



# *The Paragraph*

Georgia Association of Paralegals Quarterly Newsletter  
Charter Member of the  
National Federation of Paralegal Associations

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## **GAP HOLIDAY PARTY HAS RECORD- BREAKING ATTENDANCE!**

A special thanks to our dinner sponsors who also provided a free glass of wine to all attendees: Document Technologies, represented by Jeff Harper, Alexander Gallo and Associates, represented by Jackson Dodsworth, The Norcross Group, represented by Harold Phipps and Paramount Staffing represented by Kimberly Lusink.

We get bogged down with so much during the year, we oftentimes neglect to recognize the contributions employers make in our ability to juggle a successful career and adequate contribution to GAP. For that reason, GAP awards an employer each year for their out-



*GAP Members enjoy a glass of holiday cheer  
courtesy of our sponsors,  
Alexander Gallo & Associates, Document Technologies, Inc. ,  
Paramount Staffing, Inc. & The Norcross Group*

standing leadership, managerial skills and continuing development in our members. For the 2005 year GAP presented The Employer of the Year Award to Marty Ellin, Esq. of the Atlanta Volunteer Lawyers Foundation (AVLF). This nomination was received from GAP Members Connie White and Dionne Hines. Congratulations Marty!

Continuing education for paralegals is an opportunity that enhances both one's personal life and career opportunities. GAP is pleased to provide a contribution to those seeking this challenge, and each year offers members an opportunity to receive a PACE Scholarship. The recipients of the scholarship, sponsored by Paramount Staffing this year, were presented by Beth Magee & Kimberly Lusink and awarded to Christina Weeks and Karen Prouty. Congratulations Christina and Karen!

## 2006 Board of Directors

### **President**

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Christina Weeks

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Linda Sloope

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Jeff Rambin

### **Community Service Coordinator**

Andrea Ward

## PRESIDENT'S MESSAGE

By: Gina S. Farley, CP, President

*"This time, like all times, is a very good one, if we but know what to do with it."*

(Ralph Waldo Emerson)

It seems like every January, with the entire year looming ahead of me, I feel like I have all the time in the world. After the frenzy of the holiday season, when there never seemed to be enough time, January starts out slowly, with time to catch my breath. Sure, I have New Year's resolutions to work on, but I can still wait a few more weeks – I have time.



Inevitably, as the short month of February comes and goes, I can't believe how quickly January passed me by. Spring will be here before you know it! It is then that I begin to remember how quickly the years are passing. Can you believe it has been six years since Y2K?

Well, this is one year in which the above scenario is not playing. As the new President of GAP, my excitement for what we can achieve this year has given me a jump start. As of this writing, we are only a week away from the 2006 Board Retreat, where the board of directors will meet together for the first time to share our goals for the coming year. We have a great group of enthusiastic volunteers for the board this year and I am excited to be working with them.

One of my goals for GAP this year is more outreach to the membership. I want to strengthen the benefits you receive as a member of GAP, in addition to adding new benefits. I hope you will make it one of your goals to become more involved in your association this year. Perhaps you could volunteer to serve on a committee or special project. Maybe you have ideas for CLE topics or speakers. Whatever your talent or interest, you can help us strengthen our membership and direct the development of our profession.

Also, since your membership with GAP includes automatic membership in the National Federation of Paralegal Associations ("NFPA"), you can follow the national issues affecting our profession and perhaps even volunteer at that level. The NFPA convention will be held in Chicago this spring, May 4-7, and I would love to see you there.

I'm glad that you decided to join GAP in 2006 – the most important step. This year is off to a great start, so let's keep the momentum and we can accomplish great things together.



*GAP's 2006 Board of Directors look forward to a new year.*

# 2006 GAP CALENDAR OF EVENTS

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## Anthony's Restaurant \*\* 3109 Piedmont Road

### 5:00 cocktails - 6:00 dinner

February 7, 2006  
(5:00 – 6:00)

GAP Membership Dinner Meeting at Anthony's  
**New Member Mixer Sponsor: Andrew Grace Associates**  
**Speaker: Scot Ferrell, Mental Illness Awareness Foundation**  
"Mental Illness in the Workplace"  
**Sponsor: Premier Reporting**  
**Sponsor: Robert Half Legal**

April 11, 2006

GAP Membership Dinner Meeting at Anthony's  
**Speaker:**  
**Sponsor: Document Resources**  
**Sponsor: Kelly Law Registry**  
**Sponsor: The Daily Report**

