

Paralegal Focus

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Paralegal Focus is the quarterly newsletter of the Vermont Paralegal Organization.

Vermont Paralegal Organization is a Member of the National Federation of Paralegal Associations (NFPA)®.

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President's Message

By Diane L. Brown

Happy New Year! The VPO is moving full steam ahead in 2010 with many exciting projects. Below are a few projects that the VPO is currently working on:

Active Membership Drive:

VPO Membership Chairperson Laurie Noyes is continuing to work hard on the membership renewals. Last year, the VPO experienced a drop in membership due to the economy, and we are hoping to regain momentum in our membership drive and raise awareness of membership benefits offered by the VPO. Please feel free to contact Laurie about any membership questions or concerns you may have at lnoyes@ppeclaw.com. Your membership is critical to your professional career and involvement in the VPO.

Board Retreat:

The VPO board held its retreat on Friday, Jan. 8, 2010; six board members and committee chairpersons attended. After our social time and dinner, the group gathered to discuss the current status of the newsletter and editor position, the efforts by the website chairperson to repair and update the VPO website, updating the VPO goals and objectives, the advanced scheduling of 2010 board meetings, and further revisions of the VPO Amended and Restated Bylaws.

2010 VPO Annual Meeting:

Mark your calendars! It is official: We have committed to a date and location for the upcoming 2010 VPO Annual Meeting. It will be held on Tuesday, May 11, 2010, at the Doubletree Conference Center, Williston Road in South Burlington, Vermont. You will find more details on the upcoming annual meeting in this newsletter.

As president of the VPO, I am so very proud of the VPO board and committees for the fantastic dedication and work they have put forth for this organization. Our team continues to work hard to provide our members with the best connection to the paralegal profession and legal community via the VPO.

Thank you for your continuing support of the VPO. Please do not hesitate to contact the VPO board if you should have any questions, concerns or comments.

Editor's Message

By Louise Reese

As you have probably read by now, I have decided to resign as editor of *Paralegal Focus*. Although I have officially been the editor for two years, I have been involved in the development and content of the newsletter for almost 10 years. I will remain active in the VPO through the CLE and Scholarship committees.

I will be working on the first two issues of 2010, and Elaine Moran and I have been busy thinking of ways to bring the members new and informative content. We would like to piggy-back on Corinne Deering, RP®'s interview with Missy Woessner, RP® in the last issue, and continue the interviews in future issues. Please read my interview with Pat Boera, Associate Director of Career Services at Champlain College. It is not just for Champlain alumni!

Kim Pritchard has compiled survey responses, and we are pleased to bring you the VPO's 2009 Salary Survey results with this issue.

I would like to welcome a new member to the *Paralegal Focus* team, Laura Gorsky, who works in Richmond.

As always, if you would like to submit an article for the *Paralegal Focus* or a tidbit for the Did You Know? column, please contact me at lreese@dinse.com.

SAVE THE DATE!

The VPO will be holding its 2010 Annual Meeting and Conference on Tuesday, May 11, 2010, at the Doubletree Hotel & Conference Center on Williston Road in South Burlington. The VPO is pleased to announce that Elizabeth Miller, Esq., will present on the recent changes in the Federal Rules of Civil Procedure and the Local Rules of Procedure. Andrew Mikell, Esq., will present on updates in the real estate arena. James Knapp, Esq., will present on ethics. The VPO is also pleased to announce that two of its members will present in the areas of probate and family law.

We look forward to seeing you in May!

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Membership News

By Laurie Soutiere Noyes, Membership Chairperson

I can hardly believe that another year has passed, and we are already well into the first quarter of 2010. Please join me in welcoming our newest members to the VPO: Jayne Benoit and Monica Litzelman.

In addition, a couple of members have recently taken new jobs. Cathy Foutz is now at Paul Frank + Collins, and Jayne Benoit is with the Vermont Attorneys Title Corporation.

One final membership reminder — if you have not yet sent in your 2010 Membership Renewal form, it is not too late! Please send it along, and you will continue to receive this great newsletter and all the benefits you are used to receiving as part of the VPO. If you need another form, you can print one off the website, or send me an email and I will get a copy to you right away. I look forward to working with you all again this year.

SERIOUSLY FOLKS... *Life as a litigation paralegal can test your sanity at times. One early Monday morning, after having spent an entire Sunday preparing for an important deposition, my attorney called me with a list of several more items to do by 9:00 a.m. After an internal sigh, I said, "Okay, but you know that I can only do two things at once!"*

DID YOU
KNOW



The federal mileage rate, effective 1/1/2010, will be \$0.50 per mile (down from last year's \$0.55 per mile).

