



4 RULES OF PROFESSIONAL ETHICS PARALEGALS CAN NEVER BREAK

Even if almost no one who works outside the field believes it, any paralegal will tell you that ethics really are the cornerstone of law.

In fact, some people might say that adhering to ethical standards of conduct is the key feature of the American legal system. After all, all countries have laws; the *rule of law*, however, depends on the honesty and integrity of the people responsible for administering it. And that includes paralegals.

Admittedly, you won't hear a lot of talk about ethical issues in the average law office—these values are so deeply engrained there is rarely any reason to discuss them. Most paralegals would have a hard time even imagining themselves ever being in a situation where they'd be faced with some hard-ethical dilemma.

But those situations can come up and there are strong rules in the legal system designed to cover them. Fortunately, most paralegals will never run into them, but it happens often enough that malpractice suits over ethical violations are a regular feature on dockets around the country: the legal assistant having an affair with a client's husband during a divorce case ... the paralegal who stole \$32,000 from a client ... the paralegal accused of falsifying court documents ... all sad exceptions to the general rule that most legal professionals can be trusted and perform their jobs with the utmost integrity.

These rules are established both by industry groups (the American Bar Association and the National Association of Legal Assistants each have ethics codes applicable to paralegals) and by state and federal laws. The regulations are applied by the relevant bar association, usually operating under the authority of the state supreme court.

LAWYER ACCUSED OF USING PARALEGAL TO FRIEND LITIGANT ON FACEBOOK... FACING ETHICS PROBE

Ethics regulators may pursue a case against two lawyers accused of using a paralegal to friend a litigant and access nonpublic Facebook pages, the New Jersey Supreme Court has ruled in a decision on the power of the Office of Attorney Ethics.

The supreme court ruled that the ethics office could investigate the grievance even though the secretary of a local district ethics committee refused to docket the matter, report the [New Jersey Law Journal](#) (sub. req.), the Wall Street Journal [Law Blog](#) and the [Legal Profession Blog](#).

The lawyers, John Robertelli and Gabriel Adamo are accused of using the paralegal to obtain private Facebook information about a plaintiff in a personal injury case who was represented by counsel. The plaintiff was injured after being struck by a police car; Robertelli and Adamo represented the governmental body being sued.

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SPECIAL POINTS OF INTEREST

- Meet the new Board of Directors and Board Members
- Membership Renewals
- Message from President

NEW BOARD OF
DIRECTORS 2019

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Time to Renew Your Membership!

It is that time! We value you as a member of the Roanoke Valley Paralegal Association and as a member of the Virginia Association of Paralegals. Don't forget to renew your membership in January so that you don't miss out on the fun, education and great networking that will be happening this year. Also, it when renewing it is a great time to ensure that your contact information is up to date and correct. If you have changed jobs, would like to receive information from our office at a different e-mail address, or if you have graduated and are now working at a law firm, just complete an application form and note that you are simply updating your information.

Renewal fees are due by January 31, 2019—and no later than March 1, 2019.

The Board of Directors would like to welcome in the new directors in for 2019 and the newest Board Members Tara Barnett & Carey Gibson. We all look forward to serving you in the next year. If you are interested in sitting on the Board or working with one of our committees feel free to reach out to one of the Board Members and we will gladly put you to work.

LESSON IN ETHICS CONTINUED ...

It's always the gray areas that are the most difficult for lawyers and paralegals to navigate. But there are five solid rules of professional ethics that paralegals must never, ever violate.

1. Do Not Enter Into An Attorney-Client Relationship

The attorney-client relationship is something of a precursor to many of the other rules of ethical conduct in the American legal system. With a license to practice law, anything that even resembles an attorney-client relationship is strictly forbidden.

This includes the attorney-client privilege in which clients can disclose things to their attorney without worrying about their counsel being compelled to divulge what they were told. As a paralegal, this doesn't apply and you can be subpoenaed to testify if there is reason to believe you know something critical to a case or criminal investigation, and you could be charged with perjury if you don't start singing when you're on the stand.

A paralegal working for an attorney is still responsible for working within the constraints of that relationship, but cannot be the one to initiate that relationship. This can be particularly challenging since paralegals are often the first point of contact that potential clients may have with a firm—they interview and gather information, and naturally the prospective client will consider the consultation the first step in retaining an attorney.

