

# PARALEGAL PRESS



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## Upcoming Events

- January 2014 general meeting CCBA
- February 2014 general meeting CCBA



## HAPPY NEW YEAR LVVPA FAMILY!

Whew!!! What a year. The LVVPA has had many changes this year. From the rollout of our new, re-designed website to board member changes, meeting night changes, location changes...etc. It has been a bit of a wild ride. With all of the change now behind us, as a board we look forward to settling in and continuing the roll out of the various projects started over the course of the past year. One theme remains con-

stant for the LVVPA, your board remains committed to the excellence of this organization and the delivery of relevant CLE topics and presentations for the members. We always look for input from our members, after all, the board is here for the members. As always your comments and suggestions, articles and support are always welcome. We are happy to have input from our mem-

bers. If you are interested in submitting an article for a future publication, please email comments and requests to [admin@vvpa.org](mailto:admin@vvpa.org)

Editors: Carolyn Spoletini  
Michael Rainey

## ASSESSING AN EXPERT WITNESS

BY DAVID NICHTER

In episode eight-six of Queen of Queens, Doug is asked to be an expert witness by Carrie's boss. Doug is EXCITED about earning \$100 per hour as an expert in package delivery, but his use of confusing legal vernacular interposed with layman's jargon proves a challenge for the case. An expert witness, professional witness or judicial expert is a witness, who by virtue of education, training, skill or experience is believed to have expertise and specialized knowledge in a particular subject beyond that of the average person. That expertise is such that others may officially and legally rely upon the witness's specialized opinion, about an evidence or fact issue within the scope of his expertise. When seeking to retain an expert, a law firm,

whether experienced with experts or new to the game, should perform a due diligence and vet the desired expert. Due diligence is defined as a measure of prudence, activity, or assiduity, as is to be expected from, and ordinarily exercised by, a reasonable and prudent organization under the circumstances; it is not measured by any absolute standard, but depends on the relative facts of the special case. Achieving this diligence requires that several areas of the expert's background be established; that his bona fides be reputable. This can be done by assessing the following: education and degrees, training, certifications, licenses, specific knowledge, practical experience, publications, teaching and lecturing, honors and

peer recognition, report and presentation skills. Expert witnesses may deliver evidence about facts from the domain of their expertise. The role of an expert witness is to assist the Trier in understanding technical evidence. The trial Judge must determine whether the proffered individual has the necessary qualifications. The Judge must also decide if the subject matter is sufficiently removed from common experience so that the Trier will benefit from the assistance of the specialist. At times, the testimony of experts may be rebutted with learned treatises, sometimes to the detriment of their reputation. Further information governing the use of Expert Witness throughout the trial process can be found in the Nevada Civil Practice §

## CERTIFIED PARALEGALS

Occasionally, people call themselves "certified paralegals" by virtue of completing a paralegal training course or other type of preparatory education. Although an educational institution may award a certificate of completion being certificated is not the same as earning a professional certification.\*

The National Association of Legal Assistants (NALA) has developed and sponsored a substantive exam for legal assistants/paralegals. Established in 1976, the Certified Legal Assistant/Paralegal (CLA/CP) program has enabled the profession to develop a strong and responsive self-regulatory program offering a national credential for paralegals and legal assistants. The CLA/CP program establishes and serves as a national professional

standard for paralegals/legal assistants. Means of identifying those who have reached this standard.

- Credentialing program responsive to the needs of paralegals/legal assistants and responsive to the fact that this form of self-regulation is necessary to strengthen and expand development of this career field.
- Positive, ongoing, voluntary program to encourage growth of the paralegal/legal assistant profession, attesting to and encouraging a high level of achievement.

**\*Professional certification is a voluntary process by which a**

**nongovernmental entity grants a time-limited recognition to an individual after verifying that the individual has met predetermined, standardized criteria. (Source: Rops, Mickie S., CAE, Understanding the Language of Credentialing, American Society of Association Executives, May 2002.)**

To verify whether a person has been certified or to obtain further information on certification please visit the NALA website at [www.NALA.org](http://www.NALA.org). Click on "Certification," then page down to section entitled "Current Directory of Certified Paralegals."