Windham Family Court has temporarily moved to 1063 Western Avenue, West Brattleboro, VT 05301, while the courthouse is being renovated. The same phone number, 802-257-2830, is being used. Renovations are expected to be finished by the end of summer, and will consolidate District and Family Court staff.

DID YOU REMEMBER to redact the Social Security number (SSN) from your last court filing? The Vermont Supreme Court is concerned with protecting the privacy of SSNs of persons involved in court proceedings.

In 2001, the Court created procedural rules requiring attorneys and self-represented litigants to redact the Social Security number from any paper before filing it with the trial court unless the SSN was specifically requested by the trial court. See V.R.C.P. 5(g); V.R.Cr.P. 49(c).

The court has asked the Advisory Committee on the Rules of Civil Procedure to propose a procedural rule that Social Security numbers be redacted from all papers prior to filing.

Pending such a rule, the court requests that the Social Security number be redacted from any paper filed with the Supreme Court and from all papers in the printed case, even if the SSN was requested by the trial court and was included on the paper filed with the trial court.

The United States District Court's electronic filing page also reminds us to redact:

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and, in criminal cases, home addresses, in compliance with Fed.R.Civ.P. 5.2 or Fed.R.Crim.P. 49.1. This requirement applies to all documents, including attachments.

The PACE® Posting

By Corinne Deering, RP®
PACE® Ambassador



For this edition of the PACE® Posting, I asked another of Vermont's few PACE Registered Paralegal®s, Michelle Perlee, RP®, to answer a few questions about her experience with PACE®.

Michelle, can you give us a little history about yourself, including how long you have been in the legal profession?

I have been a paralegal for 22 years. I hold an associates degree from Champlain College in Information Processing, and a paralegal certificate from Woodbury College. I sat for PACE® in May 2000 and successfully received my RP® designation.

What type of legal experience do you have?

I have experience in several areas of the legal profession, including real estate, corporate, criminal, litigation (mostly personal injury), estate planning and probate. I work at Langrock Sperry & Wool's Middlebury office, which offers services in all areas of the law. I work with personal-injury matters and real estate, and I assist with IT work. I began my career as a legal secretary at Langrock Sperry & Wool, and within six months, I started classes at Woodbury to become a paralegal. Within a year, I was promoted within the firm to the position of paralegal. I have no "typical" day. On any given day, I could be conducting title searches, meeting with clients, drafting pleadings, talking with insurance companies, interviewing and taking statements from accident witnesses, drafting demand letters, or preparing trial exhibits. Most days I work more than eight hours, and I work many hours at home via an Internet connection to the office.

Why did you take PACE®? What was your motivating factor?

I was unsure about the future of regulation and licensing for the paralegal profession, especially in Vermont. I wanted to take advantage of the opportunity to keep on top of my skills and to give myself that added security, so if things changed in the future, I had the additional certification.

What were your study habits in preparation for PACE®? Did you participate in a study group? How long did you study? What study materials did you use?

When I took PACE®, several of us got together to work in a study group using the PACE® manual and sample test disk to assist with that studying. I also studied on my own at home in an atmosphere where it was quiet and I would be able to concentrate. I cannot recall how long we studied prior to taking the exam. The one thing I lacked, and that I would recommend for anyone taking the test, was a familiarity with the Latin legal phrases used in the field. There seemed to be many questions regarding those Latin phrases, and I was not as well prepared as I should have been.

Was there anything you learned about yourself while preparing for PACE®?

I learned that there is always a lot more to learn no matter how long you have been doing something. I took on the challenge, and I was able to see it through to completion. It gave me a sense of accomplishment that will stay with me for as long as I need it.

Did you have any conceptions about PACE® that you learned were untrue?

None. I understood the work it would take to pass the exam, and I would suggest to anyone taking it to prepare themselves accordingly, and to use all available resources when studying.

Continued on the following page ...

What do you feel was the most valuable thing you learned during the process?

You can learn a great deal from others if you are willing to keep an open mind and listen. There are many ways to learn, and sometimes if you are just quiet and listen to another explanation, it might be your key to understanding the question or concept.

What does being an RP® mean to you?

It took a great deal of time, hard work and dedication to complete. It really did not change my life in any way, other than having to take CLE classes that are NFPA® approved to keep my certification, but I would have taken classes anyway. It was a personal goal that I wanted to accomplish.

