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Our annual June Education Conference is around the corner on June 24th at the Wyndham Hotel in Visalia. If you have not already registered, I encourage you to do so now by logging onto www.eventbrite.com and searching for CAPA, or clicking the Eventbrite link on our Facebook page. Early bird rates end on May 31st and our hotel room block ends June 15th. This conference, as many in the past is going to be excellent especially with our water and land resource law courses.

Thank you to our conference chair, Victoria Alonzo, of FPA, for her planning efforts and to Teams FPA, KCPA, and SPA for hosting us this year. I look forward to seeing everyone there. In addition to inside this issue, hotel reservation details may also be found in our CAPA connection emails and our Facebook page. The conference committee has been hard at work planning our conference. Many thanks to Nancy Woods, of SPA and Erica Bjornstad of KCPA for all of their hard work and dedication to making our conference a success. They have done a great job especially with confirming and promoting our conference speakers and sponsors. If you know of any companies looking to expand their reach to our group on a statewide level, please send them our way to conferenceinfo@caparalegal.org. I would be remiss in not thanking our trusted Board Advisor and past CAPA President, Kristine M. Custodio, ACP, for her continued guidance and wisdom and for supporting us in any of our needs. Kristine’s exemplary leadership is a reflection of her passion and dedication to the paralegal profession and to her colleagues.

Our CAPA board meeting will be held on June 25th and is open to guests. Please contact Ramiro Lopez at secretary@caparalegal.org if you’d like to attend as a guest. We do have a tight schedule since we are meeting over the course of one day instead of two, so, unfortunately, public comment is limited, but we welcome your presence and support. We hope to see you there as your CAPA team continues to plan the remainder of the year and into 2018.

CAPA has taken a brief hiatus from its monthly leadership development training by way of our GOAL webinars. We intent to rev this program back up in July through the end of 2017 and into 2018. As always, we strive to develop dynamic leaders, which is why the GOAL program is very important to us. We have received great feedback from participants giving high praise for the quality of speakers and topics that enhance our leadership skills. Be sure to invite your association members to join us as well. GOAL webinars will resume in July, are free and open to all CAPA members.

The first half of this year has brought on some challenges both professional and personal as a team. We are in the process of updating our website and email platform which has taken its toll on the Board and our members. In addition, our CCP committee has been working tirelessly to write and finalize our voluntary exam we call California Certified Paralegal, providing a “CCP” designation. Our goal is to launch a practice test to a select audience at our Leadership Conference this fall.

We continue to strive towards our goal of advancing our profession and our commitment of strength through statewide alliance. It has been a tremendous honor to serve alongside the best and brightest and truly an inspiration to be part of a driven team. To the Executive team including VP of Policy Victoria Alonzo, VP of Admin Julie Schwartz, Treasurer Lisa Rogers, Secretary Ramiro Lopez, Board Advisor Kristine M. Custodio, ACP and to our parliamentarian, Heide Maersch: THANK YOU! Your talent, hard work, supportiveness, great attitudes, flexibility, dedication and fierceness moves mountains. I encourage our Board to consider stepping into an officer role in 2018. It is definitely an experience of a lifetime. Take your leadership skills to the next level.

Don’t forget about our biennial Leadership Conference in November 2017, hosted by Team SDPA. This year the Conference will be held at UCSD Extension campus in the UTC area of San Diego. A great line up of speakers and topics will soon be announced. Registration again will be held through Eventbrite. See you in Visalia!

Warmly,
Sara M. Lutz
Sara M. Lutz, CP
President
FPA - Fresno Paralegal Association

The Fresno Paralegal Association has had a strong first quarter, with two successful educational events: HIPAA, HITECH and DATA SECURITY with speaker Heather Hughes co-hosted with US Legal Support. This CLE, offered on February 28, 2017, provided information on Data Breach Notification laws, and how they affect the retrieval, retention, and destruction of sensitive and personal information during the litigation process; and Title 1 Firearms, presented by Attorney Jerry R. Lowe. This presentation provided education on definitions of modern firearms, curios/relics, and antiques; updates and education on the necessary purchasing requirements and forms, and provided information on private party transfers and gun show purchases. This seminar, which is the first part in a two-part series, also provided education on limitations of firearms to purchasers with criminal records and restraining orders. FPA is working with Attorney Lowe to schedule Part II of this fascinating seminar for the Summer/Fall 2017.

Currently, FPA has the following seminars planned: DissoMaster with a representative of Thomson-Reuters on July 24, 2017. DissoMaster is a program used for calculating spousal and child support in family law matters; and Trial Director on August 22, 2017. Trial Director is a presentation software that can be utilized by law firms when preparing for trials. FPA is also working with the educational department with the American Arbitration Association for a presentation on the Arbitration process. FPA hopes to present this seminar in the Fall 2017.

FPA is continuing its collaborations with the Fresno City College Paralegal Association to offer continuing education to our members as well as establishing networking between working Paralegals and Paralegal students.

FPA is continuing its work with SPA and KCPA co-hosting this year’s CAPA Educational Conference in Visalia. The Paralegals of Fresno County are excited about this event, and we have seen positive feedback from many of our members who plan to attend the June Conference.

http://www.fresnoparalegal.org

CAPA Mission - Strength through statewide alliance - providing a voice of leadership in promoting education, voluntary certification and advancement of the paralegal profession.
LAPA- Los Angeles Paralegal Association

In the neighborhood...

