



FOCUS



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Newsletter of the Paralegal Division of the State Bar of New Mexico

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**Clean Happy Computer
(reprinted with permission)**

Division Name Change Approved by Supreme Court!!

Congratulations to Sandra Byer and the Ad Hoc Name Change Committee, Board Members and our Membership! The Division's name change is official and we are now the Paralegal Division of the State Bar of New Mexico. This is really exciting news! The name change in and of itself may seem to be a somewhat ho-hum event, but there were a great number of individuals doing a tremendous amount of work helping to bring about this change. The process of publishing and receiving comments on the proposed rule amendments has begun and the results will be posted on the Division's website when the process is complete. The Supreme Court's Order regarding the name change approval immediately follows this letter.

As a result of the name change and amendment of the rules, the Division will be revising Bylaws, Standing Rules, and all forms used by the Division and Members. The Division and State Bar websites will also be updated to reflect the name change. If the rules are approved as submitted to the Supreme Court, the Division will also implement an informational and educational process for the public and the legal community regarding the use of paralegals. Yes, in our own small way the Division is influencing the paralegal profession in New Mexico and elsewhere. More important, this change is personal to each and every one of us in our own individual jobs. The upcoming month are going to be an exciting time for the Division and I encourage you to get involved and be a part of the excitement and changes ahead. What better way to shape your career and the paralegal profession!

There will be a number of ways to become involved in the months ahead. The Division's August Board meeting was held in Santa Fe followed by a Planning Session for the Division. This session was open to members from all areas of the State and each area was well represented. Those members that were unable to attend were urged to submit their comments on the various items to be discussed. One topic of great interest was, of course, how to proceed after the name change. More important, however, was the discussion involving the change to quarterly meetings, which will be held in different areas on a rotating basis, with local area members conducting informal meetings periodically as decided by the members in those areas. I am very hopeful that this will be a positive change for our Division membership for several reasons: this will enable the majority of our members to meet on a frequent basis to share their ideas, concerns and generally network; and more important, I hope it will encourage more of our members to take an active part in the Division by serving on a committee, chairing a committee, or running for a board or officer position. I am very much looking forward to attending board meetings in Las Cruces and Roswell next year! Linear miles may separate us, but we are connected by sharing professional goals and email! A great deal of the Division's business is conducted through electronic or technological devices, so living in Farmington, Silver City, Raton or any other outlying area is no

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Paralegal Division
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Albuquerque, New Mexico 87103
505-248-1285
www.nmbar.org

Colin C. Alcott, Esq.
2003 President, State Bar

PARALEGAL DIVISION

2003 Officers

Linda C. Stocky, CLA
Chair
Kay L. Homan, CLA
Chair-Elect
Marcia S. Treadwell
Secretary
Carolyn L. Cochran
Treasurer
Sandra B. Byer, CLA
Immediate Past President

BOARD OF DIRECTORS

Tricia A. Bain
Martha T. Beasley
Tina L. Kelbe, CLA
Linda A. Murphy
Joan M Poole
Joni L. Sterrett, CLA

Kathleen F. Campbell, CLA
Administrative Assistant

COMMITTEE CHAIRS

Annual Meeting

Tricia Bain

Budget & Finance

Carolyn L. Cochran

Bylaws & Rules

Linda A. Murphy

Communications

FOCUS

Web Page

Deborah R. Tope, CLA, RP

Continuing Legal Education

Tracking

Tina L. Kelbe, CLA

Coordination

Joan M. Poole

Elections

Ruby Silva

Equal Access to Justice

Kathleen F. Campbell, CLA

Independent Contractors

Christiane I. Wilson

Membership

Kay L. Homan, CLA

Professional Ethics & Development

Marcie G. Kercher, CLAS

Public Affairs

Christiane I. Wilson

Executive Director, State Bar

Joe Conte

Division Name Change

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longer a valid excuse for not being able to take part in Division activities. Many other issues were discussed at the Planning Session and the results of these discussions will be evident in articles throughout this issue of the FOCUS, from future committee reports, and postings on the website.

Declarations of Candidacy have been mailed and this is the perfect time to become involved. For me personally, involvement in the Division has been a very special experience these past few years. It

has not only introduced me to the legal profession of my new home state, but I have enjoyed, and hopefully learned from, the many challenges and opportunities membership has afforded. I have also met many, many wonderful members who are now special friends and I hope to continue those special friendships in the years to come. This next year will hold more challenges and hopefully more new friends. I hope you will be among those that I can meet personally and call my special friend!

*Linda C. Stocky, CLA
Chair*

From the New Mexico Supreme Court

NO. 03-8500

**IN THE MATTER OF THE APPROVAL OF THE
PARALEGAL DIVISION OF THE
STATE BAR OF NEW MEXICO**

O R D E R

WHEREAS, this matter came on for consideration by the Court upon recommendation of the Board of Directors of the Legal Assistants Division of the State Bar of New Mexico to approve changing the name of the Legal Assistants Division to the Paralegal Division of the State Bar of New Mexico, and the Court having considered said recommendation and being sufficiently advised, Chief Justice Petra Jimenez Maes, Justice Pamela B. Minzner, Justice Patricio M. Serna, Justice Richard C. Bosson, and Justice Edward L. Chavez concurring;

NOW, THEREFORE, IT IS ORDERED that the recommendation hereby is APPROVED and the Legal Assistants Division of the State Bar of New Mexico hereby is CHANGED to the Paralegal Division of the State Bar of New Mexico; and

IT IS FURTHER ORDERED that several new rules shall be adopted and Rules 24-101,23-110, 20-102 to -114 NMRA shall be amended to reflect the Division's name change.

IT IS SO ORDERED.

WITNESS, Honorable Petra Jimenez Maes,
Chief Justice of the Supreme Court of the
State of New Mexico, and the seal of said
Court this 3rd day of September, 2003.

(S E A L)

Kathleen Jo Gibson, Chief Clerk of the Supreme Court
of the State of New Mexico

In Celebration of Cindy Dubay-Durden

March 15, 1956 - February 16, 2003

The remarkable Cindy Dubay-Durden passed away this past February after a courageous battle with cancer. She is missed by her friends, family and co-workers.

