

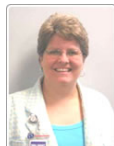


## ArPA Votes in New Officers

In November and December of 2007 members of ArPA across the state mailed in their ballots to select a new group of talented professionals to run their growing association. The newly elected officers took office effective January 1, 2008 and will preside through December 31, 2008.

The newly elected officers for 2008 are:

**President**—Kelly S. Montgomery, RP, Litigation Paralegal with the firm of Greenberg Traurig and President/CEO of APEG (Advanced Paralegal Education Group). Kelly has been involved in the legal community for nearly 20 years, 14 of which have been as a paralegal. Kelly has experience working for both the small and large law firms as well as working in-house and for the judiciary.



**Vice President**—Terri Vanlandingham is a paralegal with the firm of Basil V. Hicks, Jr., P.A. with a concentration in bankruptcy. Terri has worked in the legal field for 21 years, the last 11 as a paralegal. Terri has been active on ArPA's Board of Directors



for multiple years, serving as its president in 2007.

**Vice President, Membership**—Paula Adams, RP, Litigation Paralegal for the law firm of Mitchell, Williams, Selig, Gates & Woodyard, PLLC.



Paula has been involved in the legal community for more than 20 years, Paula worked in public service for more than 13 years and in the private sector for 12 years. Paula became a paralegal in 2005 and achieved PACE Registered Paralegal status in early 2008. Paula's practice now focuses on nursing home litigation, medical malpractice and insurance defense.

**Vice President, CLE & PACE Ambassador**—Dee Dee Lantz, RP, has 14 years legal experience

with 13 of those years as a paralegal. She obtained her paralegal certificate through the University of Arkansas paralegal certificate program in 1995 and received her bachelor of arts in criminal justice from UALR in 2004. She passed the PACE exam just last month. Dee Dee is a litigation paralegal for the law firm of Mitchell, Williams, Selig, Gates & Woodyard, PLLC. Working primarily in nursing home litigation.



**Secretary & '08 Convention Host Coordinator**—Marilyn Clifton, Legal Assistant with the firm of Wilkes and McHugh, P.A. Marilyn has worked in the legal field for almost 20 years, and obtained her paralegal certification in 1996 from the University of Arkansas.



**ArPA Officers—cont'd p 2**

## WE HAVE CHANGED...

ArPA has improved and enhanced its web presence...visit us at:

[www.arkansasparalegal.org](http://www.arkansasparalegal.org)

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### Who's Who In ArPA:

*President*—Kelly S. Montgomery, RP  
*Vice President*—Terri Vanlandingham  
*VP Membership*—Paula Adams, RP  
*VP CLE*—Dee Dee Lantz, RP  
*Secretary*—Marilyn Clifton  
*Treasurer*—Maggie Haase, RP  
*NFPA Primary*—Maggie Haase, RP  
*NFPA Secondary*—Scott Foster

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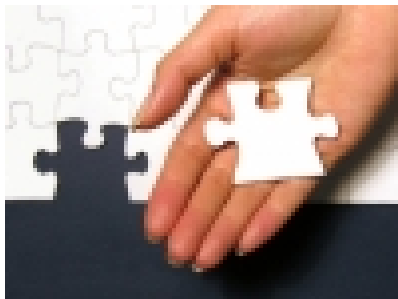
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### **ArPA Officers from p 1—**

Marilyn is currently serving her second term as Secretary for the Arkansas Paralegal's Association and is the host coordinator for the 2008 National Federation of Paralegal's Convention.

**Treasurer & NFPA Primary Representative—Margaret "Maggie" Haase, RP, IP and litigation paralegal for Law Offices of Dennis B. Haase in Hot Springs and CFO of APEG. Maggie has worked in the legal field**



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**and believe,**  
**the mind can achieve.**

*Dr. Napoleon Hill*

since 1968 and as a paralegal since 1975. She participated in two sessions of the PACE exam re-write process and was a presenter for the PACE education track at the NFPA 2007 convention in Tampa.

**NFPA Secondary Representative—**Scott Foster, is a nationally and internationally published writer on a number of topics related to the legal field. He has been an independent paralegal since 1985 when he and his wife started Paralegals Plus, Inc.

in the Florida Panhandle. For the past seven years he has been a speaker on various topics including ethics, employment, and regulation at national and regional conferences and conventions. He is Senior Vice President of Operations/Marketing for APEG.



Please feel free to share comments, whether positive or negative with any member of the ArPA Board of Directors.

# PACE...Thoughts Before, During & After the Test

by Dee Dee Lantz, RP, ArPA VP of CLE and PACE Ambassador

My first official duty as the newly elected PACE Ambassador for ArPA will be my contributing article to our monthly newsletter. For the past month, I truly wondered what I was going to write. Having only been in this position for such a short period of time, I was really unsure. But then on January 29<sup>th</sup> that all changed. Both myself and my co-worker/co-member, Paula Adams, sat for and have unofficially passed the PACE Exam. To say the least, we are both very thrilled to be a part of an elite class of professionals in our great state. We are small in number, only five, but strong in our convictions to hold the paralegal profession to a very high standard. I thought sharing our emotions would be a wonderful way to cap off the last few months of our hectic schedules.

Back in October, Paula and I submitted our PACE Examination Application packets for approval. It took several weeks for our applications to be processed. Finally, we received our letters notifying us we qualified to sit for the exam. Since we were both aware of the time constraints that existed with the new test slated to be released in mid-February, we knew that we had to commit to take the test by the end of January. Naturally, you make all of these plans to study until your eyes cross. However, in the real world, that did not happen.

Between Christmas and the end of the year, both Paula and I had an extraordinary amount of work that dropped out of the sky into our laps. Knowing what we had in store for us, we both just looked at each other and said, "What in the world have we done to ourselves." We did not know how in the world we were going to swing all of this and find time to sleep. Shortly after the new year, we reserved our seats at the testing center. Right after that, it literally hit the fan – work was out of control and we were doing good to keep our heads above water. How in the world were we going to juggle all of this and stay sane.

Paula and I were only able to study together on one occasion for about four hours. After that, we had resolved ourselves to studying alone. I can say that Paula was very dedicated and read

the PACE Study Manual from cover to cover. I do not know how many times she said to me, "I'm going to flunk this thing." I would always try to encourage her and tell her to stop being so hard on herself. She would do just fine. I was not so dedicated and relied solely on my years of experience to pass the test. The night before the test, we were both cramming and texting each other. I reviewed terms and a couple of other areas I felt I needed refreshing.

