

PARASIGHT

Knowledge is Power

September 2010

NEWS YOU CAN USE

Education is not preparation for life; education is life itself. ~John Dewey

Update on Subpoenas

In Catawba County Domestic Court, Orders which continue a case from one docket to the next have a selection block on them which is checked regarding Subpoenas. (*see copy of form to right*) The Order provides that all Subpoenas issued for that particular case shall remain in full force and effect until the next hearing date.

Upon receipt of the next Court date, we then write a letter to all witnesses who were affected by the continuation, and attach the Order (which is signed by the presiding Judge, and filed) to the letter. This eliminates the client being taxed with the expense of serving a new Subpoena, and saves the paralegal time in preparation of another Subpoena. It also reduces the Sheriff's Department civil process personnel time and energy, as they no longer have to find the witness and serve a new Subpoena. Thanks to Cathy Starnes, our wonderful Catawba County Family Court Case Manager for coming up with this brilliant idea!

Regarding telephone stand-by, our office now requires witnesses who wish to be placed on telephone stand-by to make such request in writing, either by mail, fax or e-mail, and by noon on the Wednesday before trial week begins. This provides evidence for the file that such request was timely made, and relieves the paralegal or other office staff from taking a multitude of telephone calls (thereby saving the client \$\$\$). Of course, for witnesses whom you reasonably expect not to have access to e-mail or a fax machine, allowances may be made.

~Cyndy Adams, NCCP

Update on District Attorney's New Discovery Automated System

As of July 1, 2010, the District Attorney's office has a new Discovery Automated System (DAS). The defense bar will now be able to obtain discovery by

see Discovery page 2

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several different methods. Those methods include: (1) Paper (traditional method); (2) E-mail (however some cases may be too large to email); (3) CD; and (4) Flash Drive. The attorney requesting the discovery via CD or flash drive must furnish the storage media.

The DA's office anticipates that by the end of the year there will be a website that you will be able to access with a specific user ID and password to download discovery from your office.

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1924 Catawba County Courthouse

SUBSTITUTION OF TRUSTEES IN MORTGAGES AND DEEDS OF TRUST

Of interest to those whose work involves real estate and loan transactions is Session Law 2009-176 which amended NCGS§ 45-10 **Substitution of trustees in mortgages and deeds of trust** by adding the following:

" (b) If the name of a trustee is omitted from an instrument that appears on its face to be intended to be a deed of trust, the instrument shall be deemed to be a deed of trust, the owner or owners executing the deed of trust and granting an interest in the real property shall be deemed to be the constructive trustee or trustees of record for the secured party or parties named in the instrument, and a substitution of trustee may be undertaken under subsection (a) of this section. However, no such constructive trustee shall have the authority or power to take any of the following actions without the consent and joinder of the holders or owners of a majority in amount of the obligations secured by the deed of trust: (i) effect a substitution of trustee, (ii) effect the satisfaction of the deed of trust, (iii) release any property or any interest therein from the lien of the deed of trust, or (iv) modify or amend the terms of the deed of trust. Any substitute trustee named under the authority of subsection (a) of this section shall succeed to all the rights, titles, authority, and duties of the trustee under the terms of the deed of trust without regard to the limitations imposed by this subsection on the authority of a constructive trustee."

NC STATE BAR APPROVES GUIDELINES FOR USE OF PARALEGALS IN RENDERING LEGAL SERVICES

On July 23, 2010, the Guidelines for Use of Paralegals in Rendering Legal Services, prepared by the NC State Bar Subcommittee of the Board of Paralegal Certification, were approved by the NC State Bar.

Go [to this link](#) to read and print the entire guidelines.

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TREASURER'S REPORT

As of July 30, 2010, our account has a balance of \$3,086.01. Since the last report there have been no deposits and two withdrawals, one for the June presenters CLE credit application in the sum of \$13.50 and the other payable for the July social give-a-way in the amount of \$25.



COMMUNITY SERVICE

CVPA is now accepting in-kind donations for either WRC or the Humane Society. *Please e-mail us or call in advance before bringing items to the CPE's or social events, so that we may be prepared to transport the donations.* You may also drop off items at the Lew Waddell Law Office at 22 South Main Avenue in Newton, Monday through Thursday between 9:00 am and noon or 2:00 pm and 5:00 pm, telephone Cyndy at 828-464-9510 before stopping by.

The "wish lists" can be found on our website, here: [Humane Society Wish List](#)

and here: [Women's Resource Center Wish List](#)

We understand that all gifts made to Women's Resource Center and The Humane Society are tax-deductible as allowed by law.

MONTHLY MEETING SCHEDULE

Mark your calendars! Plan now to attend our monthly meetings held on the 2nd Tuesday in each month at 6:00 p.m.

Attorney Charles D Dixon and G. Maurice Capps, CPA, will present "Trusts and Estates" for our CPE on [September 14](#);

[October 12](#): Election of officers, and John LaRue of LaRue & Rogers, Private Investigations;

In [November 9](#): attorney Jennifer Fulkerson has agreed to speak with us on "Roles of a Guardian Ad Litem and Parenting Coordinator."

[December 14](#): It's time for our holiday social.

The *Guidelines for the Use of Paralegals in Rendering Legal Services* contains other information for and about paralegals which reads in part as follows:

"Other Information For and About Paralegals

Definition

At the August 1997 American Bar Association ("ABA") Annual Meeting, the ABA's policy making body, the House of Delegates, adopted the current definition of "legal paralegal/paralegal", as recommended by the Standing Committee on Legal Paralegals (now the Standing Committee on Paralegals). The current definition reads as follows:

A "legal paralegal or paralegal" is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.

The definition is instructive. Although no mandatory course of study or certifying exam exists to qualify one as a "legal paralegal or a paralegal", and lawyers are not required to hire legal paralegals with any specific educational prerequisites or certifications, information about paralegal education and certification programs may assist a lawyer in hiring and effectively utilizing legal paralegals in accordance with the lawyer's ethical obligations and these guidelines.

Certification

The North Carolina State Bar's Plan for the Certification of Paralegal is a self-funded, voluntary certification program of the North Carolina State Bar, the regulatory agency for North Carolina lawyers. The Plan provides incentives to North Carolina paralegals to obtain a minimum level of education and pass an examination to become a "North Carolina Certified Paralegal." The Plan does not restrict the use of the term "paralegal" nor does it differentiate between the services of a certified and a non-certified paralegal. However, it does provide a much-needed benchmark to ensure paralegal competency and enhance the quality of legal services provided by North Carolina paralegals. The purpose of the North Carolina State Bar's Plan for Certification of Paralegals is to assist in the delivery of legal services to the public by (1) identifying individuals who are qualified by education and training and have the demonstrated knowledge, skill, and proficiency to perform substantive legal work under the direction and supervision of a licensed lawyer; and (2) improving the competency of those individuals by establishing mandatory continuing legal education and other requirements of certification."