



The Scrivener

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Summer 2009

President's Message: Transforming Obstacles into Opportunities

By Kathleen Mountjoy, President

We are all aware that legal document preparers and paralegals were around for several decades before the present legislation was enacted – ostensibly to protect consumers from LDAs.

Unfortunately, the statutes were written with little regard to the practical application of law. Consumers rarely require prosecution of legitimate LDAs, instead they are often harmed by those who continue to advertise as “Attorney Supervised” or “Independent Paralegal” and who fraudulently prepare legal documents in violation of Business & Professions Code sections 6400 and 6450 without a valid registration and the required bond. Enforcement is often

difficult, if not impossible. When I assumed the position of president, ALDAP had just hosted the Tracy Hughes “rogue” seminar and we were forced to face the reality that eliminating rogues would be next to impossible given various limiting factors, *i.e.*, one-year statute of limitations, embarrassment of victims including unwillingness to testify, lack of investigative budget and personnel, and no clear and concise complaint process.

I wanted to lead, but I was caught by surprise. Would we be able to define our role and aid in gaining statewide compliance?

It was our unified desire to banish rogues

once and for all, but after the seminar it was clear that the fight would be an uphill battle. We needed to educate consumers and gain the assistance of law enforcement.

With this in mind we set about several tasks. The first was to correct ALDAP's Bylaws which had been created, much like the LDA statutes, without practical application. The revised Bylaws allow the board to continue its work toward bettering our profession. We revised ALDAP.com into ALDAP.org. This project will be ongoing for quite some time and it is our hope to be a “one-stop shop” for California consumers who wish to self

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UPL, Forgery and Fraud ... Oh My!

By Suzanne Ervine, Vice President

ALDAP is leading the charge to protect consumers and ensure the integrity of the LDA profession. We are diligently working with the California State Bar and local authorities in the investigation of a particular “rogue paralegal,” whom you may have read about on *Scribe* (the names have been changed to protect the victims and the integrity of the ongoing investigation). His victims' stories are compelling and his business practices are extremely troubling.

Our formal complaint was submitted to the local District Attorney, the State Attorney General, and the California State Bar's UPL Project in mid-April. The Bar has opened a file and assigned an investigator, and has been in contact with

Jeffrey Corcoran, our Director of Compliance and Ethics, regarding future efforts to work together for the benefit of consumers and legal service providers. Locally, investigators from the prosecutor's Consumer Protection Unit have been in contact with, and requested additional documentation from, both victims whose declarations were included in ALDAP's formal complaint.

ALDAP is blazing a new trail as we go through this process, and we are compiling a standardized procedure which can be used to assist injured consumers and generate awareness of the LDA profession; how it differs from the paralegal profession; and the registration, bonding and other consumer protection

requirements that must be met by legitimate non-attorney legal document preparers.

We look forward to the day when it is “common knowledge” that LDAs must be registered just as contractors and chiropractors must be licensed; and the frauds, hucksters and other unqualified, illegal competitors realize it is not worth the risk to hang out a shingle as a “paralegal” and freely dispense (bad) legal advice, botch court documents and outright steal from consumers. For years, the rogue paralegals have stolen our profession, our clients and our good name, and the time to claim them as our own is long overdue.

Turn Your “No” Into a “Go!”

By Suzanne Ervine

As a dual-professional paralegal/LDA, I often find myself saying, “No” ... A lot. No, I can't give you legal advice. No, I can't recommend a course of action to get yourself out of this predicament. No, I can't tell you whether being a C-corporation or S-corporation will save you more on taxes. No, your corporation cannot “self-represent.”

With that in mind, this excerpt from *151 Quick Ideas to Get New Customers*¹ really hit home.

store and brought all their friends and family as well.”

When I was a little girl, I was taught that “No” was a bad word, much like it's profane, four-letter brethren that, to this day, I cannot seem to banish from my vocabulary. Perhaps that is why I have always felt such discomfort when turning away a client with a “No.” It was my own need to “let them down gently” that led me to come up with referral sources and a list of options for these non-clients to

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as my responses now roll off the tip of my tongue. However, the process of spending a quiet half-hour listing common questions or scenarios that come up in my business, and my “scripted” responses, was extremely helpful in clarifying the issues, and continues to save me a great deal of time.

