



AT-ISSUE

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PAT KNOWS THAT NEW STUDENTS ASK ABOUT TRANSITIONING FROM ONE CAREER TO ANOTHER, JOB POTENTIAL AND AGE DISCRIMINATION. SHE OFFERS ACADEMIC AND CAREER COUNSELING TO ALL STUDENTS ON AN INDIVIDUAL BASIS . . .

PAT MEDINA - FACULTY STAR

The article below is reprinted courtesy of Mary Connelly, Web Developer,

<http://www.cel.sfsu.edu/paralegal>. Pat Medina is the author of Paralegal Discovery: Procedure and Forms. She has worked as a litigation paralegal for over 20 years, with experience at both plaintiff and defense law firms. In 2003, she was honored by the American Association of Paralegal Educators as Teacher of the Year.

Pat Medina, Program Director, is, so to speak, the "mother" of the Paralegal Studies Program (PLS) at San Francisco State Extended Learning. Typically, her desk is decorated with heart felt thank-you notes and flowers from graduates of the program who have just accepted great jobs or have been promoted. She's never short on volunteers, and recruiters of the Bay Area's most reputable law firms swarm her program's career fairs. So, what is it about Pat?

Pat's Background

Pat was a High School English teacher for several years before considering the paralegal profession. She was always attracted to the legal profession, but when she graduated from college – as she says: "in a very unenlightened time" – women were not encouraged to go to law school. Formal paralegal training was still in its infancy, but Pat decided to combine night classes with teaching and her small children, setting out on a new adventure in 1979.

Solidly in the Industry

Pat joined the SF State paralegal faculty in 1981 - at a time when really only attorneys were being hired to teach paralegal classes. She continued to work as a litigation paralegal and built many solid working relationships with attorneys, paralegals and legal support personnel. She served as an officer for the San Francisco Association of Legal Assistants, now known as SFPA, and chaired the Education committee. "Many paralegals who began when I did, moved into management positions at large law firms and are now on our Paralegal Advisory committee. I remember working with paralegal managers on a joint professional committee. One of the original committee members was Hilary O'Brien who is now the Director of Administration at Morrison and Foerster. We have remained friends all these years and her continuing support has been fantastic and

FEATURES

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.....cover

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Editor:

Georgette Neal

Feature Articles:

Cindy L. Arvanites

Proof Readers:

Matt Hayashi &

Trish Gorman

Webmaster

Bryan Marini

Dear Readers,

In this edition we feature former paralegal now educator *extraordinaire*, Pat Medina. Before the Association was SFPA it was SFALA, the San Francisco Association of Legal Assistants. Pat should know. She was there as the Education Chairperson from 1987-1991. During that time she chaired the Annual SFALA Career Faire. She also served as a Director from 1989-1991. Pat was the recipient of the President's Award in 1992. She continues to support of SFPA by hosting such events as a recent CAPA Leadership Conference at San Francisco State University's convenient Downtown Campus.

The SFSU College of Extended Learning offers a 30-academic-unit certificate program in paralegal studies, providing instruction in practical legal skills and substantive law. Courses are conducted at the upper-division level and are taught by attorneys and paralegals, all of whom have practical experience in the field. This program is a member of the American Association for Paralegal Education (AAFPE), which requires that all of its member programs be in substantial compliance with nationally recognized guidelines. It is also accredited through San Francisco State University by the Western Association of Schools and Colleges, the official regional accrediting body for academic institutions in the western part of the country. The program is approved by the American Bar Association. The primary goal of the Paralegal Studies certificate program is to educate students for positions as paralegals as a means of improving the quality, accessibility, and affordability of legal services. Please see www.cel.sfsu.edu/paralegal.

The Estate Planning section hosted a well-attended lunch-hour meeting at Coblenz, Patch, Duffy & Bass, in January. Pat Rock of Prudential Realty provided dessert. Tim Knies, San Francisco Probate Examiner, was guest speaker. An attorney from Coblenz, who attended the meeting, was pleasantly surprised to learn he could earn MCLE credit and promptly signed in. You can find a summary of the event by section chairpersons Ester Lang and Cindy Madden on pages 9 and 10.

