordinate their execution.
- Prepare and file all required governmental filings, such as those for the IRS, the State, and the Division of Bond Finance.
- Attend closing and coordinate document handling.
- Upon closing, organize closing documents for transcript and coordinate transmission to appropriate parties.
- Maintain a tickler file for UCC and IRS filings and monitor compliance.

• In 2008, 64 percent of paralegals surveyed were employed by private law firms. There were 18 percent at corporations, eight percent worked in the public/government sector, and two percent were with insurance companies, non-profit corporations, foundations, or associations. Banking, health/medical, and self-employed paralegals accounted for one percent each.

Bankruptcy

—Michelle Brooks, *CP*, Office of the US Trustee, Tallahassee, FL

—Deborah Elkins, *ACP*, Mesch, Clark & Rothschild, PC, Tucson, AZ

—Gena Farnell, *CP*, Leigh D. Hart, Tallahassee, FL

Debtor Representation:

- Participate in initial client interview with attorney to:
 - Begin process of fact gathering for petition, schedules and statements preparation.
 - Provide client with required standard disclosures and forms to be completed and signed.
 - Discuss credit counseling and financial management course requirements; instruct on debtor's responsibility to provide certificates of completion.
- Conduct detailed client interview to obtain information and documents required to:

- Analyze debts vs. assets.
- Classify debts.
- Identify applicable statutory exemptions.
- Determine client's desires to abandon or redeem assets and reaffirm debts.
- Determine lien status and priority of liens.
- Conduct asset search and obtain debtor's credit report to ensure complete disclosure of all assets and liabilities.
- Draft appropriate petition, schedules, statements, disclosures and other required forms and motions.
- Monitor compliance with deadlines for filing required periodic reports with court and trustee.
- Draft reaffirmation agreements and related correspondence to creditors.
- Draft motions, proposed orders, and notices for matters relating to lien avoidance, time extensions, claims, and non-dischargeability.
- Draft reorganization plan (*Chapters 11 and 13*) and disclosure statement.
- Prepare spreadsheets, flow charts, and other exhibits needed to support plan.

- Draft applications for employment of professionals.
- Draft attorney's fee applications.
- Communicate with debtor, creditors, attorneys representing creditors, clerks, and trustee.
- Review clerk's docket and claims register.
- Prepare client for *Section 341* meeting of creditors by reviewing rules regarding the meeting.
- Keep client apprised of hearing, trial, and deposition dates.
- Prepare client for deposition, if required, by reviewing standard rules for being deposed.
- Draft applications, stipulations, proposed orders, notices, and other pleadings, including complaints for adversary proceedings, motions for relief, abandonment, etc.
- Review claims and, if necessary, draft objections to same.

Creditor

- Review creditor client's promissory note and other supporting documents evidencing debt.

- Review debtor's petitions, schedules, and statements to ascertain how creditor client's claim is scheduled and debtor's intent are same.
- Perform *UCC* search to determine validity, extent, and priority of creditor client's claim.
- Prepare proof of claim.
- Attend Section 341 meeting of creditors.
- Draft *UCC* information and copy requests to appropriate offices; analysis of information including preparation of lien priority exhibits.

Trustee

- Review debtor's schedules, statements, and disclosures for compliance with *US Bankruptcy Code*.
- Communicate with debtor's counsel or *pro-se* debtor regarding any insufficiency of filings.
- Maintain and monitor compliance with debtor's required filings.
- Review and determine sufficiency of creditors' claims.
- Prepare the file for trustee's handling of *Section 341* meeting of creditors, including

transmitting objections to confirmation, memorandums, and letters.

- Review debtor's file for compliance with submission of net disposable income and draft any necessary motion to dismiss for failure to make plan payments or failure to submit additional income.
- Review debtor's periodic reports for compliance with *US Bankruptcy Code*; compare information to schedules and plan; prepare or revise objection to confirmation based on review of same.
- Conduct comparative analyses of debtor's financial documents, including tax returns, pay stubs, and budgeted expenses; incorporate allegations as to additional income into trustee's objection to confirmation.
- Analyze feasibility of debtor's plan based on review of creditors' claims against debtor's financial information.
- Prepare file for trustee's handling of any hearings on objections to claim, valuation, dismissal motions, confirmation, etc.; communicate with counsel of record regarding resolution of same.
- Prepare court orders required pursuant to court's rulings.
- Collect and reduce to money the property of the estate.
- Maintain records necessary to ensure accountability for all property received
- Monitor and ensure debtor's performance re retention or surrender of property of the estate that secures consumer debts.
- Examine proofs of claims and prepare objection to the allowance of any improper claim.
- In asset cases, prepare and file the required reports with the US Trustee.
- Communicate and provide required documentation to professionals hired by trustee, including accountants, auctioneers, real estate brokers, etc.
- Draft requisite motions and notices regarding sale of assets of the estate.
- Draft objection to discharge and other pleadings such as adversary proceedings, motions for turnover of assets, etc.
- In a *Chapter 7* case, prepare the reports required by the US Trustee.

