Teaching Professionalism to Paralegal Students
SAVE THE DATE!!

34th Annual Milwaukee Conference
The Hyatt Regency • October 21-24, 2015
AAfPE 2015 Calendar

June 4-6, 2015
Board of Directors Meeting
Milwaukee, Wisconsin

October 20-21, 2015
Board of Directors Meeting
Milwaukee, Wisconsin

October 21-24, 2015
34th Annual Conference
Milwaukee, Wisconsin

Help at Your Fingertips:
The Educational Resource Library

The mission of the ERL is to provide members with course-level resources, such as syllabi and subject-matter projects; and program-level resources, such as assessment plans, rubrics, professional development ideas, and surveys. Since the ERL’s inception, the Education Committee has been gathering and cataloguing all types of information, even archives of relevant listserv discussions, in an effort to streamline AAfPE institutional members’ access to material designed to make our lives easier (always a bonus) and our programs even better.

To explore the ERL, go to www.aafpe.org, click on “Members Only,” and enter your Username (your email address) and Password (from AAfPE). If there is content you would like to see added, please let us know. Or, if you have something to add, please send it to Stephen Barnes (sbarnes@coastline.edu). Contributors retain all copyright and author privileges to their own material. The ERL should only get bigger and better as time passes and more AAfPE members help it grow.

Honorary Membership in AAfPE

Each year, up to two persons who have provided outstanding service to AAfPE, but are no longer involved in paralegal education, are conferred with honorary lifetime membership.

A nominee must have two (2) letters of recommendation from two (2) different AAfPE member institutions. If you are interested in nominating someone for this achievement, please mail and/or email your letters of recommendation, on institution letterhead by August 1st to:

AAfPE
c/o Steve Dayton, AAfPE Immediate Past President
19 Mantua Road
Mount Royal, NJ 08061

Writing for The Paralegal Educator

Would you like to impress your boss, your colleagues, your students? Do you have a teaching experience, knowledge relevant to the paralegal profession or a solution to a problem that you would like to share?

If you are thinking “yes” to any part of these questions, then it is time to put your ideas on paper and write an article for AAfPE’s national peer-reviewed magazine – The Paralegal Educator.

The Educator is published twice a each year. Articles can be submitted at any time; the deadlines for the two issues will be announced well in advance of the submission date. A broad theme may be assigned to an issue to focus on trends and concerns within paralegal education and the paralegal profession. Watch for the “Call for Articles” on the AAfPE listserv which will provide this information.

If you have any questions or would like more information, please contact Editor-in-Chief, Carolyn Bekhor at cbekhor@laverne.edu or (909) 593-4410 ext. 4410
Well, the long, cold, snowy winter is finally over and spring is here! With spring, comes new beginnings and that includes new ideas for AAfPE!

We have just completed our regional meetings where our talented paralegal educators shared a wealth of information with our members! It was great to see a lot of adjuncts from the host program as well as many newcomers! We would like to ask those who presented write articles and share information on ERL so those who were not from a particular region can utilize the material in their classes.

I would like to thank each of the regional conference hosts for their hospitality! We know a lot of work goes into the planning of these conferences and it is truly appreciated!

I have also challenged each member to recruit additional AAfPE members! If you ask your adjunct faculty to join, the dues for individual membership is only $25! With that, they receive all the benefits with the exception of voting. Many of our individual members have found information received from AAfPE very beneficial and have stated that they do use material in ERL for their classes. So, for each member you refer, please ask that person to write your name on the top right or left corner of the application so you will receive the points. The member who receives the most points by the week prior to the Annual Conference in October will receive a prize!

Save the dates! AAfPE Annual Conference will be held from October 21-24, 2015 at the Hyatt Regency Milwaukee, Milwaukee, Wisconsin. The Conference committee has been working diligently to provide you with great sessions, many with an interactive format! The Pre-Con this year will be a technology session to include e-discovery, litigation management and much more! Don’t miss out on this annual event! The link for the conference is: http://aafpe.org/Conferences/national.asp

With the many changes occurring in the paralegal profession and paralegal education, the AAfPE Board will be participating in a strategic planning session and discuss possible changes based on the results of the survey sent to our membership.

Wishing you all a wonderful spring season!

Patricia Lyons
President
Having taught Contract Law for many years, I have seen a pattern emerge. Many students are eager to start the course, interested in the materials, and may even have some professional experience working with contracts. There are always a few students, however, who are enrolled in my Contract Law class simply because the course is required for graduation. While some courses can generate interest from nearly every student, Contract Law inherently lacks the riveting examination of crime scene evidence or discussion of multi-million dollar damages for spilled coffee, which are discussed in other legal courses. Due to the subject’s tedious nature, it can be difficult to encourage discussion and class participation from Contract Law students. Even those who are eager to learn won’t typically participate as often as they may in other classes, because the topics simply do not invite lively conversation.

When teaching Contract Law, it is especially beneficial to take extra measures to generate interest and discussion of the subject matter. The traditional methods, such as case briefing and drafting contracts, leave room for some supplementary assignments to inspire student interest. Having tried a variety of methods, I have developed two useful tools that increase learning outcomes while making the learning process far more engaging. Here are two approaches that have transformed an otherwise dry subject area into an interactive learning experience.

**Have Your Students Swim With The “Sharks”: Using Reality Television To Reinforce Concepts**

In the beginning weeks of class, most instructors spend a good amount of time discussing offer, acceptance, counter offer, and the ever famous mirror image rule. While it is expected that students will analyze a selection of hypothetical scenarios, I have found that students eventually need to move into a realm of reality. Reality television, that is. The popular ABC reality television show, *Shark Tank*, is a great tool to inspire an interactive discussion of contractual agreement. The show demonstrates actual negotiations between entrepreneurs and investors. The entrepreneurs always start out with an initial
offer, and the investors, who are better known as “sharks,” will provide a counter offer. As the negotiations continue on, the students can be challenged to discuss the following questions:

1) What was the entrepreneur's initial offer?

2) Was this offer accepted?

3) If the initial offer was not accepted, was a counter offer produced? If so, what are the terms of the offer?

4) Was an agreement eventually made pursuant to the negotiations?

5) What are the terms of the agreement?

Rather than simply reading the hypothetical scenarios involving offer and acceptance, students will engage in a lively conversation after watching the brief negotiations. For a traditional course taught on campus, this is a great way to start or end a class discussion. Since the negotiations only last for approximately ten minutes per entrepreneur, an instructor can show one negotiation per class session as a catalyst for class conversation. In an online course or hybrid delivery course, students can view actual Shark Tank negotiations by watching the television show when it airs or the many past episodes available at no cost on ABC.com. The student feedback has been incredibly positive with this assignment. Many students reported that they look forward to discussing the sharks, and that the classes’ conversations helped them to relate the concepts to real world applications.

**Throw Out The Case Law And Bring In The Celebrities: Using A Case Law Media File**

While I think it’s safe to assume most of us don’t have room in our budgets to host a campus celebrity visit simply to have the celebrity discuss any upcoming legal issues they may be involved with, we can certainly use prominent figures to encourage class discussion. A great way to illustrate contract law concepts is to integrate the news coverage of prominent figures, politicians, and athletes who are experiencing contract conundrums. Rather than simply talking about emerging cases, professors can assemble a media file for students to review.

For example, in recent semesters, I have asked students to explore J.C. Penney’s previous lawsuit against Martha Stewart Living Omnimedia (MSLO) regarding their agreement to sell MSLO products in “pop-up” stores within Macy’s department stores nationwide. This contract dispute was particularly interesting for students because one point of contention hinged on whether the “pop-up” stores qualified as retail stores. MSLO was prohibited from selling housewares in retail stores per the original contract with J.C. Penney’s. Since most students have shopped in Macy’s or J.C. Penney’s, and most likely are familiar with Martha Stewart, they are able to relate to the aspects of this contract dispute more readily than they would with unfamiliar figures in traditional case law. The lawsuit eventually resulted in Martha Stewart Living Omnimedia entering into a revised partnership, which allowed for additional discussion with students about possible outcomes pursuant to contract disputes.

This type of assignment is made possible through the use of a case law media file. In the place of traditional case law, students receive the file, which requires them to put together the pieces of an emerging or resolved legal matter. The file is electronic, and may be emailed to students or stored within the course website. The case law media file will contain a series of news coverage video clips from You Tube, related news articles, law blog articles, and recorded interviews given by the parties’ attorneys when possible. In addition, the case law media file may contain a PDF of any related filings or decision. Students are tasked with reading over the documents and viewing the video clips. As they review the materials, they will answer a series of questions related to the contract law concepts they’ve learned.

The Shark Tank and case law media file assignments spark discussion and invite students to engage more readily in class. While Contract Law may not be the most invigorating course, the right resources can surely enhance it.

**BIOGRAPHY**

Erin Elizabeth Rybicki, J.D., M.Ed., is the Assistant Director of the Legal Education Institute at Widener University School of Law in Wilmington, Delaware. Although she remains an attorney admitted to practice in New Jersey, Ms. Rybicki has worked exclusively in higher education for more than eight years. In addition to her administrative role at the university, Ms. Rybicki also serves as a faculty member teaching Legal Ethics, Contract Law, Torts, a variety of legal electives, and is the faculty advisor for the university’s chapter of Lambda Epsilon Chi (LEX) honor society.
More and more colleges and universities are utilizing distance learning. Through the evolution and leveraging of technology, distance learning has seen a period of growth such that instructors are delivering online synchronous lectures in real-time (Pullen, 2000). There are a myriad of ways to leverage technology to engage students in synchronous instruction, such as audio and video teleconferencing, virtual classrooms, and instant messaging (Ruiz et al., 2006). As a result, distance learning and online education is becoming the standard of practice in higher education (Bernard et al., 2009).
The purpose of this article is to highlight the types of online synchronous instruction that are used to engage student learning and increase student engagement.

Background

More and more institutions of higher learning are providing online learning opportunities for their students. These courses may be in the form of synchronous or asynchronous environments, or they may be a blended combination of both, all of which may supplement traditional face-to-face courses. In a study conducted in 2008, researchers (Shi, Bonk, Tan & Mirshra) found that while there are differing forms of synchronous instruction tools available to educators, the fast growth of online learning has “outpaced” our knowledge of it such that there is a paucity of empirical research examining the world of synchronous learning.

Constructivist Approach To Online Learning

Within the research of online learning literature in general, constructivism has emerged as one of the theories relating to how students produce and process information (Nie & Lau, 2009; Fox, 2001). Constructivist theory was developed by theorists such as Piaget (1973), Vygotsky (1978), and Dewey (1916) and generally means that the student actively constructs new knowledge based on the student’s own individual experiences, where the student is an active learner rather than a passive recipient (Fox, 2001; Gordon, 2008; Knowlton, 2009). This theory is used as a theoretical framework to support the use of online synchronous instruction. Additionally, many researchers have measured student engagement in relation to online learning (Shi, et al., 2008; Chen, Lambert & Guidry, 2010; Robinson & Hullinger, 2008; Oncu & Cakir, 2011; Exeter et al., 2010). For these reasons, this article was written looking through the lens of a constructivist approach to learning specifically in the online learning environment.

Examples Of Engagement In Online Learning Environment

Within the online environment, there are many tools available to instructors to increase and promote student engagement. Indeed, the tools used within the online classroom may affect whether students actually learn the content (Thurmond & Wamach, 2004). Such tools not only consist of email, discussion boards, and chat rooms but also include Web 2.0 technologies such as wikis, podcasts or audioblogs, videologs, and whiteboards (Beldarrain, 2006). Wikis are useful in educational settings in that they support individualized learning, allowing for more socially defined search structures and promote collaboration through group editing and peer review (Alexander, 2006). Document sharing portals, such as Google Docs, allow for knowledge development and collaboration among students (Ajjan & Hartshorne, 2008).
Researchers have found that collaborative learning helps students retain information better than students working individually (Ajjan, et al. citing Johnson & Johnson, 1986). Therefore, it is important for the instructor to facilitate student access to these technologies in order to foster collaboration and sharing of information, which will, in turn, create a sense of community while increasing student engagement (Wilson & Whitelock, 1998).

CONCLUSION
There are many successes in the online synchronous instruction compared to traditional face-to-face courses. In particular, there is a commonality and over-arching theme to most of the cited studies, which is the convenience and increased engagement in the online setting has had a positive impact on students enrolled in the distance education courses. Indeed, the distance learning setting seems to promote higher student engagement and increased collaborative learning.

BIOGRAPHY
S. Kristine Farmer, M.S., RP®, PHR®, is a litigation paralegal for the Dallas office of Perkins Coie, LLP and has more than 20 years of experience as a trial paralegal, working in the areas of complex commercial litigation, patent litigation, and labor/employment law.

Kristine is an adjunct instructor at Pulaski Technical College in Little Rock, Arkansas, where she teaches Paralegal Computer Support, Paralegal Trial Practice, and Commercial Law through distance learning.

She earned a B.B.A. in labor management in 1993, a M.S. in learning technologies in 2010, both from the University of North Texas in 1993, and is currently pursuing a Ph.D. in learning technologies with a minor in higher education from the University of North Texas.

Kristine is a past president of the National Federation of Paralegal Association, Inc. (NFPA), the Paralegal Division of the State Bar of Texas, and the Dallas Area Paralegal Association (DAPA), and is currently serving as a member of the ABA Approval Commission.

REFERENCES

Television can be our friend in the classroom. According to an article in the Curriculum & Leadership Journal, “students are much more likely to retain the knowledge gained from television programs and videos than from lectures alone.” Television can address all three learning styles because visual students see pictures; auditory students hear dialog; and kinesthetic students get the opportunity to be hands-on by having a demonstration to explain the concept. In order to relate to your students and get their attention, I suggest finding out what they watch. Right now the top television shows are things like The Good Wife, Scandal, The Blacklist, NCIS, Modern Family, and Parks and Recreation to name a few. Unless you are a monk deep in meditation in the Himalayas, you have probably heard of a television show called Breaking Bad. The grand series finale hit over 10 million viewers! I have used Breaking Bad in my Introduction to Law, Evidence, Ethics, Business Law, Criminal Law, and Tort classes. The series is an instant way to gain credibility and attention from students during a lecture.

Breaking Bad centers on high school chemistry teacher Walter White and his decision to cook crystal meth in order to pay for cancer treatments and provide for his family. In the television series, Walter and his counterparts commit various crimes and torts that leave behind evidence for his brother-in-law, DEA agent, Hank to find. However, the show is more than a steady stream of bad acts. A study of Breaking Bad also brings up issues of ethics, jurisdiction, family law, business law, and even intellectual property.

First a disclaimer, if you teach at a private, religious school you may want to check on the institution’s policy regarding academic freedom. Breaking Bad has profanity, adult situations, violence, and nudity (no wonder students love this show). However, it is also a modern-day tragedy with Walter White succumbing to his overwhelming hubris, drawing easy comparisons to other tragic figures like Oedipus and Icarus. It is an important part of pop culture so let us see how we can use this show to our advantage.

