

# The Economic Benefits of Using Paralegals

Thomas E. McClure, J.D., M.S.

Chair, ABA Standing Committee on Paralegals

Professor & Director of Legal Studies, Illinois State University

# Course Objectives

- ◆ Introduce the model guidelines for utilization of paralegals.

# Course Objectives

- ◆ Introduce the model guidelines for utilization of paralegals.
- ◆ Present the economic advantage of hiring paralegals

# Course Objectives

- ◆ Introduce the model guidelines for utilization of paralegals.
- ◆ Present the economic advantage of hiring paralegals
- ◆ Highlight key guidelines for utilizing paralegals



# Course Objectives

- ◆ Introduce the model guidelines for utilization of paralegals.
- ◆ Present the economic advantage of hiring paralegals
- ◆ Highlight key guidelines for utilizing paralegals
- ◆ Offer the non-economic value of paralegals

# Educating Paralegals



- ◆ Develops and promotes policies relating to education, employment, training, & effective use of paralegals.

# Educating Paralegals



# Educating Paralegals





# Educating Paralegals





ABA Model

# Guidelines

*for the*  
Utilization of Paralegal Services



American Bar Association  
Standing Committee on Paralegals

# Underlying Concepts - #1

◆ Attorney responsibility



# Underlying Concepts - #1

## ◆ Attorney responsibility



- ◆ Lawyers are ultimately **responsible for the work product** of paralegals.

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)

# Underlying Concepts - #1

## ◆ Attorney responsibility



- ◆ **Lawyers are responsible** for the ethical conduct of the paralegals whom they employ. Any transgressions by the paralegals may subject the lawyer to professional discipline.

*See Rule 5.3 of the Model Rules of Professional Conduct.*

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)



# Underlying Concepts - #1

## ◆ Attorney responsibility



- ◆ Lawyers who supervise paralegals must develop, implement, and enforce **policies to ensure that paralegals understand how their conduct must conform to lawyer's professional obligations.**

*See Rule 5.3 of the Model Rules of Professional Conduct.*

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)



# Underlying Concepts - #1

## ◆ Attorney responsibility



- ◆ Many **state bar** associations have adopted **guidelines** for the utilization of paralegals. These guidelines often include commentary describing specifically authorized or proscribed local practices.

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)

# Underlying Concepts - #2



◊ No unauthorized practice

# Underlying Concepts - #3

◆ Confidentiality



# Underlying Concepts - #3

## ◆ Confidentiality



- ◆ A paralegal **shall preserve all confidential information** provided by the client or acquired from other sources before, during, and after the course of the professional relationship.
- ◆ NFPA Model Code of Ethics & Professional Responsibility, EC-5.1 through 5.6.



# Underlying Concepts - #3

## ◆ Confidentiality



- ◆ A paralegal **must protect the confidences of a client** and must **not violate** any rule or statute now in effect or hereafter enacted controlling the **doctrine of privileged communications between a client and an attorney.**
- ◆ Canon 7 of NALA Code of Ethics & Professional Responsibility



# Underlying Concepts - #4



◇ No conflicts

# Underlying Concepts - #4

- ◆ A paralegal shall avoid conflicts of interest and shall disclose any possible conflict to the employer or client, as well as to the prospective employers or clients.
- ◆ NFPA Model Code of Ethics & Professional Responsibility, EC-8.1 through 8.7.

◆ No conflicts



# Underlying Concepts - #4

- ◆ A paralegal must disclose to his or her employer or prospective employer any pre-existing client or personal relationship that may conflict with the interests of the employer or prospective employer and/or their clients.
- ◆ Canon 8 of NALA Code of Ethics & Professional Responsibility

◆ No conflicts



# Underlying Concepts - #4

◇ **Missouri St. Rule 4-1.10(a). Imputation of Conflicts of Interest:** While **lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so** by Rules 4-1.7 or 4-1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

◇ No conflicts





# Underlying Concepts - #4

◇ **Note to Rule 4-1.10(a). Imputation of Conflicts of Interest**

◇ Rule “**does not prohibit representation** by others in the law firm **where the person prohibited from involvement in a matter is a nonlawyer**, such as a **paralegal** or legal secretary.”

*See also* Comment 4 to Rule 110 of the revised ABA Model Rules.

◇ No conflicts





# Underlying Concepts - #5

◆ Paralegals & money



# Underlying Concepts - #5

## ◆ Paralegals & money



- ◆ Paralegal compensation may not be contingent, by advance agreement, on the outcome of particular cases.
- ◆ Attorneys may not split legal fees with paralegals nor pay paralegals for the referral of legal business.