LAPA continues to host professional development seminars and networking events so that their members are provided the opportunity for meeting and connecting with their paralegal colleagues and other legal industry professionals. On April 19, attorney Nikki Jacobson will be presenting an immigration MCLE discussing the Trump administration’s recent executive orders and the impact they have already had and may continue to have on the field of immigration law. The seminar will be held at the Abraham Lincoln University, 3540 Wilshire Boulevard, Los Angeles, CA 90010, from 6:30 pm to 9:00 p.m. The annual Spring Career Conference will take place this year on May 20 from 8:30 a.m. to 12:30 p.m. at UCLA’s new Woodland Hills extension campus where paralegals can meet and network with senior paralegals and top recruiters, who will inspire them to make a decision on the next step of their career path. The Professional Certification Panel will explain the impact that professional certification can make in a career while the Alternative Career Panel will provide tips on optimizing their skills so that they can envision stepping outside the box of traditional paralegal roles onto alternative career paths. LAPA offers Certificated Paralegal Examination preparation courses to prepare for the NALA CP Examination. The program takes five weeks starting on April 6 through May 11 at National University, 5245 Pacific Concourse Drive, Los Angeles, CA 90045. The registration to take the examination is through NALA. On June 1, LAPA Employment Law Section will present “California Discrimination Updates Mid Year 2017: Do’s and Don’ts” at the Los Angeles Law Library, 301 W. 1st Street, Los Angeles, CA 90012 from 6:30 p.m. to 9:00 p.m. LAPA’s annual Paralegal Mixer will be held on June 7 from 6:00 p.m. to 8L30 p.m. at the Los Angeles Athletic club, 431 W. 7th Street, Los Angeles, CA 90014. Keynote speaker Judge Holly Fujie’s topic will be “Terrible Mistakes in Trial Preparation that Attorneys Make and LAPA Members Never Would.” On July 11 from 6:30 p.m. to 9:00 p.m. the LAPA’s Litigation Section will present “Responding to complaints” Answers, Demurrers, and More” at the Los Angeles Law Library. Networking is one of LAPA’s many great benefits. https://www.lapa.org/

SDPA - San Diego Paralegal Association

#SDPA IS 40 – The San Diego Paralegal Association, formerly known as The San Diego Association of Legal Assistants, is ’40 and Fabulous’ and the SDPA is celebrating all year long!

On April 15, 2017, SDPA held its annual ½ day educational conference – Bridging the Gap (BTG). On behalf of the San Diego Paralegal Association, I want to acknowledge and say thank you to Miramar Paralegal Program Director, Darrel Harrison, for hosting this signature event! I also extend a special thank you to the speakers for graciously presenting informative, substantive, timely, and relevant material to the BTG attendees. Whether employed with in-house legal departments, private law firms, governmental agencies, and/or students currently seeking employment, each attendee benefited from the insight/knowledge that was shared. Attendees were truly able to IMAGINE, BELIEVE, and ACHIEVE!!

On May 17, 2017, attorney James P. Rudolph, Esq., presented a CLE on the Trafficking Victims Protection Act (TVPA) – Why we have it, How it works, How it can be improved. Attendees were introduced to the definition of human trafficking, the kinds of trafficking, as well as tiers of placement and/or minimum standards required of all countries and how countries are upgraded/downgraded by the United States based on compliance of the TVPA. A very special thank you you to SDPA Affiliate Member UCSD Extension for hosting this event!

On June 22, 2017, SDPA is hosting its 4th annual June Paralegal Night (JPN) themed event at The Dana Hotel – Classic Hawaiian Style. This red-carpet event is sure lure the entire legal community to include paralegals, legal administrators, attorneys and judges. It will be a grand evening of celebration, raffle prizes, awards, and FUN – luau style! IMAGINE, BELIEVE, and ACHIEVE – SDPA is 40!

On July 29, 2017, the SDPA Board of Directors will convene for a full day pot-luck style retreat wherein the board will discuss/assess our accomplishments thus far, as well as finalize events for the remainder of 2017. A special thank you to SDPA Sustaining Member CORODATA for hosting the board! https://sdparalegals.org/
PASCCO– Paralegal Association of Santa Clara County

PASCCO’s 2017 Board of Directors has several goals we hope to accomplish this year! We have completed the first quarter of the year with:

• January—Kick-off social hosted by sustaining member, DTI where we solicited ideas and feedback from members and attendees;
• February—MCLE presented by Lynne Yates Carter, Esquire and Valerie Houghton, RN, MLT, JD entitled “When the Worst Happens, What Then?” This is a program they developed to give not just practical advice, but the requisite statutes (Probate Code) that govern law offices regarding what needs to be done in the event of a medical emergency. They also covered the emotional and physical time needed to deal with catastrophes that can derail the law practice when a principal is seriously injured or otherwise incapacitated making him/her unable to engage in the daily practice of law.
• March—MCLE presented by Katie Prescott, Esquire entitled “Debunking the Expert Witness Process.” This was a lively, interactive presentation covering the types of experts, tips for locating the right expert, communication with experts, and supporting disclosure preparation.
• In May Ilya D. Frangos, Esquire gave an MCLE presentation on trial preparation. June is the CAPA Conference and PASCCO has worked hard promoting this event in the greater bay area by publicizing the conference in blasts, social media, and with direct solicitation to firms, professional organizations, schools, and bar associations from Marin County down to Monterey County. We have secured a sponsor for our portion of the speaker gift assignment (Lexis-Nexis) and expect that we will sell all 250 of our opportunity drawing tickets. In July, NALA Liaison Sarah Murphy, CP and President Gloria Torres, ACP will represent PASCCO at the NALA Conference in Orlando, Florida.