Inside also is Mary McLaughlin's NFPA News which presents the calendar for the year and more. Mary's column welcomes "new" members. We especially appreciate membership in these economic times.

NFPA's *The National Paralegal Reporter*, December/January 09, issue features articles by Mary McLaughlin, RP, "the Impact of Pro Bono" and by Mel Irvin, CP, "Social Security Representation". Mary, NFPA Liaison to the ABA Pro Bono and Public Service Committee, writes about the opportunities and growing need for paralegals. The 2009 Equal Justice Conference, to be held in Orlando, Florida, May 14 through 15, is an effective way to connect attorneys with paralegals who, according to Mary, are "the quiet aspect of the pro bono picture." Mel writes about a subject near and dear to his heart. Mel is a non-attorney Social Security Disability Claimant's representative in Sunnyvale, CA. His article provides a concise map to advocating without going to law school. (See *The National Paralegal Reporter*, December 2008/January 2009, pages 10-12 and pages 38-39.)

Christine Parizo, RP and NFPA Technology Coordinator is a paralegal in Medford, Massachusetts. She maintains a blog geared toward paralegals at www.paralegalsblog.com. Her article in the *NFPA Reporter*, "Regulation - A Struggle for Respect" is a powerful piece which centers on Wisconsin's ten-year-plus carefully assembled case for mandatory regulation which was denied by the Wisconsin Supreme Court in April 2008 due to lack of jurisdiction and financial resources. Christine writes, "It is a dangerous precedent, as the only way that paralegals can truly be recognized as professionals is for paralegals to be subject to mandatory regulation of the profession. (See *National Paralegal Reporter*, December 2008/January 2009, pages 6-7).

If you look in *The Reporter* for PACE news you will see that the undersigned is in receipt of the 2008 PACE Scholarship, sponsored by Pearson Publishing. As I was not able to attend the NFPA Annual Convention, Mary McLaughlin graciously accepted the award for me. I am grateful and honored, beyond words.

Georgette Neal

includes catering our annual graduation celebration, hiring many of our graduates, and working with our intern program."



Running PLS on Both Ends

A program needs to be run "on both ends" - and that means understanding the students' needs and concerns, and lending them a helping hand throughout the process. Pat knows that new students ask about transitioning from one career to another, job potential and age discrimination. She offers academic and career counseling to all students on an individual basis which includes revising their resumes to highlight transferable skills, and strongly advises students to do an internship to gain legal work experience.

Age is a Non-Facture

Many job orders Pat gets prefer a "mature" paralegal candidate. While age is not a factor in legal employment, prior work experience and most of all computer knowledge are prime factors. Some of the older students need to increase their computer savvy and the program offers classes to help them do that.

EDITOR'S NOTE ABOUT THE AUTHOR'S WORKS

Pat Medina's textbook, *Paralegal Discovery Procedures and Forms*, Fourth Edition, Aspen Publishers, was last supplemented in 2001. The newly revised Fifth Edition includes all materials from the Fourth Edition and all subsequent supplements. It is completely updated. Sections are devoted to the challenges of managing electronically stored information (ESI), the 2006 amendments to the Federal rules now governing it, and the birth of the term "electronic discovery specialist" or ED - an exciting opportunity for a paralegal.

According to Pat, "There have been many changes since this book was first written in 1989; however, the more things change, the more they remain the same. The litigation paralegal is still the "go to" person for clients and attorneys during the crucial discovery and trial preparation phase of a disputed matter."

Paralegal Discovery Procedures and Forms combines forms and precedent setting Federal and California case law. A Discovery manual for all working litigation paralegals, it is only available at the San Francisco State University bookstore (www.sfsu bookstore.com or 415-338-7054).

A revision of another of Pat's books, *Evidence Skills for the Litigation Paralegal*, published by PESI Publications in 1998, is on the horizon. Having obtained the copyright for the book, Pat plans to use the text for SFSU's evidence class, which she will teach in the summer. The new edition will be larger and more inclusive of both Federal and State cites and cases. It will also include both Civil and Criminal Evidence procedures and forms. Look for it on sale at the SFSU bookstore in May.