**June 13, 2006**

(5:00 – 6:00)

**GAP Free Networking Dinner** at Anthony's  
"Member Appreciation Night"– What's On Your Minnd?  
FREE Dinner and cash bar  
**New Member Mixer Sponsor: Andrew Grace Associates**  
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(2) **Merrill Corporation**  
(3) **The Norcross Group**  
(4) Courtroom Visuals  
(5) **Special Counsel**  
(6) OPEN

Aug. 8, 2006

GAP Membership Dinner at Anthony's  
**Speaker:**  
**Sponsor: Discovery Support Services**  
**Sponsor: BG Search**  
**Sponsor: OPEN**

**Oct. 10, 2006**  
(5:00 – 6:00)

**GAP Membership Dinner Meeting at Anthony's**  
**New Member Mixer Sponsor: Andrew Grace Associates**  
**Speaker:**  
**Sponsor: The Lawstaff Group**  
**Sponsor: Brown Reporting**  
**Sponsor: OPEN**

Dec. 5, 2006

9th Annual GAP Holiday Party at Anthony's  
Installation of the 2007 Board of Directors  
**Sponsor: Alexander Gallo & Associates**  
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**Sponsor: The Norcross Group**  
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# NEW GAP MEMBERS

Denise I. Arnold  
Tanya N. Bautista  
Andrea Benefield  
Katarzyna Biernacki  
David M. Brown  
Valerie Cheatham  
Ron Culver  
Karen R. Davis  
Shenita Harris  
Felicia W. Harrison  
Rebecca M. Hembree  
Mona Lewis  
Ed Nicholson  
Edwina Bernita Robinson  
Tiffany B. Smith  
Brenda Tierman  
Charlise M. Walton  
Nanette L. Ward  
Scarlett D. Wesson

**AIG Agency Auto**  
Melanie D. Galvin

**Arnall Golden Gregory LLP**  
Andi Gossman  
Melissa A. Hancock  
Lamar D. Jackson  
Sue Wisch

**Aubin Wade Robinson,  
Attorney**  
Johanna Oliver

**BG Search Associates**  
Sandra Scott  
Felicity Watkins

**Burr & Forman LLP**  
Thanicia Childs  
Melanie Eley

**Chamberlain, Hrdlicka,  
White, Williams and Martin**  
Nicole Stubbs

**City of East Point**  
Lawrence Davis  
Kimberly Martin

**Courtroom Visuals, Inc.**  
Daniel Codman  
Charles Davis

**DeKalb Technical College,  
Clarkston Campus**  
Duke Bradley

**Document Resources**  
Jeff Rambin

**Durham & Durham, LLP**  
Kathryn L. Hester

**Eagle Group  
International, Inc.**  
Paula Y. Taylor

**Equifax, Inc.**  
Shannon D. Strachan

**Esquire Deposition Services,  
LLC, A Hobart West Com-  
pany**  
Dennis Cunningham

**Fulton County Department  
of Family and Children  
Services**  
Melba Kara Hill

**Georgia Pacific Corporation**  
Sharon K. Philpott  
Inga L. Smith

**Gray, Rust, St. Amand,  
Moffett & Brieske, LLP**  
James Benson, III  
Kelly N. Moore

**Hawk Private  
Investigations, Inc.**  
W. Larry Davis  
Crystal Watts

**Healan Law Offices, PC**  
Laura Janick  
Gina Shumate

**Hudson Legal**  
Tracey Moore

**Jane Nunnelley's Attorney**  
Shauna Griffin

**Kelly Law Registry**  
Sheila Featherston

**Kilpatrick Stockton LLP**  
Robyne Gordon

**Pinnacle, Inc.**  
Karen Sundberg Bieri

**Proxymed Inc.**  
Dona Webb

**Randstad**  
Eunice Upton

**Ross Legal Services**  
Courtney Ross

**Safeco Insurance**  
Jill Duke

**Seyfarth Shaw LLP**  
Robin Bergland

**Smith & Carson, Inc.**  
Bill Barbour  
Shannon Barrett

**UPS, Inc.**  
Jamie Lynn Rogers  
Sue Sanvidge



## FROM THE EDITOR

By: Alice Chow  
Director of Communications



As I was thinking of my goals for the year, the focus kept coming back to the members. As GAP is a member-driven organization, the needs, wants, and betterment of the membership are of key importance.

