



The Scrivener

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The Official Newsletter of the Alliance of Legal Document Assistant Professionals

Winter 2010

President's Message: A Marriage Made in Heaven – California's LDAs and the Courts

By Kathleen Mountjoy, President

ALDAP is dedicated to the ultimate resolution of the struggles facing Californians as they attempt to access the judicial system. Our board members regularly participate in legal events throughout the state on behalf of ALDAP.

In addition to our written response to the Elkins Family Law Task Force's Draft Recommendations, Education Director Gail Hahn and I each recently appeared at task force meetings, voicing ALDAP's position that inclusion of LDAs as a court referral resource would greatly relieve the burdens placed on the courts by self-representing court users.

At the Los Angeles meeting, Gail presented evidence to the task force that implementation of California's registered legal document assistants (LDAs), as a court referral resource, would effect an immediate and positive impact on court efficiency at negligible cost.

At the San Francisco meeting my

presentation focused on consumer and pro per education, mandatory fraud notices, mandatory pro per declarations, and publication of ALDAP's LDA Directory. I urged the task force to recognize that the courts are perfectly situated to increase and enhance consumer protections while easing their own burdens by introduction of California's legal document assistants.

It's a sad fact that enforcement of Business & Professions Code §§ 6400, et seq. is nonexistent. Today's economy has only made a bad situation worse. There are no funds or personnel to investigate and prosecute rogue document preparers. Rogues outnumber registered and bonded LDAs. Even judges, attorneys and court personnel frequently refer or recommend *pro pers* directly to "paralegals" – who are really rogues.

ALDAP intends to continue its efforts to increase consumer protections, boost recognition of LDAs, and enhance the

reputation of ALDAP's members by active participation with the bar, the Judicial Council, the Administrative Offices of the Courts, and the judiciary.

We were the first to take note of the prohibitive provisions contained in AB 590, and the legislators worked directly with ALDAP's board to remove the proposed language four days prior to the deadline for amendment.

We are making ourselves known at the Superior Courts county by county. We receive calls every day from consumers seeking assistance in resolving issues or who have visited our website and want a referral to an ALDAP member.

We are a proactive force in the legal profession as it evolves from a jurist monopoly into a consumer-driven industry. A marriage between the courts and California's legal document assistants would strengthen consumer protections while greatly reducing court traffic. As such, it is a match made in heaven.

Membership Benefits

By Moira Boyle, Director of Fundraising & Membership

I look forward to serving as the voice of membership for ALDAP. As I network with paralegals and legal document assistants throughout the state, I always am asked which association I believe best suits various types of LDA practices.

A majority of those questions can only be answered in a word – ALDAP.

I say a majority because only a select few LDAs possess the qualifications for membership. ALDAP's mission is to protect consumers and to increase and enhance professional integrity. Only those LDAs who are in absolute compliance are eligible for membership. As a consumer protection enhancement, applicants must also be paralegals and additional

continuing education is required to maintain ALDAP membership status. Prospective members are required to pass examinations demonstrating practical experience and knowledge of legal ethics.

ALDAP members uphold the integrity of the LDA profession by conducting

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Letter from the Editor

Dear Readers,

"A rising tide lifts all the boats."

In 1963 these words were heard around the world. Generally used to describe the idea that when an economy is performing well all people will benefit from it, these seven little words were summoned by President John F. Kennedy as he pledged America's continued defense of Europe. Five decades later, this undeniable truth is at the heart of everything ALDAP does.

The board of directors is proud to continue challenging the profession, its practitioners, and even ourselves to simply *do better*. We envision a day when all LDAs claim their rightful place among a full roster of legal service options, enjoying referrals from legal clinics, attorneys, court personnel and the judiciary.

To bring this vision to fruition, we must do our part to help ensure that the profession, as a whole, subscribes to the highest standards of integrity, compliance and competence. Gone are the days of "LDAs vs. attorneys," or even "LDAs vs. paralegals." There is no "us" and "them"; only a difference in the available options and the appropriateness of each option for a consumer's particular situation, whether it is a simple form or a complicated civil matter that a self-represented litigant intends to take all the way through trial.

By clearly communicating our role in the client's case and educating court clerks and opposing counsel – consistently and accurately, *everytime* – we are one step closer to bringing in the tide.

It is my hope that this issue of *The Scrivener* challenges you, expands your knowledge, and generally floats your boat.