So what options can you give to your non-clients? I typically offer the following options, which address the types of inquiries I often receive:

- Links to legal information that they can use to make their own decisions (blogs, articles and even lawyers' websites that offer a good primer or “how-to” article)
- Unbundled legal services (limited scope representation)
- (Encouraging) suggestion that they talk to a librarian at their local public law library
- Attorney referrals (to a handful of practice-area-specific lawyers who I know and respect)
- Suggestion that the local bar association most likely offers a free lawyer referral service
- Free online legal advice (such as www.thelaw.com, *caveat emptor*)

¹ Jerry R. Wilson, *151 Quick Ideas to Get New Customers* pp. 144-145 (Career Press 2005)

Anyone can say “no,” “sorry,” or “tough luck.” But you will earn the respect and business of potential customers when you help them by telling them what you can do. Balance the negative with the positive, and be sure to give the customer options. ~ Jerry R. Wilson

“Anytime you have to tell a customer what you can't do, also tell them what you can do. Always have the information available to offer your customers an alternative if you are not able to meet their needs. Make sure that there are no dead-ends if they deal with you. In the well-known movie *Miracle on 34th Street*, Santa Claus made this principle work for him during the busy Christmas shopping season. When a child sat on his lap and asked for a toy that Santa didn't have he directed the child's parents to a competitor in the area. The parents were so amazed with Santa's behavior, they came back to his

get the help they needed. As it turns out, this has proven to be an effective marketing strategy as well. I have had several of them come back to me, months or years later, with bona fide self-help legal needs; and closing the sale after such a positive first contact is a no-brainer.

To simplify the process of writing the “Dear John” email, or quickly responding to a phone inquiry so I can get back to (paying) work, I compiled a list that I keep pinned to my bulletin board above my desk. I rarely actually refer to it anymore,

Protecting Consumers, Protecting Ourselves

By Jeffrey Corcoran, Director of Compliance & Ethics

Complaints from the members of the public have uncovered a startling number of unlawful acts by those putting themselves out there to assist the public with legal filings. These have ranged from operating an unregistered LDA business and promoting themselves as “paralegals to the public,” to cases of fraud, both to individuals and even to the courts.

ALDAP is currently looking into three companies, based on consumer

complaints of unlawful business practices. As of this date none of these companies has responded to multiple requests for information rebutting any of the consumers' allegations. This lack of response leads to a presumptive conclusion that the allegations are true and known to those involved.

These companies illustrate the difficulties we all face with illegal competitors and

the resulting lack of trust from the public – and the legal community.

Bringing these companies to justice is one of the ways we strive to improve the overall profession. This, along with educating the public to prevent consumers from being taken advantage of, will poison the environment in which they thrive, making a brighter future for us all.

Annual General Meeting Recap: New Website, Code of Ethics and Clients' Bill of Rights

ALDAP's annual meeting, which took place on May 15 in San Diego, was filled with progress and opportunity. We are proud of the strides we have made to protect consumers and foster integrity within the LDA profession.

The most significant action taken was the unanimous passage of an expanded *LDA Code of Ethics and Professional Responsibility*, and a new *LDA Client's Bill of Rights and Responsibilities*, following months of careful consideration and deliberation. All ALDAP members are required to adhere to the canons set forth in the Code.

"In addition to maintaining compliance with governmental regulations—those things we *must* do—it is imperative that

our industry implement self-regulation—those things we *should* do—to ensure the protection of the public and the integrity of the legal document assistant profession," said Suzanne Ervine, vice president.

Although it's been more than a decade since California Business & Professions Code section 6400—the legislation governing the LDA profession—was enacted, the industry remains rife with non-compliant, unregistered "rogue" paralegals with neither the requisite training and experience, nor the registration and bond that affords some measure of consumer protection. "In looking to the future of the growing self-help-legal movement, we decided it was

time to expand our Code of Ethics, and implement additional consumer protections with the Client's Bill of Rights," said Ervine.

Furthering the spirit of consumer protection and professional integrity, palpable throughout the meeting, ALDAP also unveiled a new website, www.aldap.org. This new site features sections designed to serve consumers, LDAs and, of course, ALDAP members. With features such as *10 Tips for Hiring an Legal Document Preparer*, *Limited Scope Representation (Unbundled Legal Services)*, and *UPL: Legal Information or Legal Advice?* the site promises to be a resource for consumers and the legal community for years to come.