This year, I want to have more member involvement in the making of *The Paragraph*. Starting with this issue, there already has been a dramatic improvement in member participation all the way through the newsletter creation and publication process. See, for example, the call for participation in improving paralegal education, the member spotlight, and the intellectual property piece. These are all written by the rank and file GAP membership, who are men and women just like you.

If you are interested in participating on the Newsletter Committee, or have any ideas, comments, or suggestions for *The Paragraph*, I welcome you to contact me at [gap\\_editor@yahoo.com](mailto:gap_editor@yahoo.com). 2006 is already off to a fantastic start for GAP. Let's keep the momentum going!

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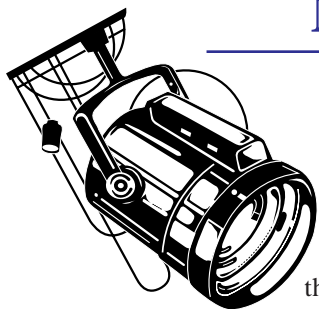
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## MEMBER SPOTLIGHT - CONNIE WHITE

By: Charles Cromwell, Member



It took Connie White a few years to find her niche as a paralegal, but for her, the wait was worthwhile. "I count my blessings every day. I truly believe I have the best paralegal job in Atlanta,"

says White, who is employed by the Atlanta Volunteer Lawyers Foundation (AVLF).

The AVLF is nonprofit foundation that accepts cases for low-income clients and matches them with volunteer attorneys. "Our job is to figure out how to use the attorneys who volunteer," explains White. "I think most attorneys go to law school because they want to make a difference. Sometimes they get jobs in which they might not feel like they are."

White once thought she might want to be an attorney. After earning a degree in criminology from Guilford College in Greensboro, N.C., she worked various jobs, including probation officer in Fulton County. In 1991, she earned a paralegal certificate from the former National Center for Paralegal Training in Atlanta.

After earning her paralegal certificate, White worked part-time with the Truancy Intervention Project, a Fulton County organization which works with the school systems, the Atlanta Bar Association, and the Fulton County Juvenile Court to eradicate school failure. At the same time, she started her own business,

Lawn Laffs, which she owned with a partner for eight years. "In the middle of the night we put 50 pink flamingos in people's yards," says White. "It was really fun, a great business, and I learned a lot. Although I work in a small office, I'm able to see the big picture."

Through her involvement with the Truancy Intervention Project, White learned of a paralegal opening at AVLF, applied for the position, and was hired in 2001. "I learned I didn't want to go to law school," she said. "There are too many laws, too many rules we have to follow. I like working with people. My strength is working with people to figure out what their problems are."

White currently serves on the GAP Pro Bono Committee, and she sees a difference in the organization of today. "I was in GAP in the early '90s, and I don't know if it was me or the organization but I saw no value in it," she says. "Now, people involved in GAP really want the profession to be good, to stand out. They encourage new folks and are interested in pro bono."

White's interests outside of paralegal work include reading, movies, live music, dancing and horseback riding, but all of these take a back seat to Braves baseball and yearly archeological digs in South Carolina. She is on the board of directors for an archeology club and the Braves 400 Club for fans.

Says White, "On paper it sounds like I'm an 8-year-old boy, but I'm really not."



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# SHARE YOUR CLE TIPS FOR ATTORNEY APPROVAL TO ATTEND SEMINARS

*By: Beth Magee, RP, Director of CLE*

The same day the attorney I work with signed off on my attending a CLE seminar, I received an e-mail from a paralegal who was frustrated that the attorneys she worked with did not take her continuing legal education seriously. She is not the only paralegal I have heard from over the years that has problems getting attorneys to realize that paralegal CLE is important, much less actually pay for it and give the paralegal time off to attend a seminar.

Frequently, some will note that until the profession is regulated, attorneys and even some paralegals won't take CLE seriously. Regulation most likely will not come into effect in Georgia this year. Even some paralegals that have an RP or other credential find difficulty in gaining the support of their supervising attorneys in obtaining necessary CLE credits to maintain the credential.

Many paralegals, me included, are fortunate to have attorneys willing to approve CLE requests. Some of the attorneys may not approve a \$1,000 jaunt to Colorado for a CLE weekend, but they will realize that occasionally a CLE program for their paralegal does merit paying the same registration fee they would pay to attend one of their CLE programs. Are you one of those lucky paralegals?