It was test day and Paula took her test in the morning session. She was very nervous and I was nervous for her. Finally, about 10:45 I received a text that she had passed. I was so excited. Up until that point, I had not been nervous about the exam at all. I have always been an excellent test taker and did not feel any different about this. That all changed when Paula got to the firm and we began discussing the way the questions were written. I got nervous very quickly. I left the firm to take my test around 11:45. By the time I had arrived at the testing center, I was literally shaking. I could have kicked myself for not being more committed to studying. Too late now. That's why when anyone asks me what my weakness is I tell them I am a procrastinator.

I went inside the center and had to wait. It did not take me long to run out of patience - about five minutes. I finally signed in at 12:13 and officially began my exam approximately five minutes later. Right off the bat I knew things were going to get rough. I tried very hard to concentrate on each question and not how much time was left or what question number I was answering. I knew I had four hours to answer 200 questions. I have no clue how far into the test I was, but I began thinking to myself, you have flunked this thing. The questions were not easy. I would have to say the questions that gave me difficulties were the ones dealing with areas of law in which I

have no experience. I was confident in my abilities, but when the question deals with an area in which I know absolutely nothing about it makes one wonder if that

question will be the one that makes you or breaks you. I just kept on going. I

would get a few questions that I knew the answer and then a few would come that I truly had to guess. That would knock the ole confidence level back down again. However, I did have a question come up toward the end of the exam dealing with 30(b)(6) depositions. I told myself, Dee Dee if you don't know the answer to this question, then you have no business taking this test. One of my clients was giving a 30(b)(6) deposition back at my law firm at the same time I was taking the test. I knew I got that question correct.

The next thing I knew, the test was over. I clicked the "end" button and the computer started whirling, the screen went white and then it said Congratulations, you have unofficially passed the test. I felt nothing but relief. I finally stopped shaking. I had been shaking the entire time during the test. I left my seat and signed out at 1:48 and retrieved my congratulatory print out. I didn't get excited until I got into my car. IT WAS FINALLY OVER AND BOTH PAULA AND I SURVIVED. We were finally able to think rationally again.

Now that the test is over, it is easy to go back and assess and outline what you would do differently if you had to do it all over again. I can honestly say that I would actually study. So what are Paula and I thinking now that it's all said and done and we are waiting on our official letter? What do you think we're thinking – Boy are we glad that's over.



# ArPA is Growing....New Members since December 1

Marilyn Clifton, ArPA Secretary

---

## Kari Tacky—Bentonville, AR Mitchell Williams

### A few Benefits of NFPA Membership

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The paralegal profession is facing many changes. Since 1974, NFPA has supported the growth and expanded role of paralegals. NFPA members keep current and participate in these changes. As the leader of the paralegal profession, NFPA represents paralegals in many areas.



- **Monitor Legislative Activities** - NFPA actively monitors legislative actions and proposed court changes. When necessary, NFPA responds with letters or by filing amicus briefs.
- **Present Testimony on Legislative Matters** - NFPA will present written and oral testimony at government hearings and meetings held by local, state and national bar associations.
- **Representation** - NFPA represents paralegals' interests by preparing letters and amicus briefs to educate attorneys and judges on the vital role played by paralegals in the delivery of quality legal services.
- **Professional and Ethics Issues** - NFPA continues to research and analyze issues that affect the paralegal profession. Recent issues include exempt vs. non-exempt, ethics, recoverability of fees, and definitions of a paralegal; see page 4.
- **Representation with National Legal Associations** - NFPA works closely with the American Bar Association, (ABA), the American Association for Paralegal Education (AAfPE), the International Paralegal Managers Association (IPMA), and other legal national associations.
- **Committee and Commission Representation** - NFPA sponsors a representative on the ABA's Approval Commission, which works with the ABA's Standing Committee on Legal Assistants.
- **Professional Development** - As the profession evolves, paralegals can depend on NFPA to offer innovative opportunities for growth. Recent examples include on-line continuing legal education courses, courses of study in preparation for the Paralegal Advanced Competency Exam (PACE) for becoming a PACE Registered Paralegal, and review/approval of textbooks and other reference materials for practicing paralegals and student paralegals.
- **Internet** - The first professional legal organization to offer a server on the Internet, NFPA's [www.paralegals.org](http://www.paralegals.org) provides viewers with information on areas such as continuing education, career issues, career development, and current legal activities. Only NFPA members can participate in special list serves and chats to exchange information and ideas with other paralegals. To provide the greatest benefit, networking groups are segmented by practice area.
- **PACE** - To support the expanded role of paralegals within the legal community, NFPA's membership voted to develop PACE. PACE allows experienced paralegals to validate job skills by becoming a PACE Registered Paralegal. PACE was developed by an independent testing firm.
- **Educational Issues** - NFPA supports the growth and expansion of the paralegal profession by addressing educational issues for the practicing paralegal and paralegal students.



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# CURMUDGEON RAMBLINGS

## By Scott Foster © 2008 by Scott Foster



### **FLORIDA BAR'S PROPOSED RULE ON OUTSOURCING**

#### **Author's Note**

A note about the way I write: I write like I talk. For this reason you will find many of the conventional punctuation rules either flaunted or ignored. I sprinkle commas, dashes, and dots (and the occasional parenthetical expression) throughout my writing just as I do when speaking. Does this make me less a grammarian when the situation requires adherence to the rules of grammar and punctuation? Perhaps, but I care not in this forum.



#### **DRUM ROLL PLEASE**

Here we are, a new year and the same old discussions...yawn!

UPL, regulation, education, certification, motivation, etc. and I thought this year was going to be boring.

Until yesterday that is. Then I received an e-mail from my friend Karen Howe, a freelance paralegal in Tallahassee, Florida about the Florida Bar's new Proposed Rule on out sourcing off shore.

Now before you remind me that this is the ArPA newsletter, and is designed and written for Arkansas Paralegals, not Florida paralegals, allow me to caution you that what starts in Florida, California, New York and Texas soon affects Arkansas paralegals either directly or indirectly.

The Ethics Committee of the Florida Bar by a 17 to 6 vote approved the use by Florida law firms of offshore paralegals to do the following: ***"The work would include document preparation, the creation of business entities, business closings and immigration work"*** {Source, The Florida Bar News, February 15, 2008}. While it is probable that this list is only the beginning, it means that law firms can ethically transmit privileged information by post or electronically to persons outside the US, information that belongs to their clients, so work can be done at a lower cost to the attorney firm.