I heard about her before I actually met her. When I was offered a job in the legal department at PNM I was told that I was very fortunate because Cindy Durden would be my Legal Assistant and that she was simply THE BEST.

Cindy helped me navigate the policies, protocols and procedures of a new job. In her quiet and efficient manner, she made sure I rarely put a foot wrong.

I would go into her office to say that we had better get started on a particular report. She would turn from her computer, select a paper from one of the neat stacks on her desk and hand me the report, already done for my comments.

She never crowed about her accomplishments, although they were many. She never took the credit, always modestly acknowledging the contributions of others. Cindy was very intelligent. No matter what she did, she did it well. If I needed a particular case—sometimes with little information—or some obscure regulatory decision—she could always find it. I am not sure what magic she used, but she never let me down.

I remember that when Cindy's news started to be bad, she never flinched. She stayed the course and handled herself with courage and dignity. She continued to work, even when she felt bad. Her work in no way suffered

She never lost her sense of humor. I remember when her hair was starting to fall out we discussed getting a wig. If she had to get one, she would make a game of it. On Halloween morning, I



Cindy Dubay-Durden

A Native American proverb comes to mind.

**“When you were born,
you cried and the
world rejoiced.
Live your life in a manner
so that when you die,
the world cries
and you rejoice.”**

*That was our Cindy—
she did indeed live her life in such a manner.*

was in my office with two other people and Cindy appeared at the door. She was wearing her new wig—the first time any of us had seen it. It was very becoming, but different because it was long. We were stunned and just stared at her. She paused a moment, put her hands on her hips and said “Oh, now don’t tell me I look like a Halloween costume!” We all laughed—the tension broken.

I know that her friends and family all have stories of Cindy’s quiet acts of kindness and courage and our lives are richer for having known her.

A Native American proverb comes to mind. “When you were born, you cried and the world rejoiced. Live your life in a manner so that when you die, the world cries and you rejoice.” That was our Cindy—she did indeed live her life in such a manner.

*Judy K. Vilella
PNM Resources Corporate Counsel*

Cindy, a member of the Division since 1997, served on and chaired numerous committees including Membership, Elections, FOCUS, and Bylaws. Cindy was awarded an Outstanding Contribution Award by the Division in January 2003 for her hard work and dedication.

NEWS and NOTICES

Who's Who at the SBNM!

Joe Conte has been named the new Executive Director of the State Bar of New Mexico replacing Christine Halter who had been serving as Interim Executive Director since the departure of Cheryl Bruce last year. Joe was formerly the Communications Director of the State Bar of New Mexico before leaving in 2001 to become Communications Director of the Georgia State Bar Association. The Division looks forward to working with Joe as the new Executive Director and thanks Christine Halter for her hard work as Interim Executive Director.

New Mexico's own State Bar Court Regulated Programs Director, Anita Otero, has been appointed President of the Organization of Regulatory Administrators for Continuing Legal Education [ORACLE] for 2004. ORACLE exists to provide an opportunity for the discussion and exchange of information among administrators of mandatory Continuing Legal Education (MCLE) programs and activities, and to promote and encourage cooperation between MCLE organizations and Continuing Legal Education (CLE) sponsors. The national organization currently has approximately 60 members of which most are MCLE administrators. Other members that attend ORACLE meetings are MCLE board members, board commissioners, and judges.

Anita has been at the helm of the MCLE program, which is regulated by the Supreme Court, since 1998. The MCLE program is responsible for approving seminars for CLE credit, monitoring the CLE credits earned by licensed New Mexico attorneys (general, ethics and professionalism), and reporting deficient attorneys to the Supreme Court. Anita and her staff have been instrumental in assisting the Division with our own CLE programs.

Welcome to Joe and congratulations and hats off to Anita!

Another Great PD Membership Benefit! Practice Section Membership

Did you know? Membership in Practice Sections of the State Bar of New Mexico is available to you as a member of the Paralegal Division. If you work in a specific area of law, or you would like to learn more about a particular field, this is a great way to broaden your knowledge and educational background, as well as network. For a nominal fee Division members can join a Section in the field in which they work and receive the same benefits as an enrolled attorney.

Visit the various Sections on the State Bar website [www.nmbar.org]. All Sections, except International and Immigration Law, have an area on the State Bar site that describes the Section, its activities and resources. Don't hesitate to take advantage of this opportunity! It's just another wonderful benefit available to you as a member of the Paralegal Division of the State Bar of New Mexico!

New Board Meeting Schedule for 2004

At the August meeting, the Board voted to change its meeting schedule and will now meet on a quarterly basis, rather than hold monthly meetings as has been the longstanding practice. Beginning in 2004, the Board of Directors will be meeting quarterly in various regions of the State. The tentative schedule being considered by the Chair-elect is: February 21 in Albuquerque following the Board Orientation; May 15 in Roswell; August 14 in Santa Fe to be followed by the Planning Session; and November 13 in Las Cruces. With this new meeting schedule, it will be even easier to participate actively in the Division. Members are encouraged to meet on a monthly basis to network and coordinate local activities. To initiate the local activities in Santa Fe, we have planned a Christmas Brunch on Saturday, December 6 from 10:00 a.m. to noon, for

the North Central Corridor Members (Santa Fe, Los Alamos, Española, Taos).

Annual Convention Tucson, Arizona, July 2003

Despite the threat of cancellation due to a nearby forest fire, the State Bar of New Mexico 2003 Annual Convention was held at Loews Ventana Canyon Resort in Tucson, Arizona, July 9th-12th. The theme for the convention was Changing Directions: Judges and Lawyers Can Really Set the Course. The seminars included "Judges and Lawyers Strategic Planning" and a variety of CLE breakout courses. Members of the Division assisted State Bar personnel with monitoring the CLE sessions.

The Board of Bar Commissioners met and ratified our proposals to change the name of the Division to the Paralegal Division and to revise the Rules Governing Legal Assistant Services. Joe Conte was introduced as the new State Bar Director and Christine Halter was recognized for her hard work while serving as Interim Director.

The social activities were well-attended and the swimming pool was a great place to cool off between CLE sessions. Division members who attended were: Sandy Byer, Linda Stocky, Kay Homan, Kathy Campbell, Debbie Tope, Colleen Roper, and Lisa McCary.