Happy Reading,

Suzanne Ervine
Vice President

Compliance Corner

Jeanne Wierson, CP, ALDAP's director of compliance and ethics, has created consumer forms and a policy manual for implementation by ALDAP's board pursuant to an advisement from members of the Elkins Family Law Task Force. This project is scheduled for completion at the end of February, following board

review. The materials will then be published on our website "Consumers" page. This project is critical to ALDAP's success in securing inclusion of California's LDAs into court referral resources. ALDAP is extremely grateful to Jeanne for her dedication to consumer protection and professional integrity.

Education and Court Liaison Committees

ALDAP is submitting applications for our members to serve on various local county legal panels as the opportunity arises. If you are willing to volunteer a few hours each month and wish to represent ALDAP and California's legal document assistants by voicing our intention to

propel the self-help legal industry into its rightful position in the legal profession, then please email Education@aldap.org with a short statement explaining your availability and commitment to such a task.



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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.

ALDAP is a 501(c)(6) tax-exempt organization. Contributions or gifts to ALDAP are not tax deductible as charitable contributions for federal income tax purposes. However, membership dues may be tax deductible as ordinary and necessary business expenses and contributions or gifts may be tax deductible under other provisions of the Internal Revenue Code. Please consult your tax advisor.

themselves and their businesses in accordance with ALDAP's *Code of Ethics and Professional Responsibility*. Our members offer clients a *Bill of Rights and Responsibilities* to further define the relationship between LDA and client. ALDAP is an association for a more sophisticated LDA, one who is also a paralegal and who serves both the bar and consumers while complying with all laws governing the dual-professions. Both consumers and attorneys enjoy peace of mind, confident that the ALDAP member they have hired possesses this unique skill set, and conducts himself or herself with the utmost integrity.

ALDAP is recognized by law firms, Superior Court personnel, the AOC, the California Legislature and various court committees, *e.g.*, Elkins Family Law Task Force, et al. Our membership enjoys a broad base of support, including fans and subscribers that include LDAs, paralegals, court clerks, attorneys, law librarians, private investigators, process servers, bond agents, and judges.

With the rapid movement in social networking ALDAP has reached across the globe educating legal professionals providing updated, accurate information

pertaining to growing your business, marketing, legislation, and educational opportunities, including low-cost or no-cost paralegal MCLE options.

Want the latest buzz on the Legal Document Assistant Profession? ALDAP is an industry leader in social media and networking. From its very beginning ALDAP has maintained a broad – and growing – online presence, including sites like Blogspot, LinkedIn, Facebook and Twitter.

I watched ALDAP grow and develop since its creation three years ago. If you qualify for membership, do yourself a favor and join with other professional self-help legal advocates.

Why ALDAP? That's easy. ALDAP is first to report 1) Legislation Affecting LDAs; 2) New Products and Services; 3) Tips and Trends; 4) Online Directory of All California Registered LDAs; 5) Compliant Business Practices; 6) Rules Changes, Court Events and Legal Awards; 7) News and Articles on Self-Representation and Access to Justice – *and more!*

ALDAP members enjoy quarterly newsletters containing information critical to the LDA/paralegal dual-professional.

ALDAP members also enjoy access to *The Vault* an online document depository containing practice guide information, sample forms, rules of court, instructional manuals and self help materials. *Scribe*, ALDAP's blog, is featured in several prominent "blawg" directories, with many articles going "viral" and being re-posted on a number of paralegal and judicial access sites and blogs.

ALDAP is proud of its accomplishments in the self help legal advocacy arena – a direct result of efforts made *by LDAs, for LDAs*. ALDAP, through its board and membership is specifically designed to determine those issues relevant to the dual-professional and it has the perspective and foresight to seize all opportunities to further the LDA profession.

For more information about joining ALDAP, log on to www.aldap.org, or contact Moira Boyle, Director of Fundraising & Membership, at Membership@aldap.org or (714) 998-8259.

The LDA's Bookshelf: The DCA's Guide to Residential Tenants' and Landlords' Rights and Responsibilities

By Suzanne Ervine

I often encounter clients in the unfortunate position of needing to evict a tenant (or being evicted) with little to no understanding of the process, or the notice and service requirements that must be met before proceeding with an unlawful detainer action. I also frequently receive requests to advise the client regarding how to handle unnamed occupants, whether to name minor children of the parties who signed the rental agreement, or whether they "should" serve a 3-day notice that includes an election of forfeiture.