This rule and the next rule are both very easy to violate during those initial contacts and paralegals have to be extra careful that prospective clients are crystal clear on the limitations and constraints paralegals operate under.

2. Do Not Negotiate Fees With a Client

This rule may seem pointless and arbitrary at first, but it actually relates right back to the first rule. Negotiating fees gets to the heart of the attorney-client relationship since it establishes the conditions of that relationship. The agreement to pay for legal services – even before payment is actually made – is considered the client's part of the contract. This means it can only be negotiated between the attorney and the client directly.

Unsurprisingly, this may be the ethical stumbling block paralegals are most likely to encounter. Clients can't always be expected to understand this constraint—in other aspects of daily life, it's pretty common to discuss the cost of a service with any employee representing a business, not just the owner. Clients may raise the matter of cost completely innocently, but paralegals have to be prepared to deflect these discussions and direct clients to the attorney instead.

3. Do Not Misrepresent Yourself as Someone Who Can Provide Representation

This rule isn't usually too hard to follow, since most courts won't recognize a paralegal in the first place. And there are exceptions, since certain administrative law courts do allow paralegals to represent clients in limited circumstances.

The more complicated aspect of the rule revolves more around paralegals that work on a freelance basis providing legal services who might inadvertently give clients the impression that they can represent them in court. This might result from a combination of the client being ignorant about the limitations of the paralegal role and the paralegal making the mistake of not clearly and plainly explaining these limitations to the client. If you offer legal services independently, it's wise to make this one of the first things you talk about with your client. In fact, we'd recommend you put it in writing.

There are also certain interactions with a court which do not necessarily involve a formal appearance in the courtroom but still technically count as representing a client. This is the case with the process in place for filing certain documents and orders.

Although paralegals frequently draft such legal documentation, they are not allowed to file it without the direct supervision and signatures of a lawyer.

The temptation to violate this is mostly rooted in expediency. But there are reasons that the attorney is designated as the responsible party in these relationships, and bypassing their authority starts the ball rolling for further ethical issues.

4. Do Not Give Legal Advice

This rule can be a challenging one to comply with both since the definition of what constitutes legal advice can be very hazy and since almost every aspect of a paralegal's job revolves around devising and communicating proper legal strategy.

What does or does not constitute legal advice? Is something as simple as saying, "This case looks like a slam dunk" a violation? Many authorities believe so. Making compliance with this rule even more difficult is the fact that most bar associations interpret legal advice as being whatever the client *perceives* as being legal advice. This can be as simple as a throwaway observation about how difficult or easy a case may be. It's best to stay in your lane and hold any comments you might have, even if it's just in an attempt to be friendly or avoid an awkward silence. Better to feel a little uncomfortable and tight-lipped than to be in hot water for playing it too loose.

In general, however, you are safe if you stick to providing basic factual and procedural information about the case or the courts. This doesn't extend to predicting outcomes or discussing the merits of particular strategies, but it can include essential elements like filing deadlines, the requirements of the law, and the process of trying a case.



We wish you a very happy new year !!!

FACEBOOK CONTINUED...

After the plaintiff changed his privacy setting, the paralegal allegedly obtained access by friending the plaintiff. The paralegal used her real name but didn't disclose that she worked for the Rivkin Radler law firm in Hackensack, ethics officials say. The litigant learned his private Facebook information had been accessed after the lawyers sought to add the paralegal as a trial witness and disclosed Facebook printouts.

The litigant filed a grievance, but the secretary of the local ethics committee refused to docket it because she believed that the allegations, if proven, didn't constitute unethical conduct. The director of the Office of Attorney Ethics nonetheless filed a complaint against the lawyers, who said in their answer that they were unfamiliar with the privacy settings on Facebook. The lawyers acknowledged asking the paralegal to monitor the Facebook page but denied asking her to friend the litigant. They said they thought the friend request was an automatic process.

The New Jersey Supreme Court allowed the ethics case to proceed. The court noted that the matter presents a novel ethics issue that has not been the subject of any reported case law in the state. "Consistent with the goals of the disciplinary process," the supreme court said, "the court rules do not close off further inquiry if a [district ethics committee] secretary declines to docket an important, novel issue as to which there is little guidance, or mistakenly declines to docket an allegation of egregious, unethical conduct."