Last year, PASCCO started the process of implementing a new logo by initiating a contest which concluded in March with submission of several proposed logos. The Board voted on the top 3 designs and submitted the choices to the membership for voting. Additionally, our First VP of Membership, Shara Bajurin and NALA Liaison Sarah Murphy, CP are researching a new platform to host and update our website which we are very excited about! We continue to work on revisions to our Bylaws to be consistent with CAPA’s and are also taking this opportunity to update our Policy & Procedure Manual to refine board position descriptions which should assist us in solicitation for next year’s board.

We have started planning our signature event, the 39th Annual Educational Seminar on October 21, 2017. It will be held at West Valley College in Saratoga and we have secured several speakers. We have chosen a professional networking theme and just confirmed that the VP Commercial Legal at LinkedIn headquartered in Sunnyvale will be our keynote speaker! As always, the seminar will have very timely, relevant presentations and we hope members of the Alliance will take advantage of CAPA reciprocity and attend this seminar. We anticipate the registration link to be available in mid-August. Stay tuned to www.pascco.org for more details or feel free to contact PASCCO’s CAPA Director, Nancy A. Logue, ACP for more details at pascco1@caparalegal.org.
In the neighborhood...

SPA– Sequoia Paralegal Association

The Sequoia Paralegal Association is thrilled to be a part of the 2017 CAPA Conference that will be held at the Wyndham Hotel in Visalia. SPA looks forward to members and conference participants being in such close proximity to the Giant Sequoias that are nestled in the Sierra Nevada National Parks.

We are hopeful participants and their families will use the time in our area to visit the Sequoias. Participants can seek more information at SequoiaVisitorsGuide.com. Other attractions and activities can be located at www.tularecountyemap.com. SPA continues to host outstanding MCLE luncheons including the May presentation by Asst. U.S. Attorney Henry Carbajal at SPA’s Attorney Appreciation Luncheon.

Mr. Carbajal’s presentation “E-Discovery and the Ethical Duty of Competence” was well received. Jeffrey Levinson of Griswold LaSalle in Hanford was the winner of SPA’s $100 gift certificate that was sponsored by Moore Court Reporters. SPA also had its drawing for the margarita basket prepared to sell CAPA Conference raffle tickets.

Upcoming SPA luncheon topics include June’s presentation by the Tulare County Superior Court, and Subrosa/Surveillance to be given in August. SPA will not be having a meeting in July due to the CAPA Conference. SPA luncheons are held the first Wednesday of the month from 12-1:00 at the Double LL Restaurant in Visalia. Lunch, including MCLE is $20.00. http://www.sequoiaparalegals.org/

Certified Paralegal Program Receives Accreditation from the National Commission for Certifying Agencies (NCCA)

On April 30, 2014, The National Commission for Certifying Agencies (NCCA) granted accreditation to the NALA Certified Paralegal program for demonstrating compliance with the NCCA Standards for the Accreditation of Certification Programs.

NCCA is the accrediting body of the Institute for Credentialing Excellence. The NCCA Standards were created to ensure certification programs adhere to modern standards of practice for the certification industry.

The NALA Certified Paralegal program joins an elite group of more than 120 organizations representing over 270 certification programs that have received and maintained NCCA accreditation.

More information on the NCCA is available online at www.credentialingexcellence.org/NCCA.

Information describing the Certified Paralegal program is available at www.nala.org/certification.aspx.
Spring is well under way and Summer is in the air! Our members continue to receive opportunities to attend current and quite interesting MCLE events. On April 11th (the most attended event to date) we learned about the "Top Ten Investigative Tips" in a workplace investigation.

In May, SVPA is very excited to be launching a joint effort with the Sacramento County Bar Association in offering two MCLE events. On May 4th, were learning about Living Wills & Trusts and On May 20th were celebrating our Annual Gala Brunch In Honor of California Paralegal Day and being treated to an MCLE on Business Development by Sacramento’s very own Don Vilfer, Director of Digital Forensics, from Capitol Digital/Califorensics.

In June we were swept away with "The Rising Tide of Credit Reporting. Visit our website’s event calendar for more information and to register for the event at http://svpa.org/noticesevents/calendar/.

SVPA continues to support and give back to our community in various ways. SVPA contributed during Voluntary Legal Services Program (VLSP) of Northern California’s first Estate Planning Clinic held in March. SVPA members are volunteering their skills monthly for this free community event to provide estate planning services for the underserved within the Sacramento area communities. May 13th marks SVPA’s second year participating in the Koman Race For The Cure. As described above, on May 20th SVPA is celebrating our Annual Gala Brunch In Honor of California Paralegal Day at the Sacramento County Bar Association’s new location.

In June SVPA will host it’s first member focused after work social event cleverly named "Meet and Confer" at a popular downtown dining spot. We are hoping these regular 'no host' casual get together’s will build comradery, encourage membership, and increase our members professional’s knowledge base.