Of course, I cannot legally answer any of these questions. However, the

Department of Consumer Affairs (DCA) has done just that. *California Tenants: A Guide to Residential Tenants' and Landlords' Rights and Responsibilities* offers my clients the answers to all of their questions in an organized, plain-English, user-friendly format.

I especially like this publication because it is chock-full of footnotes citing to statutory authority, case law, mass-market books (e.g. NOLO Press), and practice guides published by The Rutter Group and Continuing Education of the Bar, should the client desire more detailed research on any particular topic.

I like the price best of all. It is often said that you get what you pay for, and I usually agree. However, not this time. This invaluable resource is available at no charge through the DCA's website (<http://www.dca.ca.gov/publications/landlordbook/catenant.pdf>). The publications section of DCA's website also contains links to articles such as *How to Get Back Possessions You Have Left in a Rental Unit*, and *Options for a Landlord: When Your Tenant's Personal Property Has Been Left in the Unit*. For a list of all of the DCA's consumer legal guides, visit http://www.dca.ca.gov/publications/legal_guides/index.shtml.

ALDAP Launches Statewide LDA Directory

By Suzanne Ervine



In an effort to protect consumers against fraud as well as to provide the public with a directory of legitimate legal document assistants, ALDAP has published a searchable list of California's registered and bonded LDAs, located at www.aldap.net. The directory can also be accessed through links placed directly on ALDAP's main website at www.aldap.org. ALDAP has compiled the data from clerks' offices in many California counties, and works to continually update the LDA Directory.

Many ALDAP members have asked why our LDA Directory includes legal document assistants who are not members of our association. The board of directors based its decision to include non-members on several factors, as noted below.

In talking with Elkins Family Law Task Force members, Gail Hahn, ALDAP's education director, was urged to implement a statewide directory that was all-inclusive, offering self-represented litigants a comprehensive resource they could use to locate a bonded and registered LDA. The Task Force's goals include increasing access to justice and ensuring due process to self-represented litigants.

ALDAP, too, shares these goals – goals which are clearly supported by the publication of a neutral statewide directory that is not subject to change based upon collection of dues, donations or the almighty advertising dollar.

Secondly, our membership does not presently include representatives from all California counties. (In fact, some county clerks reported that they have ZERO registered LDAs – information that is somewhat troubling in light of the fact that the legislation requiring registration is more than a decade old!)

Failure to include LDAs, solely based on their membership status in ALDAP, does nothing to help protect the consumer from rogue paralegals in his or her community,

nor does it foster the sense of "access" to which ALDAP has been committed since its inception.

Finally, and perhaps most important of all, ALDAP is required by law to represent the profession as a whole, not just those who have paid dues in order to obtain a directory listing. To qualify for tax exemption under section 501(c)(6) of the Internal Revenue Code, ALDAP must meet certain requirements, including those pertaining to the "performance of particular services by an organization for its members," which is not considered a legitimate 501(c)(6) activity. "While such activities, in and of themselves, do not preclude exemption, an organization whose primary activity is performing particular services is not exempt under IRC 501(c)(6)."¹

"Advertising that carries the names of members generally constitutes the performance of particular services for members."² "On the other hand, an organization formed to promote the business of a particular industry and conducts a general advertising campaign to encourage the use of products and services of the industry as a whole qualifies for IRC 501(c)(6) exempt status notwithstanding that such advertising to a minor extent constitutes the performance of particular services for its members."³

This salient point was never made more clear than when ALDAP applied for tax-exempt status when it was first established. At that time, we offered a member directory via the organization's website, as a benefit of membership. The initial application for exemption was denied by the IRS, because of that online membership directory, on the grounds that it functions to "steer business to for-profit entities and therefore further the private interests of the for-profit entities." ALDAP removed the online member directory, filed an appeal, and our 501(c)(6) exemption was granted.

Just as we expect all ALDAP members to conduct themselves with integrity and in

compliance with all applicable laws, we as a board have a duty to ensure the association itself "walks the walk." By providing a comprehensive, neutral resource for use by consumers, the courts, the judiciary and the bar, ALDAP is one step closer to fulfilling its goals of generating awareness of non-attorney legal services, educating consumers, and integrating our services with the legal community and the general public.