If so, please share with other members of GAP your tips for having your supervising attorney approve CLE programs you want to attend. We can't all possibly work for attorneys who give carte blanche approval for us to attend any seminar we would like, although at one job I was fortunate to have a boss who approved sending me to an expensive, out-of-state industry seminar. I didn't even have to ask, but he must have read my mind because I had wanted to go to the seminar for a couple of years. Usually I'm fortunate to work with attorneys or supervisors who take my continuing legal education seriously, and understand their professional responsibility to support me in obtaining continuing legal education.

When I receive a brochure, if it appears to be on an interesting or pertinent subject, I'll review the seminar agenda. If there are a few topics that relate specifically to what I do or what I potentially could do to benefit my attorney and the company, I'll consider the price, location and time away from the office, then write a request for approval. I'll highlight some of the topics and give examples of how gaining the knowledge, no matter the cost, travel to the location or time spent, can benefit the company and the attorney.

The seminar I mentioned getting approval for earlier has little to do with my job responsibilities, but since the company is becoming more involved in that area of law I convinced the attorney that my attending the seminar would teach me information I would be able to use to assist him as we become more involved in that area. That reasoning persuaded him to approve the seminar.



If I receive a brochure for a seminar that has multiple sessions, I'll show the brochure to the attorney and ask him which sessions he would like me to attend. He is invested in the seminar decisions and usually very enthusiastic about my attending the seminar and paying for me to attend. Sometimes I'm turned down, but that doesn't stop me from trying again for another seminar. If I really want to go to the seminar I'll strike a deal with the attorney to give me the time off to attend it if I pay for it out of pocket.

Imagine how easy it could be to have an attorney approve on-line CLE that you could attend without leaving your office.

Surely I cannot be the only one who has methods to obtain CLE approval. I'd really like to share ideas and methods from the paralegals who have obtained CLE approval with those who have not been successful in doing so. The information you share will help another member grow as a paralegal. After all, that is one point of our association. Please e-mail me your ideas and I'll print some of them in the next newsletter.

## Announcement

Do you know the future "Paralegal of the Year"? Kelly Law Registry and *The Fulton County Daily Report* are sponsoring a luncheon and fundraiser (tickets are \$30) on April 27, 2006 from 11:30 AM to 1:30 PM at the Westin Buckhead to recognize one paralegal in each of the following categories: law firm, government office, and corporate legal department.

To nominate a paralegal candidate, submit an essay of no more than 1,000 words, detailing the candidate's contributions to the office and community to: [21W1@kellylawregistry.com](mailto:21W1@kellylawregistry.com) by March 15, 2006.



# LEGAL WORD POWER

By: Wendy DuMond, Member

For those of us who deal with medical records, there are many terms and abbreviations which are difficult to decipher. A good medical dictionary can help, but sometimes they do not list a definition for the term you are looking for. In addition, some terms are spelled differently but mean the same thing, as in orthopedic vs. orthopaedic or disk vs. disc. One of the best resources I've come across is the On-Line Medical Dictionary. This can be found at <http://cancerweb.ncl.ac.uk/omd/>. You can search by word or subject area which is helpful. Be sure to check alternative spellings as well.

For a simple, comprehensive list of common medical abbreviations, go to [Medicine Net.com](http://www.medicinenet.com). Some of these are listed below. *Note the use of upper and lower case to denote different terms.*

ACL: Anterior cruciate ligament. ACL injuries are the most common ligament injury to the knee.

b.i.d.: Twice daily.

B.M.P: Basic metabolic panel. Electrolytes (potassium, sodium, carbon dioxide, and chloride) and creatinine and glucose.

C/O: Complaint of.

CC: Chief complaint.

cc: Cubic centimeters.

D/C or DC: Discontinue or discharge.

DDX: Differential diagnosis (i.e. multiple diagnostic possibilities being considered).

DTR: Deep tendon reflexes.

ETOH: Alcohol intake history.

FX: Fracture.

GOMER: Slang for "get out of my emergency room."

H&H: Hemoglobin and hematocrit.

h.s.: At bedtime. As in taking medication at bedtime.

HA: Headache.

HTN: Hypertension.

IMP: Impression.

in vitro: In the laboratory.

In vivo: In the body.

JT: Joint.

K: Potassium.

LBP: Lower back pain.

MCL: Medical collateral ligament.

N/V: Nausea and vomiting.