Breaking Bad Legal Problem # 1 – Conspiracy

Walter White would never have gotten far without Jesse Pinkerton. Jesse is a former student of Walter White who is familiar to the world of drugs. Walter approaches Jesse with the proposition to cook meth in the hopes of earning cash to pay for expensive medical treatments for cancer. Criminal law instructors have an easy example for solicitation to commit a crime but in
the end Walter relies on good old-fashioned blackmail, “cook with me or I will turn you in.” Walter and Jesse take steps in furtherance of a crime when they buy the RV to outfit the mobile lab. The crimes quickly escalate beyond conspiracy which gives instructors the opportunity to explain solicitation merging with conspiracy in a criminal case and conspiracy being added to other criminal charges. Walter White gets his criminal enterprise started by stealing school property which is another act in furtherance of the conspiracy to cook meth.

A chemistry teacher does not seem like a likely person to descend into the criminal underworld but the audience gets a vision of a tough and aggressive Walter White when his family is shopping. Walter’s son is a teenager who suffers from cerebral palsy. While trying on jeans, Walter Jr. is teased and mocked for shopping with his “mommy” but Walter White has no sense of humor. Walter commits assault and battery and his no nonsense attitude foreshadows the menace he will embrace in future episodes. This scene also allows instructors to explain how civil torts is the flip side to many criminal statutes.

**Breaking Bad Legal Problem # 2 - Making Meth (Or Art)**

Walter possesses a chemistry degree which makes him a superior meth cook. His process of cooking the meth using ephedrine creates what Jesse refers to as “ice” due to the clarity and purity of the end product. Walter’s first cook is so beyond the typical street garbage that Jesse refers to him as an artist. When Jesse tries to broker a deal to sell it, Jesse ends up getting kidnapped and beaten. Jesse shows up at the RV with Crazy 8 and Emilio. Instead of a sweet distribution deal, Jesse and Walter are threatened with murder. Walter stalls saying, “I will sell it to you, I will show you my recipe.” What follows as Walter tries to save himself and Jesse is a chain of arson, aggravated assault, and murder. However students could argue that when Walter brings down Emilio with mustard gas it is an act of self-defense. Crazy 8 is down but not out and poses a serious moral and legal threat to Walter and Jesse.

**Breaking Bad Legal Problem # 3 - Murder Or Self-Defense**

When Jesse calls Walter at home, Walter deflects to hide the truth from his wife, Skyler. Skyler thinks Walter is acting suspicious (maybe having an affair). After he leaves, Skyler dials the caller back and gets Jesse. Ultimately, Walter creates a plausible explanation. Walter claims he knows Jesse because he is a weed dealer. Whether it is adultery, a new interest in drugs, or inappropriate marital conduct based on his cruel words, their marriage has a small crack and the grounds for divorce start flourishing. This brings up some interesting family law issues. You could have your students research the grounds for divorce and see if there is a ground for use of drugs after the marriage. I like to use a speech Walter gives telling his wife Skyler to back off as an example of what my state would consider inappropriate marital conduct.

Walter steals more supplies from work, hydrochloric acid, to dissolve Emilio’s dead body. Walter is shocked when he finds Crazy 8 outside walking the quiet suburban street. Walter brings him back and locks him up adding another battery and now false imprisonment to his growing list of accomplishments. Jesse explains Crazy 8 has a reputation for violence. The plan is for Jesse to dissolve Emilio’s body and Walter to kill Crazy 8 who is trapped in the basement. This adds another count of conspiracy to commit murder. Ultimately Walter kills Crazy 8 in what could be called self-defense, of course if I was chained in a basement I might try to use a piece of a plate to stab someone too.

**Breaking Bad Legal Problem # 4 - Evidence Of A Criminal Enterprise**

The DEA provides a great example for students to learn about administrative law and police procedure. Hank and his group of agents find the real evidence to create examples of demonstrative evidence like the report that determines Walter’s “ice” is 99.1 percent pure. The thrown gas mask picked up by a wandering girl later comes back as a piece of crucial real evidence of the crime that links Walter White to the meth. Just from the mask and the 99.1 percent report Hank has enough real evidence to chase the “new players” in the meth world. In later episodes, Walter’s criminal enterprise expands until his alias Heisenberg is well-respected and feared in the drug community.

**Breaking Bad Legal Problem # 5 - Arson And Destruction Of Property**

Mercury fulminate is not something that rolls off the tongue easily but it is hard to forget in a key episode of season one. With Crazy 8 out of the picture, Tuco takes over the drug territory now left open. Jesse meets with Tuco to broker a distribution deal for a felony amount of meth. Instead of getting money for the meth, Jesse is again beaten but this time to the point he is hospitalized. After Walter sees Jesse in the hospital he has Jesse’s friend, Skinny Pete, tell him about Tuco. Walter’s plan is to walk in to meet Tuco with a bag of mercury fulminate. This substance is highly explosive but to the untrained eye passes as a bag of crystal meth. Tuco even mocks Walter saying that he stole his dope, beat his agent (Jesse) and “you walk in and bring me more meth.” Walter quickly puts the rest of his plan into action grabbing a chunk
of the mercury fulminate and causing an explosion big enough to leave some people bloody. What is interesting is the deal Walter comes up with: $35,000 for the pound of meth and $15,000 for Jesse’s pain and suffering.

At this point, we are not even done with season one of the show. The rest of the season has issues of child endangerment, healthcare law, more torts and crimes, property law, agency law, criminal law and procedure, and business law. For those of you who teach ethics, you will love the appearance of Saul Goodman, the corrupt attorney, in season two. Saul even has his own spinoff show in Better Call Saul. As educators we can only hope that Hollywood continues to give us such fertile material for class.

BIOGRAPHY
Loretta Calvert’s current position is at Fullerton College. Previously, she was the Coordinator for Volunteer State Community College’s ABA-approved program. She graduated from NYU School of Law in 1998. Her career as an attorney started at Sullivan & Cromwell LLP in NYC.

ENDNOTES

LEX Graduation Sash

AAfPE offers Lambda Epsilon Chi graduation sashes for inductees. These sashes are purple satin, have the LEX Greek letters, and display the honor society seal embroidered in gold. Also available are LEX banners. The material and design of the banner are the same as the sash.

The sashes are available at a cost of $30, and the banners are on sale for $130 (payable by credit card or check made payable to AAfPE). Payment is required with submission of order. Orders must be placed within two weeks prior to commencement ceremonies.

AAfPE covers standard mailing costs for orders placed within a two week delivery date. Express shipping costs for induction certificates, pins, sashes, and banners will be billed to the LEX chapter.
Undergraduate legal studies students are not unlike other undergraduates regarding their apprehensions about entering the workforce. Regardless of each student’s ultimate goal, one thread is commonly shared among students; each student is ultimately concerned with how he or she will be successful in the competitive job market. Even some of the highest achieving students may be intimidated by the process of finding a job. For these reasons, I developed a Career Development elective course for the Paralegal Studies degree-seeking students in our program. This course borrows from a traditional capstone course while still focusing on overall career development principles. With a focus on the unique demands of the legal job market, this course allows students to prepare themselves for a career while receiving honest feedback and guidance from faculty. The course includes interactive assignments designed to induce enhanced interpersonal communication skills for new professionals.

Provided is a brief discussion of some of the more significant assignments for this course. Each assignment is designed to give students polish and professionalism as they prepare to enter the career realm.

I. TELEPHONE INTERVIEWS

After reviewing a large sample of recent graduate surveys, it became evident that an increasing number of graduates completed a telephone interview while seeking a paralegal position. Recognizing the significant role of the telephone interview in the hiring process, students are required to complete a telephone interview conducted by the professor, who takes on the role of the hiring manager for this mock interview. Prior to the interview, students are required to complete a brief writing assignment wherein they respond in writing to some of the more common interview questions.
questions. While students are encouraged to avoid being overly rehearsed during the actual interview, the written questions are designed to compel students to consider their potential answers prior to the discussion. Students receive an appointment time for the interview and must call the professor at their designated time. After the interview, the professor provides the student with constructive feedback which is designed to help the student recognize their strengths and improve upon any weaker areas.

II. IN-PERSON INTERVIEWS

Perhaps the most valuable part of this course is the required in-person interview. Upon receiving their feedback and graded rubric from the telephone interview, students are asked to interview on campus. The interview may be conducted by the professor, or a panel consisting of the professor and other faculty members. The interview is conducted in the fashion of a professional interview from the outset, wherein students are expected to arrive on time wearing professional attire.

The in-person interviews give students a valuable “safe place” to practice their interviewing skills in a real world environment. Students are provided with a graded rubric and feedback from the interviewer(s). All feedback is written in a manner that is beneficial in assisting students to improve their interviewing skills. If the technology is readily available on campus, the interview can be recorded so that students may also receive a “birds-eye view” of themselves during an interview.

III. PORTFOLIO REVIEW

Borrowing from a traditional capstone course, each student is required to compile a portfolio of past legal writing assignments from previous courses. The past legal writing assignments are reviewed by the professor, and by working collaboratively, the professor and student will identify the student’s individual writing strengths and weaknesses. In addition to compiling previous assignments, each student is assigned additional new portfolio writing tasks pursuant to their career objectives. The portfolio compilation allows students to further build upon their practical paralegal skills while honing their legal document drafting skills.

IV. DRAFTING RESUMES, COVER LETTERS, AND POST-INTERVIEW CORRESPONDENCE

An integral part of this course involves working with students on their application materials. Each student is required to draft a primary resume, which they may use for paralegal positions, and a secondary resume, which they may use for alternative careers. Students are required to ask three professionals or acquaintances to review and provide feedback on their resume. The student and professor will later discuss the feedback they’ve received from outside parties, and how this feedback can provide insight into improving the student’s application materials. This task allows students to better understand the perspective of a potential employer.

Students are also given sample job descriptions and asked to write cover letters aimed specifically at each position. The grading rubric awards points when students have demonstrated that they’ve researched the hiring law firm and properly highlighted their skills and ability within the body of the letter. Since post-interview emails are commonplace, each student is required to draft follow-up correspondence to the interviewer(s).

V. LINKEDIN PROFILE REVIEW

In today’s legal job market, a candidate’s online presence is very important. Each student is therefore given the task of creating or revising their LinkedIn profile based on advice from their professor. The entire class reviews sample LinkedIn profiles and discusses the factors that make for an effective profile.

At the outset of this course, students are told that they will be challenged to improve themselves. The final product isn’t simply a grade, but rather a student who is more polished and ready to take on the professional world. The assignments compel the students to take the steps necessary to launch their careers while still benefiting from the college’s supportive environment.

BIOGRAPHY

Erin Elizabeth Rybicki, J.D., M.Ed., is the Assistant Director of the Legal Education Institute at Widener University School of Law in Wilmington, Delaware. Although she remains an attorney admitted to practice in New Jersey, Ms. Rybicki has worked exclusively in higher education for more than eight years. In addition to her administrative role at the university, Ms. Rybicki also serves as a faculty member teaching Legal Ethics, Contract Law, Torts and a variety of legal electives and is the faculty advisor for the university’s chapter of Lambda Epsilon Chi (LEX) honor society.
The ability to read and understand contracts is fundamental in law and in life. Corporate transactions are bundles of contracts, most civil litigation is based on contract, and we all deal with contracts in our personal lives (whether we are aware of this fact or not). For these reasons, we should teach our students how to read contracts. In this article I will explain why we should teach our students to read contracts and will offer some suggestions on how to teach our students to read contracts.

**REASONS TO TEACH LEGAL STUDIES STUDENTS TO READ CONTRACTS**

There are many reasons why we should teach our legal studies students to read contracts.

- **Business Organizations Are Essentially Bundles Of Contracts.** Substantially all organizational relationships are governed by contract. The relationships among corporate stakeholders are governed by bylaws and shareholder agreements. An organization’s capital structure is created by contract through loans, guarantees and other documents. An organization’s relationships with its customers and suppliers are governed by contract. And, an organization’s relationship with its employees is governed by...
contract—employment agreements, medical plans, retirement plans and insurance plans are all contracts. If a student goes on to work for a business organization, whether as an employee of the organization or as a lawyer or paralegal for the organization, the student cannot fully understand the organization or their role within the organization without understanding these contractual relationships.

- **Contract Disputes Are Litigated, And An Ability To Read Contracts Is Essential To Litigating Contract Disputes.**
  Roughly 40,000 contract and real property actions are commenced in federal court each year.¹ And, according to the National Center for State Courts, 61% of civil cases filed in state courts of general jurisdiction are contract disputes.² When a contract dispute arises, the first question that must be explored is what the text of the contract says about the dispute. The value of our students to their employers will increase if they can read contracts and help answer this question.

- **The Ability To Read Contracts Is Relevant To Paralegal Work.**
  In corporate law firms and corporate law offices, paralegals work with contracts every day. Paralegals are often the keepers of the document management systems where contracts are stored. In the transactional context, paralegals maintain and update contractual disclosure schedules and pull together and circulate closing sets of documents. Paralegals populate letters with addresses from notice provisions of contracts and serve letters in accordance with the notice provisions of contracts. In a litigation context, it is easy to imagine ways in which a paralegal who can read contracts can be of use to a supervising attorney. A paralegal who can read contracts can pull and circulate the relevant provision of a contract when their supervising attorney is out of the office in court or at a deposition, for example.

- **Teaching Students How To Read Contracts Is An Excellent Way To Teach Students To Read Materials Closely And To Teach Reading Comprehension, Generally.**
  Unlike prose, every word in a contract means something. If a student wants to understand a contract, the student must pause to read the contract closely and take the time to understand the relationship among the various provisions of the contract. The ability to read contracts is a transferrable skill that can be used to learn to read other complex legal documents, including statutes, regulations, and case law. For these reasons, teaching students to read contracts is also useful preparation for those legal studies students who aspire to go to law school.

- **Contracts Are Closed Universes.**
  Unlike teaching at the law school level, when we teach law at the undergraduate level, we generally are not teaching students who are fully immersed in the law. Understandably, when reading case law, statutes and other legal materials, our students are sometimes confused by concepts including the procedural posture of the case, the structure of the court system, or references to extraneous materials (where a statute references another statute, for example). Most contracts are standalone documents. When teaching students to read contracts, we can focus on teaching students to read closely and on teaching reading comprehension generally with limited confusion caused by these other issues.

- **All Of Our Students Are Exposed To Contracts In Their Daily Lives And Will Continue To Be Exposed To Contracts Throughout Their Lives.**
  Our students deal with (or at some point in their lives will likely deal with) lease agreements; the purchase of a home; the purchase of a car; home and car insurance; medical, life, dental and disability insurance; public utilities; and personal service agreements, including wireless service agreements, for example. All of these relationships are governed by contract. We should teach our students to read contracts so that they are better able to understand their relationships to these counterparties.

### INCORPORATE CONTRACT READING INTO ALL OF YOUR COURSES

Because the ability to read contracts is such a valuable skill, we should teach the reading of contracts in standalone courses and incorporate the reading of contracts into other substantive courses.

Contracts touch every area of substantive law and can be easily incorporated into most courses. Reviews of corporate formative documents, customer or supplier agreements, and agreements related to capital structure (loans, guarantees, letters of credit, etc.) can be incorporated into classes related to business law or bankruptcy. Leases and mortgage documents can be
incorporated into real estate classes. Settlement Agreements, joint defense agreements and common interest agreements can be incorporated into civil procedure courses. License agreements can be incorporated into intellectual property courses. Separation agreements and custody agreements can be incorporated into family law courses. And, retention agreements and fee arrangements can be incorporated into ethics or professional responsibility courses.