We envision of a day when all LDAs are held to the same educational standard as paralegals, as evidenced by ALDAP's requirement that all members meet the standards contained in both Business & Professions Code §§ 6400 et seq. and §§ 6450 et seq.

To help consumers locate an LDA who has demonstrated compliance with the more stringent education and experience requirements of paralegals, the LDA Directory includes an option to filter results by membership in ALDAP. The board felt it was important to give our members a way to differentiate themselves from the "doc jockeys" who merely fill out forms while providing very little self-help information or instructions, and to give consumers an opportunity to find service providers who have demonstrated their adherence to both chapters of the Business & Professions Code.

While ALDAP endeavors to include all registered legal document assistants we may miss your registration. The list is open and any LDA may request inclusion. Please email your request to info@aldap.org. Please include your name, business name, county, LDA number and expiration date.

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- 1) John Francis Reilly, Carter C. Hull, & Barbara A. Braig Allen, *IRC 501(c)(6) Organizations (Exempt Organizations-Technical Instruction Program Manual)*, 26-30, <http://www.irs.treas.gov/pub/irs-tege/eotopick03.pdf>.
 - 2) Rev. Rul. 64-315, 1964-2, C.B. 147.
 - 3) Rev. Rul. 55-444, 1955-2, C.B. 258.

Compliance is a Two-Way Street Leading Directly to the Land of Professional Integrity

By Kathleen Mountjoy

Recently, Suzanne Ervine and I availed ourselves of the opportunity to update our knowledge in corporate compliance measures by participating in the 7th Bi-Annual Leadership Conference, presented by the California Alliance of Paralegal Associations' (CAPA) and hosted by the San Diego Paralegal Association (SDPA). "Surf, Sun and Sand: Making Waves with Strong Leadership" featured hands-on exercises combined with sophisticated presentations, and reminded us of the weighty responsibilities shouldered by directors of a non-profit, tax-exempt corporation.

It was reaffirming to hear from almost every presenter that it takes courage to do the right thing, particularly when what is right conflicts with what might be popular or less threatening. This is what the founders of ALDAP wanted: to do what was needed – to do what is right.

We each left the conference with pages of notes and our handouts covered in scribbles. When I wasn't taking notes I was copying Suzanne's and I think, for once, she might have even been copying mine. Either way, we left the full-day conference totally amped, congratulating ourselves that ALDAP's formation and ensuing management had been in absolute compliance. We were pleased with our service to our membership; to protect ALDAP on behalf of its members is an honor and, we had thought, a true challenge. We recognized that we stumbled from time-to-time but we always righted ourselves and performed our due diligence – all on behalf of the

Scribe
Tips, trends and commentary for professional LDAs & freelance paralegals:
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membership and the integrity of the corporation as a whole. We left that conference empowered by our unwavering determination to do what is right rather than what might be popular – the very essence of ALDAP itself.

Recently, a few well-known non-profits have been prosecuted by the Internal Revenue Service (IRS) for violations concerning the decision of directors to approve payments to other directors, often a clear violation of IRS rules governing tax-exempt, non-profit corporations.

Others have eluded the reach of the IRS but have been buried in a flurry of criticism in the media or from members of the communities they serve.

Far too frequently, directors are lackadaisical and often surprisingly stubborn when it comes to proper management of a tax-exempt, non-profit corporation. Individuals who jump on boards in an effort to further their own personal or business interests and who lack requisite corporate business knowledge create an environment of "me first" and the careful, considered thought process owed as a duty to the corporation becomes skewed. The corporation begins to serve its directors rather than directors

servicing the corporation. Poor management and a lack of business experience and professionalism create a springboard for self interest. As the corporation's moral structure erodes, management is rendered ineffective resulting in a failure of the board to serve its members. You might as well just shred the Mission Statement.

ALDAP is California's steadfast leader in LDA compliance. We require that our members strictly comply with the laws governing dual professions and we in turn, expect ALDAP's board to become fully knowledgeable and follow all laws governing management of a non-profit, tax-exempt corporation.

ALDAP's Board Policies and Procedures Manual is provided to each new director in order to carry through the fundamental philosophies of the organization while maintaining the absolute purity of the corporate structure. Self interest is not an option and balances have been put into place to assure compliance. "As leaders in our community, it is imperative that we constantly strive to improve ourselves and add to our skill sets in order to keep a fresh vision and to feed our passion to benefit those we serve," wrote CAPA President Mel Irvin. His sage advice is well taken.