Our Marketing Committee, through Facebook, LinkedIn, Twitter & Instagram, have, made great strides in keeping our members connected and informed. SVPA continues to provide resources to the local colleges and programs and offers student benefits and opportunities to encourage growth and involvement with our association.

More information about SVPA and these events can be found on the SVPA website at: https://svpa.org/
With lightning-fast changes in regards to how data and electronically stored information is kept, maintained, and destroyed, the evolution of the practice of law has been forced to adapt to technology resulting in a specific need for tech-savvy legal professionals currently missing but in high demand.

UC San Diego Extension’s e-Discovery and Litigation Technology certificate is an interactive, 2-course online program designed to help legal professionals meet the evolving technical demands in the legal field. In as little as six months, you will learn all phases of electronic discovery, the principles of litigation readiness, legal project management, current legal software used in managing databases, and the use of technology to create streamlined and persuasive presentations at trial.

“Adding a litigation technology certification to a law degree or paralegal certification makes candidates dangerously competitive. This is what is necessary to move any legal career to the next level. Professionals need to gain more than just a general understanding of technical legal processes.”
—Scott Robinson, Senior Solutions Consultant, Inventus

For more information:
Julia Dunlap, Esq.
Director of Legal Education
858-534-8164 | unexlaw@ucsd.edu

Next program begins July 2017!
Enroll today!

UC San Diego | Extension
extension.ucsd.edu/ediscovery
In a recent post, we discussed the hazards, from a tax reporting perspective, of erroneously treating California caregivers as independent contractors as opposed to employees. If a caregiver is an employee (as is often the case), her employer also must comply with the various wage and hour rules that apply to the employment relationship.

Many elders and their families simply pay caregivers a straight hourly rate for 12 or 24 straight hours of work. This approach, though convenient, may set the stage for employment litigation against the elder.

Below, we’ll discuss the two sets of rules that apply to California caregivers depending on the nature of their work – those who employ caregivers will need to pick the right set of rules and follow them.

In California, the Industrial Welfare Commission (“I.W.C.”) issues industry and occupation-wide wage orders that establish minimum wages, maximum hours of work, and standard working conditions for covered employees. Relevant here is I.W.C. Wage Order 15, governing wages, hours and working conditions for those employed in “household occupations,” which means “all services related to the care of persons or maintenance of a private household or its premises by an employee of a private household.” Also relevant is the Domestic Worker Bill of Rights, commencing at California Labor Code section 1450, which controls the wages, hours and working conditions of “personal attendants” employed in private households. Although originally scheduled to sunset on January 1, 2017, Governor Jerry Brown in September 2016 signed SB 1015, which eliminated the sunset date. According to the author, Senator Connie Leyva, SB 1015 “validates the important work of the over 300,000 domestic workers that serve as housekeepers, nannies, and caregivers in private homes in California.”

California I.W.C. Wage Order 15

Unless they are “personal attendants” (discussed below), Wage Order 15 sets for the rules governing in-home caregivers in California, which depend on whether the caregiver lives with the elder.

With respect to live-in caregivers, Wage Order 15 requires:

- The worker must be paid at least the state minimum wage rate for employment, which is currently $10.50 per hour.
- The worker must have 3 hours off (may be nonconsecutive) in a 12-hour span of work.

(Continued on page 11)
• The worker must have 12 consecutive hours off in a 24-hour workday, or be paid overtime for work during this period.

In addition to providing overtime and double time pay as outlined above, employees covered by the wage order must be provided with meal and rest breaks at the following rates: one 10-minute rest break for every 4 hours worked or major fraction thereof, one 30-minute meal break for a work period of more than 5 hours, and a second 30-minute meal break for work in excess of 10 hours in a workday. There is an option to use “meal and lodging credits” to meet the minimum wage requirements under the Wage Order, but you should consult an attorney to get more information on this complex topic.

Personal Attendants Covered by the Domestic Worker Bill of Rights

Individuals who are “personal attendants” are not covered by the overtime and meal/rest break provisions of Wage Order 15. Instead, the Domestic Worker Bill of Rights contains the applicable provisions. A “personal attendant,” under California Labor Code section 1451(d), is: “any person employed by a private householder or by any third-party employer recognized in the health care industry to work in a private household, to supervise, feed, or dress a child, or a person who by reason of advanced age, physical disability, or mental deficiency needs supervision.”

However, an employee will not be considered a “personal attendant” if more than 20 percent of his or her time is spent performing “non-attendant” household duties, such as making beds, cooking, laundry, or other duties related to the maintenance of a private household or the premises.

The following rules apply (instead of Wage Order 15) to “personal attendants” subject to the Domestic Worker Bill of Rights:

• The worker must be paid at least the state minimum wage rate for employment ($10.50/hour).

• The worker must be paid overtime at one and one-half times the regular rate for all work performed in excess of 9 hours in a workday or 45 hours in a workweek.

Thus, if you hire a caregiver to work for an elder, you must determine whether the Domestic Worker Bill of Rights applies, and if so, pay him or her accordingly.

A Recipe for Litigation

As the above simplified discussion suggests, California’s laws and regulations governing the wages, hours and working conditions of personal attendants and other in-home caregivers are complex, and you may consider paying a caregiver a flat rate to avoid the hassle. We strongly caution against this approach.