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)

## #1 Lawyer ensures ethical paralegal

- ◇ Guideline 1: A **lawyer is responsible** for all of the professional actions of a paralegal performing services at the lawyer's direction and should take reasonable measures to ensure that the paralegal's conduct is consistent with the lawyer's obligations under the rules of professional conduct of the jurisdiction in which the lawyer practices.





## #2 Lawyer supervision

- ◆ Guideline 2: Provided the **lawyer maintains responsibility for the work product**, a lawyer may delegate to a paralegal any task normally performed by the lawyer except those tasks proscribed to a nonlawyer by statute, court rule, administrative rule or regulation, controlling authority, the applicable rule of professional conduct of the jurisdiction in which the lawyer practices, or these Guidelines.





# #3 No unlawful practice of law

- ◆ Guideline 3: A lawyer may not **delegate** to a paralegal: (a) Responsibility for **establishing an attorney-client relationship**. (b) Responsibility for establishing the **amount of a fee** to be charged for a legal service. (c) Responsibility for a **legal opinion** rendered to a client.



## #4 Third-party awareness



- ◆ Guideline 4: A lawyer is responsible for taking **reasonable measures to ensure that clients, courts, and other lawyers are aware that a paralegal, whose services are utilized by the lawyer in performing legal services, is not licensed** to practice law.

## #4 Third-party awareness



- ◆ Attorneys should explain to clients the contact paralegals will have with them.
- ◆ Attorneys should instruct paralegals in how to identify themselves in correspondence and on the telephone.
  - ◆ Orally
  - ◆ Letters & records requests
  - ◆ Emails



## #5 Make paralegal status clear

- ◆ Guideline 5: A lawyer may **identify paralegals by name and title on the lawyer's letterhead** and on business cards identifying the lawyer's firm.





## #5 Make paralegal status clear

- ◇ Rule in majority of states, but not permitted in others.



## #6 Confidentiality



- ◆ Guideline 6: A lawyer is responsible for taking reasonable measures to ensure that **all client confidences are preserved** by a paralegal.



## #7 No conflicts of interest

- ◆ Guideline 7: A lawyer should take reasonable measures to **prevent conflicts of interest resulting from a paralegal's** other employment or interests.

## #8 Billing for paralegals

- ◆ Guideline 8: A lawyer may include a charge for the work performed by a paralegal in setting a charge and/or billing for legal services.





## #9 No fee splitting



- ◇ Guideline 9: A **lawyer may not split legal fees with a paralegal** nor pay a paralegal for the referral of legal business. A lawyer may compensate a paralegal based on the quantity and quality of the paralegal's work and the value of that work to a law practice, but the paralegal's compensation may not be contingent, by advance agreement, upon the outcome of a particular case or class of cases.

# #10 Promote continuing education and pro bono

- ◆ Guideline 10: A **lawyer** who employs a paralegal **should facilitate the paralegal's participation in appropriate continuing education and pro bono** public activities.



# Paralegals Can Maximize Profits



Maximizing Profits

**\$300**/hour



Maximizing Profits

\$125/hour

# Maximizing Profits

## EXAMPLE 1—ALL WORK PERFORMED BY ATTORNEY AT \$300 PER HOUR

Interview with Client	3 hr.	\$ 900
Interview with Two Witnesses	4 hr.	\$ 1200
Gather Information	6 hr.	\$1800
Review Documents	3 hr.	\$ 900
Legal Research and Analysis	4 hr.	\$ 1200
Draft Pleading	3 hr.	\$ 900
Trial Preparation	5 hr.	\$1500
Trial	4 hr.	\$ 1200
<b>Total</b>	<b>32 hr.</b>	<b>\$9600</b>

# Maximizing Profits

## EXAMPLE 2—SIGNIFICANT WORK DELEGATED TO A PARALEGAL AT \$125 PER HOUR

<b>Interview with Client</b>		
Lawyer	3 hr.	\$900
Paralegal	3 hr.	\$375
<b>Interview with Two Witnesses</b>		
Paralegal	4 hr.	\$500
<b>Gather Information</b>		
Paralegal	6 hr.	\$750
<b>Review Documents</b>		
Paralegal	3 hr.	\$375
<b>Legal Research and Analysis</b>		
Lawyer	1 hr.	\$300
Paralegal	4 hr.	\$500
<b>Draft Pleading</b>		
Lawyer	1 hr.	\$300
Paralegal	3 hr.	\$375
<b>Interoffice Conference</b>		
Lawyer	1 hr.	\$300
Paralegal	1 hr.	\$125
<b>Trial Preparation</b>		
Lawyer	2 hr.	\$600
Paralegal	4 hr.	\$500
<b>Trial</b>		
Lawyer	4 hr.	\$1200
Paralegal	4 hr.	\$500
<b>Total</b>	<b>44 hr.</b>	<b>\$7600</b>

## Maximizing Profits – Hourly Billing

32 hours by  
Associate

\$9,600

44 combined  
hours

\$7,600



## Maximizing Profits – Attorney Time

Attorney only = 32 atty hrs.