Na: Sodium.

npo: Nothing by mouth.

O.D., O.S., and O.U.: Right eye, left eye, and both eyes.

ORIF: Open reduction and internal fixation.

p.r.n.: As needed.

PCL: Posterior cruciate ligament.

q.d.: Each day. As in taking medicine daily.

ROS: Review of systems.

s/p: Status post. As in status post knee operation.

SQ: Subcutaneous or under the skin.

T: Temperature.

tab: tablet.

ut dict: As directed.

## CASE 101 LOST EVIDENCE



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*He Couldn't Locate  
Crucial Evidence  
At a Critical Time*

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## CONGRATULATIONS TO GAP'S 2005 EMPLOYER OF THE YEAR!



*Employer of the Year  
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of the  
Atlanta Volunteer  
Lawyers Foundation,  
with nominators  
Connie White (l) and  
Dionne Hines (r)*

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# GAP HOLIDAY PARTY

*continued from cover*



*Jackson Dodsworth of Alexander Gallo & Associates presented a package including luxurious accommodations at Ritz Carlton to a lucky GAP doorprize winner at the Holiday Party. In addition, Alexander Gallo made over \$2,000 in donations to Dress For Success, The Genesis Shelter, and Hillside, Inc. in honor of Georgia Association of Paralegals. These were three previous community service projects of GAP!*



*Jeff Harper of DTI gives away a TiVo door prize*



*Kimberly Lusink of Paramount Staffing presents two annual passes to the Georgia Aquarium*

As we closed 2005, we thanked each and every member of the 2005 Board of Directors for their help and support to our great organization. The Board of Directors for 2006 was presented by Presented by Gwinnett County Police Chief Charles M. Waters.

Attending a GAP dinner meeting is a “win-win” situation in and of itself, but we couldn’t resist watching the excitement of our members and guests receive door prizes that were donated by our corporate sponsors.

A weekend at the Ritz Carlton was donated by Alexander Gallo and Associates and won by Daniel Bloom. An Apple IPOD was donated by DTI and won by Jodi Pruitt. Two satellite radios were donated by The Norcross Group and won by Connie White and Brenda Wall. An FBI t-shirt was donated by The Norcross Group and won by Jeannie Tucker. Four season passes to the Georgia Aquarium were donated by Paramount Staffing and won by Linda Sloope and Turie Doughtie.

Lastly, we sent a special thanks to each and every one of our members and sponsors for a great year!



*2006 President  
Gina Farley presents outgoing  
President Marcus Li  
with a framed copy of the  
Fulton County Daily Report*