Corporate

—Veronica Maddox, *FRP*, Rotech Healthcare Inc., Orlando, FL

—Jackie Schad, *ACP*, Rapid City, SD

—Nanci L. Lilja, *CLAS, CHS, INC.*, Inver Grove Heights, MN

—Nancy Mendenhall, *ACP*, Spirit AeroSystems, Inc., Wichita, KS

Incorporation and Formation of Entity

(corporations, limited liability companies, and limited partnerships):

- Check availability and reserve entity name.
- Perform due diligence, including *UCC* searches and good standing certifications.
- Draft entity formation documents.
- Effect the legal formation of the entity, including filing organization documents, recording or publishing same, and taking other action required by law.
- Draft organizational documents, including:
 - Articles of incorporation, fictitious name registration, qualifications, etc.
 - License Applications
 - Bylaws
 - Subscription Agreements
 - Investment Letters
 - Stock certificates and related documents
 - Banking Resolutions
 - Meeting notices

- Conduct *EDGAR* Research.
- Conduct Blue Sky Research.
- Draft and effect filing of various federal and state forms, including:
 - SEC filings
 - Subchapter S* elections and consents to same
 - Applications for conducting business under state and federal law, including applications for Employer ID Number, Workers' Compensation, Unemployment Insurance, Employer Withholding Tax Registration, state and local sales tax licenses, business-specific licenses
- Order minute book, stock book, and seal.
- Monitor and report changes in filing, reporting, and franchise tax laws or regulations.
- Prepare transactional closing binders.

Ongoing Corporate Matters

- Draft various agreements, including:
 - Employment agreements
 - Shareholders' agreements
 - Stock option plans
 - Option agreements
 - Non-Competition/Solicitation agreements
 - Profit sharing and pension plans
 - Employee benefit plans
 - Health and accident plans
- Draft and effect filing of amendments to articles of incorporation.
- Prepare and file annual reports.
- Draft special minutes for corporate activities.
- Track shareholders and percentage of stock holding.
- Maintain tickler system for regular and annual meetings.
- Draft documents for board meetings, including notices, proxies, affidavits of mailing, agenda, resolutions, ballots, oaths, minutes, and written consents.
- Serve as assistant secretary to the board of directors and committees, including attending, recording and maintaining minutes of all board meetings and certain committee meetings.
- Manage and coordinate all aspects of the annual and special meeting registration function, including serving as registrar for all annual and special meetings, managing all attendant voting and director elections, and assisting the credentials committee.
- Coordinate with all departments in order to monitor and effect compliance with all federal, state and local requirements for the corporation and its subsidiaries in operative states.
- Draft financial documents for the purpose of securing loans, including notes, mortgages, deeds of trust, and financing statements.
- Prepare stock powers, state and federal gift

continued on page 24

Typical Paralegal Duties

continued from page 23

- tax returns, and effect stock transfers.
- Perform legal research.
- Review contracts, regulatory filings, policies, and other corporate documents.
- Assist with Web posting of documents to ensure SEC compliance.
- Support corporate records retention and maintenance, including monitoring and ensuring compliance with electronic discovery obligations.
- Maintain accurate database of all pending and/or threatened litigation, including a summary of current status and applicable insurance coverage.
- Draft annual audit letter based on database.
- Process all complaints served on the company and its various joint ventures and subsidiaries through the risk management department for distribution to insurance carriers; ensure that answers are served in a timely manner.
- Support outside counsel in establishment of other entities, intellectual property

- matters, litigation, and discovery matters (including scheduling depositions of corporate personnel).
- Coordinate and monitor compliance with records retention requirements of “litigation hold” rules.
- Coordinate/conduct investigations of charges alleging discrimination and/or sexual harassment and draft responsive documents.
- Maintain accurate corporate secretary database for the company and all related joint ventures, LLCs and subsidiaries, including their respective organizational documents, registered agents, governing bodies, ownership, and other pertinent data.
- Draft and assemble all documents necessary for collection of delinquent accounts.

Mergers and Acquisitions

- Prepare drafts of merger or purchase agreements.
- Conduct due diligence investigation.
- Prepare closing checklists and memorandum.

- Obtain consents to assignments, releases, and other appropriate documents.
- Prepare closing documents.
- Prepare and file financing statements, *UCC* agreements or amendments, and related documents.
- Manage assembly and execution of documents at closing.
- Prepare closing files and bound volumes.

Dissolutions

- Draft and effect filing of statement of intent to dissolve, articles of dissolution, or other required state forms to effect dissolution.
- Draft documents related to distribution of corporate assets.
- Monitor compliance with escheat laws.

Additional Duties

- Research and develop technology and office automation within the legal department.
- Maintain law library.

• *No secretarial assistance was reported by 43 percent of paralegals in 2008, while 19 percent indicated they did their own secretarial work and had limited access to a secretary. Sharing a secretary with one or more attorneys was reported by 27 percent.*

Criminal Defense

—Karen Judd, *CLA*, Champaign, IL

—Edward T. Bauer, *Esq.*, Brooks, LeBoeuf, Bennett, Foster & Gwartzney, PA, Tallahassee, FL

I. Pre-Trial

A. Initial Interviews

- Gather initial information, including client's background information, prior record, current charges, family, work history, and education background.
- Explain bail process, preliminary hearing, trial, and appeal process.
- Obtain information relating to charges, possible defenses, etc.

B. Investigation

- Obtain copies of court documents such as prior records, arrest records, search warrants and affidavits for search warrants, charging instruments, statements made by client, co-defendants or witnesses, bond information, including motion if necessary, grand jury transcripts, etc.
- Locate evidence and obtain exhibits.
- Visit location of crime.
- Photograph and prepare crime scene diagrams.

- Obtain independent lab examination of evidence.
- Obtain medical, school, military records.
- Locate and interview of witnesses.
- Verify Information.
- Write reports of interviews.
- Research and recommend potential experts.
- Review state's evidence with attorney.