**HOW TO TEACH STUDENTS TO READ CONTRACTS**

One effective way to teach legal studies students to read contracts is to ask students to read a contract relevant to the practice area that you are teaching and then ask the students the questions about the contract that a client might ask a lawyer about such contract. For example, in a bankruptcy class, the students could be asked to read a commercial loan agreement and could be asked whether (i) a missed interest payment entitles the lender to exercise any remedies against the creditor, (ii) whether there is a cure period and how long that cure period is, if there is one and (iii) whether any notices of the missed interests payment should be sent out and if so, to whom and in what manner.

Another effective way to teach legal studies students to read contracts is to provide them with, and ask them questions about, contracts that are relevant to their personal lives. Almost all of our students have smart phones. Pull a publicly available wireless service agreement, point out the arbitration provision and ask the students whether they have a right to sue their wireless service provider when they are unhappy with their bill, for example.

When teaching students to read contracts, at a minimum, instructors should aim to touch on the following concepts and provisions:

- **Whereas Clauses.** Contracts can be difficult to read. The whereas clauses provide context for, and a relatively plain-English description of, the transaction. When sitting down to read a complicated agreement, students should be instructed that the whereas clauses can provide them with the context that they need to have before diving into the substantive provisions of the agreement.

- **Definitions.** Students need to be expressly told that words in contracts have meanings other than their colloquial and dictionary meanings. Students also need to be told what textual signals identify the use of defined terms (underlined words, capitalized words, etc.). In addition, students should be shown where to find the defined terms in the contract (in standalone definitional articles, in definitional provisions of substantive articles, in the substantive articles themselves and sometimes in other documents).

- **Table of Contents and Section Headings.** If you plop a 60-100 page contract in front of your students and ask them a detailed question, many will panic and others will spend ten hours reading the contract from cover to cover. Large contracts have tables of contents and/or section headings so that people can quickly identify the most relevant provision of a contract and flip to that provision immediately (without reviewing the entire contract). Expressly tell students that a good place to start any analysis is in the table of contents, which will identify the most relevant provisions of the agreement.

- **The Interrelation of Provisions.** All contracts have interrelated provisions. A commercial agreement may have a section that describes the logistics of the closing of the transaction, for example. That provision may state that the closing will occur when all of the conditions to closing have been satisfied, and the conditions to closing may be identified in a separate section of the contract. One of the conditions to the closing of the transaction may be that all of the seller’s representations are true in all materials respects. These representations will be listed in a separate section of the contract and “true in all material respects” may be a defined term, requiring the student to review the definitional section of the contract. The point here is that students should be shown that they will often have to flip through many provisions of an agreement to answer a seemingly simple question; answering a question is generally not as easy as highlighting a single sentence in the agreement.
• **Contract Boilerplate, Including Notice Provisions in Particular.**

Expose students to the most common boilerplate provisions of contracts—choice of law clauses, forum selection clauses, severability clauses and notice provisions. Paralegals who can at least report whether a contract has a choice of law clause or a forum selection clause are more useful than those who cannot. When teaching contracts, take particular care to reinforce the importance of notice provisions to the students. If these provisions are not followed precisely, notices sent under the contract may not be effective and the consequences could be analogous to a failure to serve process effectively in a litigation context. Students should be able to identify who needs to be notified under a contract, at what address and in what manner (whether notice by email or phone is acceptable, for example).

**TOOLS FOR KEEPING STUDENTS ENGAGED**

Reading contracts is difficult for the students. Because of this fact, it can be difficult to keep students motivated and engaged.

Some tools that can be used to maintain student engagement during the process include: (i) being candid with the students that reading contracts is difficult and that the ability to read contracts is an important skill to have; (ii) using hypotheticals drawn from life experience to frame the exercises—ask the students the concrete questions about the contracts that you would be asked about such contracts in practice; (iii) providing a support system by letting the students do the exercises in class when you will be there to help them and by letting the students do the assignments in groups so that they can learn from each other; and (iv) testing the students on the contracts (and telling the students ahead of time that you will do so) so that they are properly motivated to read and attempt to understand the contracts.

**WHERE TO GET MODEL CONTRACTS AND MODEL EXERCISES**

So, you want to incorporate contract reading into your classes. Where can you get model contracts for the class to read? The short answer is the internet. Many of the contracts relevant to our daily lives are readily available on the internet. Wireless service agreements, credit card agreements and bank checking account deposit agreements can be easily pulled online.

Model commercial contracts can also be pulled from the internet and doctored to meet students’ needs. Actual commercial contracts can be pulled from public filings on SEC.gov, on corporations’ investor relations pages, and from public litigation filings.

I have model assignments related to the AT&T Wireless Customer Agreement and model commercial loans, corporate parental guarantees, commercial leases and standby letters of credit that I am happy to share. I can be reached at croftj@stjohns.edu.

**BIOGRAPHY**

James Croft is an Assistant Professor in the Division of Criminal Justice, Legal Studies & Homeland Security at St. John’s University in New York. Prior to joining St. John’s, James worked as a corporate restructuring and bankruptcy attorney at Cleary Gottlieb Steen & Hamilton LLP, a major international law firm. James is a veteran of the United States Marine Corps and graduated from St. John’s University School of Law magna cum laude, where he was an editor of the St. John’s Law Review. James has published articles in the areas of bankruptcy law and undergraduate legal education. He also regularly speaks at conferences on undergraduate legal education.

**ENDNOTES**


2http://www.courtstatistics.org/other-pages/~/media/Microsites/Files/CSP/DATA%20PDF/CSP_DEC.ashx (last visited June 18, 2014) at 11.

“The real test of good manners is to be able to put up with bad manners pleasantly.”
— Khalil Gibran

“Life is short, but there is always time enough for courtesy.”
— Ralph Waldo Emerson

“Politeness [is] a sign of dignity, not subservience.”
— Theodore Roosevelt

For the past several decades, legal commentators have been writing about and studying the lost art of professionalism in the delivery of legal services. The American Bar Association reports that as of 2012, almost every state has some formalized rules or guidelines for “professionalism” and civility for lawyers.¹ Although most legal educators agree that we must teach our students about legal ethics and the Rules of Professional Conduct that lawyers and paralegals must follow, “professionalism” is not widely taught in the schools.² The concept of professionalism instead is “mentored,” “encouraged,” and otherwise “expected” of legal professionals once they begin practice. Of course, professionalism is
a broad and not easily defined concept, and it encompasses a wide range of skill sets, including how to dress and behave appropriately in the workplace. This article explores how we can integrate important core values of professionalism into our everyday teaching of paralegals, and how these skill sets can benefit them in the legal services marketplace.

I first became interested in incorporating the concept of “professionalism” officially into our curriculum at our Paralegal Studies program when I encountered a very unpleasant personal animosity between two of my second year students. It was my second semester as the interim Program Coordinator, and I had absolutely no heads up or warning about an escalating feud between the students that had begun the year before. One day, one of the students came to me in tears, and showed me a very disrespectful email the other student had sent to her. I honestly had no idea what to do next. Our Paralegal Program had no clear guidelines published to students about “bullying” behaviors or standards of conduct although the college had some generic guidelines about using school equipment, which would include electronic equipment, to bully other students. In theory, I could refer the students to the disciplinary board for the university, but I would have no input into the appropriate discipline the students should receive beyond making the report. Additionally, the students were conversing through their personal laptop computers. They were likely using university WiFi to send and receive the emails, although they could have been using cellular data on their cell phones, and it was not clear that this would be enough to charge them under the university policy prohibiting cyberbullying using university equipment. Cyberbullying can be a serious offense and could result in expulsion for a serious case, but a few ugly words would probably not justify expulsion from the university. I was frustrated that there was nothing specific I could do based on their status as paralegal students.

I met with both students and explained my expectations for professionalism, and we discussed the cyberbullying policy of the university. I then learned that antagonistic personal emails, text messages, comments in class, and Facebook posts had been traded between these two students for the previous two years. I also learned that other faculty had been made aware of the bullying and had counseled the students, but no other consequences had been imposed.

After doing some research, I decided that removing the students from the program in their last semester may not be a good idea, because our program had no firm policies about behavior expectations, both students were guilty of the bullying, and they had received no warnings about potential consequences. I required the student who sent the disrespectful email to apologize in writing, and I required both students to write an academic paper about professionalism for paralegals, including how professionals ought to treat each other. I warned them that going forward, I would report them for violating the cyberbullying policy, and I reserved the right to report the incidents in the future as I felt academically necessary.

We have changed our program policy since to make it very clear that I reserve the discretion to remove a student from our program for conduct that would violate legal standards of ethics and professionalism. I would not hesitate to exercise that discretion in the future. Just as lawyers, practicing paralegals must understand that legal professionalism means treating everyone with courtesy and respect at all times, even when it is challenging to do so. Courteous and respectful behavior is required even when it is not offered in return. In the legal business, we are frequently challenged by difficult personalities, high emotional content, and very stressful situations. Often the most effective tool in our toolkit is treating all involved with as much dignity and respect as the circumstances will allow.

My second epiphany about the need to teach our students the fundamentals of “professionalism” occurred the following semester at a school wide meeting we have at the beginning of every academic year. Our College of Technology annually awards a substantial scholarship to an outstanding Professional or Technical Education student in any of the programs.

The student who accepted the award that year was introduced by her Department Chair, and it was clear that she was academically gifted and community oriented, and she was well deserving of the scholarship. When she appeared to accept the award in front of the entire faculty of the College of Technology, she was dressed in a t-shirt, shorts, and flip-flops, and she was chewing gum as she mumbled thank you to the audience.

I made a mental note at that moment that I must teach my students about dressing appropriately for the business occasion, and speaking appropriately, and I have integrated these concepts into my everyday teaching as well.
APPEARANCES MATTER

Teaching paralegal students how to dress professionally and project a professional image is not easy, but I think we can all probably agree, it is really important. I begin teaching this skill on the very first day of class, in our Introduction to Paralegal Studies. Dressing “professionally” can be viewed fairly as subjective and regional. In some regions of the country, it is not unheard of for attorneys to appear in court in blue jeans, a cowboy hat, or boots. Certainly our local dress code is more relaxed and casual than it is for our “big city” of Boise. I was trained in the 1990's in a region where the legal dress code was very formal. As a law clerk, we were not allowed to wear slacks, until the first female member of the Court wore pantsuits to work herself! When I began practicing law in another region, I would wear blue or black skirted suits, pantyhose, sensible heels, jewelry and make up. I learned pretty quickly that I was overdressed for court in this region, and I have since toned down my style. Professional looking slacks, shoes, and tops are necessary, but very formal business attire is not.

At the same time, it is not difficult for our students to notice the difference between “casual” professional dress, and sloppy, unprofessional dress. If your students struggle with understanding the difference, I have found that making this part of a classroom discussion early in the program is helpful. I have been known to illustrate the concept by “dressing down” to get their reactions. I wear blue jeans and a t-shirt and tennis shoes to class, with my hair in a sloppy ponytail and no makeup, and I ask them to assess my professionalism without telling them to focus on my attire. I otherwise teach the class as I normally would teach. Because I typically model professional dress in class, it does not take long for the students to understand that they do not view me as favorably standing in front of them and teaching the class when I am underdressed and under groomed. Bringing in guest lecturers from the community, including paralegals, is another effective way to model professional dress expectations to the class.

Another technique that has been successful is to give the students some reliable information about professional dress code expectations for the legal services industry. As a group class project, we come up with a dress code for our Paralegal Studies program. I explain to the students that for every day classes, they may dress as they please, but when they are representing the program by giving a presentation, or attending a networking meeting, or doing their internship, or looking for a job, they must adhere to this dress code. I then make it clear to students that I reserve the right to mark their grades down on my assignment grading rubrics if they choose to violate our agreed dress code policy for any graded presentations.

By allowing the students to have input on the dress code, it takes some of the subjective concerns about my own personal style and sensibility out of the equation. I make it clear that I have no “fashion” expectations, just “appropriateness” expectations. We discuss issues such as modesty in dress, tattoos, body piercings, hairstyles, makeup and jewelry. We discuss gender differences. We build consensus as a group as to what is acceptable in local business establishments, and what is not. We discuss dress and style points that build our confidence in an individual, and dress and style points that distract or detract from a professional image. We discuss cultural, religious, ethnic and gender sensitivity issues, and I teach the students that they cannot impose their own subjective values on others, but they can insist on a dress code appropriate for the business they are in. Surprisingly, for the three years I have done this exercise, our group dress codes have come out remarkably similar year to year. By giving the students some practical tools to use, and by physically demonstrating appropriate and inappropriate dress, I have found that this is a take away skill building exercise that can really make a difference for the next two years of their program, and beyond. It is also a great ice breaker for the beginning of the school year.

BASIC BUSINESS ETIQUETTE IN COMMUNICATIONS

It is easy to assume that our students come to us already understanding basic and common courtesies in the business world, but many of them do not. We are often their first exposure to how they should communicate and behave in a professional legal environment. As with dressing professionally, basic business etiquette should be modeled to students on a regular basis. For example,
it is appropriate to make sure our emails to students are composed professionally, with proper grammar and spelling, and without cute language common in text messages, or emoticons. Our emails should include a professional signature line and confidentiality disclaimers as required by our institutions. It is appropriate to make sure we respond to student emails and phone calls as soon as possible, or to provide a way for them to know when it is not possible to respond quickly. It is appropriate for us to be reliable and punctual to class. We should point out these appropriate professional behaviors out to the students, and make our expectations of them clear. I have not hesitated to tell a student when they have sent me an unprofessional email, or confused me by their communications, or addressed me in any way that would not be acceptable in a legal environment.

I also make a point to teach our students proper business letter writing skills at the very beginning of their Introduction to Paralegal Studies class. I did not do this from the beginning, because it is not part of the textbook curriculum. By the time our students approached their internships their last semester, however, it became apparent that they lacked this important skill set. Now I spend about an hour of class room teaching time and one first semester graded assignment addressing basic business letter etiquette, including how to attach letters appropriately to emails in a legal services environment. Occasionally our program is invited to participate in local Bar programs, and I always use these opportunities to model and discuss professionalism. Before we attend, we discuss as a class appropriate dress, behavior, and conversation. We discuss how they can introduce themselves to Judges, attorneys, and paralegals. We discuss the importance of trying to remember names and faces and titles. We discuss the importance of making eye contact, and having a confident voice, and offering a solid handshake. These are not things we can assume they already know or have been exposed to in their personal lives or previous educations. When our students are representing our programs, we want them to present as professionally as they can.

**COURTESY AND MANNERS**

“Someone must teach that good manners, disciplined behavior, and civility – by whatever name – are the lubricants that prevent lawsuits from turning into combat. More than that, civility is really the very glue that keeps an organized society from flying into pieces....I submit that lawyers who know how to think but have not learned to behave are a menace and a liability, not an asset, to the administration of justice.” Chief Justice Warren E. Burger, 1971.5

Much has been written in recent years about a decline of civility and professionalism in the legal field.6 Many Bar associations have studied the issue, and many have responded by mandating or strongly “encouraging” specific behaviors through published rules or guidelines. My students study these guidelines in addition to the Rules of Professional Conduct in our Ethics Course, our Civil Litigation Course, and in many other courses.7 The conduct expected by these guidelines often includes seeking fair resolution before going to court; seeking dates from opposing counsel before scheduling a hearing, and giving opposing counsel sufficient time to review law and evidence before introducing it in court. Such conduct often includes avoiding personal attacks and accusations of misconduct. It is a shame that grownups must be reminded how to behave civilly; I certainly never expected my post-secondary students to bully each other in class or outside of class. Unfortunately, the bad apples at school and the bad apples in court make it more difficult for everyone around them, and everyone who follows them. Making sure our students know what is expected of them at school and beyond is critical.