*The Norcross Group's XM Radio - What a great doorprize!!!*



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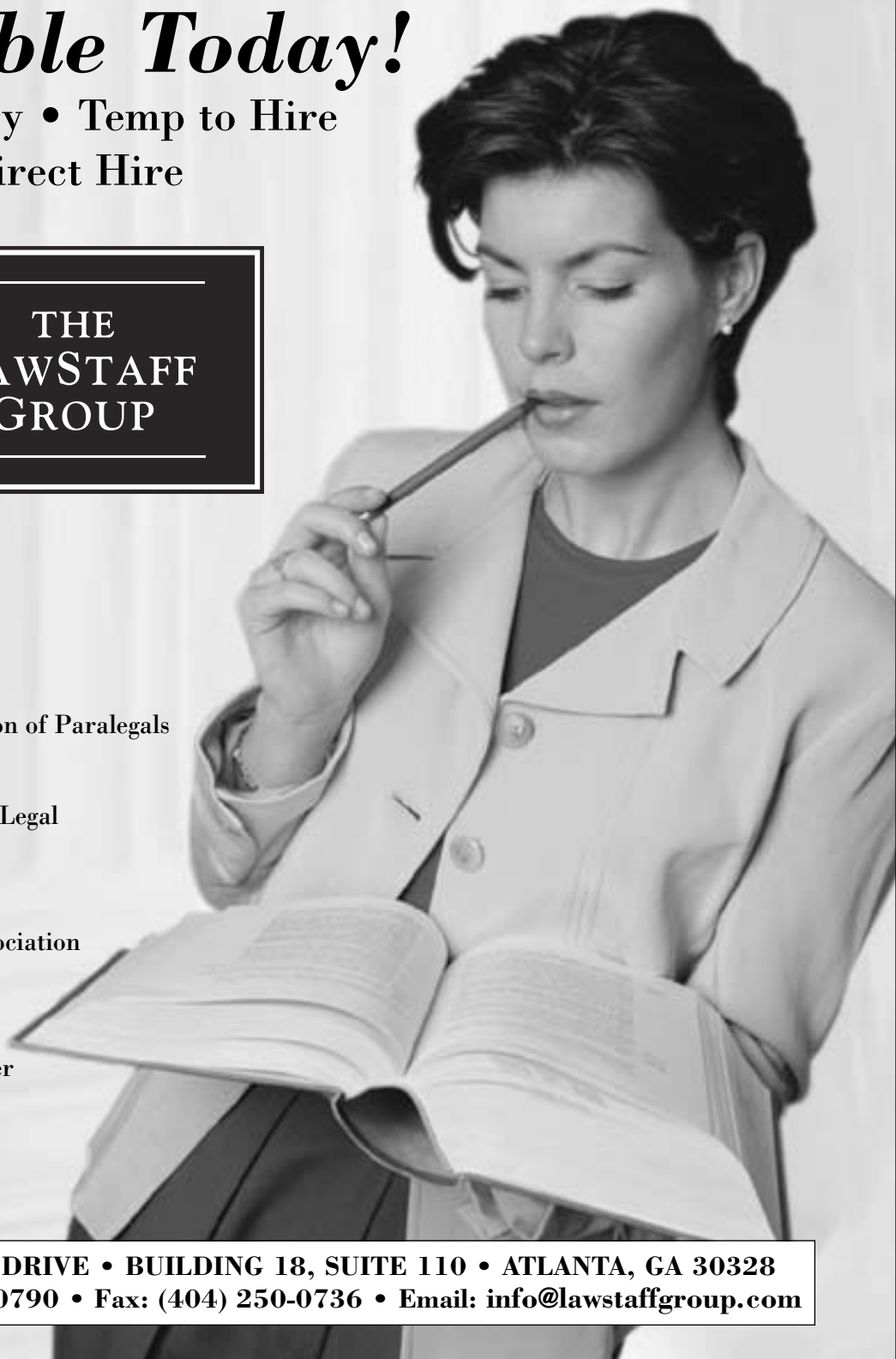
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# MEET YOUR PACE AMBASSADOR

*By: Karen Prouty, RP, PACE Ambassador*

This year I will be serving as GAP's PACE Ambassador promoting PACE, the Paralegal Advanced Competency Exam, which is administrated by the National Federation of Paralegal Associations. I am very excited about working with GAP's Board and members and I feel very strongly about the benefits of Georgia's paralegals taking PACE and becoming registered.

I began my career working as a legal secretary for Fellows, Johnson & La Briola, LLP ("FJL") in 1999 after graduating from the University of Georgia. I found that I really enjoyed legal work and there was always a new and interesting case around the corner. I decided that if I was going to continue



*2005 PACE  
Scholarship  
winners  
Lakeila  
Meadows (l)  
and Christina  
Weeks (r)*

to work in the field, I was going to have to become a paralegal. The next year I began the Paralegal Studies Program at the former National Center for Paralegal Training ("NCPT"), and received my certificate in September of 2001. As luck would have it, during my last quarter at NCPT, one of FJL's paralegals left and I was promoted to her position. I have been there ever since and I love my job.

I learned about PACE at the first GAP meeting I attended and I became determined to take PACE as

soon as I became eligible. I understood how beneficial it could be to my chosen profession to have a national standard by which paralegals are measured. I was awarded GAP's 2003 PACE Scholarship and passed the test on December 15, 2003. This past December, I renewed my registration for the first time and was awarded an RP pin at the December GAP meeting.

This coming year, it is my goal to encourage you all to take the exam and become registered. After passing the exam in 2003, I was surprised how few registered paralegals there were in Georgia. This year I plan to inform Georgia paralegals about the test and its benefits, address the reasons why paralegals do not take the exam in order to face these issues head on, and be available to any members who aspire to take the exam this year. I hope you all will share in my enthusiasm of how great it would be if it were the norm for GAP's paralegals to take the exam.

*GAP Pace Ambassador Karen Prouty, RP  
with RP Pin*





# WHAT NFPA MEANS TO ME (AND YOU!)

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By: Sharon Spinelli, NFPA Region V Director

I write this article as the first in a hopefully long series of articles to be written by NFPA's five Region Directors for publication in local association newsletters. The only guideline provided was that I had to write about "something NFPA". I have decided to share with you my personal experience with NFPA in hopes of educating every last member about what NFPA can, and should, mean to you!