A lawyer representing Robertelli and Adamo, Michal Stein, told the Wall Street Journal Law Blog that the opinion highlights a lack of "playbook or precedent for how these attorneys should have dealt with the circumstances they were confronted with in 2008."

Stein noted that a hearing on the merits of the ethics complaint has not yet been held.

Credit to:

http://www.abajournal.com/news/article/lawyers_accused_of_using_paralegal_to_friend_litigant_face_ethics_probe_aft/



Crazy Virginia Laws... Still On the Books

1. **In Waynesboro, VA, it is illegal for a female motorist to drive her car along Main Street unless her husband is walking in front of the vehicle waving a red flag.** - *I hope that he doesn't make her mad while he is walking in front of that vehicle.... Just saying.*
2. **It is illegal to curse at another person in town.** - *I wonder what the punishment for that is... who would be in jail for a while? Road rage doesn't count right? Not if they don't hear me curse...*
3. **Citizens must honk their horn while passing other cars.** — *Can this be an affirmative defense? Your honor it was not road rage. I was following the law.*
4. **In Prince William County, no person may keep a skunk as a pet. Sec. 4-69** — *No words.*
5. **It is illegal to park a car on railroad tracks.** - *That seems pretty logical to me... not sure why that came up with a crazy law search.*
6. **Children are not allowed to trick or treat on Halloween.** — *hmm... why?*
7. **It is illegal for a person to ride on the handlebars of a bike.** — *So many years I was breaking the law... good thing those records are sealed.*

Know of any others that you would like to share in the next newsletter?

Send them to:
rvpa2018@gmail.com for the next issue.

I'm just here to
establish an alibi

Lunch & Learn

February 14, 2019 @ 202 Social House

Speaker : Thomas "Bo" Frith, Esq.

Topic: How Recreational Drug Use Can Affect A Personal Injury Case

March 14, 2019 @ 202 Social House

Speaker: Jason Moyers, Esq.

Topic: Autonomous Vehicles & Virginia Law

April 23, 2019 @ Roanoke City Police Academy

This is an evening meeting with further details to come.



Monthly Lunch & Learn, Evening Meetings, Social Events — All will be posted on our website and Facebook page so check in with us regularly to see what we are up to!

LIGHTS OUT: 7 NIGHTTIME RITUALS THAT WILL MAKE YOU MORE PRODUCTIVE

- Eric Baker September 25, 2017 —summary

Nightly rituals can be as important to personal happiness and productivity as morning rituals. Here are 7 of the most effective. Everybody talks about morning rituals to get the day started right. (Even I have.) But *ending* the day right can be even more important. Why? Because your mind ain't perfect when it comes to happiness. It *cheats*. Daniel Kahneman, Nobel Prize winner and author of Thinking, Fast and Slow, has shown that your brain really remembers only two things about an event: The emotional peak. The end.

Via The Paradox of Choice: Why More Is Less:

Nobel Prize-winning psychologist Daniel Kahneman and his colleagues have shown that what we remember about the pleasurable quality of our past experiences is almost entirely determined by two things: how the experiences felt when they were at their peak (best or worst), and how they felt when they ended. This "peak-end" rule of Kahneman's is what we use to summarize the experience, and then we rely on that summary later to remind ourselves of how the experience felt.

If your brain is gonna cheat, you should cheat back. Let's game the system. If you structure your days so that the peak is awesome and the ending is awesome you'll fool your imperfect noggin into a happier life. How? I am glad that you asked. Let's get to it...

1. Have a "Shutdown Ritual" - Write down worries and make a plan for tomorrow. Work is OVER.
2. Turn Weeknights Into Weekends—Weekends are happier because of time with friends. So See friends. Not hard.
3. Mastery, Not TV—Hobbies make you happier. Spend nights getting awesome at something (other than watching TV)
4. Wind Down, Don't Collapse—No screens. No coffee. No skydiving.
5. Don't Go To Bed Angry With Your Partner— Kiss and make up. And kiss. And kiss some more.
6. Write Down The Good Stuff That Happened—Force your brain to think about the good and life will be good.
7. Schedule Something To Look Forward To - Anticipation is like 401K matching for happiness. Double the happiness.

Your brain cheats. Cheat back. Plan a good thing for tomorrow to have an emotional high point, end the day right and you can trick your mind into happiness.

As the saying goes, "All is well that ends well." So end the day well, my friend.