Do you recommend PACE® to others? If so, why?

I would have to agree with Missy Woessner, RP® on this answer, and would recommend PACE® only if you are doing it for your own reward and not for others.

Thank you, Michelle, for answering my questions and for sharing your PACE® experience with others who might be considering PACE®.

Professional Development

By Louise C. Reese

In an effort to bring to our members information on how to prepare for entering the paralegal field, stay current with changes in the legal field, and deal with the current state of the job market, I sat down with Pat Boera from the Career Services office at Champlain College for some advice.

What is your role at Champlain College?

I am associate director of Career Services. I have been with Champlain since December 1990, and I have always worked in Career Services, but in different capacities.

What does Career Services offer to alums and current students?

Career Services assists with career exploration, including providing self-assessment tools and suggesting informational interviewing with practicing paralegals or others in related fields. We also support students in developing job-search documents, such as resumes, cover letters and reference lists, and we facilitate practice interviews. Students can access employment opportunities through web-based tools such as JobSpot and CareerShift. (These tools are available to Champlain College students and alumni. Readers of the VPO newsletter who are graduates of other schools will want to check with their alma maters about access to job postings.) I also recommend that students and alumni develop their professional networks by joining local, regional or national associations such as the Vermont Paralegal Organization.

Q&A

What do you tell graduates who need assistance with preparing a resume? What have you seen that works, and what have you seen that one should not include on a resume?

Employers are looking for evidence of experience relating to the job target, such as part-time work, internships, or volunteer efforts. I encourage students and graduates to focus on specific skill sets that are most relevant to the job target, including how he/she may have added value to a particular organization. People should not be shy about talking up what they are good at. Brief, action-oriented statements are better than a long narrative format. I tell students and graduates not to include personal information on their resumes, including Social Security numbers, or other privileged identifying information. They should also use a professional email address, which may differ from one that they are using to stay in contact with friends.

How do you keep your finger on the pulse of the paralegal job market?

I am an associate member of the Vermont Paralegal Organization, and I read its quarterly publication, *Paralegal Focus*, as well as professional journals and information on various websites. I also speak with employers who post job openings with Champlain to inquire about the skills they are looking for in a paralegal, and I confer with Champlain's faculty on new developments in the field. In addition, I continue to stay in touch with practicing paralegals.

What general advice do you have for those entering the paralegal profession or related job market in 2010?

The paralegal field is a tight market. I encourage students and graduates not to get hung up on the title of "paralegal," and to focus on a broader area of skills developed through the paralegal program at Champlain, and how those skills can be applied in any position. I find that students and graduates are often focused on a belief that they need to work in a law office, but there are paralegal or related positions in the government sector, in banks, real estate offices, etc. I also encourage students and graduates to consider "foot in the door" opportunities or project work.

What would you recommend to those currently employed as paralegals or in related positions on how to stay current with changes in the legal profession, or how to market their job skills?

I encourage them to maintain visibility in an organization, such as the Vermont Paralegal Organization, and volunteer for a committee or some other leadership role. Some students in the Business Division at Champlain are considering taking classes in other majors (such as blending accounting with digital forensics). It may also be important for paralegals to cross-train in different areas of practice. Paralegals should continue to seek out seminars and approach their employers for support in professional development. Paralegals can also join a professional network, such as LinkedIn, which has groups that may be aligned with particular areas of interest, such as the legal field. I would suggest that they read the posts regularly, and contribute to those discussions. I would also suggest that paralegals stay in touch with alumni at their alma mater.

What do you say to paralegals/alums who want to know how to appropriately negotiate salary increases or higher bonuses?

I would recommend that they keep good records of their accomplishments, and to not be fearful of talking about the good work that they have done or the contributions they have made to the organization. If they have received a compliment because of a particular task they performed, they should ask the person giving the compliment if it would be okay to mention the compliment at a future evaluation. At such future evaluation, the paralegal should explain, with specifics, why he/she deserves a raise or higher bonus.

Thank you, Pat, for your invaluable insight and guidance.

Days are Days: Changes in Time Computation

Under the Federal Rules By Sophie E. Zdatny, Esq.

The most significant change in the recent amendment to the Federal Rules is the change to the computation of time.