Scholarships Named

The Board has recently approved the naming of a scholarship in memory of Cindy Durden, a paralegal and charter member of the Division, who passed away in February 2003. This new scholarship will bring the total number to three of scholarships offered by the Division. The other two scholarships are also named in the memories of Division charter members Edwina Hambor and Patricia Spader.

These scholarships were created to support and encourage persons interested in pursuing a career in the paralegal field. Currently the Scholarship committee is looking for interested members to assist in the planning and execution of the fund-

News and Notices

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ing of the scholarships. Please contact Nickie Vigil-Garcia at 505-955-9700 or by e-mail to ngarcia@valortelecom.com if you'd like to participate in this very important endeavor.

New Notary Public Law

A new Notary Public Act went into effect on July 1, 2003, that contains significant changes for New Mexico notaries. A revised Notary Handbook will be provided by the Secretary of State's office only to *new or renewing notaries* after July 1, 2003. There will be no notification to other commissioned notaries; however, more information can be found at www.sos.state.nm.us. All notaries should review the Act and become familiar with it.

Congratulations to New CLAs in New Mexico

The following legal assistants recently received word that they passed the National Association of Legal Assistant's Certified Legal Assistant examination or Certified Legal Assistant Specialist examination and are entitled to use the designation CLA, CP or CLAS:

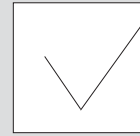
Patricia Morris McMillan, CLAS
in Probate & Estate Planning
(Division member, Las Cruces)

Griselda P. Rodriguez, CLA (Roswell)

Sean O. Shannon, CLAS
in Civil Litigation (Albuquerque)

Vince Wiggins, CLAS
in Intellectual Property (Albuquerque)

Don't Forget to Vote!



It is time to elect new officers and directors for the upcoming year.

The declaration of candidacy due date coincides with the mailing of this issue and therefore the candidates are not being profiled, but look for your election ballots in the mail the first week of November. Remember only ballots post-marked by November 20th will be counted.



Welcome New Division Members

Amy Ann F. Baker
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Cathy Bargas
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Committee Reports

Advertising Coordinator's Report

by Tricia A. Bain

As the Division's new Advertising Coordinator, I'm in the process of creating a "databank" of service providers used by paralegals and legal assistants throughout the state. This will provide a two-fold benefit:

- 1) easy retrieval of information when working in an unknown area of the state and
- 2) advertising/sponsorship monies that can be generated for the Division.

Please take a few minutes and email to tab@santafelawyers.com or fax to (505) 982-1621 or mail to me at Scheuer, Yost & Patterson, P. O. Drawer 9570, Santa Fe, NM 87504, the following information on any and all service providers/vendors you use or recommend, i.e., court reporters, investigators, copy services, title companies, etc.:

Service Provider/Vendor:

Contact name:

Address:

Telephone number, fax number, and e-mail address (if available) and Type of service(s) provided.

(Also any comments on people, service and/or product would be helpful.)

I did receive some response to the email blast sent out in May (thank you very much) but need more. I will be contacting these people regarding advertising in the printed Focus and/or on the website and also ask them to consider sponsorship of local CLE presentations and the Annual Meeting next January. Thank you in advance for your cooperation and assistance.

Legal Service Providers/Vendor Information

Service Provider/Vendor Name _____

Contact Name _____

Address _____

Telephone No. _____ Fax No. _____

E-mail Address (if known) _____ Services Available _____

Notes: _____

Service Provider/Vendor Name _____

Contact Name _____

Address _____

Telephone No. _____ Fax No. _____

E-mail Address (if known) _____ Services Available _____

Notes: _____

Service Provider/Vendor Name _____

Contact Name _____

Address _____

Telephone No. _____ Fax No. _____

E-mail Address (if known) _____ Services Available _____

Notes: _____

Please fill in and (1) mail to Tricia Bain at Scheuer, Yost & Patterson, P. O. Drawer 9570, Santa Fe, NM 87504
(2) fax to me at (505) 982-1621 or
(3) email information to me – tab@santafelawyers.com.

Thanks again for your cooperation and assistance.

Tricia A. Bain, Advertising Coordinator

CLE Tracking Committee

Thanks to all of you for the privilege to serve as the Chair for the CLE Tracking Committee for 2003!

The Committee, consisting of Tina Kelbe, Chair, Kay Homan, Linda Murphy and Linda Stocky, continues to receive and review requests for CLE credit approval from the Members.

Due to increasing postage costs and in the interest of administrative efficiency, beginning January 1, 2003, Members will no longer receive their written CLE approval forms from the Committee unless there is a discrepancy in what the Member has requested. Member's CLE credits will be entered into the database and then posted periodically on the Division's web page.

It is the Member's responsibility to submit his/her CLE approval requests to the Committee. We strongly urge Members to submit their CLE approval requests throughout the year rather than waiting until renewal time. **CLE approval requests received without the appropriate request form and documentation will be returned to the Member for resubmission with the requested appropriate documentation.**

Effective January 1, 2003, one (1) hour of ethics credit may be carried over. Professionalism credit may be carried over "only" as general credit; such credit can no longer be applied to ethics credit. Self-study and pro bono credits continue to be ineligible for carry-over. Please refer to the Division's MCLE Guidelines in your membership materials or on our website. If you have any questions, please contact the CLE Tracking Committee by letter or e-mail.

Members continue to experience confusion followed by frustration when attending seminars conducted at or by the NM State Bar or any other sponsors and being advised that the sponsor will report a Member's credits to our Division (they only report attorney credits but DO NOT report credits for Paralegal Division Members). **They are providing incorrect information and it continues to be a problem!** It is the responsibility of each Member to obtain a certificate of attendance and sub-

mit the same to the CLE Tracking Committee for approval. **DO NOT RELY ON THE ASSURANCES OF THE SPONSOR - IT WILL NOT HAPPEN!!** Here are a few suggestions for obtaining certificates of attendance. When attending seminars you can take with you the Division request form that can be certified at the bottom of the form by the sponsor's representative; there is a Division form for Certificate of Attendance you can obtain from your membership materials or from our website and provide to the sponsor's

representative for signature; if there are attorney forms available at the registration table or in your seminar materials, you can use those; or you can provide an affidavit (signed and notarized) stating the name of the seminar, date, and number of hours attended, along with a copy of the seminar brochure.

