THE Bulletin

"A Century of Service to Miami-Dade"

123 N.W. First Avenue Miami, Florida 33128 / www.dadecountybar.org / MAY 2012

2012-2013 DCBA & YLS ELECTION SCHEDULE

DCBA		YLS
5/01	ONLINE VOTING BEGINS	5/02
5/14	1 PM DEADLINE FOR ONLINE VOTING	5/15

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PRESIDENT'S MESSAGE

Andrea S. Hartley

The Dade County Bar Association and the solo and small firm member – it's like peanut butter and chocolate! It's true, they are "two great things that go great together." Most solo and small firm lawyers need to be a jack of all trades especially in the areas of marketing, technology and finance. Well, the DCBA can help you master the business of practicing law.

Solo and small firm lawyers need to be marketing machines to survive in the marketplace. Fortunately, the DCBA has the resources and committees to help you develop business. The Solo & Small Firm Committee as well as the Business Outreach Committee provide networking opportunities for members and programming on business development topics. From CLEs like *Common Sense Strategies to Grow Your Practice to Marketing Ethically in the 21st Century,* the DCBA is here to help lawyers with their marketing efforts.

Technology can level the playing field among lawyers. But for many solos and small firm lawyers, technology is the 800-pound gorilla in the room. Big, dark and scary. The DCBA tamed the beast for you, and has committed tremendous resources to addressing the issue of technology in the practice of law. This year, we created a Law and Technology Committee. The Committee is working on developing a new website for the Association which will allow members to be part of a discussion listserv, update their contact information and provide a link to their law firm website.

The Law and Technology Committee also hosts our popular Tech Tuesdays. Tech Tuesdays are one hour programs held the second Tuesday of every month at the DCBA offices. The Tech Tuesdays' programs have included *Using LinkedIn to Build Your Practice, Large Litigation Management for Small Firms, and Practicing Law with an ipad.* The DCBA also offers CLEs on topics such as the *Impact of Social Media, Best Legal Apps for iphone, Android and Blackberry, Avoiding Snags in the Social Network* and *Intermediate Facebook*. The DCBA is committed to helping lawyers understand and better utilize technology in their practices.

Finally, for solos and small firm lawyers, the buck stops at your office. Finance is another tough area in one's everyday practice, especially in today's economy. The DCBA has resources on the issues of financial and time management as well as other dollar driven topics.

If you are a sole practitioner or are thinking of starting your own law firm, you should plan to attend our Solo and Small Firm Seminar on June 27, 2012. The seminar is "How to Start and Grow a Successful Law Firm." The featured speaker is RJon Robins, formerly with The Florida Bar Law Office Management Assistance Service. This CLE seminar will provide valuable information that can help you with the business of practicing law.

There is a natural synergy between the DCBA and solo and small firm lawyers. Of all the famous relationships in history – Marc Antony and Cleopatra, Lancelot and Guinevere, Romeo and Juliet, Maverick and Goose – there is none with more promise and potential than that between the DCBA and the solo and small firm lawyer. After all, flying solo doesn't mean you can't have a wingman.

DADE COUNTY BAR ASSOCIATION
96th Annual Installation Celebration

Installations of
GARRETT J. BIONDO as PRESIDENT

SUZETTE L. RUSSOMANNO as PRESIDENT
YOUNG LAWYERS SECTION

and the OFFICERS and DIRECTORS
DADE COUNTY BAR ASSOCIATION
and YOUNG LAWYERS SECTION

Presentation
DAVID W. DYER PROFESSIONALISM AWARD
PRESENTED TO JUDGE ALAN S. GOLD

SATURDAY, JUNE 9, 2012 AT 7 P.M.
Mandarin Oriental Hotel
500 Brickell Key Drive
Miami, FL 33131

MINDFULNESS: A CHALLENGE FOR OUR TIMES

By: Hon. Alan S. Gold

Hon. Alan S. Gold

A famous Teacher has put it this way, when asked what surprises him most about humanity, "Man, because he sacrifices his health in order to make money. Then he sacrifices money to recuperate his health. And then he is so anxious about the future that he does not enjoy the present; the result being that he does not live in the present or the future; he lives as if he is never going to die, and then dies having never really lived."

My topic is not as broad as that of the famous Teacher, but it does involve one aspect, and that is the relationship between our health and mindfulness: the ability to live in and enjoy the present moment. Why should this concern lawyers and judges? We constantly hear, both as lawyers and judges, about the lack of "civility" in the practice of law. We, as judges, have raised the price of "incivility" by imposing sanctions, although many lawyers complain we have not used sanctions enough. As a profession, we have become so concerned about "incivility" that The Florida Bar has amended the Oath of Admission by "... pledging fairness, integrity, and civility, not only in court, but also in all written and oral communications." But, do sanctions and oaths really address the root cause of the problem of incivility? I think not.