The Pleading Vault

Do You Have a Key to *The Vault*?

Visit *The Pleading Vault* today for our collection of forms, sample documents, pleadings and informational brochures

<http://groups.yahoo.com/group/aldap/>

Evaluate and Refocus: February 22 in San Diego



ALDAP has moved mountains in its efforts to gain recognition by the courts and other legal professionals who traditionally ignored LDAs. We constantly remind these astute legal professionals that we were the people who worked behind the scenes in their law firms, making each one a success. When it is presented to them like this – their ears turn on and they all of a sudden realize that we provide a much needed service. We know we are headed in the right direction.

To advance ALDAP's efforts, your board of directors will meet on February 22 in San Diego to re-evaluate the association's focus and outline strategies and board projects for the remainder of this term.

Nominations will soon be upon us and if you are at all interested in the board's work or if you are thinking of accepting a board position and want to check us out, please make plans to attend the San Diego board meeting. We appreciate input from all of our members. For more information about this meeting, contact Kat Mountjoy at President@aldap.org or (916) 622-6332.

We invite you to join our growing board of directors. The nominations process for the next term has begun, with the slate of candidates due to the board in March.

The following officers and directors will be elected at the annual membership meeting in May:

- Vice President
- Secretary
- Treasurer
- Director of Compliance & Ethics
- Education Director
- Director of Membership & Fundraising
- Legislation Director

Similarly, we invite interested members to serve on the Nomination Committee which, pursuant to ALDAP's bylaws, is chaired by the vice president. For information about serving on the Nomination Committee or running for an elected position, please contact Suzanne Ervine at VicePresident@aldap.org or call (619) 567-5176.

Trade Secrets: Stay on Top with OnLAW®

By Suzanne Ervine

Rarely does the typical LDA client need assistance solely with legal form preparation. They often have a host of questions about both substantive and procedural law. Therein lies the dilemma.

Professional integrity or client satisfaction? Why should you have to choose one over the other? ALDAP urges you to put your paralegal skills to work, to provide your clients with exceptional informational and educational services in addition to the mere typing of legal documents.

Years ago, as a new paralegal, I relied heavily on practice guides from The Rutter Group (TRG) and Continuing Education of the Bar (CEB). Today, as an LDA...well, I don't think I would be an LDA at all if I did not have these resources at my disposal.

The law library has long been one of my favorite places on the planet. I am convinced that I got my second paralegal job solely because, during the interview, I blurted out some remark about how much I love the law library because of the smell of old books; my soon-to-be supervising attorney clearly shared my olfactory fixation. I would imagine that he, too, has

grieved the loss of that familiar, pleasant aroma of worn, yellowed books which have been made all but obsolete in the digital age. What a gift this is, however, even for a Luddite like me.

I am absolutely smitten with CEB's OnLAW®, the electronic version of nearly its entire library of practice guides, action guides and forms. While some smaller library branches may not have all volumes, and even if they do searching the collections on the shelves can be cumbersome and time-consuming, they do offer free online access to OnLAW®. I avoid wasting time waiting for my turn at the public computers (or the frustration of having my time limited when others are waiting) by using my own laptop and taking advantage of the library's free WIFI access. This way, entire chapters can be downloaded directly to my computer, and I can print or PDF them for clients' use.

As an added bonus, using OnLAW® in this way has saved me a considerable amount of money. I no longer purchase annual updates for the books in my office. With most guides, I use only a handful of chapters so I make sure I download the updated chapters twice a year from OnLAW®. The collection on my own

office bookshelves is now yellowing, and seems just as obsolete as the collections on some of those library shelves. Now, if I could just find a Glade® with the "old library books" scent...

Note: Portions of this article were excerpted from "Helping Your Clients Be the Best Lawyers They Can Be: Tips to Enhance Your LDA Practice and Successfully Carve Out Your Niche as the Go-To-Resource for Do-It-Yourselfers," presented at the LDA Roundtable on September 11, 2009, in San Diego. This Roundtable, held in conjunction with the California State Bar's 82nd Annual Meeting, was a resounding success, and we look forward to "taking the show on the road" in Central and Northern California. If you would like to help coordinate an LDA Roundtable in your community, please send an email to education@aldap.org.