Keep those CLE approval requests, with the appropriate documentation, coming!!!

*Tina L. Kelbe, CLA
Chair, CLE Tracking Committee*

Paralegal Division Sponsored Continuing Legal Education

November Lunch Seminars

(pre-approved for attorneys and legal assistants):

11/6/03 **Divorce**
Roswell
Hinkle Law Firm
1.0 General
*Contact Joni Sterrett –
505/622-5440 or at jls@sbcw-law.com*

11/7/03 **Mediation**
Roswell
Sanders Law Firm
1.0 General
*Contact Joni Sterrett –
505/622-5440 or at jls@sbcw-law.com*

December Lunch Seminar

(pre-approved for legal assistants):

12/9/03 **File Management**
Roswell
Hinkle Law Firm
1.0 General
*Contact Joni Sterrett –
505/622-5440 or at jls@sbcw-law.com*

Professional Ethics & Development

by Marcie Kercher, Chair

State Bar Divisions to date exist in: Michigan, Nevada, New Mexico, North Carolina, South Carolina (Pending), and Texas

The Division continues to follow the development of regulatory trends nationwide. As an update to the February 2003 *FOCUS*, the Committee reports as follows:

- The South Carolina Alliance of Legal Assistant Associations hopes to have its proposal for a Division presented at the state bar convention in January of 2004.
- In New Jersey, the State Bar Paralegal Committee has proposed statewide voluntary registration to the Board of Trustees and is hoping for a resolution in the near future. The registration process, if approved, would be conducted through the state bar with the help of the paralegal committee. The registration proposal would require standards for education, work experience, and other minimal requirements to earn the New Jersey Registered Paralegal (NJRP) designation.
- In North Carolina, a bill known as the North Carolina Paralegal Professional Act was introduced in both houses of the legislature in April which defines the term “paralegal” and sets out educational qualifications for first-time registration. It also includes a “grandfathering” clause for those who will not be able to meet the educational qualifications in the Act. The Act also creates a 17-member Regulation Board with broad authority over the state’s paralegals. The Board is made up of 12 paralegals, 3 directors of paralegal programs, and 2 attorneys. No action was taken on the Act in either the House or the Senate prior to their adjournment, however, the legislature is expected to act upon the bill during the 2004 short session scheduled to begin on May 10, 2004. More information about (HB957/SB922) can be found at <http://www.ncleg.net>.
- **The Arizona Supreme Court approved changes to the Consumer Protection Rule**, effective July 1, 2003. The Rule defines the practice of law, the unauthorized practice of law, and the terms paralegal/legal assistant and mediator. The Rule provides Arizona consumers with a remedy for harm caused by the unauthorized practice of law and imposes sanctions that include injunctive relief, restitution, costs, and possible incarceration if the person is found in contempt of a court order. The Rule continues to permit certain non-lawyers to provide specified legal services where the non-lawyer’s accountability is assured. A new provision permits “certified legal document preparers” to prepare legal documents but does not permit them to provide legal advice or to otherwise engage in the practice of law. The Arizona Supreme Court will regulate certified legal document preparers, whose dues will fund the regulatory system. The regulatory system for certified legal document preparers will:
 - a. limit preparation of documents for which the preparer is competent,
 - b. require a written disclaimer to the consumer stating that they are not a lawyer,
 - c. require educational and experience criteria,
 - d. require an examination for admission,
 - e. mandate continuing education courses, and
 - f. establish a code of ethics.

The full text of the Rule can be viewed at <http://www.supreme.state.az.us/media/pdf/uprule.pdf>

- In Wisconsin, a special task force of the Wisconsin Bar Association has drafted a proposal that seeks state licensure. The proposal includes a definition for paralegals, sets out educational and experience requirements and lists ethical rules of conduct. The proposal, however, stresses that paralegals work under the supervision and direction of attorneys. The hope is that the proposal will

provide greater benefits for the public and will allow attorneys to hire better trained paralegals and offer quality work at a lower cost. The entire process will take more than two years before it is ready to go before the Wisconsin Supreme Court.

Of interest to paralegals are proposed revisions to the Fair Labor Standards Act (FLSA), announced in March of this year by the Department of Labor. The FLSA contains regulations governing exemption status for executive, administrative, professional, outside sales and computer employees. Comments to the proposal were due to the DOL in June. On October 2, however, the U. S. House of Representatives voted 221-203 to instruct its conference committee negotiators to include in any compromise labor appropriations bill, language preventing the DOL from enacting regulations disqualifying from overtime pay any workers currently entitled to it. For further information, please visit www.dol.gov. We will continue to watch this bill for its impact on

Web Page Subcommittee

We’ve had a lot of changes on the web page since we last reported to you.

In March 2003, the full web page for the State Bar of New Mexico, where the Division’s web page resides, went live again after being completely redesigned. The “new” web page has an attractive Southwestern appearance, greater interactivity, and offers the Division better control of our portion of the page.

The address for the redesigned web page is [www.nmbar.org/Content/NavigationMenu/Divisions_Sections/Committees/Divisions/Legal_Assistants/Legal_Assistants_\(LAD\).htm](http://www.nmbar.org/Content/NavigationMenu/Divisions_Sections/Committees/Divisions/Legal_Assistants/Legal_Assistants_(LAD).htm) or go to www.nmbar.org and follow the Division links.

We continue to offer a variety of information about the Division and member services on the web page, including: the history of the Division, Officers and Board of Directors, committees, CLE programs as scheduled, the job bank, Pointers for Practicing Paralegals, forms, membership and CLE requirements, the member directory and CLE credit table, along with past issues of the Focus news-

letter. Members can also communicate quickly and easily with the Division via e-mail to lad@nmbar.org.

LAD members can access the members-only section of the Bar web page by logging in as follows. Click on the login link on the upper bar of the main web page, then enter your username. Your username is your LAD number preceded by enough zeroes to make 6 digits (0000xx or 000xxx). For the password, enter your last name (case doesn't matter).

Through the main Bar web page, members can use the attorney finder, browse CLEs scheduled by CLE, Inc., access the research links the Bar has compiled and much more. Members can register and pay online for CLEs sponsored by CLE, Inc. and purchase other products offered by the State Bar. Members can also access the weekly issues of the *Bar Bulletin* as posted on the web page. Under the publications section, you will find links to the on-line opinions of the Supreme Court and Court of Appeals which will allow you to view recently published opinions. Also under the publications link, you will find a collection of the articles and news published in weekly *Bar Bulletin* along with that week's classified ads – not quite as handy as having a hard copy of the *Bar Bulletin*, but effective.