C. Legal Research for Pretrial Motions and Trial

- Procedural issues
- Evidentiary issues
- Jury instruction issues

D. Assist in Development of Defenses, Theory of Case and Trial Strategy

E. Pretrial Motions and Discovery Responses

- Draft applicable motions, requests, and responses, including required memorandums in support.
- Effect filing with the court.

F. Plea Negotiations

- Outline possibilities for attorney.
- Outline alternatives to prosecution.

G. Assemble File

- Identify and prepare exhibit list.

- Supervise marking of exhibits.
- Supervise preparation of trial notebook and remainder of file for trial.
- Identify witnesses to be called and prepare witness contact lists.

H. Subpoena Preparation

- Identify type required.
- Prepare subpoenas.
- Arrange for service for subpoenas and payment of required fees.

I. *Venire* Investigation

- Identify desirable and undesirable juror “type”.
- Review proposed jury pool.
- Draft proposed voir dire examination questions.

J. Draft proposed direct and cross examination questions for client and witnesses.

K. Assist attorney in preparation of defendant and witnesses for trial testimony.

L. Attend pretrial conference with attorney.

M. Draft proposed jury instructions.

N. Coordinate appearance of witnesses at trial.

II. Trial

Prepare trial file/notebook, including:

- Pleadings
- Witness Statements and examination questions
- Exhibits and any visual aids
- Checklists of elements that must be proved, points to be covered
- *Voir dire* questions
- Motions to be presented during trial
- Legal research memorandum and case law
- Jury Instructions
- Lab Tests, results, etc.

Second Chair Trial

- Assist in jury selection and observe jury during trial.
- Conduct detailed, accurate note taking of entire proceedings.
- Keep files together.
- Observe courtroom activities for impropriety (*i.e.*, witnesses discussing case after the “rule” has been invoked).

- Have exhibits ready for introduction.
- Keep exhibit list, noting when foundation is laid for admission.
- Remind attorney of any questions not asked, points to be made, or exhibits to be introduced.
- Provide assurance to client, help him/her relax, explain situations that occur during trial, such as side bar conferences, etc.
- Review trial notes with attorney in preparation for closing arguments.

III. Post-Trial

- Assist in obtaining bond refund if not automatic.
- Draft post-trial motions.
- Draft notice of appeal.
- Evaluate trial process for assessment and feedback to attorney.
- Interview jurors, if applicable.
- Continue contact and rapport with client.
- Conduct legal research for matters to be raised on appeal.
- Make necessary requests for transcript

from reporter and preparation of record on appeal.

IV. Appeal

- Draft required statements and effect filing with appellate court.
- Docket and monitor due dates for documents in appeal process.
- Review record on appeal and trial manuscript for brief preparation.
- Legal research for issues on appeal.
- Draft non-argument portions of brief, assist attorney in drafting of argument portion of brief.
- Draft motions filed in the appellate court.
- Continue contact with client re status of case.
- Review prosecution’s brief and assist attorney in preparing reply brief.
- Assist attorney in preparation for oral argument.

Jail Credit

—Sharon G. Robertson, *ACP, NCCP*, North Carolina Prisoner Legal Services, Inc., Linville Falls, NC

Jail credit paralegals are part of the post-conviction team and are responsible for determining whether an inmate has received the jail credit he or she is entitled to under the law. If

an inmate is due additional credit, the paralegal is responsible for following the appropriate steps to make sure the inmate receives the proper credit. If a paralegal concludes that an inmate is not entitled to additional jail credit, the paralegal is responsible for drafting a letter for lawyer review to the client explaining why.

Jail credit paralegals job duties include:

- Ordering court documents and/or jail

records needed to analyze a file

- Drafting correspondence for lawyer review to clerks and inmates
- Working with clerks of court and department of correction officials
- Corresponding with clients on a regular basis and when appropriate taking phone calls from family members
- General paralegal support services for staff attorneys

Environmental

—Barbara Berry, *CP, FRP*, Gramling & Fingar, Tallahassee, FL

—Christine Bloor, Hopping, Green & Sams, Tallahassee, FL

—Trishia A. Finkey, *CP, FRP*, Broad and Cassel, Tallahassee, FL

Agency

Research and develop environmental enforcement cases, including:

- Prepare briefing memoranda to director recommending enforcement proceedings
- Draft enforcement orders to responsible parties
- Draft communications to potentially responsible parties
- Obtain and incorporate technical information

from agency’s technical staff into memoranda and for use in agency proceedings

- Prepare civil or criminal enforcement referral packages to attorney general’s office.
- Obtain regulated entities’ compliance history for use in making recommendations to various boards that fund environmental projects
- Respond to public inquiries for agency documents
- Facilitate compliance with public records law
- Assist with determining the agency’s interest in bankruptcy matters
- Review new or pending legislation for agency impact
- Prepare administrative rules for adoption