A worker who is not paid properly for all hours worked can file a lawsuit against his or her employer (i.e., the aging parent you are assisting) to recover unpaid wages and overtime. A worker who prevails in such a lawsuit will recover damages in the form of unpaid regular and overtime wages, along with reasonable attorney’s fees, associated litigation costs, interest on the unpaid wages, and statutory penalties. This amount quickly can add up into the six figures for a single employee.

California employers, large and small, often face wage and hour lawsuits in today’s marketplace. The availability of attorney’s fee awards to prevailing employees means that even workers of modest means who cannot front litigation costs can find counsel to advocate for them. Thus, we are now also seeing wage and hour claims against elders who hired caregivers to help them remain in their homes. Typically, family members who employ caregivers to assist elders are unfamiliar with the requirements of being an employer, but ignorance is not a defense.

Simply put, wage and hour violations at Mom’s house can spark litigation as easily as violations in a commercial work environment. Wage and hour litigation against California elders is likely to increase given our aging population and what seems to be a growing number of lawyers specializing in bringing such claims.

Hiring a home care agency, while costly in the short term, will help families avoid the complexities of navigating California’s employment laws, and may end up saving money by avoiding costly litigation. If a family chooses to directly hire a caregiver, instead of working through an agency, the family will need to carefully handle tax issues, as well as wage and hour issues, and keep clear records of their compliance.
JUNE 24, 2017
EDUCATIONAL CONFERENCE

Family Law
- Financial Documents re: QDRO
- Ethics in Family Law Court
- Court Family Services
- Reasonable Expectations in Values

Litigation
- Legal Writing
- Discovery
- Ethics in e-Discovery
- Post Judgment Motions

Labor & Employment Law
- Ethical Obligations in Labor Cases
- Effective Discipline and Documentation
- Elimination of Bias
- Employment Law Updates

Land/Resource Law
- CA Environmental Quality Act (CEQA)
- Water Law
- Premises Liability (includes sidewalks)
- ADA

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CAPA is Going Green
Marriage usually begins with a wedding where your closest friends and family come together to celebrate the union of yourself and the one person whom you have chosen to share your life experiences and grow old with. Most people would agree that the word “divorce” never enters their minds on their wedding day. The bride(s) and groom(s) profess their love to each other and swear that they’ll be one of the couples who make it.

Unfortunately, according to statistics from the Centers for Disease Control and Prevention, 45–50% of marriages in the United States end in divorce. If you happen to end up in that group, there’s a lot of compromising and dividing of assets while you finalize your divorce. Once the ownership of the cars is decided, the proceeds from the sale of the house are finalized, and both parties have at long last agreed on who gets what in the divorce settlement, they breathe a sigh of relief that the emotional ordeal is over. But what if one or both of you have retirement plans?

Retirement plans are usually the most financially significant asset divided by a divorcing couple. Your family law attorney...
might need to hire another attorney—someone who understands how to divide retirement plans and prepare the appropriate court orders. Though spending even more time and money on legal fees is frustrating, this is one of the best decisions you'll make. Mistakes can come back to haunt you years down the road and end up costing even more money when trying to correct them—unless they are corrected at all.

In general, retirement income is marital property to the extent that income was earned, accrued, or vested before your marriage. If you divorce, the income must be shared with your ex-spouse. Most retirement plans, such as defined benefit plans, defined contribution plans, and cash balance plans, require the use of a qualified domestic relations order (QDRO) to properly divide the benefits between the two divorcing spouses. A QDRO essentially creates or recognizes the existence of an alternate payee's right to receive, or assigns to an alternate payee the right to receive, all or a portion of the benefits payable with respect to a participant under a retirement plan, and which includes certain information and meets certain other requirements. For purposes of the QDRO provisions, an alternate payee cannot be anyone other than a spouse, former spouse, child, or other dependent of a participant.

A domestic relations order is a judgment, decree, or order (including the approval of a property settlement) made pursuant to state domestic relations law (including community property law) which relates to the provision of child support, alimony payments, or marital property rights for the benefit of a spouse, former spouse, child, or other dependent of a participant.

A state authority, generally a court, must actually issue a judgment, order, decree or otherwise formally approve a property settlement agreement before it can be qualified domestic relations order under ERISA (Employee Retirement Income Security Act). The mere fact that a property settlement is agreed to and signed by the parties does not, in and of itself, cause the agreement to be a domestic relations order.

Once in a while, the division of a retirement plan is simple, but most of the time there are considerations of which the parties are unaware. Even for simple plans, such as a 401(k), the issue of outspending loans can make the division of the plan problematic. For more complex plans, such as pensions, the basic accrued benefit is considered, as well as survivor benefits, early retirement benefits, post-retirement cost-of-living adjustments, and disability benefits. Determining which of these benefits to share with the non-employee spouse, and in what amounts, can be difficult, especially since there are numerous ways to define how much of the pension is the "marital portion." The misconception that retirement plans are simple can lead to delays in discovery, improper expectations, and disappointment. You need only read a summary plan description (SPD) for any retirement plan to realize that they are complicated, highly regulated, and difficult to assign assets.