For more information about the ABA approved Paralegal Program at SFSU, check out the web site at www.cel.sfsu.edu/paralegal/

Reminders re Probate Filings

From Jeanie Dobbs, Supervisor of Probate, San Francisco Superior Court



Fees

To determine the filing fee on a certain document, refer to the court's website www.sfgov.org/courts. Because the Probate fee schedule is complex and we file a wide variety of documents, often the clerks do not know the filing fee off the tops of our heads. When a document is filed, we key it into the computer and the computer specifies the fee amount.



Tip: Look up the fees online rather than referring to a paper copy. That way you can use the Search function to find the fee quickly.

If you cannot determine the correct fee, write "Do Not Exceed X Amount" in the memo portion of your check. We will fill in the correct amount and send you a receipt along with your endorsed copies. Then we don't have to return your documents because of wrong fee amounts.

The graduated filing fee for probate estate cases was declared unconstitutional in March 2008. It costs \$335 to probate an estate of any size (\$365 after 1/1/09). If graduated filing fees beyond the current fee were already paid, you may apply for a refund in one of two ways. Attorneys may bring an ex-parte petition to refund graduated filing fee (call 415-551-3650 for ex parte appointment date). Or the attorney may request a refund in the petition for final distribution and provide for it in the proposed order of final distribution. In either method, after an order is filed, you must send an endorsed copy of the order directly to the Accounting Department, 400 McAllister St., Room 103, San Francisco, CA 94102

Form of Filings

Follow the Rules of Court as to how a document should look. The most common problems are they need to be 2-hole punched, bottom tabs only, pleading paper if no Judicial Council form exists, and reduce all attachments or exhibits to 8 ½" x 11.

Please use BLUE INK to sign and date your documents. Staple documents and 2-hole punch everything before you get up to the window.

Copies

When filing your probate documents, place 2 copies behind the original and paper clip them together. This makes it easier for us to review and then stamp your grouped documents. Deliver one courtesy copy to 202.

For conservatorships and guardianships, bring the original and 3 copies. Deliver one courtesy copy to Room 202. We keep a copy for the Court Investigation Unit.

Please don't bring extra copies for us to endorse. For a new conservatorship, the clerk places 130 stamps on your documents. For a new guardianship we use 80 stamps and for a new probate petition, 65. We need to prevent carpal tunnel injuries!

Returning Your Copies

Give clear and complete instructions to your messenger so we can help them.

For mailed documents, include a self-addressed, stamped envelope if you want endorsed copies returned. Please provide the right size of envelope with the right amount of postage on it. If no envelope is provided, the documents stay in the pick-up box at Window 25 in Room 103 for one month.

Pick up endorsed copies of pre-granted orders at the window within one month; otherwise, we will recycle them.

Miscellaneous

Amended and subsequent petitions need a "Notice of Hearing," even if the date has not changed.

The doors of the Clerk's Office (Room 103) and the Probate Department (Room 202) open at 8 AM and close at 4 PM.

The computer software controls our scheduling limits and we don't know when dates will fill up. If you need a certain date it must be pre-approved in Room 202 before the petition can be filed in Room 103.

Do not file at the last minute. We see many more mistakes and even receive calls to back date filings. Everyone knows we can't do that and it places the staff in an uncomfortable position.

Probate now has extensive information online. Go to the court's website www.sfgov.org/courts. At the bottom of the page, follow the Quick Link to Probate.

And finally, buy some new pens that are
ALL BLUE AND LOVELY!



The Board of Directors and Officers of the San Francisco Paralegal Association convened for its annual Winter Retreat on January 10, 2009. The Board meets twice a year, once in the summer and once in the winter, to plan and budget. The meetings typically run from 9:00 a.m. to 3:00 p.m. on a Saturday in July and January, respectively.