Combined model = 12 atty hrs.

Savings of 20 atty hrs. for 1 case

# Maximizing Profits – Attorney Time

Attorney devoting an  
average of 40 hours per  
year per case can handle  
37 cases each year

# Maximizing Profits – Attorney Time

Attorney devoting an average of 40 hours per year per case can handle **37 cases each year**

◇ Attorney devoting an average of 16 hours per year per case can handle **93 cases each year**

See Greene & Cannon, PARALEGALS, PROFITABILITY, AND THE FUTURE OF YOUR PRACTICE (2023)  
<https://www.americanbar.org/content/dam/aba/administrative/paralegals/downloads/shiftingwork.pdf>

# Maximizing Profits –Fixed Fees

- ◇ Criminal/traffic
- ◇ Landlord/tenant
- ◇ Simple wills/POAs
- ◇ Incorporation of closely held business
- ◇ Immigration



# Maximizing Profits – \$2,000 Fixed Fee

<u>Worker</u>	<u>Hours</u>	<u>Cost/hr</u>	<u>Investment</u>	<u>Profit</u>	<u>Return</u>
Partner	5 hrs	\$400	\$2,000	0	0

# Maximizing Profits – \$2,000 Fixed Fee

<u>Worker</u>	<u>Hours</u>	<u>Cost/hr</u>	<u>Investment</u>	<u>Profit</u>	<u>Return</u>
Associate	7 hrs	\$275	\$1,925	\$75	3.8%

# Maximizing Profits – \$2,000 Fixed Fee

<u>Worker</u>	<u>Hours</u>	<u>Cost/hr</u>	<u>Investment</u>	<u>Profit</u>	<u>Return</u>
Partner	2 hrs	\$400	\$800		
Paralegal	9 hrs	\$100	<u>\$900</u>		
Total			\$1,700	\$300	<b>15%</b>

# Maximizing Profits – Statutory Fees

- ◇ Paralegal time can be recoverable alongside  $\pi$ 's attorney fees in certain contingency fee matters.
  - ◇ Section 1983 claims for violation of constitutional rights
  - ◇ Discrimination claims (state and federal law)
- ◇ *Missouri v. Jenkins*, 491 U.S. 274 (1989)



# Maximizing Profits - Statutory Fees

<u>Worker</u>	<u>Hours</u>	<u>Cost/hr</u>	<u>Fee</u>
Partner	294.6 hrs	\$600	\$176,760
Associate	948.5 hrs	\$275	\$260,838
		TOTAL	\$437,598

*Thomas v. Cannon*, 2018 WL 1517661 (W.D. WA 2018)

# Maximizing Profits - Statutory Fees

<u>Worker</u>	<u>Hours</u>	<u>Cost/hr</u>	<u>Fee</u>
Partner	294.6 hrs	\$600	\$176,760
Associate	649.1 hrs	\$275	\$178,503
Paralegal	299.4	\$150	<u>\$44,910</u>
		TOTAL	\$400,173

**Benefit = \$37,425**

# Maximizing Profits – Contractual Fees

- ◆ By contract, parties can require the losing litigant to pay the fees of the prevailing party in a breach of contract case.



# Maximizing Profits – Contractual & Statutory Fees

- ◆ Only time devoted to paralegal work can be considered.



# Amplifying Return on Investment

- ◆ Well trained paralegals become profitable immediately.



# Amplifying Return on Investment

◆ Well trained paralegals become profitable immediately.



◆ Junior associates take several years to turn a profit.



# Long-term Profitability

- ◆ Associates that generate profits seek partnership or a different employer.



# Long-term Profitability

- ◆ Paralegals will continue to produce profits their entire career.
- ◆ Associates that generate profits seek partnership or a different employer.





# Increased Client Satisfaction

- ◆ Paralegals provide increased accessibility to clients.