The committee made many **recommendations** including raising confidentiality of files issues, control over work product, notifying clients when their work is being outsourced, and concerns about discovery matters. The committee also noted that the lawyers needed to be very aware of UPL issues.

One of the most important quotes to us is the sentence: "The law firm **may** charge a client the actual cost of the overseas provider, unless the charge would normally be covered as overhead." Notice the permissive may instead of shall in the language.

The complete text of the opinion can be found in Florida Bar News October 1, 2007.

Take a few minutes and compare your present position to what it could be like if your job was shipped offshore.

Only professionalism, education, and strengthening ties with the bar and the legislature in your state can prevent this from impacting you. This does not mean regulation of paralegals. It means recognition of professionalism!

Help your association grow by recruiting members and becoming active in your association and it's activities.

Until next time, your comments to the writer are both welcome and appreciated.

---

**About the Author:** Scott Foster sits on the Board of Directors of APEG (Advanced Paralegal Education Group) as its Vice President of Operations/Marketing, Scott is an active member of ArPA, currently sitting as its secondary representative, and NFPA and for over 25 years, has been a highly successful independent paralegal in Florida. Scott is an author of many published articles and columns and is well-known on the paralegal education speaking circuit.

**Reprint Note:** While this article is copyrighted by the author, permission is hereby given [by the author and ArPA] to reprint in whole or in part to any person or publication with attribution to the author.

# *Runnin Wild* *Arkansas '08*<sup>TM</sup>

**October 9-12, 2008**

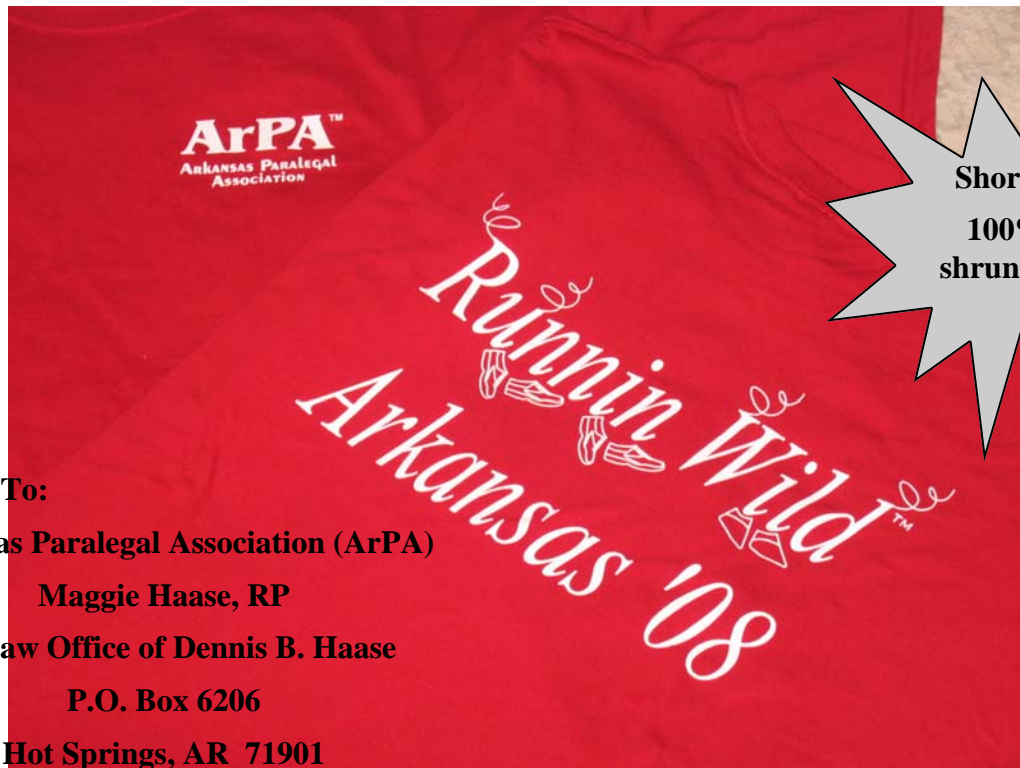
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# NFPA Navy Legalmen Outreach Program

By: Lori Thompson, Coordinator, Navy Legalman and Military Paralegal Outreach Program  
Immediate Past *Pro Bono* Coordinator and Liaison to the ABA Standing Committee on *Pro Bono* & Public Service

Happy February to everyone. As of today, we have 22 paralegal associations and 4 individual/sustaining members that need someone new assigned for the care package mailing this month.

The new arrivals have not caught up with the departures that started in November 2007. We were supporting 52 Navy Legalmen or military paralegals in October 2007, 32



in December 2007, and currently have a total of 17 for the February 2008 mailing. Per the recent information from the senior paralegal in Iraq, the departing Legalmen/paralegals are not being replaced by another Legalman/paralegal. There has also been a change in assigning Legalmen/paralegals to more administrative duties. A position that might have been filled in the past by a Legalman/paralegal is now staffed with an administrative person which allows the Legalmen/paralegals to focus on legal work.

The contact information for the 9 new arrivals will be sent to me later this week. I also sent a list of everyone that we are supporting to the senior paralegal in case someone was missed. With the 9 new arrivals, we will be supporting 26 Legalmen/paralegals this month.

I have been working on trying to get contact information for the Navy Legalmen and military paralegals stationed in Cuba (Guantánamo Bay Naval Base) and Africa (Horn of Africa) since late October 2007 without success. I will send out re-

minder e-mails to everyone when I return on Monday to see how we can expand the program now that we have a lot of extra help. Thank you to everyone for helping out with the care packages in the past. My goal is to have everyone that wants to support someone have someone to send a care package to this month. We have the option to add administrative personnel to the Legalmen/paralegals that we are supporting. We did this in August and October when the previous senior paralegal added 8 administrative personnel to the list of new arrivals in error. Once I contacted them, the majority of everyone involved make a commitment to support them until they went home. Let me know your preference.

Thanks for supporting me and the program.