For what it is worth, it is my belief and observation that the root cause of the incivility and poor professional behavior arises, in large part, because of the extreme and cumulative stresses that we, as lawyers and judges, find ourselves coping with on a daily basis. This is especially true given these difficult and challenging economic times, and, at the same time, having to confront the increased alienation we experience from each other because of our technology. My premise is that the degree of civility practiced by all of us is directly related to how we cope with, and handle, extreme stresses. If this premise is true, what can we do about it? How do we begin to control our reactive and counterproductive behavior when we feel "out-of-control" and feel helpless to do anything about it?

Let me be clear. In offering my comments, I am not asking you, as lawyers or as judges, to do anything to diminish your effectiveness or to give up your "edge." To the contrary, in addition to managing stress, improving health and increasing civility, my recommendations are directed to enhancing your skills and effectiveness. Your first reaction may be that this sounds too "New Age" and implausible, but I ask you to be "mindful" and bear with me. In effect, what I am suggesting to you is no more than how some martial art's masters deal with moments of intense combat; that is, from the center, flowing with the breath. We can apply these "martial arts" skills to the practice of law and achieve an energized calm, and with it a proactive and focused choice which adds to our power to thread through the turbulent storm.

The Medical Side of Excess Stress

Let us acknowledge that we, as lawyers and judges, are "adrenaline junkies." We are drawn to a profession that, at times, gives us a "rush" by challenging us often in dramatic ways. So, some degree of stress is inherent in what we do, and many of us can cope pretty well. But, what are the medical

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THE ABC'S OF PARALEGAL DESIGNATIONS

By: Linda McGrath-Cruz

Linda McGrath-Cruz

When hiring paralegals for your practice, there are many factors to be considered. You want to have the right mix of education, experience, professionalism and personality. In Florida, there is no mandatory registration or certification of paralegals but there are a wide variety of voluntary measures that a paralegal can take to improve his or her professional standing.

Because of this lack of mandatory guidelines, there can be a lot of confusion. This confusion is not limited to attorneys; some paralegals are not even sure of their correct title and sometimes refer to themselves as being certified when they are not. Before you even get to consider certification, it is easy to get confused when simply trying to decide between a "legal assistant" and a "paralegal." These two terms are synonymous – this is not a matter of preference or opinion, it is a fact. The terms are defined as such throughout the country in Supreme Court rulings, statutes, ethical opinions, bar association guidelines and other documents. There is, however, clearly a preference and pattern of use in having "legal assistant" refer to legal secretary work and, therefore, "paralegal" is the title of choice for many.

Certified Legal Assistant ("CLA") and Certified Paralegal ("CP")

The National Association of Legal Assistants/ Paralegals ("NALA") provides one of the most recognized certifications a paralegal can obtain. Its CLA/CP program was established in 1976, to offer a nationwide designation for all paralegals. Because the terms are synonymous, paralegals who successfully complete the NALA CP exam may choose either the CLA or CP title. As of November 15, 2011, there are 16,757 Certified Paralegals, 4,263 of whom are located in Florida.

In the past, the two-day CP exam was given three times a year in a hand written paper format. The exam has been described as grueling by many and it is not uncommon for an examinee to need to re-take at least one section. The exam consists of five sections: communications (objective and essay); judgment and legal analysis (essay required); ethics; legal research and substantive law. The substantive law section includes one section on the American legal system plus four sections in practice areas selected from a list by examinees. In September 2010, the exam was computerized and can now be taken in individual sections on different dates selected by the examinee.

To qualify to sit for the CP exam, a paralegal must meet a specific combination of education and/or work experience requirements. The CLA/CP designation is awarded for a period of 5 years and, to maintain their CP status, paralegals must submit 50 hours of CLE (which includes 5 ethics CLE).

Advanced Certified Paralegal ("ACP")

Once a paralegal has achieved the CLA/CP designation, he or she has the option to obtain an advanced NALA certification.

Because ACP courses are designed specifically for paralegals with a current CLA/CP designation, the focus is on education and learning specific subject matter as opposed to testing. Each course is about 20 hours in length and actual completion time depends on the paralegal's understanding of the material. There are currently about a dozen different subjects available, including discovery, trial practice, ADR, social security disability, trademarks and more.

Upon completion, a paralegal may use the ACP designation and is also awarded CLE credits towards his or her reporting requirements. If a paralegal fails to maintain his or her CLA/CP designation, that paralegal will also lose the advanced certification. As of November 15, 2011, there are 2,502 Advanced Certified Paralegals, 464 of whom are located in Florida.

Florida Certified Paralegal ("FCP")

In addition to the ACP, a paralegal who has achieved the CLA/CP designation can also obtain the Florida Certified Paralegal designation. The FCP was established in 1980 by the Paralegal Association of Florida, Inc. to compliment NALA's CLA/CP program.

The FCP exam is a three hour in-depth exam that covers Florida law. It is given once a year in central Florida and consists of multiple choice, true/false and matching questions and an essay. The test has two sections. The first covers ethics, civil procedure and Florida general law that includes Florida's court system, basic criminal law, basic property law, basic estate and probate law, basic family law and basic business law. The second section covers the test taker's choice of real estate, probate law, business law, family law or criminal law.