Of course, we will have many more changes on our web page soon. As you know, the Supreme Court approved the proposal to change our name from Legal Assistants Division to Paralegal Division; therefore, all of the materials on the web page must be revised to reflect the name change. Each committee will be responsible for revising the materials and forms it uses and the web page committee will update the remaining sections of the web page. We hope to launch the new web page with our new name by December 2003. Watch for it!

In addition to the web page, the Division also seeks to keep our members up-to-date through periodic e-mail blasts. If you are not receiving the e-mail blasts, please send your name and e-mail address to lad@nmbar.org.

Debbie Tope
Web Page Subcommittee Chair

Professionalism for Paralegals

Are You Defending Your Title?

by Kathy Campbell, CLA

As Division members, we are all keenly aware that we must work directly under the supervision of a licensed attorney and that we cannot perform legal services directly for the public. The definition of a legal assistant found at NMRA Rule 20-102 expresses this requirement. Furthermore, (NMSA 1978) §36-2-28, provides penalties for the practice of law by anyone who is not licensed in New Mexico. However, in recent months, complaints of unauthorized practice of law (“UPL”) have become more frequent with media attention focusing on “paralegals” performing legal work directly for the public.

The State Bar Client-Attorney Assistance Program (“CAAP”), headed by Tonya Noonan Herring, works closely with the Supreme Court Disciplinary Board and refers matters regarding ethical violations by attorneys directly to the Disciplinary Board. CAAP also receives and responds to complaints regarding UPL issues. Upon receipt of a complaint regarding UPL, CAAP may investigate the matter and issue a cease and desist letter but has no enforcement authority beyond that. CAAP will then cooperate with local or state authorities if they wish to bring charges for UPL. (CAAP recently reported that from January through August 2003 it had conducted nine investigations of UPL out of 19 reported and one of those had resulted in involvement of the White Collar Crimes Division of the Albuquerque Police Department.)

CAAP's advisory committee, the Client Relations Committee, is made up of attorneys from various areas of practice, including private and government practice, the Disciplinary Board, and a representative from the Paralegal Division. The Committee meets quarterly and discusses various issues that CAAP encounters including ethical and UPL violations and offers CAAP advice on dealing with public policy issues regarding UPL.

The growing need for affordable legal services and the growth in popularity of the paralegal profession have contributed to this problem, but equally so has the ignorance of the public—not only the ignorance of the consumer but of the provider. CAAP reports that many of the people who are contacted regarding UPL violations are unaware that they either cannot utilize the direct services of a paralegal or that they cannot provide services directly to the public. It is for these very reasons that many jurisdictions are examining licensing and/or certification of paralegals. At least two jurisdictions, California and Arizona, have enacted legislation/rules that allow for legal document preparers to perform certain legal services directly for the public. Both of these states, however, retain the definition of a paralegal as one who works directly under the supervision of an attorney.

Aware of this trend, the Division proposed revisions to the Rules Governing Legal Assistant Services, Rule 20-102 et seq. NMRA, that were drafted with the intentions of ensuring that the high standards that the Division upholds apply to all paralegals in New Mexico and providing members of the legal community and public with clarification on the definition of a paralegal as well as establishing qualifications that must be met in order to call oneself a paralegal. Under this scenario, the paralegal profession in New Mexico will continue to be self-regulating until such time as mandatory regulation becomes desired or necessary.

Regardless of whether our proposed revisions are adopted, it is up to the Division to promote its high standards and to educate the legal community and the public about what we do as paralegals. It is also up to each one of us individually to be role models for our profession, to inform and discourage those who are violating the law or are acting unprofessionally or unethically, and to educate the public about our profession so that we can continue to perform our jobs and call ourselves “paralegals” with pride.

What Monster Are You Fighting?

by Joni Sterrett, CLA

Is boredom your monster? Maybe you haven't had a chance to prove yourself. Stuck with repetitious document preparation, you continue to grind out the same old stuff day in and day out. You know your job so well that it has become monotonous and boring. Then, come on, stretch yourself! Take the paralegal challenge. It's a career decision. I fought the old boredom monster and stretched my brain a bit by certifying nationally as a paralegal.

My interest in the legal field started at a young age as I would sit after school with my mother at the courthouse where she worked as a deputy clerk. The history that is found in the public record! Wow, fascinating stuff. There were exciting stories just waiting to be discovered. Genealogy and family secrets stored in the closet I called the "dungeon." It was a vault with huge books that smelled like, hmmm, dust. What could interest one in this place except curiosity.

I have always wanted to learn. The decision to take the CLA Exam was one of those big moments in my life. Becoming a Certified Paralegal took planning. Yes, and commitment. I found that the key to success is structure. As I began to focus on learning about research and legal analysis, I knew I needed good ground work.

My friend, Griselda Rodriguez, CLA, and I developed a study "group" and became accountable to each other for weekly structured study times. We outlined the subjects and began the countdown to test time. Simply analyzing the cases and discussing the problem out loud would lead to a solution.

My biggest support was in my husband. He was confident I would succeed and he kept me accountable at home. I didn't want to disappoint him, so I worked hard at prioritizing, putting off the small stuff for later, and concentrating on my study. However, deep inside, I knew that my faith in God was where my real

strength held me up. I love the song, "I Go Running Home When I Fall Down" - I did. I prayed a lot.

Help came in the location of good instruction. That is major. I found a great book by Virginia Koerselman, J.D., entitled *CLA Review Manual*. Additionally, the National Association of Legal Assistants (NALA) has an online course which was tremendously helpful. The paralegal

Membership in the Legal Assistants Division of the State Bar of New Mexico (LAD) has been a big asset. There I was able to network with like-minded individuals who knew their stuff. They were able to guide me in the right direction and the friendships I made have been so important. I can call on members in different cities and quickly find information I need to impress my boss. Hey, doing a

All around me, I see the monster running around called mediocrity. I notice people who don't care about the quality of work they do — as long as the paper gets from Point A to Point B. Never mind that it is full of typos or must be sent back by the Court for correction in order to comply with regulations. That should be embarrassing.

courses I had taken at Eastern New Mexico University - Roswell were a good foundation and I searched for books in which I could take a situation for case study and analyze it. Practice, practice and more practice! I fought the battle and gained ground.