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### Wacky Laws

*Public Eateries in Bristow, Oklahoma, are required to serve each patron a peanut with a shell for every glass of water served.*

*Kissing on the lips in Riverside CA, is in violation of a local health ordinance, unless both parties first wipe their lips with carbonized rose water.*

### ASSESSING YOUR EXPERTS CONT'D

BY D. A. NICHTER

1619. Reports provided by Expert Witnesses must conform to the Federal Rule 26 requirement. Rule 26 requirements for an expert's opinion states in part there must be a written report, prepared and signed by the expert, which is to be furnished to the other attorneys in the litigation. The report must contain: all opin-

ions to be expressed, information considered in the formulation of the expert's opinion, any exhibits to be used as a summary, qualifications and list of publications within the preceding ten years. The compensation of the Expert Witness must be disclosed and a listing of any other cases in which the witness has testified with the proceeding

in the past four years. This article was produced using experts from D. Anthony Nichter's "Assessing Expert Witnesses: Real Experts vs Hired Guns"

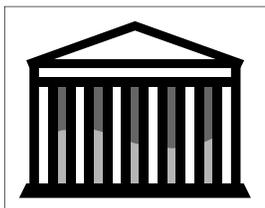
### COMMUNITY CORNER BY THE EDITORS

Just a quick note as we near the holidays. Please don't forget the more unfortunate of our society. Especially over the holiday season there are ever more reasons to provide your financial or emotional support to any number of good causes. We remind you of the following:  
Catholic Charities  
Nevada SPCA

HELP of Southern Nevada  
St' Jude's Cancer Clinic for Children  
The Leukemia Lymphoma Society  
The American Red Cross  
Big Brother & Big Sisters  
The United Way  
Backpack program for kids of Nevada  
The Southern Nevada Women's Shelter

Autism Society

Remembering and assisting those who are less fortunate than we are is always a blessing and part of the miracle of the Christmas Season.



## PRESIDENT'S MESSAGE

BY LINDA SOEDER

At this time of the year, we look back on the accomplishments of the past 12 months. We have had some great guest speakers at our General Meetings, and our 2013 Annual Seminar in April was a huge success. A new Board of Directors was elected in May. We added a new feature to the website, Legal Resources, with links to sites that we think benefit paralegals. And we had several members successfully complete the Certified Paralegal exam. The new website at [www.lvpa.org](http://www.lvpa.org) was announced in September; it is very professional looking and we hope everyone in our community will register on the

site. Members also voted for a new logo, which reflects our new Las Vegas Valley look. And, we have made it easier to register and pay for memberships and special events by accepting payments through our Paypal account. We are now back at the Clark County Bar Association office for our monthly General Meetings on the 3<sup>rd</sup> Thursday of the month. Many thanks to the vendors who have graciously hosted our meetings each month. Looking forward to 2014, LVVPA plans to continue to develop the Study Group for those paralegals preparing for the NALA CLA/CP exam for certification. We had a great

turnout for our first study group and will be offering it again in the new year. Our new website will be adding some features to make it easier for members to complete renewal applications and for new members to sign up. We are planning the Annual Seminar for April 2014 and will be providing additional information as soon as the location and date are confirmed. Our topic will be Technology in the Law Office. And we will continue to offer a variety of guest speakers and topics at our General Meetings. HAPPY HOLIDAYS TO ALL AND A VERY HAPPY NEW YEAR!



## ETHICS UPDATE

BY MICHAEL RAINEY

According to the by laws of the Las Vegas Valley Paralegal Association, which were aligned with Legal Assists Division of the State Bar of Nevada and Nevada Paralegal Association, "a legal assistant (also known as a paralegal) is a person, qualified through education, training or work experience, who is employed or retained by a lawyer, law office, governmental agency, or other entity ..." There are ethical guidelines by which a person working the legal field in the capacity as legal assistant/paralegal must conduct themselves known as canons. The canons were adopted by the state of Nevada in 1994. They exist to protect attorneys and non-attorneys from inappropriate acts, which can mean illegal practices. In addition to the ten canons there are also the Nevada Rules of Professional Conduct and the Supreme Courts Rules. The violation of the ethical

standards set for our profession may result in discipline in the form of a public or private reprimand, suspension or disbarment. A reprimand can be either public or private and although a reprimand may not prevent a person from working in the field. They bring serious violations to the attention of Nevada Bar Association. The accumulation of reprimands is taken into consideration in the event that further violations occur. Discipline involving fines up to \$1,000, restitution, and the cost of conducting disciplinary proceedings can all be weighed against an offending firm. Also with public reprimand the offending party must cover the cost of publication in local newspapers and official State Bar publications. But, the damage that is done to the reputation of the parties involved is not something that can be scaled. A suspension can result in a misdemeanor as well as a two year period barring a parale-

gal/legal assistant from working in the field of law. Multiple violations within a seven year period will result in further suspension as well as possible fines that must be paid before a person is allowed to return to work in the field of law. Regardless of what process is involved in working through a suspension, as professionals we are responsible for disclosing these matters to any and all future employers for as long as the matter is relevant. It is best to err on the side of caution when considering whether an act crosses the line of what a Paralegal/Legal assistant is allowed to do and not do. Actions resulting in disbarment mean a Paralegal/Legal assistant will be banned from working in any capacity in the legal field. When prior discipline has not curbed misconduct, and there are multiple offenses and continuing violations, disbarment is warranted. Depending on the severity of the violation, a person who is disbarred may not only be banned from work-

in the legal field but may be ordered to pay fines and restitution.