Respondent—Enforcement Proceeding

- Review enforcement order received by client

from agency; note response deadline and violations allegations

- Obtain site history documents from client and relevant environmental agency, including:
 - Historical land use data
 - Compliance history
 - Enforcement history
 - Historical and ongoing environmental assessments and remediation
- Current site status
- Prepare Site chronology/timeline of events to reflect:
 - Prior ownership and use
 - Prior pollution history
 - Compliance history
 - Facts surrounding violation allegations and client’s response
 - Communications between agency and

continued on page 26

Typical Paralegal Duties

continued from page 25

client and third parties

- Assessment and remediation efforts
- Current site status

- Draft petition for formal administrative hearing
- Draft discovery requests, including interrogatories, requests for admission, and requests for production, and assist client and attorney with preparing responses to same received from agency
- Respond to agency requests for information, received either through formal or informal mechanisms
- Draft other pleadings as needed, included motions for continuance, for extensions of time, to stay proceedings, to take judicial notice, etc.
- Prepare for final hearing, including:
 - Summarize depositions
 - Prepare exhibit and witness lists
 - Prepare exhibits and demonstrative aids
 - Coordinate client's pre-trial meeting with attorney and client's and witnesses' attendance at final hearing
- Prepare *Freedom of Information* requests for information related to enforcement

actions, rule-making, or third-party litigation

- Analyze information received from factual investigations

Third-Party Litigation

The environmental paralegal utilizes all the skills listed both in the enforcement proceeding and in third-party litigation

Examples of third-party litigation include:

- Actions between a site owner and its insurance company for coverage under a policy
- Actions between a site owner and previous owner arising out of non-disclosure or deliberate cover-up of contaminated property or to determine liability for cleanup
- Actions between adjacent property owners to determine liability for contamination and resulting cleanup

Land Use/Project Development/Permitting

- Research site-specific environmental issue to determine project's anticipated impact
- Research case law pertaining to site specific environmental issue
- Prepare information memoranda to attorney elaborating results of research
- Supervise the compilation of research and/

or background notebooks of information and documentation pertaining to project's anticipated environmental impact

- Monitor response dates to various agencies' requests for information during pendency of permitting process
- Draft responses to various agencies' requests for information during pendency of permitting process
- Communicate with consultants hired to participate in permitting process
- Draft site-specific documentation (*i.e.*, memorandum of understanding, conservation easement, letter of credit, affidavits, consent orders, etc.).

Other

The environmental paralegal may perform non-adversarial duties such as assisting the attorney with lobbying, drafting proposed legislation for client that will be introduced by a member of the legislature for a particular interest of your client, or developing a memorandum of understanding for mutually beneficial projects between your client and a governmental agency.

• Areas of specialty most often cited by surveyed paralegals in 2008 were civil litigation at 51 percent, corporate law at 32 percent, contracts at 29 percent, and real estate at 27 percent. At the least often cited end of the scale were admiralty/maritime law, entertainment, Native American/tribal law, aviation, and telecommunications all at five percent.

Estate Planning

—Karen E. Howe, *CP, APC*, Tallahassee, FL

Compilation of Information

- Participate in client interview to begin fact-gathering process
- Review current estate plan to ascertain provisions, necessary updating, and any problems; advise attorney of results
- Analyze clients' assets from information provided by client or attorney
- Prepare tax calculations necessary for compensation of various estate plans
- Monitor state statutes to ensure conformity of plan and draft necessary changes to meet requirements erected by aspects of particular plan
- Assist with tracing funds relating to joint assets or community property

Preparation of Documents

- Prepare drafts of wills and trust agreements
- Draft summaries of will and trust provisions and of pertinent procedures of estate plans,

for clients

- Draft all documents necessary to fund trusts and to sever joint tenancies in common

Implementation

- Supervise or witness execution of wills and trusts, and ensure all necessary signatures
- Arrange for beneficiary changes or changes of ownership of insurance policies
- Record asset transfer documents, as necessary, and advise client regarding titles to future acquired assets
- Complete trust registration and inform clients of notice requirements

Insurance

- Obtain policies from client
- Review policies to determine ownership and type of policy
- Obtain and prepare change of beneficiary forms
- Prepare letter to client (for signature of paralegal or attorney) with instruction for execution if forms not ready during clients' office visit

- Review forms for proper execution when returned
- Transmit forms to insurance company and follow up to see that changes are properly endorsed
- Obtain forms to insurance company and follow up to see that changes are properly endorsed
- Obtain *Forms 938* for any changes of ownership on whole life policies
- Prepare letter to client to return policies and executed forms

Severance of Joint Tenancies of Tenancies in Common

- Prepare letter to client (for signature of paralegal or attorney) requesting evidence of title
- Review asset titles for any joint tenancy or tenancy in common
- Prepare letter to client for attorney's signature explain the consequences of holding property in joint tenancy, gift taxes associated with joint tenancy, tracing theories to substantiate contributions and request

information to establish contribution from client

- Review information from client, outline contribution and determine any gift tax consequences
- Prepare instruments to sever joint tenancy
- Prepare gift tax returns
- File executed gift tax returns
- Complete recording of severance documents
- Prepare letter to client advising on titling of future asset acquisitions

Trust Funding

- Prepare assignments, deeds, nominee partnership and nominee assignments, stock, or bond assignments, federal forms SS-4 and 56, trade name affidavits, if needed; obtain and prepare cards from banks to change

accounts to trust

- Prepare letter to client for attorney's signature explaining title changes and instructing on executing instruments to place assets in trust
- Check returned instruments for proper execution
- Record deeds and trade name affidavits
- Send stocks and bonds to transfer taxes; follow up to see that title transfer is complete
- Send cards to change bank accounts to appropriate institutions with instructions regarding transfer
- Records assignments of oil, gas and mineral interests, forward to oil company for preparation of new division order upon receipt and mail to client for signature and

return, forward to oil company for completion of transfer

- Review partnership agreements for any restrictions on transfer of partnership interest and conform with any requirements for transfer; forward assignments of partnership interests to appropriate parties (partners) to effectuate change in title; complete any requested documentation to assure transfer; review and forward to client any additional information necessary

