# the Briefs

A Publication of the Orange County Bar Association

Kristyne E. Kennedy, Esq.
OCBA President
2012-2013

Thomas A. Zehnder
OCBA President
2011-2012

May 2012
Vol. 80 No. 5

## Inside this Issue:

**President's Message**
*Reflections on a Year that Went by Way Too Fast*
Thomas A. Zehnder, Esq.

*Stern v. Marshall: A Quagmire for the Future of Bankruptcy Jurisdiction or Just a Bad Joke? Part II*
Bradley M. Saxton, Esq.
C. Andrew Roy, Esq.

**Diversity Committee**
*Lost in Translation: Foreclosure Scams Target Speakers of Other Languages*
Karla E. Valladares, Esq.

**Paralegal Post**
*The ABC's of Paralegal Designations*
Linda McGrath-Cruz, ACP, FRP

# Contents


**3**
**President's Message**
*Reflections on a Year that Went by Way Too Fast*
Thomas A. Zehnder, Esq.

**4**
**Professionalism Committee**
*Professionalism: To the Obscene – Remarks by Ryan E. Davis Upon Receiving the 2012 Lawrence G. Mathews, Jr. Young Lawyers Professionalism Award*
Ryan E. Davis, Esq.

**5**
**OCBA Fifth Annual Officer Installation and Awards Banquet**

**7**
**Foundation News**
*OCBA Foundation's Program on the Importance of Fair and Impartial Courts*
Thomas P. Wert, Esq.

**11**
**Foundation News**
*High School Mock Trial Teams Receive Foundation Support*
The Honorable Antoinette D. Plogstedt

**12**
*Stern v. Marshall: A Quagmire for the Future of Bankruptcy Jurisdiction or Just a Bad Joke? Part II*
Bradley M. Saxton, Esq.
C. Andrew Roy, Esq.

**14**
**Legal Aid Society**
*What We Do...*
*Weathering the Storm*
Donna A. Haynes

**15**
**Board of Governors Report**

**16**
**InnSider**
*Litigating with Professionalism*
Richard S. Dellinger, Esq.
The Honorable on B. Cheek, III

**17**
**Legal Aid Society News**
*Edmund T. Baxa, Jr. Receives the 2012 Florida Bar President's Pro Bono Service Award*

**18**
**Diversity Committee**
*Lost in Translation: Foreclosure Scams Target Speakers of Other Languages*
Karla E. Valladares, Esq.

**19-21**
**2012 Gala Photos**

**25**
**2012 Leadership Law Update**

**26**
**SideBar**
Sunny Lim Hillary, Esq.

**28**
**Paralegal Post**
*The ABC's of Paralegal Designations*
Linda McGrath-Cruz, ACP, FRP

**32**
**Rainmaking**
*Can Tracking Your Marketing Efforts Make You More Money? Part II*
Mark Powers & Shawn McNalis

**34**
**New Members**

**37**
**Announcements**

**39**
**Classifieds**

**40**
**Calendar**



# the Briefs

**Co-Editors**
Allison C. McMillen & Suzanne D. Meehle

**Associate Editors**
Nick Dancaescu & Diana M. Serrano

**Side Bar Columnist**
Sunny Lim Hillary

**YLS Columnist**
Jacquelynne J. Regan



**OFFICERS**
Thomas A. Zehnder, President
Kristyne E. Kennedy, President-Elect
Paul J. Scheck, Treasurer
Nicholas A. Shannin, Secretary

**EXECUTIVE COUNCIL**
Wiley S. Boston
Mary Ann Etzler
Elizabeth F. McCausland
Nichole M. Mooney
Jamie Billotte Moses
Eric C. Reed
Gary S. Salzman
William D. Umansky
William C. Vose
Kimberly D. Webb
Esther M. Whitehead
Frank M. Bedell, Ex Officio
LaShawnda K. Jackson, YLS President

**EXECUTIVE DIRECTOR**
Brant S. Bittner

**Communications Manager**
Peggy Storch

**Marketing Manager**
Sheyla A. Asencios

**Marketing Assistant**
William M. Remensnyder



Residential Mortgage Foreclosure Program
407-649-1833
880 North Orange Avenue • Orlando, FL 32801
(407) 422-4551 • Fax (407) 843-3470


| | |
|---|---|
| Legal Aid Society | 407-841-8310 |
| Citizen Dispute | 407-423-5732 |
| Family Law Mediation | 407-422-4551 |
| Lawyer Referral Service | 407-422-4537 |
| Legal Placement Service | 407-422-4551 |
| Young Lawyers Section | 407-422-4551 |

**DEADLINE INFORMATION**
**Advertising - 10th of the month prior to the month of publication**
**Copy - 15th of the month six weeks prior to the month of publication**


If the deadline falls on a weekend or holiday, the deadline is the next business day. Publication of advertising herein does not imply any endorsement of any product, service or opinion advertised. The opinions and conclusions, including legal opinions and conclusions contained in articles appearing in *The Briefs*, are those of the authors and do not reflect any official endorsement of these views by the Orange County Bar Association or its officers and directors, unless specifically stated as such.
All contents ©2012 Orange County Bar Association. All rights reserved. Designer: Catherine E. Hebert.
Cover: Florian Boehm, Boehm & Boehm



ISSN 1947-3968

Linda McGrath-Cruz, ACP, FRP

## *The ABC's of Paralegal Designations*

When hiring paralegals for your practice, you need the right mix of education, experience, professionalism and personality. In Florida, no mandatory registration or certification program for paralegals exists, but paralegals can take a wide variety of voluntary measures to improve their professional standing. So, how do you know whether the paralegal you are interviewing is certified, certificated, registered or none of the above?