\* \* \* \* \*

**Alaska Association of Paralegals**

**Arkansas Paralegal Association**

**Central Massachusetts Paralegal Association**

**Connecticut Association of Paralegals**

**Dallas Area Paralegal Association**

**Indiana Paralegal Association**

**Michiana Paralegal Association**

**Middle Tennessee Paralegal Association**

**Minnesota Paralegal Association**

**Montgomery County Paralegal Association**

**National Capital Area Paralegal Association**

**New Haven County Paralegal Association**



**New Orleans Paralegal Association**

**Pittsburgh Paralegal Association**

**Rhode Island Paralegal Association and Roger Williams University Paralegal Club**

**Rocky Mountain Paralegal Association**

**Sacramento Valley Paralegal Association**

**San Francisco Paralegal Association**

**South Jersey Paralegal Association**

**Washington State Paralegal Association**

**Western New York Paralegal Association**

## Individual/Sustaining Members

**Wayne Akin, Portland, Oregon**

**Wanda Miedema, Elkhart, Indiana**

**Dianna L. Noyes, RP, Cary, North Carolina**

**Edna Wallace, Indianapolis, Indiana**

# ArPA and the Navy Legalmen

ArPA is very active in the Navy Legalmen Outreach Program outlined on the previous page. Donations are taken at EVERY ArPA meeting in the form of monetary donations, non-perishable food items that are easy to fix and eat and personal hygiene items. Small is good and reading materials, and puzzle books are much appreciated.



**Thank you for supporting our Navy Legalmen!**

## NFPA At.A.Glance

**February 16-17, 2008**—NFPA Board Meeting, Dallas Texas

**April 4-5**—AAfPE South Central Regional Conference, Baton Rouge, LA

**April 12**—Region II Meeting, Kansas City, KS

**April 25-27**—NFPA Regulation & National Leadership Joint Conference, Indianapolis, IN

**May 2008** —NFPA Pro Bono Month

**May 9-10**—.NFPA Pro Bono Confer-

ence, Minneapolis, MN

**May 17-18, 2008**— NFPA PACE Ambassadors Conference, Atlanta, GA

**July 25-26**— NFPA Tech Institute, Aurora, CO

**October 9-13** NFPA 2008 Annual Meeting, Rogers, Arkansas



**SEE YOU THERE!!!**

## My! How Our World Has Changed...

*Housekeeping Monthly* 13 May 1955



### The good wife's guide

- Have dinner ready. Plan ahead, even the night before, to have a delicious meal ready, on time for his return. This is a way of letting him know that you have been thinking about him and are concerned about his needs. Most men are hungry when they come home and the prospect of a good meal (especially his favourite dish) is part of the warm welcome needed.
- Prepare yourself. Take 15 minutes to rest so you'll be refreshed when he arrives. Touch up your make-up, put a ribbon in your hair and be fresh-looking. He has just been with a lot of work-weary people!
- Be a little gay and a little more interesting for him. His boring day may need a lift and one of your duties is to provide it.
- Clear away the clutter. Make one last trip through the main part of the house just before your husband arrives.

*Housekeeping Monthly* 13 May 1955

- Gather up schoolbooks, toys, paper etc and then run a dustcloth over the tables.
- Over the cooler months of the year you should prepare and light a fire for him to unwind by. Your husband will feel he has reached a haven of rest and order, and it will give you a lift too. After all, catering for his comfort will provide you with immense personal satisfaction.
- Prepare the children. Take a few minutes to wash the children's hands and faces (if they are small), comb their hair and, if necessary, change their clothes. They are little treasures and he would like to see them playing the part. Minimise all noise. At the time of his arrival, eliminate all noise of the washer, dryer or vacuum. Try to encourage the children to be quiet.
- Be happy to see him.
- Greet him with a warm smile and show sincerity in your desire to please him.
- Listen to him. You may have a dozen important things to tell him, but the moment of his arrival is not the time. Let him talk first - remember, his topics of conversation are more important than yours.
- Make the evening his. Never complain if he comes home late or goes out to dinner, or other places of entertainment without you. Instead, try to understand his world of strain and pressure and his very real need to be at home and relax.
- Your goal: Try to make sure your home is a place of peace, order and tranquillity where your husband can renew himself in body and spirit.
- Don't greet him with complaints and problems.
- Don't complain if he's late home for dinner or even if he stays out all night. Count this as minor compared to what he might have gone through that day.
- Make him comfortable. Have him lean back in a comfortable chair or have him lie down in the bedroom. Have a cool or warm drink ready for him.
- Arrange his pillow and offer to take off his shoes. Speak in a low, soothing and pleasant voice.
- Don't ask him questions about his actions or question his judgment or integrity. Remember, he is the master of the house and as such will always exercise his will with fairness and truthfulness. You have no right to question him.
- A good wife always knows her place.



# Setting the **PACE** for Your Future!

Interested in the PACE exam? Wonder if you qualify to sit for the exam?

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Contact your local PACE Ambassador—Dee Dee Lantz, RP

[dlantz@mwsgw.com](mailto:dlantz@mwsgw.com)

*PACE* Study Groups are forming NOW!

**DID YOU KNOW?** Two ArPA Members Passed the PACE Exam this past January? Congratulations Dee Dee Lantz and Paula Adams!

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## Update on '08!

By: Marilyn Clifton, ArPA Secretary  
and '08 Host Coordinator

Things are happening!!!!

First, Arkansas Investigations has come on board as a big sponsor purchasing the entire front inside cover of the convention program!!! Additionally, Mike West, Director of Investigations, has graciously agreed to be one of speakers. Mike will be speaking on how private investigator's can help paralegals in their daily work and how paralegals and PI's can help an attorney's practice grow. We want to thank Mike West, Stacy Lynch and the whole team at Arkansas Investigations for their support and participation. You guys are truly an asset to ArPA!

Second, our Vice President, Terry Vanlandingham has snagged Arkansas Parks and Tourism as a sponsor! Arkansas Parks and Tourism will be donating Arkansas litter bags, lapel pins and stickers for our goody bags. They have also



granted us several Tour Guides and Calendars of Events for handouts at the convention. Thanks Terri for your successful efforts!

Third, RSI, has come on board as our first vendor! RSI has purchased a booth, 2 tickets to the social and an ad in the convention program! Thanks RSI!!!!

Fourth, our 3<sup>rd</sup> CLE track was approved by the national board. The 3<sup>rd</sup> track will cover Criminal issues; complex litigation; profitability and the proper use of paralegals and investigation matters.

Coming up!!! We have a site visit and key contacts meeting set for February 14, 2008, at Embassy Suites Hotel in Rogers.