There is much to be mindful of in the day to day operations of a firm. Paralegals/Legal Assistants can be accountable for professional misconduct. Understanding the rules that govern our profession can aid in avoiding and preventing violating ethical standards. You can find further information on rules of professional conduct by referring the Nevada Rules of Professional conduct as well as the Legal Assistant canons on the Nevada Bar Association web site at <http://www.nvbar.org/content/legal-assistants-division>.



## LVVPA

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### TECH TIPS

This Edition: Outlook— Open a new Window

The answer is just a right-click away with the Open in New Window feature:

1. Click the Folder List icon to display Email, Calendar, Contacts, etc.
2. From the Folder List, click the first folder which you would like to view.
3. Next, right-click the second folder which you would like to view.
4. From the menu that appears, select "Open in New Window".
5. The folder which you right-clicked will appear in a new window, allowing you to work with two windows at once.

**Tip: You can open more than one folder in a separate window. Just right-click each folder you would like to open, and select "Open in New Window".**

**-Drew Staplecamp –**

The Las Vegas Valley Paralegal Association is Southern Nevada's only National Association of Legal Assistant's (NALA) affiliated Paralegal Association. The LVVPA f/k/a NPA, formerly CCOLA was originally founded in 1978. In part, our mission is to promote excellence, education, ethical conduct and the enhancement of the paralegal profession. NPA continually works hard to raise its professional standards, and strives to implement continuing education requirements for voting membership.

Monthly general meetings offer free CLE/CLA and are hosted at the Clark County Bar Association's office on 8th Street, Las Vegas, NV. Monthly meetings are held the 3rd Thursday of every month at 6 pm and are hosted free of charge. Light refreshments are included.

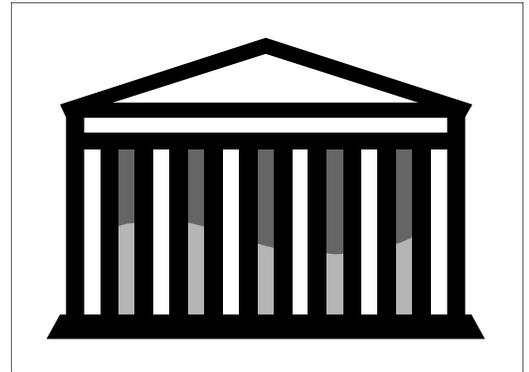
## LVVPA MEMBERSHIP DRIVE!!!!

The LVVPA is currently offering extended memberships to all previous and existing members. Membership in the LVVPA offers many benefits including networking with your peers, attorneys, other firms and business partners.

As well as the opportunity to earn CLE or CLA credits if you are a

NALA certified paralegal.

The LVVPA offers a dual membership with the Clark County Bar Association, as a member of the LVVPA you may purchase a membership with the CCBA for an additional fee of only **\$25.00**



### SECURITIES REGULATION AND THE ROLE OF THE PARALEGAL BY SCOTT FISCHBACH

Prior to 1930, regulation of securities was limited. The "Roaring Twenties" led to the Stock Market Crash of 1930 caused by three main factors: excessive use of *margin*, which is using borrowed funds to buy stock, lack of disclosure around *securities* being offered and sold. Lastly, fifty percent of the securities being offered during the 1920's ended up worthless. (www.sec.gov) Two primary federal statutes were enacted as part of the New Deal legislation in response to the Stock Market Crash of 1929, the Securities Act of 1933 and Securities Exchange Act of 1934. The guiding principles of Federal Securities Laws are that companies that offer securities to the public for investment dollars must tell the public the truth about their businesses, the securities they are selling, and the

risks involved in investing. People who sell and trade securities – brokers, dealers, and exchanges – must treat investors fairly and honestly, putting investors' interests first. (www.sec.gov) Securities Laws generally focus on these items: type of security being offered – stock, LLC, interest, promissory notes, mutual fund interest, and the like. As well as parties offering or selling the securities and the disclosures is provided to prospective investors about the company and securities being offered. Strip away all the technical and legal jargon, securities offerings are all about helping companies and entrepreneurs raise money to grow their businesses. Capital raising formation is fundamental a cornerstone to the American economy and driver of innovation, for new companies and job creation. This is the essence of securities offerings. When a business is first starting

or expanding the source of that growth is money. Money that comes from: saving, credit cards, friends and family, investors, venture capital/private equity, Banks/Investment Banks. Legal issues in securities begin to arise as soon as an owner decides to take money from someone other than the owner. Litigation in securities comes about when investments go bad. Securities paralegals find employment with: corporate/securities law firms, commercial litigation firms, in house at publicly traded companies, with SEC and State securities agencies as well as in house at Broker-Dealers. Gaming compliance paralegals are well suited to work at Broker-Dealers because a lot of the registration requirements and disclosures for Broker-Dealers are similar to gaming license applications.