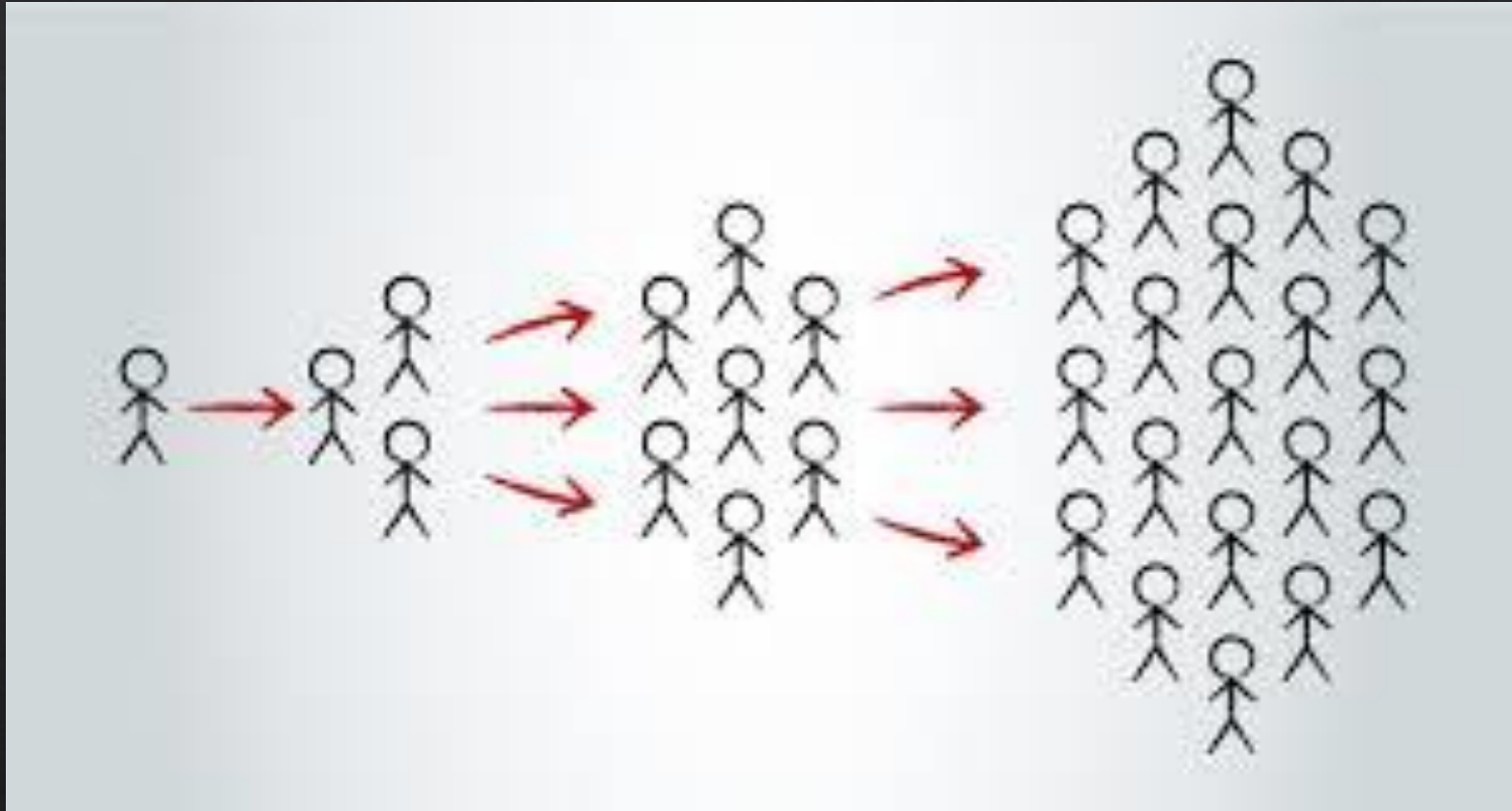


# Increased Client Satisfaction

- ◆ Paralegals provide increased accessibility to clients.
- ◆ Lower fees



Satisfied clients refer new business.



# Paralegals Improve Quality of Life for All

◆ Partners – higher profits





# Paralegals Improve Quality of Life for All

◆ Associates – more court time & depositions



# Paralegals Improve Quality of Life

◆ Associates/Partners – Less Turnover



# Paralegals Improve Quality of Life

◆ Public Service – more efficiency yields more time



# Paralegals Improve Quality of Life

◆ Paralegals happier



# Paralegals Improve Quality of Life

◆ Paralegals happier

Complex and challenging work.

# Paralegals Improve Quality of Life

◆ Paralegals happier

Complex and challenging work.

“I feel appreciated, my work is valued, and I feel supported in my work environment.”

Testimonial reported in “10 Ways to be a Happier Paralegal,” [agilelaw.com](http://agilelaw.com)

# Tasks Paralegals Perform

- ◇ Review and organize client files
- ◇ Conduct factual and legal research
- ◇ Prepare documents for legal transactions
- ◇ Draft pleadings and discovery notices
- ◇ Interview clients and witnesses
- ◇ Assist at closings and trials.

[https://www.americanbar.org/groups/paralegals/profession-information/information\\_for\\_lawyers\\_how\\_paralegals\\_can\\_improve\\_your\\_practice/](https://www.americanbar.org/groups/paralegals/profession-information/information_for_lawyers_how_paralegals_can_improve_your_practice/)

Questions?