There is still so much work to be done! We need all the participation that your time will possibly allow! We need sponsors and vendors! *So let's get out there and network!*

## LYNCH Continued from p. 23

Rock for a few months. In July of 2007, I took a job with Arkansas Investigations and I have been there ever since.

**What advice would you give someone entering the profession (if a student, entering paralegal school)?** The best advice I could give someone who was thinking about entering the profession or entering paralegal school would be to get a job in a law firm or legal setting where you can gain valuable hands on experience while you are going to school or contemplating a career change. When I graduated, I had limited hands on legal experience and even though I had a degree, I did not have the required experience to accompany that degree so finding a good job was difficult. I would also advise to not just look for employment with law firms, many business and corporations have legal departments that are always looking for trained and experienced paralegals.

**Tell us about your involvement in local community activities.**

Little Rock Chamber of Commerce

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Board member, England Municipal Water Board of Directors

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**ArPA  
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Q:

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**What do you call a smiling, sober, courteous person at a bar association convention?** The caterer

**Why does the Bar prohibit lawyers from having sex with their clients?** To prevent clients from being billed twice for the same service.

**How many lawyer jokes are there?** Just two...all the rest are true!!!

# State of the Association—A Message from the President

Kelly S. Montgomery, RP, ArPA President

Happy February ArPA! Wow—when I communicated with Tina Mallory back in the beginning of 2005 I never dreamed that I would one day be President of this fine association. What an incredible honor!

We have an exciting year ahead of us! With the hosting of the 2008 NFPA Annual Conven-



tion. Approximately 200 of America's top paralegals will be descending upon Northwest Arkansas beginning on October 8 to form national policy for the advancement of our association and chosen profession. With the leadership you recently elected, there is no doubt that this event will be a huge success.

Each of you are an incredible asset to

this active association. We need your knowledge and expertise to make this one extraordinary year for ArPA.

I close by making you this challenge. I challenge you each to inspire one paralegal at a time by locating paralegals who are interested in joining our association. See pages 25 and 26 for a membership application. With you we can get our profession recognized! See you at the April meeting—kel :)

## Dollar\$ and Sen\$e—Treasurer's Report

Maggie Haase, RP, ArPA Treasurer

December 1 - Beginning Balance	\$ 240.14
Income:	
Dues	135.00
Cindy Hombs/Reimbursement/Expenses	213.66
Altep/Corporate Sponsorship	1,291.65
Bushman/Corporate Sponsorship	1,250.00
Dues	205.00
Expenses:	
Altep/Convention Brochures	287.53
Kelly Montgomery/Reimbursement/TC Works	1,125.00
The Computer Works/Website Hosting	48.35
Discount T-Shirts	490.12
Postage/T-Shirt Sales	7.90
Balance on February 13, 2008	\$ 1,367.71

## TRIVIA....

Newsbrief Editorial Staff

1) Banana skins will provide an excellent source of plant nutrients if buried just below the surface. Especially good for flowers.

2) Moldy bread should be disposed of. Throw out the whole bread even if only one piece has the mold. Mold sends feelers out that are invisible to the naked eye.

3) The milling and bleaching process of

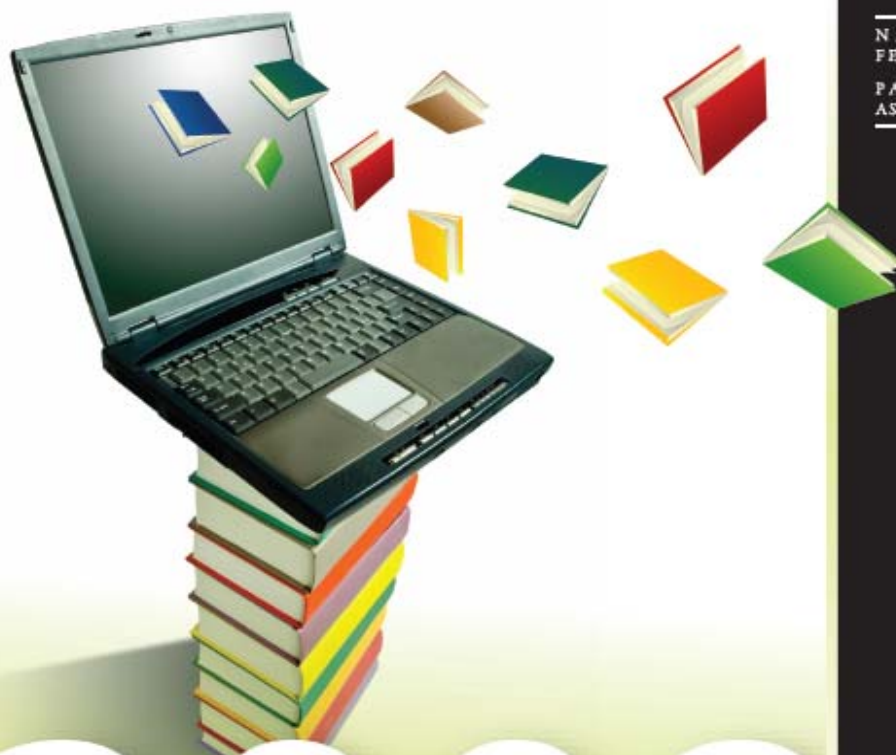
"enriched white flour" destroys 86% of the niacin, 73% of the vitamin B6, 33% of the thiamin, 50% of the pantothenic acid, 42% of the vitamin B2 and 19% of the protein. Eat whole grain breads!



4) If you chew gum while peeling onions, you may not cry. Try it!

5) Romaine lettuce has six times as much vitamin C and eight times as much vitamin A as iceberg lettuce.

All of the items contained in this article were pulled from *Grandmother's Kitchen Wisdom*, by



# 2008

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## **OFFICERS AND DIRECTORS OF A NONPROFIT CORPORATION - FIDUCIARY OR WINDOW DRESSING?**

By Patricia C. Gagnon, RP and Patricia B. Chouinard

Board members are crucial participants in the activities of nonprofit corporations or associations. Unlike their for-profit counterparts, board members of nonprofit corporations are usually volunteers who donate their time to the corporation because they believe in the corporation's mission. Without them, the corporation's purpose does not get carried out. This applies to paralegal associations or any other nonprofit organization. Because board members of a paralegal association may not have been part of the association for a long period of time or may not have a background in corporate law, many directors do not understand the responsibilities they accept when they agree to serve on the board of that nonprofit organization. This can result in a board with directors who do not direct. Nonprofit directors and officers must be aware that they are susceptible to actions for breach of fiduciary duty and may be held personally accountable to their nonprofit organization.