For many years as a member of Central Connecticut Paralegal Association, Inc. ("CCPA") and even for my first few years on CCPA's board of directors, I honestly didn't have any interest in whatever NFPA was. We had a Primary and a Secondary (whatever they were) who took care of those national issues. They had their National Affairs Committee who were the best and brightest of CCPA (as I thought at the time) who also dealt with national issues. It wasn't until I attended my first convention (the Fall 2002 convention in Cleveland) as an alternate delegate that I gained some understanding of just what NFPA was all about: NFPA is about me, and about you, and about every paralegal living and working in this country, whether a member of NFPA or not.

I held the position of VP/NFPA Primary for CCPA's 2003-2004 and 2004-2005 fiscal years. In those two years, I attended a number of NFPA board meetings in an effort to get to know the board members personally and to learn about the inner workings of the board and of NFPA. Also in those two years I attended the annual conventions and the region meetings held both in conjunction with the conventions as well as in the fall of each year. I saw first hand, and participated in, the growth and prosperity of NFPA.

One of the primary definitions of NFPA is that it is a member-driven organization. I have found that to be absolutely the case. As a member of NFPA, whether as an individual member, a student member, or a member of a local association, there are many opportunities for you to participate and make a difference, which opportunities may or may not require going to board meetings, region meetings or conventions.

You can start by signing up for the [nfpa@paralegals.org](mailto:nfpa@paralegals.org) listserve. As a member of this listserve, you will receive e-mails relevant to an upcoming convention as well as e-mails discussing actual or potential agenda topics for an upcoming convention. Agenda topics, by the way, are generally amendments to either the bylaws or policies of NFPA. The delegates (a local association's primary and secondary representatives), acting at the direction of their association's members, set the policy and the board of directors carry out that policy. By receiving and reading these e-mails, you will learn what is at the heart of these agenda topics. You will read the opinions of other paralegals as to these mat-

ters. You can voice your opinions. This exchange of ideas and opinions educates everyone on the listserve. When your local association hosts a meeting of its National Affairs Committee, you will be knowledgeable about the topics and will be in a position to share your thoughts, ideas and comments with other members of the Committee.

Beyond that, there are numerous opportunities to serve on a wide variety of NFPA committees. Each committee position comes with a time commitment, of course, but with a bit of thought and research, you should be able to find a committee that interests you and requires an amount of time that you can afford to give. There are committees which focus on legislation (tracking legislative which affects paralegals and issues that affect paralegals), marketing (how can NFPA market itself to its members as well as to non-members), strategic planning (how can NFPA implement the strategic plan goals set by the NFPA Board of Directors and remain "the leader of the paralegal profession<sup>TM</sup>" over the next year, five years, ten years, etc.), nominations (assisting the nominations coordinator in identifying potential board members and coordinators), the budget (assisting the Treasurer & Director of Finance in budget planning). There is also an editorial committee (the members of which assist with proofreading articles to be published in *The Reporter*, and also take turns summarizing *The Inside* for publication in *The Reporter*).

There are many coordinator positions as well but to do them justice would take an entire article. If you would like to learn more about those positions, please contact the author at [sharonnfpa1@yahoo.com](mailto:sharonnfpa1@yahoo.com), or contact your association's primary or secondary representative.

NFPA is working on putting together some on-line seminars that members can take for continuing legal education credit. Authors are needed to write those seminars. Perhaps you would consider writing a seminar by yourself or with one or more other paralegals in your firm or in your practice area. Generally, the seminar needs to be 20-30 pages typed, double-spaced, with 10 questions.

Lastly, authors are always needed for articles in *National Paralegal Reporter*. Articles on just about any subject will be welcomed. The publication guidelines can be found at [http://www.paralegals.org/associations/2270/files/REV2005%20Articles\\_Themes.pdf](http://www.paralegals.org/associations/2270/files/REV2005%20Articles_Themes.pdf).

As you can see, there are many and various ways to learn first-hand what NFPA can do for you, and what you can do for NFPA. While it isn't apparent in the acronym, there really is a "me" in NFPA. I encourage you to give some thought to how you can be involved, and take the first step, whatever that may be for you.

# WHO OWNS WHAT?

*By: Lyza L. Sandgren, Member*

“I paid for it so I own it!”