Miscellaneous

- Act as notary public at document executions
- Arrange for execution of trusts which have corporate trustee by officer of this institution

• *Supervision of other employees was reported by 34 percent of paralegals in 2008. 62 percent of those respondents supervised support staff only, 14 percent supervised legal assistants, and 25 percent supervised both support staff and paralegals.*

Probate, Estates, and Trusts

—Karen E. Howe, CP, APC, Tallahassee, FL

Decedents' Estates

Discovery of Information

- Participate in client interview to begin fact-gathering process
- Complete estate administration questionnaire
- Locate will, codicils and other documents
- Obtain death certificates
- Identify assets subject to probate including:
 - Inventory decedent's home
 - Review decedent's papers (including tax returns, financial statements, insurance policies) for asset information
- Correspond with banks, businesses, insurance companies, brokerage firms, employers, accountants, and others to collect asset information
- Arrange for and attend inventory of safe deposit box, if any
- Secure valuable property
- Collect and transfer assets not subject to probate
- Correspond with creditors or debtors to obtain pertinent information
- Value estate assets
 - Use *Wall Street Journal* in valuing stocks and bonds
 - Arrange for appraisals

–Correspond with accountants to obtain financial information on closely held corporations, partnerships, and sole proprietorships, and review and study the information

Administration

- Examine decedent's financial records to trace funds relating to community property and joint tenancy property
- Prepare documents to probate wills and/or commence administrations, including:
 - Petition for administration
 - Oath of personal representative
 - Notice of administration
 - Order admitting will
 - Letters of administration
 - Notice of trust
 - Petition designating depository
 - Order designating depository
 - Personal representative's bond
- Prepare interim court pleadings such as inventory, petitions for partial distributions, and intermediate reports
- Correspond with court personnel regarding the administration; appear before the registrar in informal proceedings
- Maintain all estate records, including banking records
- Apply for employer identification numbers and file notices of fiduciary relationship
- Prepare and file claims for insurance proceeds and death benefits
- Prepare disallowance of claims against the

estate, as necessary

- Monitor claims (including reviewing court files re same)
- Prepare accountings for filing in court or for the beneficiaries at the time of filing the personal representative's closing statement

Assets

- Prepare and transmit all necessary papers to transfer assets, including stock transfer documents, recording of real estate papers, and transferring title to motor vehicles
- Prepare documents for the sale of assets, including bills of sale, deeds, deeds of trust, promissory notes, settlement sheets, and contracts for sale

Taxes

- Coordinate with accountant for the preparation of gift, estate, and inheritance tax returns, decedent's final income tax returns, fiduciary income tax returns, and individual tax returns for other beneficiaries
- Analyze past returns for pertinent asset information
- Review current returns prepared by accountants or banks
- Arrange for tax releases and temporary payment of taxes
- Prepare correspondence to tax authorities regarding audit of the returns
- Prepare all affidavits or statements filed with returns or submitted upon audit
- Review pertinent documents and do

continued on page 28

research relating to tax problems

Closing the Estate

- Prepare papers necessary to close the estate, including notifying all pertinent parties (IRS and insurance companies) of fiduciary's discharge
- Prepare documents to establish new trusts, including obtaining tax ID numbers

- Prepare documents for final distribution to beneficiaries
- Pay all expenses of administration
- Make final distribution to beneficiaries
- Prepare and effect filing of Notice of Termination of Fiduciary Relationship
- Close estate account and any other accounts
- Conduct or assist in progress conferences

and final conference with the client

Guardianships and Conservatorships In addition to the tasks already listed:

- Maintain all trust records
- Prepare fiduciary income tax returns, or coordinate preparation with accountant
- Prepare documents for sale and transfer of assets

Family Law

—Jackie Wood, Melissa F. Brown, LLC,
Charleston, SC

—Elaine Eldridge, CP, FRP, Novey
Mendelson & Adamson, Tallahassee, FL

Commencement of Action

- Conduct initial interview with client to obtain information for pleadings
- Prepare initial pleadings, including:
 - Petition
 - Summons and waiver of service
 - Affidavit as to children
 - Response (if client is respondent)
- Draft correspondence to client, courts, and others
- Arrange for service of process
- Create and monitor deadlines for case progression

Temporary Orders

- Conduct witness interviews
- Draft affidavits in support of temporary relief motions
- Prepare motions for temporary orders or temporary injunctions
- Obtain hearing dates and prepare notices of same
- Draft stipulations for temporary orders after negotiations

Financial Affidavits

- Work with client in gathering and compiling financial information
- Analyze income and expense information provided by client
- Work with accountants, financial advisors, brokers and other financial experts retained on behalf of client
- Retain appraisers for real estate, business, and personal property
- Prepare financial affidavits
- Apply statutory regulations to calculate child support and the parties' respective obligations to support their children

Discovery

- Draft discovery documents for service on opposing party
- Assist client in gathering documents and data to respond to discovery requests
- Draft responses to discovery requests
- Coordinate the taking of depositions
- Draft questions for use at depositions
- Organize, index, and summarize discovered materials

Settlement Negotiations

- Analyze proposed settlements for attorney's review
- Research legal questions
- Assist in drafting briefs and memoranda
- Assist in drafting separation agreements
- Draft settlement agreements
- Draft final orders issuing divorce decree and approving agreements

Hearings

- Notice and set final orders hearings
- Research legal questions and assist in drafting briefs and memoranda
- Assist in preparation of trial exhibits and trial notebooks
- Arrange for expert witnesses
- Assist in preparing witnesses and client for trial
- Attend hearings to assist attorney with all aspects of hearing, including exhibits, witnesses, and notes regarding judge's rulings
- Draft decree

Post-Decree

- Prepare documents for transfers of assets
- Arrange for filing and recording of transfer documents
- Review bills for tax deductible fees and prepare opinion letters to client
- Draft pleadings for withdrawal from case

Special Projects

- Review advance sheets, legal periodicals, etc. for changes in law and practice
- Develop, maintain, and update forms for gathering information from client
- Maintain files on the following: Separation

Agreement provisions, current case law, resource materials for clients, and experts in various fields (*i.e.*, custody, evaluation, business appraisals, etc.)