### **Fiduciary Duties**

State statutes mandate that board members of a nonprofit corporation have a fiduciary duty to the members of their corporation. According to Blacks Law Dictionary, 7th Edition, fiduciary duty means:

“A duty of utmost good faith, trust, confidence and candor owed by a fiduciary (such as a lawyer or corporate officer) to the beneficiary (such as a lawyer's client or a shareholder); a duty to act with the highest degree of honesty and loyalty toward another person and in the best interests of the other person (such as the duty that one partner owes to another).”

Therefore, all actions of the board members should be in the best interests of the nonprofit corporation and consistent with its mission.

Section 8.01 of the Revised Model Nonprofit Corporation Act states that “all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board.” Directors and officers who serve on the board are held to three primary fiduciary duties: (i) the duty of care, (ii) the duty of loyalty, and (iii) the duty of obedience to the law.

### **Duty of Care**

To exercise the proper duty of care, every board member should become familiar with the articles or certificate of incorporation of the nonprofit association and its current bylaws.

All directors should be aware of the purpose of the corporation set forth in its organization documents, and each decision they make should advance it. A nonprofit corporation should develop a job description for each board member; without a job description, how can they determine their responsibilities? The board members should review and understand the responsibilities assigned to them. They cannot carry out their fiduciary duty if they don't know what role they play in the corporation's governance and are not familiar with the rules of the corporation or its mission statement.

Duty of care standards require a director to exercise independent judgment, be reasonably informed, participate in decisions affecting the corporation's mission, act in good faith and with the care of a prudent person, and in a manner the director reasonably believes to be in the corporation's best interests. If a claim is made against an officer or director, most courts will review officers' and directors' actions in accordance with the business judgment rule. "Basically the rule requires that decisions be made: (i) in good faith and without a conflict of interest; (ii) on a reasonably informed basis; and (iii) with a rational belief (connoting broad discretion and wide latitude) that the business judgment is in the best interests of the corporation."<sup>1</sup>

To fulfill the duty of care standards imposed by statute or by common law, a director should

- actively participate in the association's management;
- prepare for and attend board meetings, requesting sufficient information in advance of the meeting to become informed and be prepared to discuss and vote on any actions to be taken;
- review the minutes of the board and committee meetings to ensure that they accurately reflect those proceedings;
- scrutinize the accounting records or financial statements;
- ensure that there are proper internal controls over the association's accounts, and regular audits by an independent certified public accountant;
- review the performance of the officers, employees or agents; and
- investigate and take action if any warning signs appear.

Persons who do not have the time to actively participate in the corporation's governance should not agree to serve on the board.

### **Duty of Loyalty**

All board members owe a duty of loyalty to the corporation. The duty of loyalty obligates the directors to refrain from using their positions to further their personal interests rather than the corporation's interests. Board members must put consideration of the corporation first, before any secondary issues. If a board member or any member of their family would benefit in any way, either personally or professionally, by a decision of the

corporation's board, then that board member should abstain from discussions and voting on the potential action.

Courts have not looked favorably on self-dealing by board members of nonprofit corporations. "Courts subject these transactions to 'vigorous scrutiny,' obligating the officers or directors to prove two elements: first, that the officer or director acted in good faith with respect to the transaction; and, second, that the transaction is inherently fair from the corporation's point of view. . . . [ . . . ] The former element requires a corporate officer to fully and honestly disclose any information relevant to the transaction, thereby permitting a disinterested decision maker to exercise informed judgment. See , e.g. , *Dynan v. Fritz* , 508 N.E.2d 1371, 1378 (Mass. 1987); *Cooke v. Lynn Sand & Stone Co.* , 640 N.E.2d 786, 791 (Mass. App. Ct. 1994)."<sup>2</sup>

Corporations should have a formal conflict of interest policy in place which requires board members to (1) notify other board members of any financial or personal interest in any matter discussed; (2) provide adequate information concerning the matter; (3) leave the meeting when the matter is discussed; and (4) abstain from voting on the matter. The best defense to a claim of self-dealing by board members is to adhere to the corporation's written conflict of interest policy.

### **Duty of Obedience**

As noted previously, the first thing every board member should do is become familiar with the corporation's purpose, or its "mission." The duty of obedience requires that directors of a nonprofit corporation are faithful to the organization's purpose, that all actions on behalf of the corporation serve to fulfill that mission, and that they comply with all laws affecting the corporation.

Every decision made by the nonprofit's board should be reviewed to ensure compliance with applicable nonprofit tax laws. Some corporate activities are prohibited or limited by those laws, such as lobbying, campaigning in support of a political candidate for public office, or engaging in operations outside the corporation's purpose and recognizing unrelated business taxable income.

To adhere to the duty of obedience, directors should ensure that the association complies with corporate statutes governing board and membership meeting formalities, files its tax returns and pays its taxes, fulfills any contractual obligations, and does not engage in activities that would jeopardize its nonprofit status.

### **Breach of Duty**

Failure to carry out the basic functions of a director could make the director vulnerable under duty of care standards. Few courts have addressed duty of care issues, but the trend is to hold nonprofit directors and officers to a standard of conduct comparable to their for-profit

counterparts. Negligence or inattention to one's responsibilities could lead to the director or officer being held personally liable for lack of action in managing the organization.

Directors of for-profit corporations are accountable to the corporation's shareholders. Nonprofit directors act for the benefit of others. If the corporation has members, the directors owe their fiduciary duties to those members. Members have certain rights, including the right to inspect the corporate records, vote on significant corporate actions, and to vote for the directors. A member of the organization may bring an action against a director for breach of fiduciary duty. If a nonprofit corporation has no members, then its directors owe their fiduciary duty to the public constituents served by the organization.

Directors of the corporation are also accountable to the appropriate government agencies. The state attorney general is usually charged with overseeing nonprofit corporations and with enforcing a nonprofit director's fiduciary duties. Many state attorneys general have taken their responsibilities very seriously, and have gone after directors who have not.<sup>3</sup>

The corporation's nonprofit status also invites scrutiny by the Internal Revenue Service or the state taxing authority, which could impose penalties or enforce any laws which hold officers or directors liable for the corporation's failure to file tax returns or pay taxes owed.