Among the business conducted during the 2009 Winter Retreat was establishing the calendars for SFPA, CAPA (California Alliance of Paralegal Associations) and NFPA (National Federation of Paralegal Associations).

SFPA will hold three seminars in 2009. Vickie Newman, Georgette Neal and Pamela Wolpa will chair the ethics and litigation seminars in April. Sandra Walker and Rebecca Munoz will chair the bankruptcy seminar in June. Vickie Newman and Mary McLaughlin will chair the trust funding and elder law seminar in September.

Rebecca Munoz was installed as a Director. She accepts her key to success from President David Herrera above. Sandra Walker was appointed chairperson of the Membership committee. Sandra is also chair of the new Speaker's Bureau, a committee created during the Winter Retreat to compliment the Publicity committee.

Mary McLaughlin, outgoing treasurer, provided a detailed explanation of each line item on the 2009 budget. The budget was approved. Pamela Wolpa, RP, assumes the duties of Treasurer going forward.

WELCOME NEW MEMBERS

Dianne Marangio

Irene Linares

Kendall Mostofizadeh

Jay McCune

Jessica Rosenthal

Claudia Hyslop

Sheila McDonagh

Karen Snater

Yolanda Wagemans

Philip Hallquist

Theresa Robinson

Candice Lopes

NFPA NEWS

The NFPA year is going to be very busy. As members of SFPA you are automatically a member of NFPA. This is your national association. Did you ever need a process server in New York or Tampa Bay? Your national association has member associations in both areas. NFPA works across the nation to assist our members. This network enables us to do our jobs more efficiently. So read on to find out some of the conference and meetings you can attend.

The NFPA Winter Board meeting will be held in New Orleans, LA on January 30 through February 1, 2009. In addition to the NFPA Board, representatives from all over the nation attend. Remember NFPA is a grass roots organization. The member associations give direction to the Board. Our policies are determined by our member associations. This direction is provided at the yearly policy meeting, see below for more information.

On April 25 and 26, 2009, a Region 1 meeting is scheduled in Sacramento, CA. SFPA is part of Region 1, which includes Alaska, Washington, Oregon, Nevada, California and Hawaii. Come and see your NFPA representatives in action. We are close to home so no excuses. If you are interested in attending, please contact Vickie Newman or me.

There is a Joint Leadership/Regulation Conference scheduled for May 1 through 3 in Seattle, Washington. This meeting is close to home. Leadership skills are taught to our members. The direction of the paralegal profession is examined and regulation of the profession is discussed.

If you are into pro bono, then the May 16 -17, 2009, NFPA conference in Tampa Bay, Florida is for you. The ABA Pro Bono Conference is scheduled for Orlando, Florida from May 14 through May 16, more information on that conference in the next AT ISSUE.

For those of you interested in PACE, a PACE Ambassadors Conference will be held in Minneapolis, Minnesota. It is hosted by the

Minnesota Paralegal Association. Our own Vickie Newman, RP will attend and train the trainer for PACE. This event is paid by NFPA.

This year the NFPA Summer Board will be July 25 and 26, 2009, in Providence, Rhode Island.

Last but not least, is the 2009 NFPA Convention. This year it will be held in Portland, Oregon on October 29 through November 1, 2009. This is just a hop, skip and jump from California. Come and meet paralegals from across the nation. We may even have a few from outside our country attending.

In the next few months, NFPA is looking forward to providing an "e-newsletter" for our members. This is a short one page events newsletter. It can be e-mailed to our members. This will include information on NFPA's most current events.

In December 2008, NFPA received an application from the National Association of Licensed Paralegals located in London, England. They have become the first international association to be granted membership within NFPA. There are several other countries who have expressed an interest in joining NFPA. We look forward to reaching across the ocean and bringing other associations into NFPA.

We are also moving forward with another new category of membership for our military. Currently we have members who are from the Navy. We hope to interest the Army, Air Force, Marines and Coast Guard paralegals to also join.

I have also provided an article on the benefits which we currently have for our members and those we are working on providing.