In my first job, I clerked for our state Supreme Court and often use the Chief Justice as an example. He never failed to impress me with his treatment of everyone who appeared in front of him, from the most highly respected attorneys in state, to pro se litigants who did not understand the rules of court, to law clerks like me who lacked experience and confidence. He made everyone feel that they had been heard and respected. He remained calm, collected, and unfuribled when counsel and pro se parties did not. I saw how that demeanor raised the conduct of everyone in the room, and it almost always had the effect of de-escalating the tension and anxiety normal to the situation. I try to impress on my students that lawyers can do an excellent job representing their clients without behaving badly. For paralegals, I try to impress on them how their rude or uncivil conduct in any context could reflect poorly on their supervising attorneys and law firms, and it could cost them their jobs. I try to help them understand, by bringing courtroom clerks to the classroom or bringing the class to the Clerk’s Office, that being courteous and well-mannered will almost always get them what they need far easier and far more pleasantly than the alternative.

Another powerful way to make this point with students is during debates or classroom presentations of controversial subject matter. Very often I will use hot-button and high profile issues to develop critical thinking and analytic skills for my paralegal students. For example, I may teach about the gay marriage issue in Family Law, or abortion rights or gun control or the death penalty in Criminal Law, in part because I expect many of my students to have personal view
points that they must address through appropriate legal analysis. I also expect many of my students will disagree with each other or with me on these issues. By approaching these controversial topics directly, and modeling what the Chief Justice taught me – a calm demeanor that makes everyone feel heard and respected, I model for the students “professionalism” in discussing difficult issues that may make some people angry or emotional. I teach them the principles of fair debate, which include listening without interrupting, and avoiding personal attacks or criticisms or stereotypes. These are also lessons I hope my students take away with them for many years. We can disagree with each other respectfully and courteously, and still come away from difficult discussions as good friends and colleagues.

Finally, I use examples for my students whenever I can of real lawyers, paralegals, and situations where legal professionals have behaved badly. I try to illustrate for my students that bad behavior generally has a way of backfiring. I share my personal experiences that have taught me that credibility is one of the most important assets a legal professional can have, and it is compromised quickly by discourteous, unprofessional, or dishonest behavior. Attorneys can be more effective advocates from their clients when they do not use loud or intimidating behavior, as no one likes to be bullied.

Hopefully, our students learn that good lawyers are professional lawyers, and as paralegals they need to model that behavior so they can work for the good lawyers. It is our job to teach prospective paralegal professionals these critical real world skills.

BIOGRAPHY
Mary Shea Huneycutt is an attorney with the law Gate City Law, PLLC in Pocatello, Idaho, with an emphasis on family law and mediation, and general civil litigation. She is also the Program Coordinator and Faculty for the AAS Degree Paralegal Studies Program at Idaho State University, and advisor and Committee Member for the BAT/BAS Degree Program. Mary has authored two articles that have been published in the Family Law Handbook concerning the admissibility of Child Custody Evaluations, now known as Parenting Time Evaluations. Before moving to Idaho, Mary was an Assistant Attorney General for the Virginia Attorney General’s Office from 1993-2001, practicing in the areas of criminal post-conviction litigation, and complex civil litigation involving civil rights and personal injury. Mary was a law clerk for the Virginia Supreme Court from 1990-1993. Mary received her J.D. from the University of Richmond, T.C. Williams School of Law, where she served on the Law Review, and her B.A. from the College of William and Mary.

ENDNOTES
1 The ABA compilation of professionalism standards for attorneys as of 2012 can be found here: http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes.html

2 The ABA Commission on Professionalism reported a few years ago on law schools that offered “formal” training on professionalism: http://www.americanbar.org/content/dam/aba/migrated/cpr/reports/LawSchool_ProfSurvey.authcheckdam.pdf; see also Analyzing Common Themes in Legal Scholarship for Professionalism to Address Current Challenges for Legal Education, Neil W. Hamilton, The Professional Lawyer, Volume 22, Number 1, 2013.


4 http://www.lawpracticetoday.org/article/business-etiquette-answers-todays-legal-professionals/

5 Warren E. Burger, Delivery of Justice 175 (1990) (reprinted in In Re Appl’n of McLaughlin for Admission to the Bar of New Jersey, 675 A.2d 1101, 1112 n. 9 (1996).


8 Reviving A Tradition of Service: Redefining Lawyer Professionalism in the 21st Century Ronald C. Minkoff


This is a sequential article for *The Paralegal Educator* to my first article entitled “Professors Must Get Paralegals Ready for Immediate Productivity: A Definitive Systematic Results Approach.”

OUR PURPOSE

Being passionate about learning makes all the difference in the world when it comes to teaching. The classroom is similar to sports. We all remember different coaches in athletics teaching us the finer points of a sport. If the coach was passionate and not scary, we listened intently and we all tried to carry out his/her wishes to the very best of our ability. The key to teaching is motivating students to want to learn good values by the affect that you present. This is a form of etiquette or role modeling. Imagine a student who makes the dean’s list every semester or the single mother with the dream of getting into law school and succeeding as an attorney. Then envision a teacher who tells those students that they will never make it through law school to become a viable, practicing attorney. How about a teacher who comes to class completely unprepared, disheveled and very negative on the practice of law and the world as a whole. How will those teachers impact those promising students? This is precisely the point. Many scholars believe who we are is largely determined by our environment. “Take the chimpanzee/human experiment on photographic memory. The chimpanzee outperformed the memory of a human on sequential, numbered experiments on blank television screens because the chimpanzee must memorize where he/she lives, eats, travels... in a thick complicated jungle. One wrong move could spell death. So, the chimpanzee has evolved having a photographic memory.”

The environment we create to correct this affect is of utmost importance if our students are to survive an ever increasing stressful and demanding working world. Most would agree that it’s a jungle out there in office and work relationships. According to Benjamin Bloom*, “we influence, motivate and create an affective teaching environment.” In this day and age, the teaching environment matters now more than ever if our students are going to succeed in office settings that require appropriate affect. Students see and hear the professor; students start behaving like the professor. The second level of Bloom’s Taxonomy addresses “affect,” which gets lost or dismissed by law teachers, offering the following approaches:

**ISSUE:**
What are the important principles for a professor to know to effectively teach professional affect?

Bloom suggests the following affective form of learning displayed by professors.

**RECEIVING PHENOMENA:**
This is the affect that a professor shows when he/she responds to a student. “How you answer questions in class and the voice, tone used in answering the question are sometimes more important than the message.” Imagine a teacher using profanity. Following such conduct could lead to students getting fired in jobs, and possible professional sanctions. Professors receive a variety of questions, and having on-the-job experience for the paralegal professor really helps provide increased depth and breadth of the law practice one is teaching. Professors should share and infuse their work experiences with the students to provide sufficient modeling. Next is the demeanor exemplified when responding to phenomena.

**RESPONDING TO PHENOMENA:**
Here the student is involved in active participation. The professor teaches the student to prepare, defend or react to different situations and theories. “Learning outcomes may emphasize compliance in responding, willingness to respond, or satisfaction in responding...” For example, have the students read, discuss and present solutions to simulated cases. Discussions and presentations of cases teach the students to respond to questions, and counterarguments with
an open mind and composure. Very carefully question the information that students present and carefully catch them off-guard so that the student learns to remain poised. Teachers may create a rubric for grading that shows a student the focal points of a good presentation rewarding composure, and demonstrating ways to improve communication. Motivate and inspire confidence showing the value of hard work and good affect.

**VALUING:**

“This is the affect where a teacher shows the worth or value a person attaches to a particular object, phenomenon, or behavior. In the computer age, this is so important.”5 Students spend so much time on computers, alone and isolated. Many students who enter class do not see the value in good behavior with others and the value of people problem solving communication skills.

In this phase, respect for the value of the democratic legal process should be demonstrated by the teacher. Students may gain self-esteem and experience the value of orally debating, communicating a legal proposition, listening and respecting the views of others. Also, an appropriate social solution teaches the student the value of the sharing of ideas in groups such as mediation and working out problems. The teacher may set up in class exercises with short cases and presentations. As we know, “This ranges from simple acceptance to the more complex state of commitment. Valuing is based on the internalization of a set of specified values, while clues to these values are expressed in the learner’s overt behavior and are often identifiable.”6 From repetitive group work on extensive complicated legal issues and discussions, students internalize skills and knowledge with the understanding that there is value in learning from each other as opposed to solving problems alone. So, students acquire and internalize a skill set talking out problems valuing and becoming comfortable with collaboration. Nowhere is this more important than in law.

**ORGANIZATION:**

“The Professor organizes values into priorities by contrasting different values, resolving conflicts between them, and creating a unique value system.”7 There is value in going slow, being very careful during the research process. Also, getting the facts right and making sure that citations are correct and the research is thorough the first time around is valuable.

“The emphasis is on comparing, relating, and synthesizing values.” 8 Teach the student how to make valid comparisons, matching relevant facts to law. Literally help the students write memorandums and show key phases and connectors. Teach students how to form transitions between paragraphs. This teaches the affect that organization of thought is essential to understanding.

“Also, go over papers carefully with the student in the grading process, and sequence assignments in order of priority.”9 Do not hide the ball. For example, be honest about assignments and keep the deadlines. Students learn the awful consequences of being disorganized.

“Recognize the need for balance between freedom and responsible behavior.”10 Teach to accept responsibility for one’s behavior. Explain the role of systematic planning in solving problems. For example, set and enforce the guidelines for papers. Also, beginning each class, explain the significant legal points from prior lectures and prior mistakes made on the papers. Then, reinforce the syllabus requirements and what will be due for work for the following 6 to 7 classes. Students learn to plan free time and worktime.

Accept professional ethical standards. Unethical behavior is obviously unacceptable. Give plenty of examples for your students. Ask for and teach honesty. Ask the student if they really spent enough time on the assignment. Politely explain why doing competent work is important and reward hard work again and again.

Help the student prioritize time effectively to meet the needs of the organization, family, and self. For a research assignment, make the student establish a research place and time schedule. For example, send the student to do statutory research at the law library and say this should take you 30 minutes. Reading the cases should take you one hour. Writing a research outline should take you 20 minutes. It is such good training to have the students designate which day the task is to be performed and have them stick to the time schedule. Students can organize their schedules for worktime, study time and family time. Have the students compare schedules.

Divorce and substance abuse issues are prevalent in many professions as well as our own. Teach them wellness by showing that you exercise and try to eat right. Help the students develop good habits with casual discussions about how one cares for oneself and be that example. For example, one might share how often they walk, the need for good sleep habits, and dangers of substance abuse.
“Direct perception is the first line of teaching. Learning how to learn by seeing, hearing, touching, tasting and smelling forms the basis of all subsequent learning.”11 To learn, your students must perceive you as a nice person to trust you. Being behaviorally appropriate and credible affects students’ learning. Dress for success. Be a good role model. Don’t trick your students. Give them back their assignments in appropriate time. Be careful in your approach because these students are fragile. Before you make your students champions on the outside, we have to teach them that there is a champion on the inside. Show them the need to put principle above personal gain. Give them the inception of a professional conscience.

CONCLUSION
Professor Bloom has given us a side to teaching that often goes ignored. Teaching affect is so important. Who we are is largely affected by our environment. If students want to be effective paralegals, professors must teach affect. By teaching affect, the circle of knowledge is more complete. How we are perceived by students is a direct reflection on ourselves, and our justice system.

BIOGRAPHY
Paul J. Morrow is an Assistant Professor at Husson University teaching Legal Research and Writing and Advanced Legal Research and Writing. He earned a B.S. in Business Administration from the University of Maine and his J.D. degree from the University of New Hampshire School of Law. He was a trust officer for 6 years and he was a Litigation Attorney for 15 years. During his practice, he was appointed and served as an Assistant Attorney General. He is a member of the Maine Bar Association and the Federal Bar. He and his family live in Brewer, Maine.

ENDNOTES

* Professor Benjamin Bloom is a renowned educational psychologist and scholar who developed the classification of educational objectives transforming teaching methods. His taxonomy includes the cognitive level (knowledge, comprehension, application, synthesis, and evaluation) and the affective level (receiving phenomena, responding to phenomena, valuing, and organization). See http://chronicle.uchicago.edu/990923/bloom.shtml


4 Id.
5 Id.
6 Id.
7 Id.
8 Id.
9 Id.
10 Id.

Corporate Ethics: What Paralegals Need to Know

INTRODUCTION
Since the 1800s due to the change in society, corporations have been considered to be a “fictitious person.” The corporation acts primarily through a board of directors, agents, officers and managers. In this article we will attempt to cover the important legal issues as well as offer some advice and commentary regarding the ever-changing work of corporate ethics.

WHITE COLLAR CRIME
Each year white-collar crime is a significant issue that costs corporations millions of dollars. White-collar crimes can consist of fraud, theft, embezzlement, as well as many other forms of theft that can occur within a corporation. These crimes are based on unethical decisions, usually the result of greed for monetary gain. When a white-collar crime is committed, it is extremely dangerous for the corporation and its executive members. The executive members can be held personally liable for any violations committed to the corporation. Additionally, the corporation itself can also be held liable for...
any crimes that have been committed by any of its executive members. Many corporate attorneys are primarily concerned with the criminal liability risks that a corporation can face. In order to assist clients properly, attorneys are taking charge by helping their clients enact corporation compliance programs. Compliance programs primarily help to prevent criminal activity that is committed by the corporation. If there were no white-collar crimes, there would not be a need for compliance programs. However, consideration, or payment of monies, has been granted to those corporations who have implemented a compliance program.

THE EFFECTIVE COMPLIANCE PLAN

Under the 2013 U.S. Federal Sentencing Guidelines Manual, in order to have an effective compliance program, a corporation must exercise due diligence. This prevents and detects criminal conduct as well as promotes an organized culture that does encourage proper ethical conduct in addition to commitment to compliance with the law. The following are seven elements crucial to the creation of a proper compliance program:

1. Establishing standards and procedures,
2. Hiring a compliance officer,
3. Training and education of employees,
4. Establishing lines of communication,
5. Ensuring compliance through the means of established guidelines,
6. Auditing and monitoring,
7. Providing responses to detected offences

The purpose of designing a corporate compliance plan is to ensure that ethical business practices are being followed as well as upholding a good reputation and integrity. The integrity of a business depends on good business ethics. However, this is not always the case. Conversely, if a company demonstrates poor ethical practices then the company’s reputation is weakened. The public wants to use businesses that have good reputations.