For the full article visit :

https://www.theladders.com/career-advice/lights-7-night-time-rituals-will-make-happy-productive?utm_swu=1054&utm_content=12/22elonmuskmeetings&utm_medium=email&utm_term=DNL-12-22-18&utm_source=member&utm_campaign=daily-newsletter



MESSAGE FROM THE PRESIDENT

Here it is, 2019. Back into the swing of things after the holidays, which always go by too fast. My "swing of things" changed drastically in the second week of 2019. I was told my position has been eliminated. What a rush of emotions; stress, scared, worried, sad, and the list goes on. Last Friday was my last day. Then I thought I did have a couple of closets that needed clearing out. A few books came to mind that I had been meaning to read. Another thing I worried about is if I was going to find another paralegal position. That if I didn't, I would not be able to continue being the President of RVPA. I would have to give up being the VP of VAPA (the Virginia Alliance of Paralegal Associations). Would I continue with RVPA if I couldn't find a paralegal position, or I couldn't come to the meetings because of my new job?

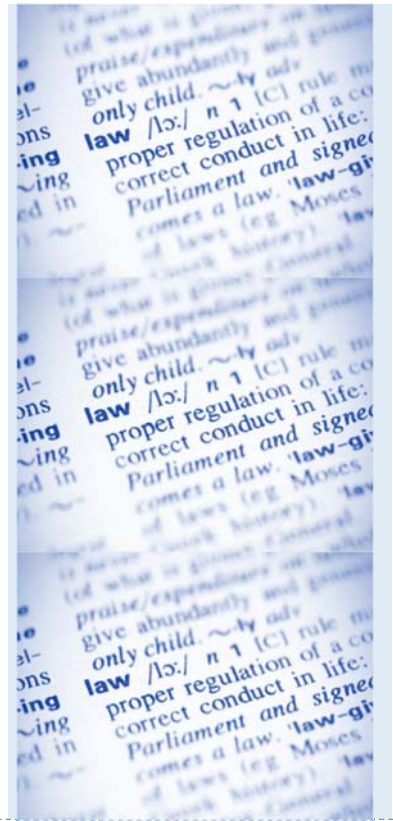
It made me realize how much being a paralegal means to me. Not just the board positions on RVPA and VAPA, but I would miss the fellowship of RVPA, the friends I've made, the opportunity to continue learning about the law, RVPA working with different charities in the community, and meeting new people through RVPA. How do you feel about being part of RVPA? Would you miss the same things I would miss?

So in-between my losing my job, freaking out, worrying about what I'm going to do, I learned of a law firm that was hiring a paralegal. So, I sent my resume to them. And then I got an email from the RVPA treasurer about another paralegal position. And then I talked to another paralegal who said they may be looking to hire a paralegal.

All of this was because I had been a part of RVPA for many years and knew, or knew of, the attorneys whose firms were looking for a paralegal. If I had not been a part of RVPA, I would not have known about these positions.

I hope that everyone will get more involved with RVPA this year. Will help RVPA to grow. Will consider serving on the board. Will bring any idea you have about promoting RVPA and sharing the idea with someone on the board. Will serve on a committee. Will come to meetings and to socials (the board is planning another paint night this year).

I hope that you and your family have a wonderful, healthy new year. Oh, and I got the job with the first firm I interviewed with. ~~ Kathie Coulson, 2019 RVPA President



Community Service Opportunities

BOOKS BREAKFAST & BARRISTERS

A partnership between [Turn the Page](#), [Roanoke Bar Association](#), Roanoke City Schools & Roanoke Valley Paralegal Association. Four to five volunteers will be needed at [Hurt Park Elementary School](#) & [Westside Elementary School](#) throughout the 2018/19 school year.

We will be feeding families and providing books to all of those that join. Hanging out with the kids chatting about favorite books.

All ages of volunteers are welcome. Yes that means if you have little ones, you can bring them along to join in the fun! Everyone gets breakfast and everyone gets a book!

Volunteer Dates for 2019 are posted on our website along with a link to Turn the Page's sign up sheet. Please think about joining us for a couple of hours out of your Saturday morning to feed the minds of our future generation.

Stay up to date with upcoming events and opportunities to volunteer by liking our Facebook page, following us in Instagram and checking our website.

www.rvpa.org

**USING
LATIN
PHRASES
TO LOOK
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MODUS
OPERANDI**