Free Legal Research and Forms on the Web

www.lexisweb.com (beta version, results have been authenticated by Lexis editors)

www.lexisone.com/caselaw/freecaselaw (free case law)

www.preCYdent.com (free case law, free forms and documents which have not been authenticated—*use at your own risk!*)

www.courtinfo.ca.gov/forms/ (fillable PDF Judicial Council forms)

www.courtinfo.ca.gov/rules/ (California court rules)

www.law.cornell.edu/rules/frcp/ (federal rules of civil procedure)

www.forms.gov (federal forms)

www.ezlegalfile.com (California Judicial Council and Superior Court forms)

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Scribe

Tips, trends and commentary for professional LDAs & freelance paralegals:

<http://legaldocumentassistant.blogspot.com>

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Trade Secrets: The Electronic Tickler – Effortless Email Follow-Up

By Kathleen Mountjoy

Gone are the days of index cards, colored paperclips, and other such "primitive" reminder systems. That we have all moved into the digital age is a given. But are you really making the most of your software and processes that are designed to boost efficiency and accuracy? Can you offer value-added services that will boost your revenue with little more than a few mouse-clicks?

Consider using Outlook as your tickler or diary. Marking (flagging) a sent or received email with a "follow-up" date provides reminders almost effortlessly. I often send myself email reminders with follow-up notes. This saves me a great deal of time trying to find the file, legal pad and/or page I on which I scribbled notes.

Clients don't mind paying a little bit more for the benefit of receiving reminder letters for CMCs, Scheduling Orders, renewals, and other reoccurring dates.

To mark (flag) messages in Outlook, just click the red flag icon or "Follow Up" and select a date. In Yahoo, click on "More Options" and select a date. If you are using a different program, check the software's Help section for information on how to access this feature.

We all have those helpful hints that make our daily work flow more smoothly. Share yours today! "Trade Secrets" is published quarterly in *The Scrivener*. Share your tips today! For more information, contact Suzanne Ervine at (619) 567-5176 or VicePresident@aldap.org.

The Docket: Andrew Voller, LDA

By Kathleen Mountjoy



Andrew Voller has been a legal document assistant since 2004. Prior to that, this single

dad provided for his five daughters by working as a local haul truck driver for Smart & Final.

Andrew was injured on the job, and through the vocational rehabilitation program he realized he was a perfect candidate to become a paralegal. Andrew attended paralegal courses and obtained his degree from California State University in Monterey. His favorite course was the primer course because that is where he learned the most. Upon graduation, he opened Andrew's Document Services in Manteca. In 2008 Andrew established a second dba, Bankruptcy Services of San Joaquin County.

'I became an LDA so I could help people get the quality services that they deserve,' says Andrew. Being able to help people solve their problems and interacting with people is natural to Andrew. His personality and demeanor set him apart from other LDAs, as he tends to help people relax and feel at ease. It is often difficult for people to open up about personal issues and Andrew has a unique way about him that makes others comfortable.

Andrew's biggest challenge as an LDA is preparing pleadings on behalf of his customers. An LDA cannot draft

pleadings, but can only prepare documents as instructed by a client. The client's "learning curve" is often a long road stretching out between client and LDA. Andrew works in all areas of the law and much of his work includes civil Superior, Federal and Appellate court documents. "These projects require a great deal of client participation and this is indeed a challenge, to get clients to participate in their own legal proceedings," he said.

Andrew cites his former clients as his biggest inspiration. "I live in a small community, and when you walk down the street, and you see previous customers," said Andrew. "They recognize me and stop me, letting me know how much I helped them and how happy they were with my services."

Andrew advises new LDAs to avoid taking on projects that are over your head. "If it does not look like something you can handle, don't do it," he says. Also, as you grow your practice, make sure that you do not grow too quickly. He also cautions all of us to make sure you can reasonably handle the work flow before agreeing to take on additional work.

NOLO® is Andrew's favorite professional publisher. He uses NOLO® all the time and provides his clients with NOLO® publications so they may educate themselves without trying to navigate through the thousands of books at the law library.

Andrew is surrounded by women at all

times. He has five daughters and his assistants are female. When asked what he does in his spare time and for vacations, he laughed and said "What spare time – What vacations?"

Obviously, Andrew is a dedicated parent and business owner. This does not mean that Stockton's most eligible bachelor has no social life. He most certainly does. Andrew is an avid racing fan, loves camping and travel and has many loyal friends.



Prior to joining ALDAP's board of directors, Andrew served on the board of directors of CALDA, a professional association comprised of LDAs, as its Director of Professional Standards. Since joining ALDAP, he has served as ALDAP's secretary and, presently, Director of Legislation.

He lives in Stockton where he has established a second office of Andrew's Document Services, directly across from the courthouse. Andrew offers LDA and paralegal services, is a bankruptcy petition preparer, a registered process server, and an all around nice guy.