- What:** Under the recent amendments to the Federal Rules, generally speaking, intermediate weekends and holidays are no longer excluded when calculating time periods of less than 11 days. Thus, there is no longer any distinction when computing time for time periods less than or more than 11 days.
- When:** The new time computation rules went into effect on Dec. 1, 2009, and apply to all pending actions unless they are infeasible or would work an injustice, in which case the former rule would apply. *See* Rules Enabling Act, 28 U.S.C. § 2074.
- Which:** The Dec. 1, 2009, amendments involve changes to the computation of time to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Bankruptcy and the Federal Rules of Appellate Procedure, as well as changes to the Local Rules of Procedure for the United States District Court for the District of Vermont.
- Why:** Under the old Rules, 10 days never lasted 10 days but always lasted at least 14 days. Eight times a year, 10 days could last fifteen days, and once a year it could last 16 days. By contrast, 12 days usually meant 12 days. The purpose of the change was to simplify time-computation provisions and to eliminate inconsistencies in the Federal Rules.
- How:** The new approach adopts multiples of seven as a deadline-numbering convention for shorter periods, such as seven days, 14 days, 21 days and 28 days. Thus, deadlines should ordinarily expire on a weekday.
- Where:** Rule 6(a) of the Federal Rules of Civil Procedure states:

(a) COMPUTING TIME. The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Summary of New Time Computation Rules

- Exclude the day that triggers the period - Rule 6(a)(1)(A)
- Count every day thereafter, including intermediate Saturdays, Sundays and legal holidays - Rule 6(a)(1)(B)
- The time period continues to run until the next day is not a Saturday, Sunday or legal holiday - Rule 6(a)(1)(C)
- The three extra days for service by mail continues – Rule 6(d). First, compute the time period set forth in Rule 6(a), including if the last day is a weekend or a holiday, and then add three days
- The “last day” of the filing period ends at midnight in the court’s time zone if e-filing
- These changes will not change any judicial orders setting certain dates

Examples of Changes in Time Computations

- F.R. Civ. P. 12(a)(1)(A) – defendant must serve answer in **21 days** (was 20)
- F.R. Civ. P. 15(a)(1)(A) – a party may amend its pleading once as a matter of course within **21 days** after serving it
- F.R. Civ. P. 23(f) – party has **14 days** to appeal class certification ruling (was 10)
- F.R. Civ. P. 56(c)(1)(A) – A summary judgment motion may be filed at any time up until 30 days after the close of discovery (the former 20-day waiting period is eliminated)
- F.R. Civ. P. 6(c)(1) – With limited exceptions, a written motion and notice of hearing must be served at least **14 days** before the time specified for the hearing (was 5 days)
- Local Rule 7(a)(3)(A) – response to dispositive motion due 30 days after service (local rule trumps 21 days set for response in F.R. Civ. P. 56(c)(a)(1)(B))
- Local Rule 7(a)(3)(B) – response to non-dispositive motion due **14 days** after service
- Local Rule 7(a)(5)(A) – reply must be filed no more than **14 days** after an opposing memorandum (no distinction is made between dispositive and non-dispositive motions)
- Local Rule 7(c) – motion for reconsideration of court’s order, other than one governed by F.R. Civ. P. 59 or 60, must be filed within **14 days** of date of order

REMEMBER: The new computation rules apply only to federal — NOT state — court.

Real Estate Corner

By Krista L. Grady

How to Bill Travel Time

Travel seems to be a requirement for most paralegals, whether we are expected to visit land records for a title search, research court files, meet with clients out of the office, or perform other duties. It can be difficult knowing how much travel time to bill to a client when a trip is not as simple as leaving from the office and returning to the office. Of course, that time would be billable. A more complicated example is when you leave home in the morning, travel out of your way for a title search and arrive at work later in the day. Employers do not always provide guidance to paralegals regarding billable travel time, leaving us to use our own discretion when entering our time, and when completing our timesheets. How often have you travelled for work, arrived at your desk, looked at the clock, then looked at your billing application, and sighed (or groaned)? I have — often.

There is a simple rule that will help: **The amount of travel time exceeding the amount of time it normally takes to travel from home to work is billable and is compensable work time.** The same rule applies to mileage.

For guidance, we look to the laws regulating labor and wages because, generally speaking, it is appropriate to bill travel time to clients if it is considered compensable work time. Therefore, your practice for billing clients and for keeping a timesheet should be consistent. A client should not be billed for time for which you are not compensated, so if travel time is billed to a client, that time should be counted as compensable work time.