Additionally, paralegals may utilize their skills in non-traditional roles such as follows:

Administrative Hearing Officer for a Child Support Agency

—Vanessa Beam, CLAS

- Apply statutory regulations to calculation of child support and medical support orders
- Use state administrative code and operations manual to determine the parties' obligations to support their children
- Conduct establishment hearings using state and agency guidelines and issue orders or recommendations of findings
- Review administrative adjustment recommendations on appeal, including:
 - Considering additional evidence presented by the parties
 - Issue decisions and orders or recommendations to juvenile or common pleas court based on evidence produced in support of appeal
- Conduct secondary administrative review/appeal hearings on questions of fact and interpretation of materials provided by parties
- Render decisions within guidelines determined by administrative code and agency policy/procedures
- Draft motions and pleadings with regard to civil and criminal contempt proceedings in juvenile and common pleas court
- Issue various *ad hoc* orders on issues relevant to child support (*i.e.*, redirections, abatements, terminations, etc.)
- Draft orders for submission to juvenile and common pleas courts
- Act as public information officer responsible for review of and response to requests for data from members of the general public per county and agency public records directives

- Act as public policy officer responsible for drafting and submitting proposals for information handling for approval and implementation
- Review, analyze, and comment on proposed changes in administrative procedure, state recommendations, state manual, and state/agency procedures incident to final approval
- Educate agency staff as to changes in procedures and applications as may be necessary to ensure that agency meets quality standards

• **76 percent of paralegals in the profession more than five years reported in 2008 that their job duties and responsibilities had changed. Of these, 89 percent cited an increase in the sophistication of the work and more complex cases. More client involvement was noted by 76 percent, more specialization was cited by 61 percent, and 36 percent reported more supervisory/administrative duties, and an increase in case management responsibilities.**

Legal Services

—**Christine Saito, ACP, Washoe Legal Services, Reno, NV**

- Conduct initial intake interview with client to verify financial eligibility and nature of request for services

- Conduct legal research related to client issues, which typically cover:
 - Landlord/tenant
 - Fair housing
 - Small claims
 - Predatory lending
 - Loan deficiency
- Assist with completing forms related to evictions and small claims

- Explain tenants rights and required notices under landlord/tenant law
- Explain contracts for automobile loans
- Explain deficiency collection claims
- If client issue proceeds to litigation, perform duties listed on litigation paralegal outline

Litigation

—**Barbara Berry, CP, FRP, Gramling & Fingar, LLP, Tallahassee, FL**

—**Karen George, FRP, Marcos Rothman Scharf, et al, Miami, FL**

—**Beth Sumners, CP, CFLA, FRP, Guilday, Tucker, Schwartz & Simpson, P.A., Tallahassee, FL**

Commencement of Action

- Participate in initial client interview
- Conduct fact investigation and analysis, including visit to accident scene
- Conduct background investigation of parties and witnesses
- Interview witnesses, including obtaining affidavits or written statements
- Obtain photographs, documents, and physical evidence from third parties
- Analyze documentary evidence, including preparation of chronologies
- Draft complaint and necessary motions (plaintiff)
- Draft Answer and necessary motions (defendant)
- Communicate and monitor throughout case corporate the client's adherence to "litigation hold" requirements of records retention policy

Discovery

- Participate in formulation of discovery plan with attorneys
- Draft discovery requests such as requests

for production, interrogatories, requests for copies, and requests for admissions

- Prepare nonparty discovery requests such as *subpoenas duces tecum* without deposition, public records requests, authorizations and release of records and conduct Internet public records research
- Prepare motions, such as to compel discovery or for sanctions
- Conduct legal research relating to pleading and motion preparation
- Depositions
 - Prepare witness files (documents, summaries, questions)
 - Prepare client for giving his/her deposition
 - Attend deposition and take notes on testimony
 - Prepare digests of depositions
 - Assist in editing video depositions
- Organize and analyze documents, including medical records
- Analyze billing records and prepare damage analysis
- Screen responsive and privileged documents
- Control numbering and history of documents produced and received
- Review and summarize records and transcripts
- Locate and make recommendations on expert witnesses—at attorney's instruction contact and provide documents for expert's review
- Schedule surveillance and analyze surveillance results

Settlement and related matters

- Draft demand letters (on behalf of plaintiff)
- Draft status letters to client, analyzing merits of case (defendant)
- Draft tolling agreements
- Prepare mediation presentations

Pretrial Preparation

- Draft pretrial date certificate or statements
- Prepare trial notebooks of witness data, exhibits and legal authority
- Organize and prepare exhibits
- Prepare demonstration exhibits
- Arrange for projectors, screens and other visual aids
- Summarize depositions
- Prepare deposition designation
- Draft witness outlines and questions
- Draft jury instructions
- Prepare verdict forms
- Edit/Prepare videotaped depositions to match deposition designations
- Prepare visual aids or coordinate the hiring of professionals to prepare demonstrative and/or visual aids