We all need encouragement. Honestly, I can go 100 miles on a few encouraging words.

At work, my boss was an excellent source of help. I was less than confident in the area of legal research. He bought my lunch and sat down and worked me through the process of researching an issue, explaining the different resources. He explained the organization of legal memoranda and "how to think like a lawyer." Fortunately, I work at a law firm that supports its staff. Sanders, Bruin, Coll & Worley, P.A. pays for continuing legal education for any of staff member interested in learning. I feel privileged to work with those who encourage excellence. I am proud now to be able to turn out better work. We all know that the more qualified one becomes, the better one is able to assist their attorneys in legal analysis and case preparation.

good job expeditiously never hurts.

All around me, I see the monster running around called mediocrity. I notice people who don't care about the quality of work they do — as long as the paper gets from Point A to Point B. Never mind that it is full of typos or must be sent back by the Court for correction in order to comply with regulations. That should be embarrassing.

Now, Sweet Success is the reward for rising to the challenge and succeeding. That's what we should all strive for. If we learn from our failures and are intuitive enough to target the area we are weak in, and do some mental push-ups, it's reward time. Learning is LIFE. You can even enjoy the trip. Continuing education in life is a necessity. So, laugh at yourself and take the challenge of becoming nationally certified. Hey, it produces character.

Having passing the Big Exam, I find joy in encouraging and guiding others toward their goal. I truthfully state that it is a challenge, but well worth achieving. I like to believe that I beat that old monster called Defeat.

The Quest for Excellence

by Bonita Ortiz, CLAS

Has anyone asked you lately why you didn't go to law school? It's a common question for many of us. Paralegals, by statutory definition, perform substantive legal work under the ultimate supervision of an attorney, which work would otherwise be performed by the attorney.¹ Many people mistakenly believe that paralegals either couldn't "make the grade" as a lawyer or are simply attorney "wannabes" that were unwilling to commit to law school. Both misconceptions rob our profession of the value and respect it deserves.

As paralegals, we are not simply failed attorneys. Most of us don't aspire to become lawyers, nor do we seek to usurp the role of lawyers. Rather, we have consciously chosen the supporting role of paralegal and seek to utilize our unique skills as an integral part of a legal team.

As professionals, we offer our knowledge, skill, and integrity in exchange for the trust of our supervising attorney, the client, and the community. We only deserve this trust if we are committed to carrying out our professional responsibilities and adhere to the highest ethical principles. This call to excellence requires moral integrity, intellectual honesty, and sound judgment.

According to the U.S. Department of Labor Bureau of Labor Statistics, there are currently over 188,000 paralegals working in the United States, and the growth rate for paralegal jobs has been projected at 21 to 35%.² The exciting news is that the direction of this expanding role of paralegals is largely in our own hands. "If something is exceptionally well done, it has embedded in its very existence the aim of lifting the common denominator rather than catering to it."³ We can assure the future standing of paralegals in our legal community if each of us, individually and corporately, is willing to set high goals, bring a level of excellence to our daily practice, and dedicate ourselves to life-long learning and advancement in our chosen profession.

The Paralegal Division can help us all achieve these goals. The Division is dedicated to promoting high standards of pro-

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fessionalism to the legal community and to the general public. It supports affordable, ongoing continuing legal education

for paralegals; it encourages communication among paralegals and with attorneys all over the State; and it is committed to educating paralegals and attorneys on the effective utilization of paralegals in New Mexico. Participation in the Division can help all New Mexico paralegals advance the quality and standards of our profession.

Lyndon B. Johnson, our 36th President, once said, "the noblest search is the search for excellence." Let's encourage each other in the quest.

Endnotes

¹ See Rule 20-102, NMRA.

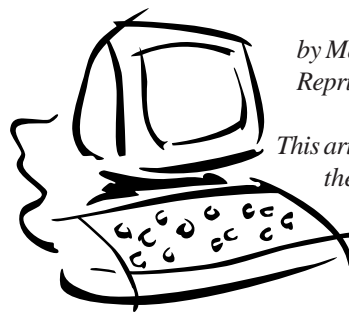
² Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2002-03 Edition, *Paralegals and Legal Assistants*. Retrieved September 25, 2003, on the World Wide Web: <http://www.bls.gov/oco/ocos114.htm>.

³ Edward Fischer.

A Clean Computer Is a Happy Computer

Part Two of Two Parts

by Marina L. Dodaro
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I realize this article doesn't really have much to do with any legal aspect of technology but I feel that maintaining your equipment is one way to keep out of trouble. If your equipment is not running properly you may experience problems with files on floppies, hard drive losses, and worse, entire system losses. O.K, maybe there is a legal issue here: if you lose all of a client's data, will the client get the best representation your office can provide? There it is our legal tie-in for this article! (I knew there was one there somewhere.)

Welcome back to computer maintenance! I hope the last article was informative and helpful. The condition of your software is as important as the physical cleanliness of your computer. As I struggled to find the legal aspect of the last article, I realized this one isn't much of a stretch. Cleaning up your software is so important to your computer's health and the safety of client files that; if you allow your computer software to become unstable, loss of data is almost guaranteed. By establishing a regular maintenance

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schedule, your system will run better and be much more reliable. Your client files should not disappear or become corrupted.

This article will give you some important information on keeping your software running well. I will briefly explain some of the system's maintenance software that comes with your computer and some that you can download or purchase. I will also discuss back-up options so that if you do lose your system or some of the data, you

So, let's get started on your journey into system maintenance. Jam going to assume that your system is already running software loaded and in use. Along the way I will provide hints on how to start fresh and keep your system running well from the beginning.

Manuals

The first thing you want to know is where the software manuals are stored, because most manuals provide troubleshooting hints. If you are having trouble with a software program, the manual is the first place to look for help. If you have to reinstall software, you should use the manual. Reinstallation may include removing the current version first, and the manual may give you help with doing that. Some programs can be reinstalled" without removing the current files, but the manual may help with choices you may need to take along the way. Hint on new installations: always follow the manual instructions to be sure you install properly from the beginning.