PREVENTING CORPORATE LIABILITY

A significant part of a corporate compliance program is the acceptance of a Code of Ethics. This code of ethics applies to all members of the organization, including the board of directors and executive managers. Due to the change in our society, corporate liability has expanded itself. The following are recommended sections to be put into the Code of Ethics:

1. The corporation’s mission statement, values, vision, and guiding principles that reflect upon the corporation’s ethics and integrity
2. An ethical decision framework to help guide employees to make ethical choices about a possible course of action
3. A list of valuable resources for supervisors and department heads
4. A list of additional ethics and compliance resources and supplementary policies and their locations for employee use
5. Enforcement mechanisms that address the notion of accountability and discipline for unethical behavior such as what steps and actions are to be taken as a result of unethical behavior, including termination of an employee

Federal and State agencies have implemented many regulations, which require a corporation to have an effective compliance program. If an effective compliance program is not put into effect, the corporation may have to face the numerous fines imposed for criminal actions. When the corporation has empowered a compliance department with a compliance officer and a committee with solid and effective procedures in place, then the corporation will usually have its legal bases covered. The CEO depends upon the compliance officers in the first instance to tackle any regulation issue regarding the compliance program or questions raised by the government. Usually the CEO does not focus on day-to-day compliance issues, but may be called upon to get involved if there is any significant ethical failure.

SAMPLE ETHICS IN CORPORATE AMERICA: GENERAL MOTORS

In 2005 General Motors (GM) discovered a defect in the Chevy Cobalt’s ignition switch, as well as a defect in the driver’s side air bag. Both of these posed potential risks to consumers. GM was required to report these defects to the N.H.T.S.A. (National Highway Traffic Safety Administration) within five business days, pursuant to the Code of Federal Regulations. Instead of reporting these defects to the N.H.T.S.A the GM management made the unethical decision to mask the automotive defects that could cause possible harm or even death to its consumers. How does GM get away with doing what is ethically wrong by not reporting the problem with these Chevy Cobalts? Companies that make terrible ethical decisions end up with bad reputations, which result in the loss of consumer confidence. When the company loses such confidence no one buys its products. Would a potential purchaser want to purchase a vehicle produced by Chevy if they heard from secondary sources that the vehicle airbags or ignition switches were defective? A potential purchaser wants a safe, reliable and dependable car to get them from point A to point B, not
one that is going to spend a large portion of time in the repair shop. No one would knowingly get into a vehicle and drive it 70 miles per hour on the interstate if they knew it was unsafe. This was the case with General Motors. GM admitted that they knew for almost a decade that the vehicle ignition switches were faulty and ended up costing people their lives. If General Motors knew that this vehicle was faulty, then why did it continue to sell it to the public? GM’s actions clearly were not ethical by any means. According to Harry Wilson, a former auto advisor for the Obama Administration stated, “They would do anything to save a penny, including some really bad decisions, both economically and morally.” A spokesperson for GM stated that the vehicles were being fixed, but he declined to provide the necessary documentation in order to back up his statement. How do we know that these vehicles have actually been fixed? Clearly, the compliance department was “sleeping at the wheel,” when it came to investigating this assumption. General Motors was almost out of business due to its unethical business practices. The top management has changed drastically in the last five years. The CEO position has changed several times, none of which have made the company any better. These short term CEOs only collected a paycheck and did little to better the corporation.

**HOW TO BE PREPARED**

If you as a paralegal ever encounter a situation of corporate liability, the following tips can help you stress to your clients how to avoid any liability issues:

1. Comply with all state filling requirements such as Article of Incorporation
2. Create and maintain all state-required documentation and formalities, thus including any on-going filing requirements (i.e. obtaining required state license)
3. Hold regular board meetings with executives and maintain minutes in the corporate book
4. Keep sufficient business and accounting records of all transactions
5. Adhere to requirements of any by-laws of operating agreements such as the responsibilities of board members and structure of the organization
6. Maintain sufficient capitalization of the business at all times
7. Do not enter into contracts with other business entities without the ability to pay their designated portion
8. Maintain a separate business account for all funds
9. Do not commingle personal and business funds

**AUTHOR’S OPINION**

It is extremely disappointing to see business professionals not taking responsibility for the actions of their company. Large corporations appear to claim that they recruit the “best of the best” from the Ivy League universities, business schools, and graduate schools. Aren’t ethics courses taught at these educational establishments? How do the best and brightest students forget all about ethics when they go to work for major corporations such as GM? Too much influential pressure is put on these new recruits to conform to the unethical business practices already implemented. New recruits want to “fit in” to the corporate lifestyle that is already in place. Afraid of losing their jobs, these new employees do everything as they are told. The new employees see managers, executives, and CEOs making a significant amount of money and want to be just like them. However, upper management is not making money in the proper way. They are simply sitting around and just collecting a paycheck. Unless the whole upper management tier is replaced and new ethical management is brought in, changes cannot effectively happen. Somebody needs to do the right things for the right reasons. Keeping the same management is just a vicious cycle that never solves anything.

**BIOGRAPHIES**

*Dr. Robert Diotalevi, Esq., LL.M., is the Founding Program Coordinator and Associate Professor of Legal Studies at Florida Gulf Coast University in Fort Myers, Florida. He has been a lawyer for 29 years. He possesses four degrees and has been internationally published. His e-mail is bdiotale@fgcu.edu.*

*Tessa Cody is a recent graduate from Florida Gulf Coast University, where she majored in Legal Studies and minored in Philosophy. She is starting her career as a paralegal at LaDonna J. Cody, P.A. an Estate Planning Law Firm in Fort Myers, FL.*
ENDNOTES

1Black’s Law Dictionary 1831 (10th ed. 2014).


3Id.


5Bouchoux at 131-145


949 C.F.R. 573.6 (2011).

10Virgil Scudder, How a Culture of Secrecy Plagued GM (Jul. 15 2014), http://www.prsa.org/Intelligence/TheStrategist/Articles/view/10707/1096/How_a_Culture_of_Secrecy_Plagued_GM#.VOUey1q4l-V


12Donna Seyle, 9 ways to Keep Your Corporate Liability Protection Intact, JD Supra Business Advisor (Nov.30, 2009), http://www.jdsupra.com/legalnews/9-ways-to-keep-your-corporate-liability-09228/


REFERENCES


SOX IN A BOX

The Sarbanes-Oxley Act (SOX)-2002

Sarbanes-Oxley (SOX) creates guidelines for corporate accountability and fines for any wrongdoing by the corporation. It also modifies how the corporate board of directors and executives need to intermingle with each other along with auditors. This act makes it impossible for CEOs and CFOs to deny any knowledge of financial issues within the corporation. Any public companies in the United States under the Securities and Exchange Commission (SEC) are governed by this act. This also applies to those international companies that are registered under the SEC. Offenders of this act can face stiff penalties, ranging from $1 Million to $5 Million dollars and 10-20 years of imprisonment depending of the severity of the infraction.

The following listed below are websites that range from basic to detailed information about SOX:

- http://www.sox-online.com/basics.html
- http://www.soxlaw.com
Delivering practical paralegal education often requires using skilled paralegals and attorneys as adjunct instructors. While this real-world perspective is extremely beneficial to students, helping new adjunct instructors assimilate into the world of teaching can be challenging. It is up to program directors to harness the knowledge of the bright and enthusiastic paralegal or attorney new to teaching. Namely, directors must clearly communicate to adjunct instructors what is expected of them when they teach. This essay shares three specific teaching expectations I honed through trial and error which I believe are helpful in directing a paralegal program.

The key expectations I set for my instructors are that they: (1) set proper expectations for students in the syllabi, (2) facilitate highly-interactive courses, and (3) design opportunities for students to create useful work-product.

My first key expectation is for instructors to set students’ expectations. Just as it is important to set appropriate teaching expectations for my instructors, I think it is important for instructors to set appropriate expectations for their students. I know just how unhappy students become when clear expectations are not set at the beginning of the course. To combat this, I review instructors’ syllabi well before the course starts to ensure they contain appropriate expectations. Course outlines must detail the learning activities to be used and the assessments to be deployed. Grading and evaluation sections should not only include the grading scale, but also explain to students what is expected relative to participation, level of work on assignments and projects, and how exams are structured.

If courses will use online discussion forums, the grading and evaluation sections of their syllabi should also explain the standards for online discussion forums. They should explain that discussion forums are open-ended questions that require students to contribute outside knowledge or examples to the discussion. Syllabi should explain what is expected from the students’ original post to a discussion; from their responses to other students’ posts; and how the instructor will participate in the discussion. Finally, syllabi should detail how students will receive feedback and grades on their assessments and the length of time before students will receive such feedback.

Students need to know what is expected of them to plan their schedules, manage their stress, but most importantly so they can perform their best and learn the most they can. It’s up to the instructors and me to start making that happen the moment the students receive their syllabi.

My second key expectation is for instructors to have highly-interactive courses. There is no shortage of information today. From textbooks to law libraries, and the Legal Information Institute to Google Scholar, there are many resources from where students can get information about the law and being a paralegal. What sets a university program apart from these types of resources is the mentoring from instructors and the exploration with fellow students.
As part of the syllabi review process, I ensure my instructors have planned opportunities every week for students to meaningfully interact with the instructor and with each other. Instructors are advised to use their own real-world examples as well as case studies in the classroom as the basis for learning discussions. These examples and cases work well as the basis for assignments and projects too. Role playing is also a highly effective activity, and instructors are coached to incorporate this into their courses. For example, instructors might pair students up and have one role play the paralegal and the other role play a potential client. A scenario from the instructor’s work experience, a textbook, or even a newspaper article could be used as the setting for a client intake meeting. The follow-up discussion or assignment to such a role play can explore the areas of client communications, legal ethics, and memo or letter writing. There are many ways to be interactive, and I tell all my instructors to let their personality and strengths guide what interactions they design for their courses, just as long as I see plenty of opportunities for engagement between them and the students as well as among the students when I review their syllabi. These highly-interactive, instructor-led expectations apply to courses in both the traditional classroom format and those online.

My third key expectation is for instructors to design opportunities for students to create work-product that they can later show their boss or use on job interviews. Part of setting up students for success means arming them with concrete examples of their talents. Instructors are directed to plan these opportunities in advance of the course starting and to include these types of assignments and projects in their syllabi. I explain to instructors that homework assignments and projects need to be more than answering questions out of a textbook. Assignments and projects need to require students to draft letters, memorandums, and motions. Practice questions and self-reflection throughout the course are extremely important in the learning process. But having students create something tangible they can take with them after they complete the program is paramount. For example, having students draft legal correspondence to clients, opposing counsel, and state agencies gives them the chance to practice different writing styles, and it provides students with writing-samples. As instructors consider how to facilitate their courses, the homework or projects to assign, and the type of exams to use, I tell them to ensure students have the opportunity to produce work-product that the students can use to showcase their skills in a personal portfolio or to use as samples of their work when interviewing for jobs.

There are many ways to communicate expectations to adjunct instructors. They may be included in a letter, an email, or even a video. I use a teaching expectations website I created on WordPress. Instructors are provided the link to the teaching expectations website before they even interview to teach. I also discuss my expectations throughout the interview. I want to make sure potential instructors know exactly for what rewarding challenge they are asking.

I reinforce my expectations throughout the year as well. All instructors, not just new ones, are sent the teaching expectations website link when a teaching invitation for a specific teaching assignment is sent. Those instructors that need to make changes to their syllabi after I review them may receive the link to the teaching expectations website one more time. My goal is to immerse instructors in my teaching expectations from the day their interview is scheduled until the first day of each course they teach. I believe this leads to happy instructors who know exactly what the university expects of them, and happy students who know exactly what their instructors expect of them.

**BIOGRAPHY**

Thomas Pokladowski, J.D. is the Director of the Law & Finance Unit in University Extension at the University of California, Irvine. His is responsible for the design, marketing, and implementation of legal, financial, and leadership programs for local, national, and international audiences. Thomas sits on the NALA Certifying Board, and serves as Secretary for the American Association for Paralegal Education. He can be reached at t.pokladowski@uci.edu.
Your top paralegal student is about to graduate. She has earned all A’s, never turned in a late assignment, has a great attendance record, and a strong work ethic. You could not be prouder. She will be an asset to any attorney. Only one obstacle stands in her way. She is a horrible interviewer. During interviews she suffers from clammy hands, lack of eye contact, and her responses to interview questions are rambling and nonresponsive. As her instructor, what advice can you give this student? How can you round out her education and give her the best shot of finding that all important first paralegal job?

One tactic could be to counsel students to approach a first interview as they would a first date. Skeptical? Let me explain.

As a legal recruiter, I noticed many similarities between the two situations. For instance, the goal of both is to make a good impression and get invited to meet again. Also on a date and in a first interview, revealing too much information, too early in the burgeoning relationship is not a good idea. Successful dates are with people who are intelligent, trustworthy, friendly, and open. The same is true for interviews. Here are a few other similarities I have observed over the years:

1. **Be Positive.**
   
   Talking badly about an ex (boyfriend/girlfriend or employer) makes a student look petty. Coming across as someone who has learned from the past and has grown because of their experiences is always best. No matter how negative the previous relationship (personal or professional) suggest that students maintain a positive attitude. For example, when asked a question about why they left a job they were fired from, a student can answer, “While I learned a lot at XYZ firm, I am at a stage in my career where I am ready to take on new challenges. I believe ABC firm represents this opportunity.” This answer speaks to the benefits of their tenure with the previous employer while at the same time indicating their enthusiasm for what the new role has to offer.

2. **Most People Do Not Like Them.**
   
   The thought of a first date or interview makes most people frown. Both are nerve-racking, stressful and tedious, yet unavoidable. Multiple first dates and interviews help to ascertain what you do and do not want from a future mate or a future employer. Students should set up practice and information interviews with potential employers. This will help alleviate some of the nervousness. Interviewing is a learned skill. Practicing how to communicate information that puts the student in the best light is good practice when interviewing or dating.

3. **Candor.**
   
   It is important to answer questions directly. However, urge students to refrain from volunteering too much too early. Just as it can scare off a date, oversharinng will do the same to a potential employer. Advise students to avoid discussing personal information such as previous illnesses, family members, finances, etc. Instead, they should answer questions succinctly, focusing on their knowledge, skill and abilities as it relates to the job. There is no need to embellish with irrelevant information.
4. **Engage in Interesting Conversation.**
   During a date or an interview, students are putting their best foot forward. You want your students to demonstrate their intelligence without coming off as a “know-it-all.” Assist students in articulating what they have learned in your program and how it will make them an asset to the team. Furthermore, have students practice making their responses to interview questions conversational and friendly. Interviewers who “like” their interviewees will have a positive impression of them and will invite the student back for a second interview to learn more about them.

5. **Compatibility.**
   Each party on a date or an interview is trying to determine the pros and cons of entering into the relationship. They are asking themselves, “Is this someone I can spend time with day in and day out?,” “Is this person loyal?,” “Are they dependable?,” etc. These questions help both parties to determine if the relationship will be a “good fit.” Consequently, students should ask open ended questions intended to learn not only about the opportunity, but the culture, expectations and long term advancement. The more students know the better equipped they will be to make a determination of whether or not the job makes sense for their career goals.

6. **Body Language.**
   Smiling, making eye contact, and good posture communicate interest. It is critical that students are conscious of their body language. Dates who fidget, slouch, do not maintain eye contact and never smile, are not asked out again. The same is true for an interviewee. A student’s nonverbal communication must convey confidence and professionalism at all times. It adds to the overall impression the interview will have of them.