A few employer-sponsored retirement plans cannot be divided, even if the judgment of divorce says the parties shall divide them. These plans are usually called non-qualified deferred compensation plans. Your attorney needs to know whether or not the particular plan can be divided by a "QDRO type" court order, because if it cannot, he or she needs to factor it into the settlement some other way, perhaps by offsetting against another asset and/or present value calculation, or by sharing of benefits in the non-qualified deferred compensation plan when they are eventually paid to the participant.

Works Cited

Marriage and Divorce (June 13, 2018), www.ceph.org/.../Marriage-Divorce.htm


Deborah Schacter is the qualified domestic relations order paralegal at the law firm Butterfield Schechter LLP. Additionally, Ms. Schacter has assisted attorneys with divorce matters before the IRS, and with the State Board of Equalization. She has also assisted attorneys with legal collections and recovery processes while managing a support service department. Ms. Schacter received her undergraduate degree in history and Italian studies magna cum laude, from the University of San Diego (USD) in 2008. She also acquired her paralegal certificate, cum laude, from USD in 2008 and her master's of arts in history, cum laude, from USD in 2012.
2017 Conference & Expo

Orlando, FL
July 19 - 21, 2017
Wyndham Orlando Resort International Drive

The Nation’s Largest Gathering of Paralegals

NALA
THE PARALEGAL ASSOCIATION
Automobile liability policies provide coverage both to “named insureds” and “insureds.” Do you understand the coverage consequences of this distinction? When representing an insured in a car accident case, you need to determine whether your client is the “insured” or a “named insured” under the relevant policy:

**Named insured.** The person or entity to whom a policy is issued is generally designated as the “named insured” in the declarations portion of the policy. Endorsements or definitions in the policy may expand the persons or entities who are classified as named insureds to include, for example, a spouse who lives with the named insured or various companies affiliated with, or controlled by, the named insured.

**Insured.** A person, entity, or organization not in a contractual relationship with the insurer, but to whom the policy provides coverage, is called an “insured.” Insureds may include relatives living in the same household with the named insured, persons using an owned automobile with permission, and persons or entities responsible for the actions of named or additional insureds.

What difference does this distinction make? Sometimes a lot. Coverage is broadest for the named insured. To the extent permitted by the Insurance Code and case law, coverage for other insureds may be more limited.

There may also be differences in the applicability of coverage. Most policies specify that the insurance “applies separately to each insured against whom a claim is made or suit is brought.” The limits of liability for an accident are the same, however, regardless of the number of “insureds” who may be responsible for the accident.

In analyzing a claim, you’ll need to assess the potential coverage from the standpoint of each insured seeking coverage, especially if an exclusion is potentially applicable. *Arenson v National Auto. & Cas. Ins. Co.* (1955) 45 C2d 81, demonstrates this principle: A personal liability policy covered the named insured and members of his household, including his minor son as an additional insured. The policy excluded claims for bodily injury or property damage “caused intentionally by or at the direction of the insured.” The plaintiff’s minor son started a fire that damaged school property. The question was whether the parent’s liability under a provision of the Education Code was covered by the policy. The insurer argued that none of the insureds would be covered if an injury was intentionally caused by an insured. The parent argued that if one insured intentionally injured property, coverage would not necessarily be precluded for all insureds. The court agreed with the parent, holding the parent was covered although the child was excluded.

Some courts have barred coverage for all insureds under a policy in which one insured committed an intentional act and the policy excluded coverage for “intentional acts of an insured” as opposed to “intentional acts of the insured.” See *Fire Ins. Exch. v Altieri* (1991) 235 CA3d 1352. But if a policy covering multiple insureds contains a severability clause, an exclusion barring coverage for injuries arising out of the intentional acts of “an insured” does not bar coverage for claims that an insured negligently failed to prevent the intentional act of another insured. *Minkler v Safeco Ins. Co.* (2010) 49 C4th 315, 319.

As with all insurance issues, understand what the terms mean and carefully scrutinize policy language. For everything you need to know about insured, turn to CEB’s *California Automobile Insurance Law Guide*, chap 3.
UPCOMING CAPA BOARD MEETINGS

JUNE 24, 2017
29th Annual June Conference
hosted by Sequoia Paralegal Association,
Fresno Paralegal Association, and
Kern County Paralegal Association
The Wyndham Visalia
9000 W Airport Drive
Visalia, CA 93277
https://www.wyndhamhotels.com/

NOVEMBER 2017
11th Biennial Leadership Conference
hosted by San Diego Paralegal Association
Location TBD in sunny San Diego!

NOVEMBER 2017
CAPA Board Meeting
Location TBD in sunny San Diego!

June 25, 2017
CAPA Board Meeting
The Wyndham Visalia
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Visalia, CA 93277

Interested in seeing your CAPA Board at work;
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As any working paralegal knows, much of our daily grind involves the creation or modification of documents. In some cases, these documents are letters, or wills or deeds. But in other cases the documents we help to prepare will be filed in court and served on other parties and their representatives in a legal action. Documents in this last category frequently seek to secure an important right for the client and are designed to persuade the court to rule in our client’s favor.

This got me to thinking about why so many of these documents so difficult to read. If they are as important as we think they are (and they are), why isn’t more attention paid to making them readable so that the message can get through to the reader?

Fortunately, I found another legal professional who feels the same way. His name is few Matthew Butterick, a former California attorney turned font designer and student of typography and the author of *Typography for Lawyers* (O’Connors 2015).