Diskettes

While you are looking for the manuals, also locate the original software materials diskettes, compact discs (CDs), or ZIP® diskettes. You may need these during reinstallation. Hint on new installations: make a copy of the original diskettes. Label and store them in a separate place from the originals. You should have two software storage locations: one for backups. Redundancy is not a wasted effort when it comes to backing up software.

Backup

It would be easy for me to say, "Back

up computer before you do any system maintenance," but that may not be the best advice. Why not? First, let me ask a few questions. Is your system performing properly? Does it lock up often? Do you lose files even though you know you saved them? Does the software not open properly or take longer than usual to open? Does your system reboot on its own?

(OK, more than a few!)

These are just some of the symptoms that should alert you to problems with the system. If you were to back up the system before you fix the problems, you could end up restoring the problems if you use the backup. So, what do you do? I suggest backing up only the data files before you maintenance. This way, if you have problems during the maintenance procedures, you will have your data and can restore it if necessary.

Store your data off the hard drive. Use Zip or floppy diskettes, CDs, or tapes. If you store the backup on the hard drive, you may lose the data should there be a permanent problem with the hard drive.

Once you know your hard drive is working well and in good shape, you should back up the entire hard drive. This should be done on a regular basis — usually once a day, week or month, depending on your needs. Many law firms feel that daily backup is necessary. Others, usually smaller firms or solo offices, find that weekly backup is adequate. Never go longer than you can stand to lose. If your office is a high-end user and relies on the computer for every aspect of daily office life, back up daily. If you don't use it for you calendar, billing, document storage and so on, weekly backup may be good enough.

Windows® (95 and later) has a backup feature that will assist you in this procedure. The two most popular backup are CD (recordable or re-writable) and tape drives. CDs tend to be little slower and can't hold as much as tapes do — currently, around 800 megabytes. But data backed up on CD is more easily accessible than that on a tape drive, because you can treat the CD as a floppy disk and directly access the data to be restored. Tapes hold more information (some are up to 800 gigabytes), and you can complete the backup procedure more quickly than with CDs. But when you restore from tapes, you

will need to wait for the tape to run forward or backward, like a music cassette, rather than just choosing the data and instantly accessing it.

You will need to determine which is the best method for your office. For assistance in making the decision, you can find much good information on the Internet. Use your favorite search engine or use www.About.com, which is an expert-advice web site. About.com will provide articles on backing up your computer system as well as links to software companies.

ScanDisk®

ScanDisk is a utility that comes with Windows (95 and later). This little program will help recover lost files and repair some physical problems with the disk drive.

ScanDisk actually performs two functions, and each takes a considerably different amount of time to perform. I will discuss the surface disk portion of this program in just a moment. The ScanDisk utility scans the disk for errors in the data itself to identify errors in the way the data was stored. It will attempt to repair these errors, keeping the data intact and usable. Provided there is no physical hard disk damage, repair can be completed. This procedure is quick and should be performed weekly, if not daily.

Often when a hard drive fails, you hear it begin to whirl when you start the computer. Then, without notice, it goes clunk, clunk and stops working. Unfortunately, and more often, the hard drive fails slowly over time without any warning. One day, a file opens as it should; the next day, you try to access the same file, and it doesn't open at all.

Without becoming too technical, I will try to explain what happens. Your hard drive is a surface, similar to a record album, to which computer data is written. The drive surface is broken down into sectors. Each sector stores data, and often the data is stored across the sectors. Because data may not be stored wholly within a sector, parts of the data of files may become corrupt, while other parts of it are fine. This corruption may affect the file completely and not allow it to be opened or used. Or, it may affect only part of it. Thus, some of the file will open, but not all of the information in the file is present. For

example, the last two pages of your contract are not there, even though you know you saved the entire file.

ScanDisk will read each sector on the drive. It looks for any sectors that it can't read, and often it will be able to repair the problem sectors and restore the data. Sometimes, it can't do anything for, with, or to the bad sector, and the data may be lost forever.

If the damage to the sector is only minimal, the hard drive will continue to function and not write any more data to the bad sector. If, however, multiple sectors are bad, the hard drive may become too unstable to work properly, and you may lose the entire drive. Before this happens, you should be using ScanDisk to help repair problems before they become too big.

The procedure for using ScanDisk to detect and repair damage takes considerably longer to perform. While the system is being scanned, you cannot use the computer. Therefore, this procedure should be done during down times (overnight or on weekends). Usually running ScanDisk is done on the average of once a month at a minimum, but running it weekly is preferable.

Disk Defragmenter® (Defrag)

As you add and remove programs, zip and unzip files, and save and retrieve files from the hard drive, you create gaps, or fragments, in the sectors mentioned above. These gaps themselves are not a problem for your computer. They do, however, slow the system and cause a file or program to become corrupt and unusable.

Data written to the hard drive may contain fragments within a single file.

When the file is opened, the gaps can cause the system to slow down and sometimes lose a portion of the file, such as formatting or small amounts of text. A file that uses a program that was removed from the hard drive will look for the program. When the file doesn't find the program, it may "lock up" and become corrupted. Even if you try to open that file on a computer with the program on it, the file may not recognize the program, causing the file to become permanently unusable.

Over time, your hard drive can become an unorganized mess. Your data can resemble Swiss cheese, with holes everywhere! What can be done? I'm glad you asked! Windows comes with another helpful utility called Disk Defragmenter or "Defrag." This program will remove the gaps on the hard drive, putting your data back together so that it runs smoothly and more quickly.

When you run Defrag, you will be told how fragmented the drive is. Even if the drive is 0% fragmented, run the program anyway. Defrag doesn't indicate when the system is .99% or less fragmented, but Defrag should still be run. When the system is more than 10% fragmented, the process can take quite a long while to complete, so this may be another program to run overnight or on the weekend while the computer is not being used. If you run Defrag often, the process shouldn't take long at all. Keep in mind that no other work can be done on the computer while Defrag is running. Turn off your screen saver and don't bump the mouse. If you are defragging a laptop, be sure that the battery is fully charged. You don't want the computer to do any work or let the power do off during the proce-

cedure, or the program will start all over again. If you add or remove programs on a frequent basis, you may want to defrag weekly. If you store data such as word processing files or financial programs on the hard drive, you may want to defrag more often.