### **Limitations on Liability**

There are some laws protecting board members from liability. A majority of states have enacted indemnification provisions for nonprofit corporations based on the 1968 Model Business Corporation Act or on the state's business corporation laws. For example, Delaware has a mandatory indemnification provision which requires a corporation to indemnify its directors or officers for expenses (including attorneys' fees) incurred in defense of any action, suit, or proceeding related to his/her activities in connection with his/her corporate position if he/she has been successful on the merits or otherwise. Most state statutes also permit indemnification for directors and officers as long as (i) specific provisions are set forth in the corporation's charter or bylaws and (ii) the director or officer acted in good faith and in the corporation's best interests.

In addition, nearly all states have enacted statutes limiting the liability of directors and officers of nonprofit organizations. However, many of those statutes provide immunity only to directors and officers who serve without compensation, or only for their simple negligence. In fact, some statutes require that the director or officer have acted in good faith and with care in order to receive immunity under the statute. Furthermore, those statutes generally only protect the individuals serving the nonprofit corporation, but do not affect the liability of the corporation itself for acts of individuals. As a result, a director may be immune from personal liability for his/her actions, but the organization may still be liable for the director's actions.

Besides the liability-limiting statutes, nearly every state has enacted a provision limiting the liability of nonprofit "volunteers." These laws only provide protection for volunteers



performing services for charitable organizations or unpaid directors and officers. Every state volunteer protection statute has exceptions which limit its protection. For example, these statutes may not apply to actions brought by the attorney general for breach of a fiduciary duty as a director.<sup>4</sup>

### **Window Dressing or Fiduciary – You Decide**

It is not uncommon for people to join the board of a nonprofit organization without realizing what that commitment involves. Non-performing or apathetic board members can hinder the activities of an association and prevent issues from being resolved in a positive or timely manner, and may open up the possibility of liability issues for themselves or other board members and for the organization. On the other end of the spectrum, impulsive, overzealous board members can also cause problems for a nonprofit corporation. Decisions reached hastily, without consulting the bylaws and/or the corporation's history, can potentially be detrimental to the corporation. Anyone who agrees to serve on the board of a nonprofit organization should weigh their decision carefully, be aware of the responsibilities that come with such a position, and remain committed to the organization's mission for their entire term of office. Otherwise, the volunteer's best intentions may do more harm than good.

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*Patricia C. Gagnon, RP and Patricia B. Chouinard are paralegals in the Business Law Department of Shipman & Goodwin LLP in Hartford, Connecticut. Both have been practicing for close to 20 years, in the areas of intellectual property, bankruptcy, commercial transactions, venture capital financings, and securities. They have each served on the Board of Directors of Central Connecticut Paralegal Association, Inc. in various positions for more than 15 years. They can be reached at [pgagnon@goodwin.com](mailto:pgagnon@goodwin.com) or [pchouinard@goodwin.com](mailto:pchouinard@goodwin.com).*

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<sup>1</sup> Goldschmid, Harvey, "The Fiduciary Duties of Nonprofit Directors and Officers: Paradoxes, Problems, and Proposed Reforms," *The Journal of Corporation Law*, 23 Iowa J. Corp. L. 631, Summer, 1998.

<sup>2</sup> *Boston Children's Heart Foundation v. Nadal-Ginard*, No. 95-1136, US Court of Appeals for the First Circuit, 73 F.3d 429; 1996 U.S. App. LEXIS 414, January 12, 1996

<sup>3</sup> Runquist, Lisa A., "A Job Description for Directors," *Business Law Today*, Nov/Dec 1994.

<sup>4</sup> Pitrof, Elizabeth A., Esq. and Buys, Cunera M., Esq., "Liability Exposures and Protections for Nonprofit Organizations and Their Directors and Officers," October 1997, prepared for ALTRU, Inc.

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# Who's Who in ArPA...

## Stacy Lynch England, Arkansas

**Who is your employer (or What school do you attend)?** I am an investigator with Arkansas Investigations in Little Rock. Arkansas Investigations is a private investigation agency specializing in numerous types of investigations including but not limited to business, legal and domestic matters. I attended Pulaski Technical College and received my associates in Paralegal Technology in May of 2006 and I am currently a student at UALR working toward my Criminal Justice and Psychology degrees.

**Where do you live?** I live in England, Arkansas.

**Tell us about your family.** Most of my immediate family live in the Lonoke County area and my son and I live in England. Blake is a fifth

grader and is involved in sports and theater and with both of our busy schedules, we are rarely home. When we do find ourselves at home for a few minutes, we enjoy watching movies and spending time with our three dogs and three cats. We enjoy the small town life of living in England but we take frequent trips to Hot Springs to get away and relax.

**In what area of law do you primarily work?** At Arkansas Investigations, we work in almost every aspect of the law imaginable. We work with many attorneys and legal professionals in the Central Arkansas and surrounding area assisting them in building their cases and providing the best legal representation available for their clients. From domestic cases to criminal and civil disputes, our staff is highly trained in assisting with legal matters and we have a Certified Legal Investigator and Certified Fraud Examiner on staff. Our services are not limited to one area of the law and our diversity and training allows us to pro-

vide assistance in ways that no other investigative agency can offer.

**Do you serve and/or participate as a committee and/or section member within ArPA? If so, describe your involvement.** As a new member of the Arkansas Paralegal Association, I have not had a lot of time to be actively involved in committees; however, I am on the NFPA Ad Hoc Committee on Access to Legal Services.