The last item is for your use. Go to the NFPA website, www.paralegals.org. There is a world of information for your use. There are CLE classes, pro bono and regulation information. For membership page information, please contact me at marym@simonshinglerlaw.com and I will provide you with the current pass word. Remember this is a member benefit.

I look forward to serving as your representative for the year 2009.

Mary J. McLaughlin, RP

PACE NEWS



Registered Paralegals are required to renew their designation every two years by the anniversary of their designation date. As it takes 60 days to process the paperwork, the renewal application needs to be submitted (along with the \$25 renewal fee) 60 days in advance of the renewal date. As there seems to be some confusion as to the month applications are actually due, this chart should help alleviate any confusion: to include the R within the circle with these terms.

The congratulations letter you receive reminds you to calendar your renewal date. It is the responsibility of the Registered Paralegal to do this (after all, you couldn't pass PACE if you didn't know how to calendar). Currently postcards are sent as a courtesy to remind you of your renewal deadline.

Month of Designation	Month Renewal Is Due
January	November
February	December
March	January
April	February
May	March
June	April
July	May
August	June
September	July
October	August
November	September
December	October

It is also the responsibility of the Registered Paralegal to advise NFPA of any address change. For example, if you are receiving mail at work and

change employers, you will not receive any notices pertaining to your renewal as NFPA will not have your current address on file. The reason for this is that the RP database is kept separately from the NFPA membership database as not all RP's are affiliated with NFPA or are members of a local paralegal association. A change of address form is provided on NFPA's website (www.paralegals.org) under the PACE link for this purpose.

To learn more about the Paralegal Advanced Competency Exam, contact me at vmnewman@sbcglobal.net

VICKIE NEWMAN, RP

PACE AMBASSADOR

CALLING ALL ASPIRING WRITERS

We encourage our readers to contribute original articles. If you have expertise or knowledge in a particular area or subject, please share it with us. Even if you don't have a topic and you want to do an investigative report, let us know. Knowledge is only powerful when it is imparted. You may either send it to us by mail or send email to

gl_neal@hotmail.com. Check

Guidelines & Policy or the Calendar for submission details.



SUMMARY OF SFPA ESTATE
PLANNING/ADMINISTRATION SECTION
MEETING JANUARY 13, 2009

By Esther Lane and Cindy Madden.

The speaker for the meeting was Tim Kneis, Court Examiner for the San Francisco County Superior Court Probate Department.

Personnel Changes: Judge Dearmon retired the week ending January 1, 2009. He may make a few appearances in the future to cover a couple of matters. Christine Nahnsen is retiring in the end of March. It is still unknown if Christine's position will be filled and how will the others deal with the workload. Currently, the court tries to keep one week ahead of the calendar.

Changes to San Francisco Local Rules of Court: There are changes in Local Rules of Court- 14. Rule 14.4 Requests for Elder or Dependent Adult Abuse Restraining Orders are heard on Wednesdays at 11:00 a.m. These matters will have their own case number given that is separate from the conservatorship.

Rule 14.17 (A)(2) The notice requirements now refer you to the California Rule of Court 3.1203 and 3.1204.

Rule 14.17 (E) Temporary Restraining Orders/OSC/Orders Shortening Time has been revised.

Rule 14.30 A Petition for Probate and the Petition for Letters of Special Administration must be presented to Room 202 before a hearing date will be calendared.

Rule 14.91 Fees for extraordinary services, the local rules of court now refer you to CRC Rules 7.702 and 7.703. For estates commenced before July 1, 1991, Probate Code Section 902 is applicable.

Notice Requirements Under Probate Code Section 9202: For Letters issued on or after July 1, 2008 - Not later than 90 days after the date letters are first issued notice must be given to the Director of Health Care Services (if required as described in the code), to the Director of the California Victim Compensation and Government Claims Board (if required as described in

the code), and it must give notice to the Franchise Tax Board. The published Notice of Petition to Administer Estate does not satisfy this requirement.

The court asks that the allegations to the subsections of this code be stated in one paragraph in petitions, but be sure to provide an allegation if subsections (a) and (b) are or are not applicable.