ALDAP created the LDA Roundtable as a forum to discuss topics related to the LDA and contract paralegal professions, and to enable self-help legal service professionals to get the answers they need and share their knowledge in a pleasant and informal environment.

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: Kathleen Mountjoy, LDA

By Suzanne Ervine



Kathleen (Kat) Mountjoy is an owner of Catalyst Legal with offices in Lincoln and San Diego.

Kat has been involved in the legal profession since she was a young girl, working after school and on weekends at her mother's law firm. Growing up with a law firm as her "babysitter," Kat has worked in almost every support staff position. She started out washing dishes, stuffing envelopes, picking up lunches and updating the law libraries.

At age 17 Kat found herself forced into a job that she had never wanted. "My mom was an old-fashioned legal secretary who was 150% dedicated to her job. She missed out on school plays, parent-teacher conferences and other events that I felt moms should be involved with. It felt like we were always second fiddle to her work and her boss – the Almighty Attorney at Law. My mom's work ethic and dedication were to me evidence of her servitude to the firm. I never wanted this type of life for myself," said Kat.

So it came to a huge surprise to Kat to find that she enjoyed the job duties of a legal secretary. "I loved making the pretty documents, typed perfectly with onion skin and yellow copies using carbon paper. All pleadings (there were no forms yet) were blue-backed and if you made a mistake on a Will you had to start all over again, banging away on the typewriter," she said. "

I just loved the paperwork aspect as well as the fact all my friends were either still in school or working at McDonalds. I was the one with the 'real' career – at a whopping \$1.35 per hour. I used to joke that if the firm got rid of attorneys, clients and files it would be a decent place to

work. Really, I loved the work; hated showing up."

Eight years later, Kat was still showing up each day working as a Family Law Paralegal in a national firm. Kat became the office manager, moved on to becoming District Staff Coordinator and then, was firm administrator for 148 offices nationwide. Kat also became an officer in her local legal secretary association, eventually moving into the position of president. Kat served LSI for several years and was also on the board of the Northern Central Valley Forum, a small association offering educational training to legal professionals for the benefit of McGeorge School of Law. During the 1980s and early '90s Kat published legal articles, ran the local Mock Trial program and dedicated her volunteer hours to the legal profession. She also served as a State Bar Annual Meeting volunteer for almost a decade.

Through her career, and as a result of "on-the-job" training provided by her mother who was not an "easy" instructor, Kat learned top-notch paralegal skills which would serve her well throughout her life. Always in high demand as a paralegal and legal secretary, Kat worked for various law firms for over 30 years, and retired with the intention of becoming a legal document assistant.

In 2005 Kat registered and started selling services to the general public. "I joined CALDA and became involved with the association. It did not take me long to figure out that consumers were still hiring 'rogue paralegals' and despite the fact that 6400 had been around for almost six years, no one really knew about legal document assistants – except for other legal document assistants. I was also baffled to find that there was absolutely no prosecution of those who refused to comply with the laws regulating our profession. There were many of us who complained but that was all anyone did – complain. It seemed to me that somebody needed to do something besides sit around and talk, which is all anyone had

been doing since the passage of 6400," she said. "I just thought, it's been almost a decade and LDAs are no more recognized than they were in the beginning. We need to do *something!*"

That something materialized when Kat associated with Moira Boyle and Suzanne Ervine to create a new association for LDAs who are also paralegals. Their intention was three-pronged: Kat wanted to work toward enforcement of 6400; Suzanne wanted to enhance the reputation of LDAs; and Moira wanted to unify and draw the distinction between LDA/paralegals and "doc jockeys."

"We took our small ideas and concepts and began to put it all together into a cohesive plan. We had many supporters who also helped with our efforts and ALDAP was launched."

"My involvement with ALDAP has brought me a great deal of recognition. Sometimes it is difficult to rationalize an expenditure of time and energies when you are not being paid for your work. I am pleased that my LDA business has benefitted from my volunteer work," said Kat. "My association with ALDAP has only helped my businesses grow. I am now earning an income and running an operation that I only could dream of six years ago. I have created a niche for myself and can only see further successes in my future. I provide a much needed and valuable service to California's consumers and consider myself a leader in the legal self help movement. I am proud to be a California legal document assistant and a successful business owner. My work as a professional LDA/paralegal and my involvement with ALDAP has changed my life.