The FCP designation is awarded for a period of 5 years and, in order to maintain their FCP status, paralegals must submit 30 hours of CLE (which includes 5 ethics CLE). As of December 29, 2011, there are 170 Florida Certified Paralegals.

Registered Paralegal ("RP")

In 1996, the National Federation of Paralegal Associations, Inc. ("NFPA") began offering the RP designation upon successful completion of its Paralegal Advanced Competency Exam ("PACE"). PACE is a four-hour computerized exam, which consists of 200 multiple choice questions. The exam covers tasks that paralegals may frequently perform, and is not restricted to a particular practice area or geographic location. The topics covered include: administration of client legal matters; development of client legal matters; factual and legal research; factual and legal writing and office administration.

To qualify to sit for PACE, a paralegal must meet a specific combination of education and work experience requirements. The RP designation is awarded for a period of 2 years and, in order to maintain their RP status, paralegals must submit 12 hours of CLE (which includes 1 ethics CLE).

Core Registered Paralegal ("CRP")

In 2011, NFPA launched the Paralegal CORE Competency ("PCC") Exam designed to test the core competencies of early-career and entry-level paralegals. The exam takes into account coursework in a paralegal program and also actual skills considered essential to basic competency in the paralegal profession.

There are numerous options for eligibility to sit for the PCC exam, because it is designed for individuals who may not have the education or work experience necessary to sit for other certification exams. The exam consists of 125 multiple choice questions and examinees are given 2 and ½ hours to finish. Upon successful completion, the CRP designation is awarded. The CRP designation is awarded for a period of 2 years and, in order to maintain their CRP status, paralegals must submit 8 hours of CLE (which includes 1 ethics CLE).

Florida Registered Paralegal ("FRP")

In March 2008, the Florida Bar began accepting paralegal registrations. The Florida Registered Paralegal ("FRP") program is a voluntarily registration program, not a certifying program. When it first began, paralegals could qualify to become an FRP through work experience alone under a grandfathering provision. That provision expired in March 2011, and is no longer an option. Paralegals must now possess either a CP or RP designation or a combination of education and work experience.

Like attorneys, registered paralegals must renew their membership on a yearly basis and submit 30 hours of CLE (which includes 5 ethics CLE) every reporting cycle.

Professional Paralegal ("PP")

In 2004 the National Association of Legal Secretaries ("NALS") created the Professional Paralegal designation.

The PP designation is awarded upon completion of a one-day four-part examination. The exam covers written communications; legal knowledge and skills; ethics and judgment skills and substantive law. As of October, 2011, there were 504 Professional Paralegals in the United States.

The PP designation is awarded for a period of 5 years and, in order to maintain their PP status, paralegals must submit 75 hours of CLE (which includes 1 ethics CLE).

Graduates of Paralegal Education Programs

Paralegals have a variety of educational options. These include traditional associate degrees, bachelor degrees and even graduate level programs in paralegal studies. Paralegals that are looking for a faster option might choose a paralegal certificate program. For example, the University of Miami offers a paralegal certificate program which takes only four months to complete. Upon completion of the UM program, a paralegal receives a "paralegal certificate," but this does not make them a "Certified Paralegal". Graduates of paralegal certificate programs are usually referred to as "certificated paralegals".

Unfortunately, many paralegals rush into this kind of fast-track education without fully exploring the true investment compared to the real world value. Some paralegals mistakenly refer to themselves as a "Certified Paralegal" when in fact their "paralegal certificate" is simply proof of the completion of a paralegal training course. Also, fast-track "certificate" programs do not qualify under the educational requirements of the Florida Bar for registration as an FRP and may not meet the qualifications of other certifying groups.

Memberships

It is also important to keep in mind that individuals can be members of all of the organizations listed above – with the exception of The Florida Bar – without taking the certification/registration exam. A paralegal might be a member of NALA without ever applying to take the CP exam.

The Bottom Line

As an attorney, you are ultimately responsible for your work product. You may, however, delegate many of your tasks to paralegals. You are constantly confronted with the challenges of providing quality legal services to your clients and you need to be assured that the paralegals you hire are educated and qualified to assist you. Paralegals who have taken the steps to demonstrate their commitment to the paralegal profession and have met the high professional standards of groups such as The Florida Bar and NALA have significant value. They demonstrate that they met the standards of paralegal competency, and that they know and understand their ethical duties and limitations under the unauthorized practice of law statutes.

Although registration and certification are voluntary, they provide you with a benchmark for hiring practices. I hope that this article will give you a better understanding of the variety of options available when adding new paralegals to your staff. I also hope that you will consider encouraging existing staff and supporting them in gaining certification or registration to further enhance your firms' professional profile.

Linda McGrath-Cruz, ACP, FRP is a litigation paralegal with the Miami office of Arnstein & Lehr LLP. Linda is the Chair of the DCBA's FRP Committee and is an instructor and advisor for the Paralegal Knowledge Institute. Linda can be reached at 305-753-2443 or lmc@miamifrp.com.

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DADE BAR BULLETIN

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