First I should explain what typography is. According to Butterick, typography is the art and technique of arranging type to make written language legible, readable, and appealing.

Butterick has created a list of what he calls the “Laws of Typography.” I am paraphrasing here and taking certain liberties, but one of his laws is that a reader with limited time and attention will judge your document more on how it looks — its typography — than on its substance.

“Good typography reinforces the goals of the text,” according to Butterick. As mentioned above, the most common goal of legal documents is to persuade. Think about a busy judge who has a limited amount of time to read your brief or motion. If your typography practices make your document hard to read, the judge may not read to the end.

Butterick’s thesis about the use of typographic principles in legal document preparation can be summed up in the three sentences below. Anything inside parentheses is my own doing.

1. Good typography is part of good lawyering (or “paralegalling”);

2. Legal documents should be held to the same typographic standards as professionally published material; and

3. Any lawyer (or paralegal) can master the essentials of good typography.

Butterick has a convincing theory for why, despite the advent of computers and word processing, many drafters of modern legal documents still put out a typographically inferior product. The source of these poor practices is a result of the limitations of the manual typewriter era.

Most manual typewriters, for example, could not emphasize important text, like headings, with bold or italic text, and some could not underline. So in order to create emphasis typists capitalized important text. ALL CAPS, HOWEVER, ARE HARDER TO READ (see what I mean?)

Today, despite the ability to emphasize text in other eye-pleasing ways, many legal document drafters persist in using all caps for headings. This habit is particularly annoying in memoranda of points and authorities.

I have selected a few of my favorite Butterick typography tips and share them with you below, along with my own editorial comments:

(Continued on page 21)
1. Making the caption page more readable

- Use single vertical line on left side of page between line numbers and page text
- Omit vertical line on right side of page
- In the attorney address line, omit the words “telephone” and “E-mail” preceding those items and append the word “fax” to the right of the fax number. Everyone knows what an e-mail address looks like so it’s not necessary to include the “E-mail” label. If one of the phone numbers is labeled “fax,” people will figure out that the unlabelled phone number is a voice line.
- Do not use ALL CAPS for party names or the document name. Capitalize first letters only.
- All CAPS OK for the court name; consider using expanded spacing for court name, e.g. SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA. (In Word, font-> character spacing -> Spacing -> Expanded)
- Use a bold and slightly larger font (e.g. 12.5 or 13) for party names and the document name than you use in the rest of the document, e.g. Jones v. Smith; Motion for Summary Judgment.
- Place party names, case number and document name in a table using the table cell border feature to make the reverse dividing lines instead of the dated vertical paren ).
- Place horizontal line under case number.

Here is a link from Butterick’s website to a before and after caption page utilizing some of the tips above.

2. I cannot overemphasize how important it is not to OVEREMPHASIZE!

Attorneys love to overemphasize things. In my view, it is the paralegal’s mission to break this insidious habit!

- Why do we emphasize “PLEASE TAKE NOTICE

THAT” “in the first sentence of a notice of motion? If you must use those words, there is no need to emphasize them. Instead, doesn’t it make more sense to emphasize what it is that you’re asking the court do? See the example below:

- When it comes to bold or italic, they should be thought of as mutually exclusive. Use one or the other, but as little as possible, writes Butterick. “If everything is emphasized, then nothing is emphasized,” he says.
- ALL CAPS are fine for no more than one line of text.

OK: Effect on petitioner’s voting rights

Not OK: EFFECT OF ISSUANCE CERTIFICATE OF REHABILITATION BY THE SUPERIOR COURT

- Underlining makes text harder to read. Underlining is a relic from the typewriter days. Most manual typewriters had no way to emphasize text (no bold or italic) except by underlining.

With modern word processing software, there is no need to underline.

3. Basic rules

- Always use curly quotes (“or ’) instead of straight quotes (" or ’). Straight quotes are another typewriter relic. Curly quotes are the gold standard in modern typography. I always find and replace the straight quotes whenever I copy and paste text with straight quotes into a document.

(Continued on page 22)
• Use one space between sentences. This one is going to be a hard habit for some of you and your attorneys to break. Extra spaces disrupt the balance of the white space, Butterick says. Here is a link to an example from Butterick’s website.

4. Avoid use of Roman numerals

IV out of V typographers surveyed in MCMLXXXI agreed that Roman numerals are difficult to read. XCIX% of the time.

That was difficult to understand, wasn’t it? Butterick prefers the use of tiered numbers instead.

For example:

1. Primary heading
   1.1 Secondary heading
   1.2 Another secondary heading

Instead of:

1. Primary heading
   A. Secondary heading
   B. Another secondary heading

5. Fonts: Use monospaced fonts (each character is the same width) instead of proportional fonts (characters vary in width).

Monospaced fonts include Courier, Consolas, Menlo and Lucinda Console, all of which are standard in Microsoft Word.

Butterick is not a fan of the narrow Times New Roman, originally designed for newspapers. If court rules allow, avoid TNR and chose one of the monospaced fonts.

1 California’s Rules of Court mandate the use of fonts “essentially equivalent to” Courier, Times New Roman, or Arial. (Rule 2.105.)
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I. PUBLICATIONS

1. CAPA'S RECAP is a quarterly newsletter. RECAP provides comprehensive informative legal news of interest to paralegals. RECAP has practical articles of interest to paralegals and their career. As a Member of a CAPA Member Association you receive an electronic copy at no charge that is distributed by your Association.