**What was your first job in the legal profession (if a student, what is your idea of the perfect first job)?** My first job in the legal profession was as a legal assistant with the City of England. After graduating from Pulaski Technical College, I went to work at a law firm in Little

**LYNCH—p. 12**

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# Links by Celia

By Cella C. Elwell, RP—[pacecce@cox.net](mailto:pacecce@cox.net)

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*Copyright Office Proposes Clarifications to Regulations Governing Termination and Related Provisions*, by **Library of Congress**  
<http://www.copyright.gov/fedreg/2008/73fr3898.html>

**2007 Trend Report, National Center of State Courts** (*excellent 2007 articles on state court trends*)(with hat tip to Law Librarian Blog) [http://www.ncsconline.org/D\\_KIS/Trends/index.html](http://www.ncsconline.org/D_KIS/Trends/index.html)

*N.J. High Court Panel: Put Records on the Web*, by **Charles Toutant, Legal Technology.com**  
<http://www.law.com/jsp/legaltechnology/pubArticleLT.jsp?id=1201082539287>

*W. Va. Chief Justice Takes Self Off Case After Photos Show Him With Company Chief*, by **Lawrence Messina, Law.com**  
<http://www.law.com/jsp/article.jsp?id=1200650731813>

*Ohio High Court Debates Family's Rights to Body Parts After Son's Brain Removed in Autopsy*, by **Julie Carr Smyth, Law.com**  
<http://www.law.com/jsp/article.jsp?id=1201082534871>

*Supreme Court Denies Review of Enron Case*, by **Tony Mauro, Law.com**  
<http://www.law.com/jsp/article.jsp?id=1200996340503>

*Debating a Judicial Pay Raise*, by **The BLT: The Blog of Legal Times**  
<http://legaltimes.typepad.com/blt/2008/01/debating-the-ju.html>

*Younger Female Lawyers Play By Their Own Rules*, by **Debra Bruno, Law.com**  
<http://www.law.com/jsp/law/sfb/lawArticleSFB.jsp?id=1200594602540>

*Build a Better Firm Workbook*, **the (non)billable hour blog**  
[http://thenonbillablehour.typepad.com/nonbillable\\_hour/2008/01/build-a-better.html](http://thenonbillablehour.typepad.com/nonbillable_hour/2008/01/build-a-better.html)

*One Minute Delay Costs MoFo \$1M in Attorney's Fees*, by **Debra Cassens Weiss, ABA Journal**  
[http://www.abajournal.com/news/one\\_minute\\_delay\\_costs\\_mofa\\_1m\\_in\\_attorney\\_fees](http://www.abajournal.com/news/one_minute_delay_costs_mofa_1m_in_attorney_fees)

*Milberg Weiss Denies Missing Fax Was Obstruction*, by **Amanda Bronstad, Law.com**  
<http://www.law.com/jsp/article.jsp?id=1200650738880>

*Those Preliminary Deposition Questions: Don't Make a Speech*, by **Evan Schaeffer at The Illinois Trial Practice Weblog**  
<http://www.illinoistrialpractice.com/2008/01/those-prelimina.html>

*Conversation With a Brief*, by **Mark Cooney, Michigan Bar Journal (January 2008)**  
<http://www.michbar.org/journal/pdf/pdf4article1320.pdf>

*Clear, Persuasive Writing Earns Inmate SCOTUS Review*, by **Legal Writing Prof Blog**  
<http://lawprofessors.typepad.com/legalwriting/2008/01/clear-persuasiv.html>

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## Our Mission

The Arkansas Paralegal Association™ inspires diversity and inclusion while promoting the Paralegal profession throughout the State of Arkansas.

### Purpose :

To advance the paralegal profession and to promote inclusion and diversity amongst the legal community.

### Values :

- Responsive to the needs of the legal community and those who utilize paralegal services
- Honesty and Integrity
- Unity within the profession
- Embracement of diversity and inclusion
- Commitment to the development of our profession
- Commitment to the profession's Code of Ethics

### Goals :

- Advancement of the profession within the State of Arkansas and beyond
- Financial security
- Provide educational opportunities

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Inspiring the Paralegal Profession,  
One Paralegal at a Time

## What is ArPA™?

ArPA™ (Arkansas Paralegal Association™) is a non-profit corporation, incorporated within the State of Arkansas, for the purpose of advancing the paralegal profession and promoting diversity and inclusion amongst the legal community.

## Member Involvement :

Networking is what it is all about. By coming together, ArPA™ members can unite efforts and become one force in the recognition of the paralegal profession within our State. ArPA™ is a membership driven organization, everyone's vote counts!

## Member Benefits :

ArPA™ provides numerous benefits to our members :

- Membership with the National Federation of Paralegal Associations, Inc. (NFPA) - the leader in the paralegal profession
- Subscription to the National Paralegal Reporter
- Networking across state and country lines
- Opportunity to advance the profession and promote recognition amongst our own
- Discounts on health insurance, travel arrangements, etc.
- Educational opportunities

## Who Can Join?

You can join ArPA™, if you are:

- actively working in the profession, doing substantive paralegal tasks,
- a student or educator of the paralegal profession;
- An individual interested in expanding the profession; or,
- A corporation or institution interested in being a leader in advancing the paralegal profession.

# ArPA™

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Paula Adams, *VP—Membership*  
Dee Dee Lantz—*VP—CLE*  
Marilyn Clifton, *Secretary*  
Maggie Haase, *Treasurer &*  
NFPA Primary Representative  
Scott Foster, *Secondary Representative*

**Ready to be a member?** Complete the application included in this brochure and return to the address listed below.

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Facsimile: \_\_\_\_\_ E-Mail: \_\_\_\_\_  
I am employed, utilizing paralegal skills with: \_\_\_\_\_  
I am a student enrolled in paralegal studies at: \_\_\_\_\_  
Employer/School Address: \_\_\_\_\_

I prefer all correspondence to be mailed to:  
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List area(s) of practice: \_\_\_\_\_

I am applying for membership as:

\_\_\_\_\_ VOTING MEMBER - Annual Dues \$45 (Includes annual dues for NFPA)  
\_\_\_\_\_ STUDENT MEMBER - Annual Dues \$30 (Includes annual dues for NFPA)  
\_\_\_\_\_ ASSOCIATE MEMBER - Annual Dues \$30 (Includes annual dues for NFPA). For non-paralegals interested in expanding the profession.

List professional and civic memberships, office(s) held, if any, with dates: \_\_\_\_\_

I am willing to serve my association on a committee:  
YES \_\_\_\_\_ Not at this time \_\_\_\_\_

I am applying for membership as indicated above and certify that I am eligible for the category indicated. Further, I understand that membership is contingent on the confirmation of the Association's Board of Directors and, if accepted, I agree to be bound by the By-Laws of the Arkansas Paralegal Association™.

Applicant Signature



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## **Our Mission**

**The Arkansas Paralegal Association  
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## **Did You Know?**

Applications for registration of  
“ArPA” and  
“ARKANSAS PARALEGAL ASSOCIATION”  
in the State of Arkansas  
as service marks  
has been prepared and filed.

Thank you to Maggie Haase, RP and her  
husband Dennis Haase, J.D. for their work on  
this project and for their  
continued donations to this association.

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