**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. The CLA/CP program was established in 1976 to offer a nationwide designation for all paralegals. Paralegals who successfully complete the NALA CP exam may choose either the CLA or CP title.

The exam has been described as grueling by many, and it is common for an examinee to need to retake a 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 and four sections in practice areas selected from a list by examinees.

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 five years. To maintain CP status, a paralegal must complete 50 hours of CLE.

**Advanced Certified Paralegal (ACP)**
Once a paralegal has achieved the CLA/CP designation, he or she has the option to continue certification through NALA by obtaining an advanced certification.

The ACP courses focus on education and learning specific subject matter as opposed to testing. Each course is about 20 hours in length and actual completion time will be based on the paralegal's understanding of the material. Currently, a dozen different subjects are available, including discovery, trial practice, ADR, social security disability, trademarks and more.

Upon completion, the paralegal may use the ACP designation and is also awarded CLE credits.

**Florida Certified Paralegal (FCP)**
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 complement NALA's CLA/CP program.

The FCP exam is a three-hour, in-depth exam that covers Florida law. The test has two sections. The first covers ethics, civil procedure and Florida general law that includes Florida's court system in addition to basic criminal law, property law, estate/probate law, family law and business law. The second covers thorough testing in your choice of real estate, probate law, business law, family law or criminal law.

The FCP designation is awarded for a period of five years. To maintain FCP status, a paralegal must complete 30 hours of CLE.

**Registered Paralegal (RP)**
In 1996, the National Federation of Paralegal Associations, Inc. (NFPA) began offering the RP designation upon successful completion of the Paralegal Advanced Competency Exam (PACE). PACE consists of 200 multiple choice questions covering tasks paralegals may frequently perform. It is not restricted to a particular practice area or geographic location. The topics covered are: administration of client legal matters, development of client legal matters, factual and legal research, factual and legal writing, and office administration.

To sit for PACE, a paralegal must meet a combination of education and work experience requirements. The RP designation is awarded for a period of two years. To maintain RP status, a paralegal must complete 12 hours of 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.

There are numerous options for eligibility to sit for the PCC exam as 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 two-and-a-half hours to complete it. Upon successful completion, the Core Registered Paralegal (CRP) designation is awarded. The CRP designation is awarded for a period of two years. To maintain CRP status, a paralegal must complete 8 hours of CLE.

**Florida Registered Paralegal (FRP)**
In March 2008, the Florida Bar began accepting paralegal registrations. The Florida Registered Paralegal (FRP) program is not a certifying program; it is a voluntary registration program.

When it first began, paralegals could qualify to become an FRP by work experience alone under a grandfather 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 complete 30 hours of 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 that covers written communications, legal knowledge and skills, ethics and judgment skills, and substantive law.

The PP designation is awarded for a period of five years. To maintain PP status, a paralegal must complete 75 hours of CLE.

**Graduates of Paralegal Education Programs**

Paralegals have a variety of educational options: there are traditional associate degrees, bachelor degrees and even graduate-level programs in paralegal studies. Paralegals who are looking for a faster option might choose a paralegal certificate program. 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.

**The Bottom Line**

As an attorney, you are ultimately responsible for your work product; however, you 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 establish that they have met the standards of paralegal competency and know and understand their ethical duties and limitations under the unauthorized practice of law statutes.

Although registration and certification are voluntary, knowledge of attainable paralegal professional skill sets can provide you with a benchmark for hiring practices. I hope this article will give you a better understanding of the options available when adding new paralegals to your staff and that you will consider supporting existing staff in gaining certification or registration to further enhance your firm's professional profile.

**Linda McGrath-Cruz, ACP, FRP**, is a litigation paralegal with the Miami office of Arnstein & Lehr LLP. Linda can be reached at 305-753-2443 or lmc@miamifrp.com.

VALUATION & LITIGATION SERVICES

BUSINESS VALUATIONS

LITIGATION SUPPORT

FORENSIC ACCOUNTING

**ADAM T. MAGILL, MBA, AVA, CBA**

801 MAGNOLIA AVE, STE 304, ORLANDO, FL 32803

407-233-4180 | 407-233-4182 Fax

**HONEYWELL MEDIATION**

DAN H. HONEYWELL

*& Other Alternative Dispute Resolution Services*

**Do you know your mediator too well?**

That can be good or bad. Good, if your knowledge gives you trust and confidence in your Mediator's efforts. Bad, if excessive familiarity leads to complacency and inattention to the needs of your opponent. Make sure you recognize the difference.?

Visit my website: **www.honeywellmediation.com** to find who I am, my **online schedule**, my **educational blog**, and what I offer you and your client who may be seeking success without trial. My unique credentials and experience can be a useful and valuable added resource in finding resolution to your client's dispute.

• Certified Circuit Civil Mediator • Certified Appellate Mediator • Certified Federal Court Mediator • Board Certified Civil Trial Lawyer

Call **Honeywell Mediation/Mediation, Inc:** Winter Park: **407-647-5155**
Orlando-Central Florida: **407-294-7000** • Statewide-National: **800-741-7000**

Neutral, convenient conference facilities on Lee Road in Winter Park.
*Available anywhere in Central Florida without travel charge.*

CERTIFIED INFORMATION SYSTEMS SECURITY PROFESSIONAL CISSP

**Security Solutions**

***CISSP***

*Certified Information Systems Security Professional Golden Seal*

**Schedule a Consultation**

If you are serious about protecting your firm from litigation, intellectual theft and employee misconduct our security experts can help. The business of protecting your business should not be take lightly.

***(407) 345-5636 Option 2***

PROTECHNICA

PROFESSIONAL TECHNOLOGY SUPPORT

*Contact@Protechnica.net*

*www.Protechnica.net*

*Recommended IT Provider of*

ORANGE COUNTY BAR ASSOCIATION Est. 1933