2. E-NEWSLETTERS CAPA Connections communicates with all Member Associations in a bi-monthly e-newsletter that provides CAPA, NALA, NFPA, AAfPE and all it’s Member Associations’ local activities and paralegal related news. You can access through your Association or on CAPA’s Facebook page.

3. PARALEGAL TODAY MAGAZINE - As a Member of a CAPA Member Association you will receive a discounted rate when subscribing to Paralegal Today magazine. You can mail or fax a completed application (located in this RECAP issue) and check or visit: www.paralegaltoday.com or call toll free: 1-877-202-5196. CODE AVAILABLE

4. THE CALIFORNIA PARALEGAL by William P. Statsky and Sharon Sandburg - As a Member of a CAPA Member Association you can save 25% on this resource guide. This reference book provides an introduction to the career, Code of Professional Responsibility, unauthorized practice of law, employment rights of paralegals, among other topics of interest to paralegals. You can order by calling 1-800-347-7707. CODE AVAILABLE

5. CAPA GUIDEBOOK ON THE UTILIZATION OF PARALEGALS was compiled to provide a reference on the utilization of paralegals, update pending legislation and new cases regarding recovery of paralegal fees, definitions, duties, responsibilities and skills of specific practice areas, ethics guidelines and more. The Guidebook is available from CAPA's Website (excerpts provided in this RECAP Issue along with the direct link).

6. CEB offers CAPA a 10% discount on CEB Books and Action Guides, 10% discount on OnLAW (CEB’s online legal content), 25% discount on CEB Passports (for CLE programs) and 10% discount on SmartJCForms (Judicial Council Forms management app). For more details, go to www.ceb.com/capa.

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II. INSURANCE

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To get more information on this Member Benefit, please contact our Aflac Representatives: Annie Christian Strenk anne_strenk@us.aflac.com 1-714-321-1614, and Bill Newberry wmaflac@aol.com 1-714-803-3444.

III. DISCOUNTED RATES ON SERVICES

1. SPREEBIRD FORMERLY KNOWN AS SCREAMIN DAILY DEALS – Click on the SpreeBird widget to sign-up (Continued on page 26)
and then when you reach the Community Partner, select nonprofit and “California Alliance of Paralegals” from the drop-down menu for daily emails that provide deep discounts of 50% to 90% from businesses in your area.

2. FLOWERS - A 15% discount at 1-800-flowers.com. CODE AVAILABLE

3. WORKING ADVANTAGE provides you with reduced rates for movies, sporting, concerts, restaurants, theme park admissions, Verizon Wireless, computers, flowers, gifts, on-line shopping at numerous websites and much more. Register at www.workingadvantage.com Employees Click Here – enter Member ID No. (CODE AVAILABLE) and create your account (user name and password). Take advantage of online offers immediately! To order by phone or if you have any questions call 1-800-565-3712.

IV. ADDITIONAL CAPA BENEFITS

1. CAPA EVENT DISCOUNTS— Members of a CAPA Member Association receive discounted rates to attend CAPA’s Annual June Conference and its Biennial Leadership Conference (November). The June Conference provides attendees with quality educational and MCLE courses given by leaders in their respective fields of practice and Ethics session to maintain compliance with B&P §6450 et. seq. Attending the Leadership Conference provides leadership mentoring, education and the necessary skills to guide your members’ paralegal careers and help build your own local association.

2. OBTAIN MEMBER RATES — As a Member of a CAPA Member Association you receive reciprocal member rates when you attend events, seminars or conferences put on by any of CAPA’s Member Associations (Website Affiliates tab).

Be sure to also check CAPA Connections for details on upcoming events and activities.

3. LEGISLATION UPDATE — CAPA’s Legislative Committee reviews and reports on pending legislation of interest to paralegals and disseminates and shares reports and information with each Member Association and in RECAP.

4. STATE BAR LIAISONS — CAPA has representatives that remotely attend Board of Trustees and certain sections of the State Bar of California. These representatives promote the paralegal profession to attorneys and other legal professionals.

5. G.O.A.L. PROGRAM—One of CAPA’s core missions is education. CAPA’s Leadership Academy (Grow Our Association Leaders) is part of that mission and provides monthly webinars to build dynamic leaders for today and tomorrow. This is a free event to any Member of a CAPA Member Association (programs and link provided by your Association).

6. INFORMATION THROUGH ALLIANCE— CAPA’s Member Associations provide an opportunity to share information on how they operate and improve their member organizations. There is an exchange of information on how to put on successful seminars and conferences, increase membership, help your community, provide resources to association members, local court information, filing questions, exchange of other resources and information, and much more. To learn more, please contact your local association or contact CAPA.

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Publication of advertisement does not imply endorsement of the products and/or services offered. Advertising deadline is the 15th of the month prior to publication. See below. Any late or incomplete submissions may not be included in the next issue. All submissions for advertisement are subject to approval by CAPA Executive Committee. Please follow outlined size guidelines and submit all advertisements in .jpg format.

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Please note: If your submission is not received by the date indicated, it may not be published in the next issue.

( Including advertisements and event announcements)

FALL/SEPTEMBER 2017 Issue:   WINTER/DECEMBER 2017 Issue:   SPRING/MARCH 2018
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