“No you don’t. I created it, so I own it!”

Sound familiar? Ownership, and just about anything related to intellectual property, is the current hot lunch and dinner party topic. With the advent of the Internet, John Q. Public has become sensitized to issues of ownership and branding like never before, and everyone wants to protect what they own or think they own. Unfortunately, even if you paid for someone to create something for you, there are many factors that determine whether you own it unconditionally.

A work created for or prepared by someone else usually falls under the copyright category of a “work for hire.” The Copyright Act of 1976, 17 U.S.C. sections 101 and 201(b), and in particular, the provision in section 101, essentially defines a “work made for hire” as either (i) a work created by an employee, someone who works at your place of business, uses your stuff, and takes home a paycheck from you after you’ve taken out taxes, or is (ii) a work created by an independent contractor, hired by you but who does not use your stuff or place of business to create the work, is not directly supervised by you, and pays his or her own taxes. That may sound simple but there is much more gray in that picture than black and white.

To illustrate, here’s a scenario:

A client hires an architect to create and draw plans for a new house. During construction, the client discovers the architect to be slow, obnoxious, and unresponsive in working with the general and subcontractors, as well as with the client himself, regarding changes in the plans. Eventually fed up, the client fires the architect. Angered at his dismissal, the architect refuses to hand over the mechanicals and other drawings, stating that he is the owner of the copyright. The client, believing the drawings to be his purchased property, threatens to take the architect to court unless the plans are returned. Who is the actual owner of the plans?

The answer is that it depends on what was written in their contract, assuming they had a contract. If the architect considers himself an independent contractor but the client considers him an employee, and their relationship is not spelled out in writing, the matter may become litigious.

In *Community for Creative Non-Violence v. Reid*, 490 U.S. 730 (1989—hereinafter, CCNV and Reid), considered the seminal case for deciding work-for-hire copyright ownership, a disagreement between two do-gooders over how and how often to display a large sculpture depicting a homeless family a la urban Nativity degenerated into a copyright brawl and a Supreme Court decision. Because there was no written agreement, and no discussion ever took place regarding copyright ownership, CCNV, a non-profit organization dedicated to assisting the homeless, and Reid, a well-intentioned sculptor, ended up in court.

Reid was commissioned by, and donated his services to, CCNV, who picked up the tab for materials and staff wages. They collaborated on the design, and it was that collaboration and the outlay of monies that fueled CCNV’s belief that CCNV owned the work. When Reid disagreed with their plan to aggressively tour the work and then refused to return it to CCNV, CCNV filed suit. The District Court found for CCNV, ruling that Reid was an employee, but that decision was reversed by the Court of Appeals for the District of Columbia Circuit, holding that Reid was actually an independent contractor, and due to the lack of a written agreement and any discussion regarding copyright ownership, the reversal was ultimately upheld by the Supreme Court.

Returning to our original scenario, ownership of the plans and the copyright are really separate issues. Work for hire relates only to the copyright and not the underlying work. The client may be entitled to receive the original plans, and an implied license may have been granted to make copies to achieve the purpose expressed in the contract, but the client still could be prevented from building the house if the architect chooses to terminate the license, again depending upon the contract terms.

If there is an express writing signed by both the client and the architect agreeing that the plans are a work made for hire, then the one commissioning the work—the client—is the author and copyright owner; that is, the architect never possessed the copyright, as it vested in the client when it was created. If the client is the one building the house, then the architect will have to release the plans. If there is no executed contract, or if one exists but does not expressly state that the plans are a work for hire, then the architect, if he or she is the author, holds the copyright.

We all know that not everyone plays well with others; hence, the need for written agreements. So in our scenario, who really owns the plans? It depends.

Lyza L. Sandgren, president of Sandgren Intellectual Property Paralegal Services, LLC (SIPPS), has specialized for 11 of her 21 years of legal experience in intellectual property. SIPPS presently assists attorneys throughout the United States and in Canada with their intellectual property filing, docketing, and maintenance needs.

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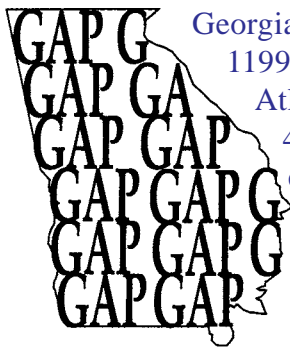
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