Virus Check

Virus-checking programs have been discussed in this magazine and many others, so I won't dwell upon this topic for long. Keep in mind a few questions about your computer usage. Do you share floppy or Zip diskettes with other computers? Do you download from the Internet? Do you use e-mail and allow attachments to be opened? Do you use Outlook as your e-mail system? If you answer yes to any of these questions, you need a virus checker!

If you answered yes to all of these questions, you need a good virus checker. There are various programs that are very good at detecting and destroying viruses. You may want to look for one that runs at all times so that any virus that is introduced to your computer will be automatically detected. Running a virus-check program at all times can make the system a little slower. If you don't want to sacrifice the speed of the system, you can automate the program to run every night while the computer is not being used. You should also be sure that everyone in the office is familiar with checking all files that being put on the computer. This way, the system can check the files each night, but the individual operator can check a new file being downloaded or retrieved from a diskette.

Virus-check programs can be found

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Sample Maintenance Schedule

Maintenance Activity	Recommended Frequency	Automation Available
Back-up data files	Daily or Weekly	Backup software determines
Back-up System	Weekly	Backup software determines
ScanDisk to read errors	Daily or Weekly	Yes
ScanDisk to find surface errors	Weekly or Monthly	Yes
Disk Defrag	Monthly	Yes
Delete Unwanted (temporary files)	Daily	Yes
Virus Check	Daily	Depends on software
Update Software	As needed/informed	Not usually

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at your local software store, office supply store, electronics store, and discount department store. You can also find virus detection software on the Internet by doing a search for “virus check software” on your favorite search engine. Prices vary, but you want to be sure you find one that allows you to upgrade and download new virus files on a regular basis. If you don’t, each new virus that pops up will go undetected, leaving your system vulnerable.

Other Things to Keep in Mind

Favorites

If you use the Favorites feature with Windows, you may slow the system down by having links that are no longer valid. Keep the Favorites cleaned out and up-to-date.

Recycle Bin

Each time you delete something from the hard drive, it is usually stored in the Recycle Bin. This means that you think you have deleted it, but it is actually still sitting on your hard drive, taking up space. Keep the Recycle Bin cleaned out to free memory. Each time something goes into the Bin, you are creating fragmented space on the hard drive. Run Defrag after you have emptied the Recycle Bin.

Temporary Files

You will find a list of files, usually in the C:\Windows\Temp folder. These files are created by the computer and are usually deleted when they are no longer needed. Over time, however, they tend to build up, not get deleted, and take up space, you can delete these files manually in the Windows Explorer or automate them through the Windows Maintenance Wizard. Note: if you try to delete a temporary file that is being used, you will not be allowed to delete it. You can come back to it later and try again.

Power Supply

Be sure that your computer is snugly plugged in or that the laptop battery is full charged so that Defrag won’t be interrupted and you won’t lose data due to inadvertent power outages.

Online Updates

If the software provides updates on the Internet, take advantage of them. Software programs are often updated, making changes to the way they run on your computer. These changes are usually designed to improve the effectiveness and efficiency of the program. Most software web sites will let you register for updates by e-mail notification so you will be informed of updates.

Maintenance Wizard

Windows (98 and later) provides a utility that allows you to schedule specific tasks such as ScanDisk, Defrag, and unwanted file deletion automatically. You tell the computer when you want to perform the task, and the system does it on its own.

Technical Support

Often software packages come with a certain amount of technical support, either a certain number of days or a certain number of calls.

Most software will offer users the option of purchasing additional support. Before calling tech support, try a few things:

1. Read the manual. There’s a lot of good info in those things!
2. Check the program’s web site on the Internet for frequently asked questions (FAQs), Known Issues or White Papers
3. Look for discussion forums, or boards, on the program’s web site. Many of them are free to anyone, not just registered users. They are often monitored by the program’s support staff, who can offer assistance without charge. Many of the users who use the discussion sites are as knowledgeable as the tech support staff and are just as willing to assist.
4. If you think it’s a hardware issue check the connection for that device. Sometimes the mouse or keyboard stops working because we pull too hard on it and it comes unplugged. Who hasn’t turned the speakers down to hear someone speaking to you, only to forget to turn them up again? Check your hardware first!

Making That Telephone Call to Support

If you find that you do indeed need to call technical support, have the following information handy.

If you have a software problem, know the version number of your software. If you have a hardware problem, know the make or model number of your computer. The more information you can give about the specific software or hardware will help the technician to solve your specific problem.

Describe exactly what happens when the problem occurs. If you get an error message, make a screen shot of it, if you can. If not, write down exactly what the message says so the technician will know what you are seeing.

Make notes about what was being done when the problem occurs. Are you striking a series of keystrokes, or are you clicking on a specific link or button? Describe what you saw as the problem occurred.

Make notes about how you attempted to take care of the problem before calling tech support. The technician will want to know if you have already tried some remedy. He or she will want to know if the things you tried helped or further harmed the problem.

Conclusion

Whew that’s a lot to get through! I hope I didn’t lose you along the way. Keeping your computer software running well will keep you from losing information as well as your sanity. Defrag and ScanDisk are easy to use and really help a lot. Backing up your data so you don’t lose valuable time and work is very important. Virus checking is a must for any system that uses floppy diskettes, Zip diskettes, or the Internet. Whether it’s physically cleaning the computer or the software, maintenance is important to keep your client and office files safe.

Soon-to-be-student-again Marina L Dodaro is an adjunct instructor in the legal assisting program at Sinclair Community College in Dayton, Ohio, from which she graduated in 1994. She owns and operates a home-based software consulting and training business, Andes Design Group. Since 1990, she has trained people individually and in corporate settings. You can reach her mld@siscom.net.

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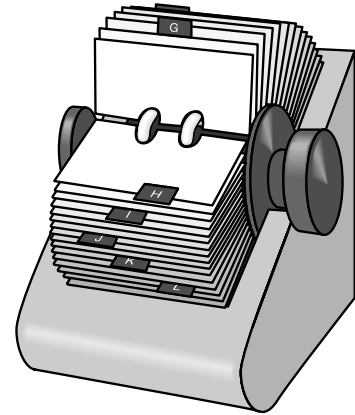
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