7. **Dress Appropriately.**
   How one dresses for a date or an interview must not be taken lightly. Encourage your students to put a good deal of thought into choosing their interview attire. Clothing that is too revealing, sloppy or loud can convey the wrong message. Professional, stylish and tidy is the way to go.

As you can see, dating and interviewing have much in common. At the end of the day an interview and a date are both a dialogue between people who want to enter into a mutually beneficial professional relationship. Recognizing the importance of communicating effectively is critical to being successful in both.

---

**BIOGRAPHY**

Keisha D. Hudson, J.D. is the Chair & Lead Instructor of the Paralegal Studies Program at Atlanta Technical College. She is a graduate of the University of Cincinnati School of Law. Prior to her career as an Instructor, she worked as a recruiter for a national legal staffing firm. Keisha still lectures on job search and networking best practices for bar associations and paralegal organizations throughout Metro Atlanta. *The Ethical Paralegal – An Elementary Guide*
The Ethical Paralegal – An Elementary Guide

INTRODUCTION

Educators must stress the delicate balance between an attorney’s and a paralegal’s ethical decision-making. Legal professionals have in them, like most people, an internal mechanism guiding them towards finding and making the right choices. Yet, rarely is this enough in the practice of law. The American Bar Association (ABA) Model Rule 1.1 states that an attorney shall provide competent representation to a client...a representation that requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. However, even the most competent lawyer may not have an immediate answer, and going with one’s gut may not prove to be such a good idea for everyone involved. Therefore, attorneys are bound by a professional code of ethics, and the paralegal must be indirectly responsible as well. Conducting oneself professionally challenges even the best, so much so that the National Association of Legal Assistants (NALA) has developed ten canons of ethics (guidelines) that further aid legal assistants and their attorneys. Being an overall good person does not make a good attorney, and it most certainly will not keep such an attorney from getting disbarred or thrown in jail, nor will being morally correct keep a paralegal from being charged with unauthorized practice of law.

If experiences shape one’s knowledge, different experiences may result in different ethical viewpoints. However, with the proper focus, instruction, and education, the paralegal can learn how to make the right choices and in the long-run assist his/her attorney. Keeping everyone satisfied without breaking the legal ethics of care, allegiance, and confidentiality starts with the ability to be relentless in balancing the promises of not only protecting the client relationships, but also in preserving the public’s confidence and judicial integrity. In this article we offer some tips on how legal professionals can better effectively and ethically serve their attorneys and clients.

HOW TO EFFECTIVELY REPRESENT THE CLIENT

In breaking down the details of how to competently represent and serve one’s client, the rules for deterring malpractice in the ABA’s “Top Ten Malpractice Traps and How to Avoid Them” are as good a starting point as anywhere else. Even though these rules were meant for deterring malpractice lawsuits, they are also fundamental procedures to adhere to while maneuvering through the maze of law.
Ethically speaking, any law professional **SHOULD NOT:**

1. Miss Deadlines. Review, back-up filing system and know your statute of limitations.

2. Handle Stress through Substance Abuse. This is a poisonous cocktail for potential client neglect, attorney misconduct, and costly mistakes.

3. Fail to Communicate with the Client. Communicate verbally and frequently, in writing to safeguard confidence and satisfaction.

4. Fail to Screen their Prospective Clients. A problem client will only take away from your performance in other relationships.

5. Fail to Research and Investigate. Failure to know and to properly apply the law is at the core of unethical representation.

6. Fail to Spot a Conflict of Interest. Unexpected conflicts arise when both parties want the same representation, when a personal involvement exists, or when there is a monetary interest in the individual or organization.

7. Inappropriately Become Involved in Client Interests. A client’s personal business is hands-off.

8. Foster an Environment for Insufficient Documentation. Check the accuracy and content of all outgoing documents, make file management a priority, and always safeguard client information.

9. Sue for Attorney’s Fees. Payment plans and mediation are a far better way to resolve fee disputes.

10. Avoid Problems with Denial. Don’t ignore the reality that four to seventeen percent of attorneys are sued every year because of one reason or another.²

Protecting the client by following these ABA guidelines helps for starting out on the right foot, but where does one go from there? It’s always a good plan to strategize, listen and learn. Do not talk down to a client, not because of ethical behavior alone, it just does not foster a successful environment. There is truly no such thing as knowing it all, no matter how much experience one possesses. Strategize by asking the right questions and recording all details. You never know when the seemingly unimportant turns out to be the whole case. Furthermore, some legal terminology may only sound like jibber-jabber, so drop it down a notch; it is not imperative that the attorney should flex his mind-muscles with the client; as a paralegal try to make the client feel at ease.

In the early stages, fact-finding is what counts and the paralegal can be an essential part of this process. Finding out the facts increases the lawyer’s ability to avert crisis and problem-solve (a huge advantage when considering how to skillfully represent one’s client).

**MORE PRACTICAL TIPS**

For the past few decades, a popular public view of the legal profession has been one of disenchantment. The social role and moral aspiration of the attorney has become tarnished because of the tension between client interests and public interests. All of the tough decisions that an attorney makes on a daily basis clearly have challenged the core principle of client loyalty. Always be aware of one fact - the paralegal is only an extension of the lawyer/client relationship, so the promises of diligence, skill, knowledge, loyalty, integrity, and fair and honest billing are always a part of the job. However, it is the lawyer who oversees the carrying out of these responsibilities by the paralegal. Today, the responsibilities surrounding new technology are at the forefront in the management of a legal office and paralegals are often the experts in technology in the firm. Subsequently, the ABA proposed the following website guidelines. The legal professional **SHOULD:**

1. Update their Websites Regularly. Always keep current information.

2. Use Disclaimers. Unjustified expectations can be avoided.

3. Know the Difference Between Legal Information vs. Legal Advice. Legal professionals should make clear that on-line conversations are general in nature unless otherwise stated.

4. Define the Formation of an Attorney-Client Relationship. When the public submits unsolicited information, the lawyer’s response may very well determine the way of the relationship.

Nevertheless, even though the ABA has made accessible numerous rules on legal ethics since 1908, the organization
is private and membership is voluntary. The ABA has no authority to make decisions on disciplinary actions. “Every state has rules of ethics, also called Rules of Professional Responsibility or Rules of Professional Conduct.”4 These are the rules that govern lawyers, thereby protecting the judicial process. It is doubtful that the states would relinquish any authority over the legal profession, even though there are new challenges associated with advances in technology. Initiating and promulgating law is a duty. Just as in the national opinions of the ABA, each state’s ethics committee should continue to monitor and provide guidelines for preventing moral turpitude.

CONCLUSION

Today’s lawyers learn and practice their trade differently than in the past. Not only has advanced technology changed how we educate, but it has also changed how we work and how we live. The client has changed bringing to the law office a myriad of new legal issues. A great deal of the grunt work is now done by paralegals, outsourcing, computers, or by other means. There is a huge reliance on what has been undertaken by others. “It is not at all obvious that aspiring lawyers become expert lawyers by spending months on what is largely administrative work. There is greater evidence that young lawyers learn their trade by working closely with, and observing, legal experts in action.”5 For this reason, the paralegal has become an extremely important player in the continuing success of his/her employer.

Finally, knowing and using the vast array of live and online educational tools, lectures, virtual supervision and i-tutorials that simulate actual legal transactions and disputes is becoming the leading path of training and education. In order to successfully serve the client, being a part of the virtual environment is a must. Doing what is ethically and legally right is an ongoing challenge, so stay in the loop – stay updated and educated. Don’t you or your firm be the next victim of ill-advised actions.

BIographies

Dr. Robert Diotalevi, Esq., LL.M., is the Founding Program Coordinator and Associate Professor of Legal Studies at Florida Gulf Coast University in Fort Myers, Florida. He has been a lawyer for 29 years. He possesses four degrees and has been internationally published. His e-mail is bdiotale@fgcu.edu.

Ms. Connie Comunale is a Legal Studies major at FGCU. She is currently employed part-time in the field of Estate Planning. She has over a decade of experience in the areas of construction and real estate development. Her email is ccomunale1730@eagle.fgcu.edu.

ENDNOTES

3Kaiser, “Legal Ethics”.
4Orlik, Ethics, 6.

REFERENCES


The Paralegal Educator proudly publishes the 2014 winning Lambda Epsilon Chi (LEX) Scholarship Essays. AAfPE awarded five $500 scholarships specifically for the pursuit of the student’s paralegal education. The essays were based on the following questions:

**2014 LEX Scholarship Essay Question:**

Susannah Tom is a decorated American veteran of the Iraq war; she collects paintings from all over the world depicting mothers and children. While a soldier in post-invasion Iraq in 2004, Susannah purchased a small portrait of a reclining Kurdish mother and child from an art dealer in Baghdad named Abdul-Majid Al-Baghdadi. Knowing a bit about art, Susannah asked Mr. Al-Baghdadi how he had come to own the painting, clearly of Kurdish origin; Al-Baghdadi told her that his mother had been a Kurd and that the painting was actually a painting by his father of himself and his mother when he was a baby. Susannah believed at the time that the art dealer had title to the portrait and was entitled to sell it, and she purchased it from him for approximately $500 United States Dollars and brought it back to the United States with her.

In actuality, however, the story of how Mr. Al-Baghdadi acquired the painting was much different. From at least February 23, 1988 to September 6, 1988, Iraqi strongman Saddam Hussein’s regime carried out the “Anfal” (Arabic for “spoils”) campaign against the large Kurdish population in northern Iraq. The purpose of the campaign was ostensibly to reassert Iraqi control over the area; however, the real goal seemed to be to permanently eliminate the “Kurdish problem.” The campaign consisted of eight stages of assault, where up to 200,000 Iraqi troops attacked the area, rounded up civilians, and razed villages. Once rounded up, the civilians were divided into two groups: men from ages of about 13 to 70 and women, children, and elderly men. The younger men were then shot and buried in mass graves. The women, children, and elderly were taken to relocation camps where conditions were deplorable. In a few areas, especially areas that put up even a little resistance, everyone was killed. This campaign is now known as the Kurdish Genocide by the rest of the world, and was one of the war crimes for which Saddam Hussein was eventually hanged. Mr. Al-Baghdadi’s father Bashshar was a soldier involved in the Anfal, and he took the painting which Susannah bought from a Kurdish home as he rounded up the women and children of the
family who owned the painting and killed the father. Only one of the children of that family survived; a daughter named Adan.

Now Adan, the grown daughter of the Kurdish family that was robbed, murdered, and dispossessed by Bashshar Al-Baghdadi, has moved to the United States and become an American citizen. She has tracked down the painting, and wants it returned to her. She insists that Susannah has no right to the painting because it was stolen from Adan’s family during an illegal genocide; Adan is suing for replevin (the return of the painting) in an American court.

Please write an essay assessing the likelihood of success for Adan; assume for purposes of this essay that 1) only American law would apply here, and that 2) the American court involved has already determined that there are no statutes of limitations that would bar this suit.

Aubrey D. Burns
Volunteer State Community College (TN)

In 1988, Saddam Hussein ordered the destruction of thousands of Kurdish villages in northern Iraq. Hussein’s soldiers removed the occupants and stole property from the homes before they were demolished. One soldier looted a small painted portrait featuring a Kurdish mother and her child, and gave it to his son, Abdul-Majid Al-Baghdadi. The family who owned the portrait was robbed and murdered, leaving only one survivor - a girl named Adan. In 2004, an American soldier named Susannah Tom was in Iraq. She purchased the painting from Mr. Al-Baghdadi, who claimed that his father had painted it. Adan has learned that the painting is in Ms. Tom’s possession. Adan wants the painting returned to her, and she has filed suit for replevin. Her complaint alleges that the sale to Susannah Tom is void because the portrait was stolen during genocide.

This essay will examine replevin, explore who holds title to stolen property, and determine whether Adan will be successful in her endeavor to repossess a family heirloom. New York law will be drawn upon because “[i]n no other jurisdiction have we seen more of these [stolen art] disputes than in New York.” This essay will ultimately conclude that the principle of nemo dat quod non habet does protect Adan’s title to the portrait, and that she should prevail in her replevin action.

Replevin is “[a]n action for the repossesssion of personal property wrongfully taken or detained.” In order to prevail in such an action, the plaintiff “must prove right to possession by preponderance of evidence.” Adan has researched in order to find its current location. It is likely that she has documented the chain of custody and can prove that she is the true owner. This is important to her case because the issue is who holds title to the portrait. In the event that Ms. Tom presents a receipt for her purchase of the portrait, nemo dat quod non habet will apply.

The principle of nemo dat quod non habet holds that a thief “cannot transfer a good title even to a bona fide purchaser for value [because] only the true owner’s own conduct, or the operation of law ... can act to divest that true owner of title in his property”. Since Adan’s family did not authorize the soldier to steal the portrait, good title never transferred. Each person in the chain of custody derives their title from the one before them. If the first person in the chain has void title, so does the rest of the chain. This concept is known as the “derivation principle.” Mr. Al-Baghdadi’s father had only void title to the portrait since he stole it. Mr. Al-Baghdadi could not obtain valid title from his father, nor could he transfer anything but void title to Ms. Tom, even for valuable consideration.

The law protects property ownership through the concept of nemo dat quod non habet, where the rightful owner maintains title in property that has been stolen. Replevin actions are one of many possible ways to repossess stolen property. As with any legal matter, the parties must meet the burden of proof. In the present case, Adan would need to prove that she has the right to possession, and Ms. Tom would need to prove valid title. Since Ms. Tom will not be able to do that, she will not meet the burden of proof. If Adan can prove that she is the rightful owner of the portrait, then she will prevail in her suit for replevin.

ENDNOTES

2 Id. at 1530.
3 Arabella Yip, Stolen Art: Who Owns It Often Depends on Whose Law Applies, Spencer’s Art L.J. (July 2010).
4 See Black’s Law Dictionary (9th ed. 2009), available at Westlaw BLACKS.
Based on the facts presented in the vignette, I believe that Adan’s suit against Susannah Tom for rights to the painting has a moderate likelihood of success. Adan’s case will be dependent upon the jurisdiction that it is being tried in and her ability to lay claim to the piece.1 For purposes of proving Adan’s probability of success, this essay will provide points of replevin case law involving stolen artwork, as well as, federal regulations involving the importation of particular foreign cultural material into the United States. Ultimately, the plaintiff will have the burden of proving superior right to possession by a preponderance of the evidence and the defendant will have the burden of investigation in order to prove legitimate attainment of the piece.2

Adan immediately has an advantage in proving her case because of the court’s determination that no statute of limitations will bar this suit. Prominent case law indicates that the statute of limitations in replevin actions begins when a demand is made and the purchaser refuses to return the property, as seen in *Solomon R. Guggenheim Foundation v. Lubel*, 569 N.E.2d 426 (1991) and *Menzel v. List*, 246 N.E.2d 742 (1969).3 In Adan’s case, this will not be of the essence since no limitations are pronounced. Amid this development initiated by the court, the *Guggenheim* and *Menzel* cases will almost certainly play a particular role in Adan’s suit.4

Since there are no limitations, one would believe that Adan would inevitably win and Susannah, the innocent purchaser, would ultimately lose out on the painting and $500 as long as Adan can prove her superior right to possession. The *Guggenheim* case is important here because it emphasizes the doctrine of laches, in which a legal right or claim will not be enforced if it prejudices the adverse party.5 Further, the court in *Guggenheim* established what is known as a “burden of investigation” upon the purchaser of stolen art to determine the authenticity and provenance of the work.6 Assuming the court follows the precedent set in *Guggenheim*, Susannah will have to meet this burden in order to maintain ownership of the painting. It was stated that Susannah obtained the painting through Abdul-Majid Al-Baghdadi in what she believed to have been a legitimate transaction. Further investigation will reveal that the sale was not a legal transaction.