Trial

- Obtain trial settings
- Prepare trial subpoenas
- Update trial notebook
- Coordinate scheduling of witnesses
- Assist in preparation of witnesses
- Assist in jury selection and draft *voir dire* questions

continued on page 30

Typical Paralegal Duties

continued from page 29

- Attend trial:
 - Take notes
 - Handle exhibits
 - Coordinate witness arrival at trial
 - Manage deposition transcripts for use at trial

Post-Trial and Appellate Work

- Summarize trial testimony
- Draft bill of costs
- Draft motion for new trial
- Draft notice of appeal
- Assist with designation of record
- Obtain appeal bonds
- Draft portions of brief, including statements of fact, case tables and appendices
- Review of legal authority cited by adverse party
- Attend oral argument and assist attorney with any exhibits

Post-Trial Collection Work

- Search for assets:
 - Department of motor vehicles
 - Ownership and encumbrances
 - Title searches
 - UCC lien searches
 - Internet public record searches
- Prepare post-trial discovery
- Prepare *Rule 69* motions, orders and citations
- Prepare garnishment, levy, attachment papers
- Coordinate execution discovery, orders and judgments with client, debtor, sheriff

Settlements

- Draft settlement agreements
- Draft releases
- Draft motions and stipulations for dismissal

General

- Draft motions and stipulations, *i.e.*, dismissal, extensions of time.
- Draft notices to set, to continue, deposition
- Conduct legal research, including shepardizing, and cite checks
- Draft correspondence to client, witnesses, experts, and others
- Prepare summaries concerning cases on appeal and final appellate decisions for attorney review
- Maintain or assist with maintain legal opinions database

Real Estate

—Susan Barch, *CP, FRP, Akerman Senterfitt, Orlando, FL*

—Carol Holler, *ACP, FRP, Ruden McCloskey, Ft. Lauderdale, FL*

Client is Seller/Buyer

- Meet with client for initial facts investigation
- Draft contract
- Coordinate with other parties, make changes to contract, and handle execution of contract and escrow of earnest money deposit
- Review contract for critical dates, preparation of critical dates checklist
- Order and review title work, draft title commitment, or review if prepared by other party
 - Work with title company and parties to transaction and their counsel to resolve and clear any title problems
 - Obtain permission from title company for any required special coverages and endorsements
 - Draft memorandum, letter, or e-mail to client outlining status of title and/or draft title objection letter or e-mail to other party
- Review survey, work with surveyor to coordinate changes, corrections, etc.
- Review loan payoff documents or new loan documents, and loan documents for any loans to be assumed
- Monitor calendar to assure deadlines are met
- Review any leases affecting the property

and preparation of abstract or memorandum summarizing the terms, and review or prepare rent roll

- Work with real estate agent, title company closer or other title agent, loan officer/closer, all parties to the transaction and their attorneys
- Obtain and /or review evidence of insurance
- Prepare closing documents or review if prepared by another party to the transaction, including:
 - Deed
 - Bill of sale
 - Settlement or closing statement (obtain necessary information to complete)
 - Assignments of leases, contracts, etc., as appropriate
 - FIRPTA* affidavit
 - Owner's no-lien affidavit
 - Notices to existing tenants
 - Handle payoffs
 - New loan documents
 - Any necessary agreements
 - Any necessary curative title documents
- Attend closing
- Follow up after closing:
 - Record documents
 - Monitor wire transfer and/or request and distribute checks
 - Obtain receipts from brokers and other parties for checks
 - Obtain cancelled note, deed of trust or mortgage and satisfaction or release of deed of trust or mortgage if a loan was paid off.
 - Obtain and review title policy and any endorsements or obtain title update and prepare policy and endorsements if your

firm is acting as title agent

- Obtain recorded original documents
- Prepare closing binders
- Prepare final communication to client and, if applicable, lender or other parties

Where Client is Lender (or Borrower)

- Review credit approval and/or commitment letter
- Draft commitment letter if client is lender and client did not prepare letter
- Prepare checklist and distribute to all parties
- Draft loan agreement and all other loan documents, or review if client is borrower—if client is borrower, draft letter or e-mail with comments to loan documents
- Monitor calendar to ensure deadlines are met
- Obtain documents required to document borrower's and collateral's condition:
 - UCC searches—conduct initial search, and order official search from county and/or state
 - Other necessary searches to determine any liens against non-real property collateral
 - Certificate of good standing for a corporation or limited liability company or certificate of registration for limited partnership from state of formation—if not qualified or formed, handle filing of papers with Secretary of State—if qualified in other states, obtain certificates of status from those states
 - Payoff letters from current lenders
 - Lien waivers, owner's and/or contractor's affidavits, as necessary in new construction
 - Leases presently affecting the property