Filing/Lodging: Probate Code Section 2620. Refund for filing fees may be requested in one of three ways (1) If you have not filed your final order for distribution, you may include it in that petition; (2) if you have your final distribution order but have not been discharged, you may make your request ex parte and no fee will be charged; or (3) if the personal representative has been discharged, you may either reopen the case or the heirs may make a claim from the omnibus clause in the final order for distribution.

Once you have your order for the refund, the process is not an automatic refund. The order must be delivered to the court clerk's office with a request for processing and the clerk forwards the order to the accounting department to issue the check.

It is doubtful you will get extra ordinary fees for requesting the filing fee refund.

As of January 1, 2009, the rules for non-professional fiduciaries have changed regarding filing and lodging bank statements. Only the beginning and ending bank statements for an accounting need to be filed.

The professional fiduciaries and trust companies still have a duty/are required to file the opening and closing original account statements with the accounting and to lodge all statements for the other months of the account period. Those lodged statements are then returned. Tim provided a flow chart to help explain the paper flow pursuant to the Probate Code requirements.

In a conservatorship when a trust is made by a substituted judgment it is treated like conservatorships under the Local Rules of Court regarding accountings. Note - when the conservator's assets are transferred into a trust, you must file an informal inventory and appraisal with the court. No notice to the beneficiaries is

required (the same for trusts under the court's supervision).

Once the conservatee dies, these trusts are no longer required to be under the court's supervision. The court still would need a final accounting to the date of death, but you then could ask that the trust be removed from the court's supervision.

Cost of Recovery on Bond: CRC 7.207(c). You must increase the amount of the bond if on the accounting it looks like it needs to be. Keeping in mind that you need to contact the bonding company to see if it is possible due to credit risk issues.

Ex Parte Application Drop Offs: Tim reviews these matters. In 2008, there were 1,814 of them, which average up to 151 a month. The court rules have an attachment with a list of matters that can and cannot be filed in this manner. The difference is usually whether the court's file needs to be pulled or not. If you are trying to get your matter done in one week, you must use a Blue Sheet and it must contain (1) The date you want it to be returned, and (2) Why.

THINKING ABOUT ADVERTISING

The SFPA website receives 50 to 75 hits daily. An ad placed in the web based At Issue will be seen by paralegals, attorneys, and other vendors on the local, state and national level. Each edition of the At Issue is available via pdf format for printing in its entirety or selected pages. Ad space is currently available. Please see page 15 for placement details.

CAPA

corner

CONGRATULATIONS TO MEL IRVIN, C.P., AND CAPA PRESIDENT

At its January 15th, 2009 general meeting the membership of the Paralegal Association of Santa Clara County (PASCCO) presented the 2008 Jean M. Cushman Award to Melvin E. Irvin C.P., for his tireless dedication to and promotion of the paralegal profession on both the local and statewide levels.

The Jean Cushman Award was established in 2007 and is the highest honor PASCCO can confer to an extraordinary member whose contribution to the profession distinguishes not only the recipient, but also all paralegals.

Mel appeared as the guest of honor at the SFPA December Board meeting where he presided as master of ceremonies for the 2009 incoming Officers and Directors (see January's At Issue). He also provided the CAPA Report to the Board.

Mel praised Mary McLaughlin's admiral representation of SFPA at the 2008 NFPA Annual Meeting in Arkansas. Although CAPA is a member of NALA and not a member of NFPA, Mel was able to attend because he is an honorary member of SFPA.

Describing the California Advanced Certification sponsored by the National Association of Legal Assistants (NALA), Mel explained that a paralegal has to pass a NALA exam before applying for the advanced certification. NALA does not recognize the NFPA PACE exam.