According to the Uniform Commercial Code (UCC), a good-faith purchaser cannot obtain valid title from a thief or from one who acquired property from a thief.7 The UCC rule states as follows: “A sale by the thief or any other person claiming under the thief does not vest any title in the purchaser as against the owner, though the sale was made in the ordinary course of trade and the purchaser acted in good faith.”8 Assuming once again that this court follows the Guggenheim court, which emphasized the doctrine of laches in order to protect the innocent purchaser, Susannah will be found in violation of the UCC.

Furthermore, it is understood that Susannah is an avid collector of world art. A stunning fact about the art trade is that it is the fastest growing crime in the U.S. and the third largest part of international criminal activity, according to Thomas M. Cooley Law School Professor Charles Palmer.9 In *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts*, Inc., 917 F.2d 278, 294 (1990) another stolen artwork case, the court noted that, “we should note that those who wish to purchase artwork on the international market, undoubtedly a ticklish business, are not without means by which to protect themselves.... prospective purchasers would do best to do more than make a few last-minute phone calls.”10 Had Susannah done the proper research, not only would she have found that this piece was stolen, but that importation such material from Iraq could be considered a violation of U.S. Customs and Border Protection Regulations for International Travel if it is found to be culturally or religiously important. Importation of certain Iraqi cultural artifacts into the U.S. is barred.11

Adan’s likelihood of success is moderate in this suit because one, the absence of the statute of limitations provides her with a clear advantage and two, proving her legal ownership of the artwork will be necessary, but difficult. Based on the information provided and the case law applied, Susannah will ultimately lose rights if the transaction is deemed to be illegitimate in court’s interpretation of the law, and/or the painting is found to have been illegally imported.

ENDNOTES

1 Andrea E. Hayworth, *Stolen Artwork: Deciding Ownership is No Pretty Picture*, 43 Duke L.J. 337, 338-347 (1993). In the United States, courts have not reached a uniform conclusion on this issue and such decisions are dependent upon the jurisdiction it is tried in and what test that court uses to determine claim to the contested piece. For purposes of proving Adan’s likelihood of success, this essay will turn to New York case law because it is a major center for the art trade and prominent case law including *Solomon R. Guggenheim Foundation v. Lubell*, 569 N.E.2d 426 (N.Y. 1991) and *Menzel v. List*, 246 N.E.2d 742 (1969).9

2 Robert G. Markoff, Lawerence O. Taliana, *Replevin, Detinue, and Attachment*, IICLE Press (2009), http://www.iicle.com/links/CredRts09-Ch5-Markoff.pdf. The plaintiff will have to present material facts upon which her claim to the piece is based. Hayworth, supra note 1, at 375.
3Hayworth, supra note 1, at 340.

4Hayworth, supra note 1, at 375. The Guggenheim court has been used as precedent in recent cases.

5Hayworth, supra note 1, at 375. This provides a protection to a bona-fide purchaser against claims from an alleged true owner. If there is no injury to the purchaser, then the true owner should be restored to possession. This rule invoked by the Guggenheim court coincides with the Uniform Commercial Code pertaining to purchasers of stolen merchandise.

6Hayworth, supra note 1, at 375.

7Hayworth, supra note 1, at 376.

8Hayworth, supra note 1, at 375.

9Palmer, supra note 1.

10Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc., 917 F.2d 278, 294 (7th Cir. 1990). See Hayworth, supra note 1, at 382.


Karen Anahi Marroquin
San Jacinto College - North Campus (TX)

While in Iraq, Susannah Tom asked an art dealer, Abdul-Majid Al-Baghdadi, about a painting she liked. Specifically, she asked how he had come into possession of a Kurdish painting. Abdul-Majid specified that the painting was done by his father and that it was a painting of himself and his mother, who had been Kurdish. Susannah, believing that Abdul-Majid had title to the painting, purchased it for $500, and brought it back to the United States with her. However, the painting was not of Abdul-Majid and his mother, nor did it belong to him. The painting was actually stolen by Abdul-Majid’s father, Bashar, from a Kurdish family during the Kurdish Genocide. The family that owned the painting had one sole survivor after the Kurdish Genocide; a child named Adan. After losing her family in the Kurdish Genocide, a grown Adan moved to the United States and became an American citizen. She has tracked the painting to Susannah and wants it returned because she claims the painting does not belong to Susannah, as it was stolen from her family. We must determine whether Susannah will be required to return the painting to Adan under the legal theory of replevin, even though Susannah purchased the painting in good faith, without knowing the true story behind it.

Replevin is a legal action used to have property returned to its rightful owner when it is being held unlawfully by someone other than the rightful owner. Despite the number of people who may have purchased the painting in good faith, a stolen painting will always belong to the person from whom it was stolen, unless a statute of limitation bars the replevin suit. In Solomon R. Guggenheim Foundation, Respondent, v. Mrs. Jules Lubell, Appellant. (And Third- and Fourth-Party Actions.) 77 N.Y.2d 311 (1991) it is established that the owner of stolen property should have greater protection than any potential purchaser. It becomes the potential purchaser’s responsibility to investigate the provenance of the item. Adan and her family, as the victims of theft, should not be punished by giving ownership of the painting to Susannah. Although Susannah should not be punished either for purchasing stolen art due to falsified information, Adan has greater protection under the theory of replevin. The court has established that there is no statute of limitations that would bar Adan from suing Susannah. Adan claims to be the rightful owner of the painting because it was stolen from her family. If Adan’s family had not been murdered, they would still be in possession of the painting. Adan could have also inherited it from her deceased parents, had it not be stolen. Despite the fact that Susannah purchased the painting due to misleading information given by Abdul-Majid, if Adan has substantial proof that she is the rightful owner of the painting, Susannah must return the painting. Because Susannah may have proof that she legally purchased the painting from Abdul-Majid, this becomes an issue of who has a greater right to the painting. If it can be established that Adan’s family did, in fact, own the painting before the Kurdish Genocide, and that it was stolen, Adan would have greater rights to the painting than would Susannah.

Accordingly, if it is established Adan is the rightful owner, Susannah must return the painting to Adan. Susannah would lose the painting and the $500 she paid for it. Adan is very likely to be successful in her replevin suit because the painting was stolen from her family. Despite the fact that Susannah purchased the painting in good faith, the painting belongs to its original owners, Adan and her family.
Sandra G. Morel  
Roger Williams University (RI)

This essay will discuss the merits of Adan’s case in an action sounding in replevin; the question is whether she has the superior right to possession of goods and would the goods likely be returned in her favor. For the reason discussed below, it is suggested that she has a high likelihood of success.

The defendant in this matter, Susannah Tom, is a decorated American veteran who served in the Iraq War in 2004. She has a passion for collecting rare paintings of mothers and children, and in 2004 came across a painting of Kurdish origin which is the center of the controversy. The defendant does not dispute the facts in this case; nevertheless, she asserts that she purchased the painting in what she believed was a legitimate transaction and the painting was willingly sold to her with absolute title to it.

In Rhode Island, replevin is a statutory cause of action found in chapter 21, title 34, sections 1 through 13 of the Rhode Island General Laws. Replevin is an «action for the repossession of personal property wrongfully taken or detained by the defendant . . . .» Vineberg v. Bissonnette, 529 F.Supp.2d 300, 306 (D.R.I. 2007) (quoting Gem Plumbing & Heating Co. v. Rossi, 867 A.2d 796, 806 n.14 (R.I. 2005). In this case, the record reflects that the plaintiff, Adan, took remedial action by searching for the painting in question and she made it known that it was unlawfully taken from her family during an illegal genocide. The burden is on the plaintiff to demonstrate the elements of her statutory cause of action. To do so, she must provide sufficient evidence that: she is the lawful owner of the painting; it was taken unlawfully without permission; and defendant is in wrongful possession of the painting. (The court has determined that the statute of limitations does not bar this claim; thus there will be no need to engage in this discussion.)

The plaintiff argues that the painting was stolen during a well-known and documented genocide. The world has widely acknowledged what has become known as the Kurdish Genocide, and in fact the United States Congress is considering a resolution to formally recognize the genocide. The plaintiff has exercised reasonable due diligence in the search for the painting and seeks its return. Accordingly, she must now present proof in a verifiable document that is unique and distinct and which will validate her family as the primary owner of the painting. The evidence presented must persuade the court with confidence.

In the case of Vineberg v. Bissonnette, the court held, among other things, that: the painting was unlawfully taken from original owner; the plaintiffs’ estate was the rightful owner of the painting as Nazis’ conduct was equivalent to theft; and descendant of the purchaser did not have good title to the painting. Over 70 years ago, the Nazi party in Germany took art from Jewish citizens as part of a systematic plan to rob Jewish citizens of their property, identity and, ultimately, their lives. 529 F.Supp.2d at 305. Several Holocaust-related lawsuits were filed in the United States after World War II, some of which concerned looted art. Id. The Vineberg court acknowledged that the Nazis’ actions were properly classified as looting or stealing. Id. at 307; see also O’Keefe v. Snyder, 416 A.2d 862, 867 (N.J. 1980) (“generally speaking, if the paintings were stolen, the thief acquired no title and could not transfer good title to others regardless of their good faith and ignorance of the theft”).

It is strongly suggested that the theft of the painting in this case is equivalent to the theft by the Nazis during World War II. Although Susannah asserts that she lawfully acquired the painting in a transaction made in good faith, and therefore she has the superior right to possess the painting, it is suggested that her claim will not stand up. It is highly unusual that defendant, an experienced art collector, could have acquired the painting with no knowledge of possible wrongdoing in the chain of title. See Vineberg, 529 F.Supp.2d at 308 (citing Stuart P. Green, Looting, Law, and Lawlessness, 81 Tul. L.Rev. 1129, 1138 (2007) (noting that the Hague and Geneva Conventions make it a crime to take or destroy real or personal property during occupation unless it is “absolutely necessary”).

It is known worldwide that the Kurdish Genocide was one of the war crimes for which Saddam Hussein was charged, convicted and hung to death. As a result of this illegal genocide, the plaintiff not only suffered the complete loss of her family but also was stripped of family treasures. Based on the outcome in similar cases, it is suggested that defendant cannot rely on her claim to ownership of what is, in fact, stolen artwork. If Adan can successfully persuade the court that the painting belonged to her family, she will most likely prevail.
Introduction
By applying American law, it is likely that Adan will retain the painting. Even though Susannah Tom is a bona fide purchaser who paid fair value for the painting, Adan is the heir of the original owner whose family perished at the hands of the Saddam Hussein’s regime during the 1988 Kurdish Genocide (“KG”). Courts in America are more likely to side with the original owner of paintings if the artwork was lost due to acts of war. In this short essay, I will present Susannah’s argument, then Adan’s argument, and finally conclude in favor of Adan under current American law.

Susannah’s Argument
Bona fide purchaser (“BFP”) is a good-faith purchaser for value without notice of another’s claim to the property and without actual or constructive notice of any defects in or infirmities, claims, or equities against the seller’s title. Generally, BFP are not affected by the transferor’s fraud and has superior right to the transferred property against potential creditors to the extent of the consideration that the BFP bas paid.

Based on the facts, Susannah fits the definition of a BFP. She had no notice of Abdul-Majid Al-Baghdadi’s illegal possession of Adan’s painting. She used reasonable effort to ensure Mr. Al-Baghdadi had legal title to sell the painting by questioning him about the painting’s origin. Even though the painting was clearly of Kurdish origin, Susannah reasonably relied on Mr. Al-Baghdadi’s story, believed he was the painting’s true owner, and paid a reasonable price of $500 USD for the painting. She had no reason to suspect that the true owner of the painting would later appear to reclaim the painting.

Some might argue Susannah bought the painting by taking advantages of Iraq’s unstable post-invasion condition, which would eliminate her status as a BFP. However, we must take her hobby into consideration. She had no intention of buying valuable arts at low prices and selling them for profit afterwards. Instead, she was a collector of mothers and children paintings and wanted to keep the painting as part of her collection, evidenced by the fact she still has the painting ten years after the purchase.

Adan’s Argument
An “owner” or a “former owner” is a person who does not have current possession of an artwork, but is pursuing a claim for recovery based on a claim or prior possession or superior title to the current holder of that artwork. Adan is the only survivor of her parents, therefore the lawful heir of the painting. Her claim for replevin is based on the fact that the painting was stolen from her family during the KG. She never had any intention of transferring ownership to the painting. Therefore, she has a claim that she is the true owner of the painting.

Analysis under American Law
Under American law, artworks that were stolen by thieves and later sold to BFPs are subject to different analysis from artworks stolen during war. Adan did not lose her painting from ordinary thievery; she lost the painting during the KG, a worldwide known tragedy.

The historical parallel to the KG is the Holocaust of World War II. Countless artworks were plundered by Nazis and sold to BFPs during WWII. American court decisions eventually held that even BFPs, who would usually win a claim against prior owners, could not have superior title over true owners who lost their artwork during WWII. Congress also urged governments to facilitate the return of works of art to rightful owners in cases where the artworks were confiscated from owners during the period of Nazi rule.

Susannah can argue that Adan’s painting was not stolen during the period of Nazi rule, making the Act inapplicable. She can further assert that although the KG was tragic, it was a domestic campaign carried out by Saddam Hussein that did not amount to war. Therefore, case laws that were sympathetic to wartime owners also should not apply. Instead, she should be entitled to the painting because she was a BFP of a stolen painting.

Adan can counter by arguing 200,000 Iraqi troops attacked the Kurdish population in northern Iraq. Even if the Anfal campaign was not a formally declared war, it nevertheless was a tragedy for which Saddam Hussein was eventually hanged. Thus, the reasoning behind court decisions in awarding true owners of artworks stolen during wars should still apply.

CONCLUSION
Even though Susannah is a BFP, Adan is likely to recover her family painting under American law because her painting was forcibly taken from her during the KG, a tragedy that rises to the level of wartime tribulation. Therefore, Adan is likely to win her replevin action.

ENDNOTES
2015 Call for Nominations
Position Descriptions

At the Annual AAfPE Conference in Milwaukee, WI, AAfPE institutional members will be electing officers and directors for the following positions:

President-Elect: This individual serves a three-year term, beginning as President-Elect, whose major responsibility is chairing the AAfPE Membership Committee. Upon assuming the Presidency in the 2nd year, this individual will help guide AAfPE and act as its voice and then, in the 3rd year, mentor the incoming President and President-Elect as the Immediate Past President.

Director, Southeast Region: Serving a three-year term, this individual serves as the region’s liaison to the AAfPE Board of Directors. The Regional Director also assists the President-Elect in the annual membership drive, and supports local hosts in the preparation of the annual regional conference.