- Back-up information for opinion letter, including certificate confirming zoning, copies of appropriate zoning regulations and certificates from borrower (*i.e.*, confirming borrowing authority, certifying copies of partnership agreement or bylaws of corporation, incumbency certificate for parties to be signing documents, etc.)
- Draft opinion letter or review if prepared by other counsel
- Update checklist from time to time and circulate to all parties—coordinate with all parties to ensure all items on checklist are obtained or completed
- Coordinate with other counsel as to who will be responsible for all closing documents or responsibilities
- Review survey, work with surveyor to coordinate changes, corrections, etc.
- Order and review title work, draft title commitment, or review if prepared by other party—work with title company and parties to transaction and their counsel to resolve and clear any title problems—obtain permission from title company for any required special coverages and endorsements—draft memorandum, letter or e-mail to client outlining status of title and/or draft title objection letter or e-mail to other party
- Draft closing statement, or review if prepared by other parties
- For construction loans, obtain and/or review evidence of zoning, availability of utilities and concurrency, copies of contracts with general contractor, architect and/or engineer, permits (building, stormwater, etc.), and any other construction-related items required by lender
- Obtain and/or review evidence of insurance
- Coordinate with lender for disbursement of loan proceeds, payoffs, etc.
- Attend closing

- Follow up after closing:
 - Monitor wire transfers and/or request and distribute checks
 - Record documents, file *UCC*'s; make any other filings necessary to perfect lender's lien on collateral
 - Obtain title update and prepare title policy(ies) and any endorsements, or review if prepared by another party
 - Monitor receipt of recorded original documents from both county and secretary of state
 - Update *UCC* searches through recorded financial statement
 - Prepare closing binders
 - Prepare final communication to client and/or other parties

Foreclosures (Public Trustee's Foreclosure)

- Meet with client
- Review original loan documents and demand notices sent to client
- Prepare additional demand notices as appropriate
- Obtain title work
- Prepare documents to be filed with the public trustee and deliver the same
- Monitor all deadlines for updates to title work and additional notices due
- Keep client informed as to progress of foreclosure
- If necessary, prepare computations for sure amount
- Prepare and file all pleadings in *Rule 120* action in district court
- Monitor all headlines to be sure notices mailed by public trustee and district court in a timely manner
- Prepare bid calculation, certificate of purchase, etc. for sale date
- Attend sale and review public trustee's file for completeness

- Follow up to client with results of sale, date on which client will be entitled to deed
- Obtain public trustee's deed

Judicial Foreclosure/Quite title Actions

- Meet with client
- Review original loan documents or title documents, any demand notices sent to client
- Prepare additional demand notices as appropriate
- Obtain title work and review
- Draft pleadings to be filed with district court
- File pleadings and record *lis pendens*
- Update title work
- When judgment and decree of foreclosure have been entered by the court, record and proceed with foreclosure, coordinating with the sheriff in the same manner as with the public trustee

Lease Terminations

- Obtain information on delinquencies, review tenants' leases, and prepare 3-day demands or review 3-days if prepared and served by client
- Draft summons, complaint, and affidavit of mailing
- File complaint, mail, and have served
- Review return of service and prepare file for return date
- After judgment is entered, have writ of restitution issued and delivered to sheriff
- Handle day-to-day telephone calls from clients

Miscellaneous

- In addition to the tasks outlined, real estate paralegals may be called upon to perform tasks in the fields of corporate law, litigation, probate and bankruptcy, by virtue of the nature of the real estate practice

• *Continuing legal education seminars were cited by 89 percent of paralegals surveyed in 2008 as the tool most often used for professional growth. Seeking more complex work in the area of specialty was given by 62 percent, and professional certification (CLA/CP and APC or state credential) was reported by 55 percent.*

continued on page 32

Trademarks

—**Erin B. Galloway, CP, NCCP, Sony Ericsson Mobile Communications, Inc., Research Triangle Park, NC**

- Field inquiries from clients regarding various trademark (TM)/copyright/brand protection issues
- Work with head of trademarks to oversee filing and maintenance of international trademark applications and registrations, including:
 - Review correspondence from outside counsel
 - Drafting responses to same; and
 - Gather and provide outside counsel with information, documentation, and specimens necessary to prosecute/maintain trademark applications and registrations
- Receive trademark search requests from clients
- Conduct preliminary online trademark screening searches, evaluate results and report preliminary opinion to clients regarding availability of mark(s) for use and/or registration
- Maintain databases and electronic files for international trademarks, third-party licensed trademarks, domain names, and opposition and cancellation proceedings.
- Prepare and maintain portfolio status charts.
- Prepare summaries and status reports of trademark matters and cases for review by in-house counsel and for clients
- Oversee execution and legalization of documents (such as trademark assignments and powers of attorney) for submission in international trademark matters
- Review user guides, white papers, advertisements and other printed material for TM quality control and proper attribution language
- Work with Web publishing department, outside counsel, registrars and registrants on domain registrations, cyber-squatting, and infringement matters
- Monitor auction sites and stand-alone Websites for the sale of counterfeit merchandise
- Maintain database to keep track of these sites and any actions brought
- Counterfeit TM investigation and resolution, correspondence or phone interaction with US customs agents, anti-counterfeit group, outside counsel, and parent companies regarding products
- Draft legal correspondence and memoranda for attorney review
- Review outside counsel and other vendor invoices for accuracy and process payment of same
- Assist with due diligence and other intellectual property issues related to contracts, agreements, and other transactional matters
- Perform other duties and special projects as requested—may involve handling confidential and sensitive material

• *The Far West showed average annual compensation (salary and benefits) of \$59,787 reported by the 2008 survey. The Southwest followed at \$54,227, New England/East region was \$52,001, and the Great Lakes area at \$51,001. The Southeast, at \$48,995; Plains states, at \$46,920; and the Rocky Mountains, at \$44,175 completed the survey.*

• *According to NALA's 2008 National Utilization and Compensation Survey Report.*