According to Mel, CAPA primarily focuses on promoting education and administrative policies. He wants to add Public Relations to the focus. CAPA is always there to support the local associations: Mel would like them to appoint a Public Information Officer. CAPA's newly elected officers are: Mel Irvin, President, Heidi Maersch, Vice-president of Policy, and Melissa Frick, Vice-president of Administration

**CALIFORNIA ALLIANCE OF PARALEGAL ASSOCIATIONS
PRESENTS
TREASURES OF SUCCESS
JUNE 27, 2009**



Hosted by:
Orange County Paralegal Association
All Aboard!
Queen Mary, Long Beach, California

7:30 – 8:30 a.m.	Registration, Continental Breakfast & Networking
8:30 – 9:00 a.m.	Welcome
9:15 – 10:15 a.m.	Morning Sessions
10:15 – 12:00 p.m.	Exhibitor Viewing/(Networking)
12:00 – 1 00 p.m.	Lunch; (Exhibitor Door Prizes)
1:00 – 1:30 p.m.	Keynote Speaker
1:45 – 2:45 p.m.	Afternoon Sessions
3:00 – 4:00 p.m.	Ethics
4:30 – 6:00 p.m.	No Host Cocktail Party

-----tear here

REGISTRATION FORM

Please RSVP by mailing registration form to: Carolyn Yellis, ACP, 619 N. Zeyn Street, Anaheim, CA 92805 (or register online at www.caparalegal.org) NAME: _____

CLA/CP ___ ACP ___ RP ___ Esq. ___ Other ___

___ member (\$155.00) ___ non – member (\$175.00) ___ student \$95.00

Early Bird Special:

member (\$135.00) ___ non-member (\$155.00) ___ student (\$75.00) By 05-15-08

Association: _____

CREDIT CARD EXP. DATE: _____

CREDIT CARD#: _____ (VISA/MAST-circle one)

An additional fee of \$4.00 is charged for use of a credit card.

Registration fees are transferable but not refundable.

ROOM RESERVATIONS: Room reservations may be made on a first come, first served basis by calling the Hotel's reservation line, (562) 432-6964. Please reference "CAPA" (California Alliance of Paralegal Associations) when making your reservations to receive the conference room rates of \$129.00 double or king beds - plus applicable taxes, until **May 27, 2009**. All room rates, and other amenities are the sole responsibility of the Attendee.

When Therese A. Cannon (pictured with SFPA past-president John Osbourne and catching more of the news) spoke on the topic of "Ethics Update for California Paralegals" in San Francisco in November, she referred to the 2007 Supreme Court decision of Rico v. Mitsubishi Motor Corp. (116 Cal.App.4th 51) as being the latest case to uphold the 1999 decision of State Compensation Insurance Fund v. WPS, Inc. (70 Cal. App. 4th 644) regarding the receipt of inadvertently disclosed privileged documents.



In Rico Mitsubishi held a strategy meeting with their lawyers and defense experts. Mitsubishi's case manager also attended the meeting, taking notes for one of the lawyers and later typing them on the lawyer's computer. The trial court found that the case

manager had acted as the lawyer's paralegal. The lawyer subsequently printed a copy of the notes after editing them for his own use. Although the notes were dated, they were not labeled "confidential" or "work product."

Prior to the commencing of the deposition of plaintiffs' expert witness a couple of weeks later, the lawyer left his case file, which contained the document he'd prepared from the annotated notes, in the conference room while he went to the restroom. When the lawyer returned, plaintiffs' counsel and witness were sequestered alone in the room. The lawyer succeeded in retrieving his case file only to realize that plaintiff's counsel had acquired a copy of the document. Plaintiff's counsel insisted it was provided by the court reporter. The Mitsubishi lawyer insisted it had been taken from his file by plaintiffs' team. Mitsubishi moved to disqualify plaintiffs' attorneys and experts. The trial court ordered an evidentiary hearing to determine how the document had been obtained. The court reporter was deposed, but could not recall ever having given the document to counsel. Indeed, she testified she'd never seen the document. The eight-hour deposition was document intensive, with papers scattered on the conference room table.

The court ruled, defense having failed to prove the document had been deliberately taken, that it had been



discovered inadvertently. The court also concluded that the document was privileged under the work product doctrine. Finally, the court held that plaintiffs' counsel had behaved unethically in reviewing the document and failing to notify defendant that he had prepared a copy of it. Plaintiffs' attorneys and experts were dis-

qualified. Plaintiffs appealed. The Court of Appeal affirmed. Because the document was confidential, the court ordered it sealed. That portion of the reporter's transcript of the deposition which referred to the document was sealed likewise.