Andrew can be reached at:

- <http://AndrewsDocumentServices.com>
- <http://www.bankruptcyservicesjc.com>

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We want to get up close and personal with YOU! "The Docket" is published quarterly in *The Scrivener*. For more information or to be featured, contact Suzanne Ervine at (619) 567-5176 or VicePresident@aldap.org.

President's Message

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represent and retain a legitimate legal document assistant.

ALDAP also aided in a (pending) investigation of one of the most egregious offenders. Through our own investigation and subsequent transmission of information to the authorities, ALDAP is now partnered with the California State Bar and other prosecuting agencies. Right now our top priority is to continue the work we started with investigators and other law enforcement officials to prosecute and shut down illegal document preparers. We have gained the interest of the authorities and have now proven that we are an able partner in regulation and enforcement of compliance.

This board has endured long nights meeting to create a clear outline for ALDAP's five year plan. We believe we have succeeded with the projects undertaken to date and we have accomplished a great deal in a short period of time. However, we have much more work to do. I would like to share our successes with you. In the past year we have: revamped ALDAP's core mission, revised our Bylaws into a cohesive governing document which affords us the continuity and rules with which to perform, launched ALDAP.org which will continue

to evolve into the LDA consumer guide for self representing parties, including a *Client's Bill of Rights and Responsibilities*, and an expanded *LDA Code of Ethics and Professional Responsibility*. We have continued to publish *Scribe* and are committed to marketing our members as paralegal/LDA dual-professionals. ALDAP members are the cream of the crop in compliance and business practices, and we look forward to implementing a wealth of other ideas and concepts that will promote our profession and aid in the delivery of quality self-help legal services.

I would also like to share my sense of achievement when I receive correspondence from the California State Bar or a local county District Attorney, thanking us and asking for our continued participation and help, or that of a consumer who has had his or her issue resolved via ALDAP's interaction and who writes of gratitude. It feels damn good! Why not jump in and help with our mission? By joining our association you have shown your commitment to professionalism and integrity. As a member, you have a unique opportunity to make a difference and bring our profession up to the standard it deserves. ALDAP is seeking members who would like to work with Jeffrey and perform

research dedicated to investigations of illegal operators. Vacant board positions are available. Take this opportunity to make a difference in your chosen profession.

The Scrivener is published quarterly by the Alliance of Legal Document Assistant Professionals, Inc., a non-profit mutual benefit organization serving California registered LDAs and Paralegal/LDA dual professionals. To learn more or download a membership application, visit us on the web at www.aldap.org.

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Visit our NEW website at www.aldap.org!

Featuring sections specifically designed for you, the professional LDA, and your clients:

- The LDA Contract and Notice to Consumer (download in RTF and PDF formats)
- Free online legal research and forms
- Unauthorized Practice of Law (UPL): Legal Information or Legal Advice?
- Limited Scope Representation (Unbundled Legal Services)
- "Attorney Supervision," Running & Capping, and the Rogue Paralegal
- LDA Clients' Bill of Rights and Responsibilities
- Legal Document Assistant Code of Ethics and Professional Responsibility
- Statutes governing non-attorney legal service providers (including LDA, paralegal, BPP, UPL)
- And MUCH more!

Log on today at <http://www.aldap.org>

Note: If your website has links pointing to ALDAP, please update them to the new address, www.aldap.org

The LDA's Bookshelf: The American Bar Association's Consumer Education Guides

By Kathleen Mountjoy

The American Bar Association (ABA) may seem like an unlikely source for LDA-friendly materials. However, their collection of resources can save LDAs a lot of grief when working with consumers who wish to handle their own civil cases, but have no knowledge or experience with court processes.

The ABA's Division for Public Education has three informational publications to help people better grasp court processes, which may prove indispensable to the LDA. Written in a direct, reader-friendly system, these booklets will help anyone better understand courts and their role in preserving and protecting our liberties. These books are approximately 5.5" x 8" in size and are beautifully presented, which will work to your advantage when selling clients, and they make for very affordable handouts.

Volume I – The Role of Courts looks how courts fit into our system of separation of powers, with particular emphasis on the role of judges and the importance of

judicial independence. (Item No. PC#235-002798)

Volume II – Court Procedures gives readers a quick look at a legal case from beginning to end. It covers how cases begin, and moves through pre-trial motions, hearings and settlement conferences, to jury selection, the steps in a trial, and the final stages – verdicts and the appeals process. (Item No. PC#235-0041)

Volume III – Juries focuses on the role of the trial jury. It looks at the history of juries, the constitutional protections for juries, trial juries in action, and problems with juries and possible solutions. It also considers grand juries and possible grand jury reform. (Item No. PC#235-0202)

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