Director, Pacific Region: Serving a three-year term, this individual serves as the region’s liaison to the AAfPE Board of Directors. The Regional Director also assists the President-Elect in the annual membership drive, and supports local hosts in the preparation of the annual regional conference.

Director, Associate Programs: Serving a three-year term, this individual’s institution must maintain a Associate program. This Director represents all AAfPE associate programs and liaises on their behalf with the AAfPE Board of Directors.

Director, Baccalaureate Programs: Serving a three-year term, this individual’s institution must maintain a Baccalaureate program. This Director represents all AAfPE baccalaureate programs and liaises on their behalf with the AAfPE Board of Directors.

Non-Board Position:

AAfPE Nominee to the ABA Approval Commission – Associate Program Representative: The person, elected by AAfPE members, will be nominated to serve a one-year term with reappointment to a maximum of three years. ABA Approval Commission positions begin in August of the year following nomination and are subject to the approval of the President of the American Bar Association.

The nomination form is available on the following page. It is also available at www.aafpe.org. Look for the “Call for Nominations/AAfPE Elections” link in the right column.
Notice of Nomination

I nominate the following individuals:

**President-Elect** (three-year term*)

*Year 1: President-Elect; Year 2: President; Year 3: Immediate Past President

______________________________

**Director, Southeast Region** (three-year term)

______________________________

**Director, Pacific Region** (three-year term)

______________________________

**Director, Associate Programs** (three-year term)

______________________________

**Director, Baccalaureate Programs** (three-year term)

______________________________

**Non-Board Position:**

**AAfPE Nominee to the ABA Approval Commission – Associate Program Representative**

The person, elected by AAfPE members, will be nominated to serve a one-year term with reappointment to a maximum of three years. ABA Approval Commission positions begin in August of the year following nomination and are subject to the approval of the President of the American Bar Association.

______________________________

o I am the designated representative of an institutional member of AAfPE in good standing.

______________________________

Name        Institution

______________________________

Signature       Date

• Elections will be held during the Annual Conference in Milwaukee, WI, October 21 – 24, 2015.
• Candidate statements are due by June 5, 2015.
• Candidates for the ABA Approval Commission should also submit a resume.

Please return this form no later than June 5, 2015, along with your candidate statement of approximately 500 words, via email to Steve Dayton, Nominations Chair at sdayton@fullcoll.edu, with a copy to AAfPE Headquarters at info@aafpe.org. Please include your position at your institution, why you are seeking this position, what qualifications make you a good candidate and your vision for AAfPE.
The AAfPE Alternative Delivery and Technology Committee hosted two sessions at the national conference in Las Vegas in November, 2014. This included the Cyber Ed Idol Online Teaching Competition and the Technology Roundtable.

Cyber Ed Idol

Bob Mongue and Kye Haymore took us on a tour of their online classes. Bob uses Blackboard. His voice-overs were interesting and good for audio learners. He has links to YouTube so students can hear guest speakers which adds variety to the class. He also uses videos and PowerPoint to keep the class interesting. He employs Wiki Groups so students can work together on various projects such as developing a contract. The class was well organized and very hands on which benefits the students.

Kye Haymore showed a Healthcare Law class on the Angel System. She uses the word, “you” in assignments as a psychological approach to pull the students in. Kye’s class contains videos on how to submit an assignment, how to check grades, and other explanations to clarify course policies and procedures. She provides an orientation quiz to make sure the students are ready to learn in the online modality. One major course assignment is reading the book, “The Immortal Life of Henrietta Lacks” and the class contains a video on this amazing story about reproducing human cells indefinitely in a tissue culture, helping researchers develop treatments for cancer and to study many other diseases. Kye also has a movie in class about “Doc” Holliday. The assignments are creative such as one where the students have to make a pitch as if they are Hollywood producers making a movie out of the notorious law school classic book, “One L.” The audience was duly impressed. One comment summed it up: “This was wonderful!” Other comments on the audience judging rubric were that both classes were fantastic and contained great ideas.

The first place winner, Kye Haymore, won $400.00 and the runner up, Bob Mongue, won $100.00. We thank Pearson for providing $500.00 for this competition.

YOU CAN WIN NEXT YEAR—LOOK FOR EXCITING CHANGES IN THE ONLINE TEACHING COMPETITION!
You never know what to expect at the Technology Roundtable but you will be sure to learn something new. While the format changed to having only two main presenters, the group discussions and audience interaction highlighted many exciting apps and law office management software to enhance the classroom experience and give students skills they need in the real world.

Kelly Hebron from Northern Virginia Community College and Jeff Rubel from University of Cincinnati took the audience through a cornucopia of apps and technology that will prepare our paralegal students for a career in the fast changing law office of the present and future.

The audience interaction was fantastic where each table became a team and did their own show and tell by discussing their best practices and reporting to the rest of the audience about apps and technology they use in class.

Kelly agreed to set up a Google Docs site with information on the apps and technology discussed. These are some of the apps that were highlighted at the Tech. Roundtable:

- Study Mate - http://www.studymate.com/ - Create quizzes, jeopardy style games, cross words, flashcards - help students learn through competitions.
- Powtoons - http://www.powtoon.com/ - Like GoAnimate but easier. Let your students create animated videos.
- Prezi - http://prezi.com/ - PowerPoint on steroids. It’s cloud based and some instructors use it to have students create their own country, flag, constitution, etc.
- Blackboard - http://www.blackboard.com/

Practice Management in the Cloud was also discussed including Clio, Rocket Matter, LexisNexis Firm Manager, Houdini Esq., and Credenza Pro.

A discussion about law office technology would not be complete without touching upon forms for sale. This is a phenomenon that is sweeping the legal marketplace and it all has to do with access to justice and enabling people to do more simple legal work themselves. Check out Legaldocs.com, We the People, and Legal Zoom for forms and help for “do-it-yourselfers.”

For some of us in the audience, many of these applications seem new and exciting and we made a note-to-self to experiment and try new things to shake it up in class. For others, many of this was old hat. If you have an app you love to use in the classroom, think of sharing with us at next year’s Technology Roundtable Show and Tell!
An ePortfolio is a collection of digitized artifacts. It can include legal memoranda, a resume, photographs … anything in digital format. The ePortfolio’s value stems from the ability of the creator to organize and manage work that has been created using different software tools and programs, and to control who can see and comment on each artifact.

The use of ePortfolios is not new. Their use began in the 1980’s with digital work reproduced on CD-ROMs. By the 1990’s, Dr. Helen Barrett was publishing scholarly articles concerning ePortfolio use. A major development occurred in 2010 when the United States Department of Education published its National Educational Technology Plan with two references to electronic portfolios.

In the Learning section: “Technology also gives students opportunities for taking ownership of their learning. Student-managed electronic learning portfolios can be part of a persistent learning record and help students develop the self-awareness required to set their own learning goals, express their own views of their strengths, weaknesses, and achievements, and take responsibility for them. Educators can use them to gauge students’ development, and they also can be shared with peers, parents, and others who are part of a students’ extended network.” (p.12)

And later in the Assessment section of the plan: “Many schools are using electronic portfolios and other digital records of students’ work as a way to demonstrate what they have learned. Although students’ digital products are often impressive on their face, a portfolio of student work should be linked to an analytic framework if it is to serve assessment purposes. The portfolio reviewer needs to know what competencies the work is intended to demonstrate, what the standard or criteria for competence are in each area, and what aspects of the work provide evidence of meeting those criteria.” (p.34)

It is this combination of purposes that has made ePortfolio use so attractive and useful to a variety of audiences: to educators interested in student growth and reflection; to employers interested in seeing what students have learned and accomplished; to administrators interested in course or program assessment.

In creating student ePortfolios, there are dozens of ePortfolio sites that are useful. A comprehensive look at these sites can be found on the EPAC Wiki: http://epac.pbworks.com/w/page/12559686/Evolving%20List%C2%A0of%C2%A0ePortfolio-related%C2%A0Tools

However, the three most commonly used ePortfolio sites at this time appear to be:

**DIGICATION:** A paid service widely used in K-12 and higher education; it is user friendly and easy to learn. Getting started tutorial: https://support.digication.com/home

**GOOGLE SITES:** A free service (with some ads) that is easy to learn but has limited storage and site creation parameters. Getting started tutorial: https://sites.google.com/

**WORDPRESS:** Both free and paid versions with numerous bells and whistles available for customization. But it can be difficult to learn because of the number of options available. Getting started tutorial: http://www.wikihow.com/Use-WordPress

As with any new educational tool, thoughtful discussion with all stakeholders across your institution is a good first step towards achieving a positive experience!
Looking for tools that will allow you to present professional-looking, appealing graphics for your online courses? Powtoon may be your answer. This free, web-based tool allows you to create short animated videos using the Powtoon stock characters and props. Included music and the ability to do some limited customization allows you to create catchy, bouncy videos that will engage your students.

The learning curve for Powtoon is relatively mild. The website includes short video tutorials, and the tools are limited, which makes it hard to go wrong. The program includes templates (both samples above are using templates) or allows you to create your own.

In the behind the scenes screenshot above, you can see the list of text effects, characters, and props on the right. Clicking on one of them adds it to the stage in the middle of the screen. The timeline for the text and graphics is at the bottom, and it is very easy to resize the text and the graphics and adjust when they appear. You can also upload your own graphics, and use a mixture of all three. In the video sample screenshot above, I used the black graphics provided in the program, the text tool, and my own photo.

To complete your video, you may use one of the music tracks that comes with Powtoon, your own music file, or your own narration. Publishing your finished video takes one click of a button, and once published, a video can be viewed on the Powtoon website, or you can take the additional step of uploading it to YouTube.

How would you use Powtoon? These videos would be appropriate when you want to do a quick overview or summary. The bouncy music and bold graphics that would seem fresh for a weekly course intro may become too much after several minutes, but I think students would look forward to starting each class with the kind of upbeat overview that Powtoon could do so well.

The free version of Powtoon has a limited set of characters and props. They were more than sufficient for me to create the sample video you see above. However, I could tell that I would want to have more options available to me, so I paid for an education license. The education price is $2/month, paid annually ($24/year). Both the free and the education versions add a short “created using Powtoons” credit at the end of each video. Those can be eliminated only in the pro or business versions, which start at $19/month, paid annually ($228/year). The program is entirely web-based, so there is nothing to download, and works on both Macs and PCs.

See my 30 second sample at http://youtu.be/tm0cTEhN12w
Poor PowerPoint. It’s been given a bad rap because it’s over-used, but just like the motto, “Have you driven a Ford lately?” if you haven’t explored PowerPoint (and specifically its add-ons) lately, you haven’t seen PowerPoint.

Office Timeline 2010 (FREE) lets you create timelines, Gantt charts, organizational charts and other types of project planning tools from right inside PowerPoint. It is ridiculously simple. You type in your information and, voila, a chart is created. When you launch PowerPoint after installing Office Timeline, it displays a tutorial slide show that walks you through the basics.

Podium is an add-in that provides a huge library of media elements (images, vector drawings, backgrounds, 3D clip art and shapes, and more). These elements are royalty free and most can actually be customized.

Pro Word Cloud (FREE) makes word cloud visuals so that your audience “gets it” fast. Mind-O-Mapper ($2.99 to download) lets you create mindmaps right inside PowerPoint. This app won the inaugural app development contest for Microsoft Office and SharePoint 2013.

Office Mix (FREE) is amazing. If you’ve used Camtasia, you’ll have an idea of how this works (and though it isn’t as robust as Camtasia, did I say it is FREE?). You must have Office 2013, but there is a Mac and a PC version. Using this program, you can make screen recordings, record your video camera feed, and record voiceover. You can also insert screenshots. Don’t panic—Office Mix is super easy to work with. Go to http://www.skilledup.com/articles/30-best-add-ins-and-apps-for-microsoft-powerpoint/ for thirty of the best add-ins for PowerPoint. You’ll be surprised at what PowerPoint can do these days.

You can win
$400.00 for first place
& $100.00 for second place!

Cyber Ed Idol is changing its name!

AAfPE’S GOT TALENT!
ALTERNATIVE DELIVERY TEACHING COMPETITION

Showcase one cool thing from your class
(online or hybrid)

Remember to sign up to have some fun in Milwaukee—Fall 2015
AAfPE Board of Directors  Terms of Office End as Noted

OFFICERS

Patricia Lyons, President (2015)
Bunker Hill Community College
43 Elwin St.
Warwick, RI 02889
Office: 401-391-7830
Email: pelyons1@yahoo.com

Robert Mongue, President Elect (2015)
University of Mississippi
319 Odom Hall
P.O. Box 38677
University, MS 38677
Office: 662-915-7293
Email: rmongue@olemiss.edu

Steve Dayton, Immediate Past President (2014)
Fullerton College
321 East Chapman Avenue
Fullerton, CA 92832
Office: 714-992-7223
Email: sdayton@fullcoll.edu

Thomas Pokladowski, Secretary (2017)
University of California, Irvine Extension
P.O. Box 6050
Irvine, CA 92616-6050
Office: (949) 824-1228
Email: t.pokladowski@uci.edu

Wm. Bruce Davis, Treasurer (2017)
University of Cincinnati, Clermont College
4200 Clermont College Drive
Batavia, OH 45103
Office: 513-732-5305
Email: bruce.davis@uc.edu

DICK E

Mary Hatfield Lowe Director, South Central Region (2016)
Northwest Arkansas Community College
One College Drive
Bentonville, AR 72712
Office: 479-619-4358
Email: mlowe@nwacc.edu

Kye Haymore, Director, Southeast Region (2015)
Georgia Piedmont Technical College
8100 Bob Williams Pkwy
Covington, GA 30014
Office: 404-297-9522 ext. 5300
Email: haymorek@gptc.edu

Judith Mathers Maloney, Director, Northeast Region (2017)
Molloy College
1000 Hempstead Ave. - Siena Hall
Rockville Centre, NY 11571-5002
Office: 516-323-3812
Email: jmaloney@molloy.edu

Donna Schoebel, Adjunct Professor, North Central Region (2017)
Capital University Law School
303 E. Broad St.
Columbus, OH 43215
Office: 614-236-6444
Email: dschoebel@law.capital.edu

Margaret Ann Uchner, Director, Pacific Region (2015)
Community College of Aurora
9235 E. 10th Drive, Room 142
Denver, CO 80230
Office: 303-340-7254
Email: margaret.uchner@ccaurora.edu

Dora Dye
Director, Associate Programs (2015)
City College of San Francisco
50 Phelan Ave
San Francisco, CA 94112
Office: 415-239-3508
Email: ddyecccsf.edu

Mary Flaherty
Director, Baccalaureate Programs (2015)
Suffolk University
73 Tremont St. 10th Fl.
Boston, MA 02108
Office: 617-305-1958
Email: maryflaherty619@gmail.com

Julia M. Dunlap, Esq.
Director, Certificate Programs (2017)
University of California, San Diego Extension
8950 Villa La Jolla Dr., Suite 201C
La Jolla, CA 92037
Office: 858-534-8164
Email: jdonlap@ucsd.edu

AAfPE Headquarters

Leslie Teris, JD, CAE
Executive Director
19 Mantua Road
Mt. Royal, NJ 08061
Office: 856-423-2829
Email: lteris@talley.com

MISSION: To provide greater access to legal services by promoting quality paralegal education.