In State Fund, plaintiff inadvertently produced documents designated "attorney-client communication/attorney work product." Plaintiff demanded return; defendant refused. The trial court relied on American Bar Association (ABA) Formal Ethics Opinion No. 92-368 (1992) and imposed monetary sanctions on defendant. The Court of Appeal rejected levying sanctions based on ABA Model Rules, but set the standard: "When a lawyer who receives materials that obviously appear to be . . . attorney-client privilege or . . . the materials . . . are provided . . . through inadvertence, the lawyer . . . should refrain from examining [them] any more than is essential to ascertain if [they] are privileged, and shall immediately notify the sender . . . The parties may . . . resolve the situation by agreement or may resort to the court for guidance . . ." (State Fund, supra, 70 Cal.App.4th at pp. 656-657.)

Therese Cannon appears regularly in Legal Assistant Today as co-author of its Ethics Roundtable department. She is associate director of the Western Association of Schools and Colleges and Senior Commission in Alameda and California, educational consultant to the ABA Standing Committee on Paralegals. Her book Ethics and Professional Responsibility for Paralegals, 4th Edition, Aspen Publishing, 2007, is listed in the PACE Study Manual, 5th Edition, bibliography. Among her other books, she is also the author of A Concise Guide to Paralegal Ethics, Aspen Publishing, 2001.








We handle electronic discovery from identification through production. And yes. It does make us feel somewhat “odd.”



We're a bit of a standout compared to most. For one thing, we offer every service and technology you need. From litigation preparedness, early case assessment, data preservation and worldwide collection to advanced data analysis, sophisticated culling applications and accelerated review tools, everything is right here. Others only offer a piece of process. And moving from company to company ramps up the odds that something is going to fall through the cracks. Maybe even you.

Daegis covers more of the electronic discovery process than any other company you'll encounter. And our people are there to see you through.

Different, in this case? Pretty attractive.

-  electronic discovery
-  consulting
-  early case assessment
-  data collection
-  data culling & processing
-  online native file review
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SFPA CALENDAR

FEBRUARY/MARCH

FEBRUARY 3

SFPA BOARD MEETING 5:30-7:00PM
Harvey Siskind, 4 EC, 39th Fl. SF.

FEBRUARY 7-9

CAPA MEETING
Pismo Beach. Contact Pamela Wolpa for details.

FEBRUARY 10

PROBATE / ESTATE PLANNING, NOON-1PM
With speaker Sandy Price.
Cooley, Godward, 101 California Street, San Francisco
Please contact Ester Lang or Cindy Madden for details.

FEBRUARY 10

AT ISSUE ARTICLES AND COLUMNS DUE
Please contact Georgette Neal for any questions.

MARCH 3

SFPA BOARD MEETING, NOON-1PM
Teleconference

MARCH 10

AT ISSUE ARTICLES AND COLUMNS DUE
Please contact Georgette Neal for any questions.

MARCH 10

PROBATE / ESTATE PLANNING, NOON - 1:00PM

MARCH 27

LORMAN TELECONFERENCE
Executory Contracts in Bankruptcy: What Every
Attorney Needs to Know



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For more info, please contact Georgette Neal (gl_neal@hotmail.com)

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- DO send calendar entries and section/committee reports by the 20th of the month, or they will not appear.
- DO prepare separate calendar entries for meetings, even if the information appears in a committee report or insert.
- DO NOT phone entries to the Editor.
Email your information to:

Georgette Neal
gl_neal@hotmail.com.

ARTICLES

At Issue welcomes and encourages the SFPA membership to submit original and reprint articles, announcements, and photos for publication by the 10th of every month. Letters to the editor

regarding the content of *At Issue* are also welcome. Letters and items submitted for publication may be published and edited at the discretion of the editorial staff. Questions regarding submissions or articles should be directed to the editor.

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