The Wage and Hour Program of the Vermont Department of Labor has published *A Summary of Vermont Wage and Hour Laws*, which defers to the federal regulations for addressing compensation for travel time. <http://labor.vermont.gov/Businesses/WageHourFairLaborPractices/tabid/111/Default.aspx> Consistent with the federal regulations, the Vermont Department of Labor has adopted some key concepts:

"Ordinary home to work travel, which is a normal incident of employment, is not compensable.

However, several instances of travel time are considered work time for which the employee is due proper compensation. . . . [T]ravel all in a day's work and travel away from home when it cuts into the employee's workday are all considered working hours for the employee." (emphasis added)

The Wage and Hour Division of the U.S. Department of Labor provides us with a more detailed analysis of those key concepts:

"[N]o employer shall be liable for the failure to pay the minimum wage or overtime compensation for time spent in walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities.' . . . [T]he employer shall not be relieved from liability if the activity is compensable by express contract or by custom or practice not inconsistent with an express contract. Thus traveltime at the commencement or cessation of the workday which was originally considered as working time under the Fair Labor Standards Act (such as underground travel in mines or walking from time clock to work-bench) need not be counted as working time unless it is compensable by contract, custom or practice. If compensable by express contract or by custom, or practice not inconsistent with an express contract, such travel time must be counted in computing hours worked. ***However, ordinary travel from home to work (see Sec. 785.35) need not be counted as hours worked even if the employer agrees to pay for it.***" 29 C.F.R. § 785.34(b) (emphasis added)

"An employee who travels from home before his regular workday and returns to his home at the end of the workday is engaged in **ordinary home to work travel** which is a normal incident of employment. This is true whether he works at a fixed location or at different job sites. **Normal travel from home to work is not work-time.**" 29 C.F.R. § 785.35 (emphasis added)

Time spent by an employee in travel as part of his principal activity, such as travel from job site to job site during the workday, must be counted as hours worked. Where an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the day's work, and must be counted as hours worked regardless of contract, custom, or practice. If an employee normally finishes his work on the premises at 5 p.m. and is sent to another job which he finishes at 8 p.m. and is required to return to his employer's premises arriving at 9 p.m., all of the time is working time. **However, if the employee goes home instead of returning to his employer's premises, the travel after 8 p.m. is home-to-work travel and is not hours worked.** 29 C.F.R. § 785.38 (emphasis added)

For example, imagine that you live in Essex, work in Burlington, and your normal commute consists of 30 minutes and 10 miles. You typically leave home at 7:30 a.m. to arrive at work at 8:00 a.m. On your way to work, you detour to Colchester for a title search, adding 10 miles to your normal commute. You leave home that day at 7:15 a.m. to head to Colchester (maybe a bridge is out so you have to take the long way). You arrive at 8:00 a.m., complete your work, leave at 9:00 a.m., and arrive at work at 9:30 a.m. Total time between leaving home to arriving at work was 2.25 hours. You should bill the client for 1.75 hours and 10 miles, after deducting normal commuting time and mileage.

Of course, there will be days that billing travel time and mileage will not be that simple, especially if you have three title searches to do in three towns for three different clients. In those events, you should deduct normal home-to-work commuting time and mileage, and then divide the remainder equitably among the clients. I have found that an online map tool, such as mapquest.com, can be very helpful.

Now that you have billed the client, you need to determine what time you began work that day, unless you are an exempt employee. Remember, that your normal commute is 30 minutes, so in the example above your work day began at 7:45 a.m., not 7:15 a.m. when you left home.

That was a relatively simple scenario, but what if you leave home at 7:45 a.m. that day (no bridge troubles) and arrive in Colchester at 8:00 a.m.? Total time between leaving home to arriving at work was 1.75 hours, so the client should be billed for 1.25 hours after deducting normal commuting time. However, did your compensable work day begin at 8:00 a.m. or 8:15 a.m.? If you deduct normal commuting time, your day began at 8:15 a.m., right?

On the other hand, you would have left home at 7:30 a.m. to head to the office if your work had not required you to leave later than that to arrive in Colchester at 8:00 a.m., so why should your compensation be reduced by those 15 minutes? This is a difficult question without a clear answer, to my knowledge, but it is possible that an interpretation of the regulations outlined above would support a position that those 15 minutes are compensable.

So, the next time you get to the office and look at the clock, remember to deduct your normal home-to-work travel time and mileage before entering your time, and hopefully there will be fewer sighs (and groans).

For more information regarding the Fair Labor Standards Act, you may contact the U.S. Department of Labor at (802) 951-6283, or conduct further research of the Code of Federal Regulations, which is accessible on-line at gpoaccess.gov/CFR/retrieve.html.



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