"And, guess what – I no longer have to show up!"

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.

ALDAP Successfully Pushes for Legislative Amendment that Protects Consumers, Self-Help Legal Service Providers



Last fall, California's proposed Assembly Bill 590 threatened to effectively outlaw many legal professionals who offer self-help services to consumers handling their own legal matters.

While the legislative intent was to make the courts more accessible to the self-represented litigants, increase the amount of *pro bono* legal assistance provided by attorneys, and protect consumers from fraudulent "legal aid" businesses, AB 590 contained strong prohibitions against the delivery of self-help legal services. These provisions went unnoticed for months – until ALDAP "broke the story" a mere 10 days before the final deadline for legislative amendments.

Upon the discovery of the troubling language contained in the bill – which would have made it illegal to sell forms, documents or self-help services that are offered by a non-profit legal aid organization or court clinic – letters were sent and telephone calls were placed, expressing ALDAP's concern regarding the negative impact this would have – not only on registered legal document assistants, but also attorneys who offer limited scope representation, immigration consultants, and self-help legal professionals who are regulated under federal law, such as bankruptcy petition preparers.

"When ALDAP mustered its legislative forces, we were not content to merely carve out a narrow exception for LDAs," said Kathleen Mountjoy, a dual-professional paralegal and legal document assistant and president of the association. "ALDAP is deeply committed to big picture – balancing consumer protections with judicial access."

"The Assembly Judiciary Committee's response was swift and commendable," said Mountjoy. "I received a call the very next day from the Deputy Chief Counsel. I was delighted to hear his assurances that the legislators 'in no way meant to prohibit

LDAs from doing the much necessary and good work' that we do for California's consumers, and that the bill would be amended accordingly."

But there was much more work to be done.

Other legal document assistants had become involved in the effort, and negotiated a legislative amendment that exempted registered legal document assistants and unlawful detainer assistants from the exclusionary language. ALDAP, however, remained a stalwart advocate for the availability of a range of affordable legal services, offered by a wide variety of self help legal professionals – with integrity and in compliance with California law.

"By this time, California's LDAs could rest easy knowing their livelihoods had been protected," said Suzanne Ervine, a registered legal document assistant and paralegal, and ALDAP's vice president. "However, ALDAP's board of directors continued to take issue with the remaining prohibitions against other self-help legal service providers, and the resulting elimination of several options consumers may select for assistance in resolving their legal issues."

"Unfortunately, that narrow LDA exception failed to include those otherwise exempt from [Business and Professions Code] section 6400, and would have limited those who lawfully provide self-help services as described in the Code, but who are exempt from the registration and bonding requirements," said Mountjoy.

ALDAP pressed on.

"As the law currently stands, consumers facing legal issues generally have five options, which range from extremely costly to free-of-charge: 1) attorney representation; 2) self-help services provided by an attorney offering limited scope services; 3) self-help services provided by a registered legal document

assistant; 4) no-cost legal aid through a non-profit organization, court clinic, or other agency; or 5) completely on their own with no assistance," Ervine wrote in a letter to the Assembly Judiciary Committee.

"It is not uncommon for a consumer to seek advice from an attorney, while retaining the services of a legal document assistant to prepare and process their paperwork. We recognize the Legislature's desire to avoid crafting a broad exception to the proposed 6159.52, which could undermine the very purposes of AB 590. However, we also believe that the provision of unbundled services (limited scope representation) is an asset to consumers, and indeed the entire judicial system."

"A blanket prohibition on assistance in the form of limited scope services within the self-help context could put consumers in the unfortunate predicament of having to choose between the high cost of full attorney representation – which they cannot afford – or the *pro bono* services offered by the legal aid organization," said Ervine. "ALDAP wanted to ensure that the final language of AB 590 would not limit the choices of consumers, by eliminating the mid-range options – limited scope services from an attorney, or self-help services from a non-attorney legal professional."

Again, the Assembly Judiciary Committee's response was immediate and admirable. Rather than simply stating that the prohibitions did not apply to legal document assistants, AB 590 was amended to entirely remove the prohibitions against providing legal forms and self-help services. "Given the difficulty in balancing the conflicting public policy implications, we believe this is the better approach," said Mountjoy.

The amended AB 590 passed both the Assembly and the California State Senate and was signed by Governor Arnold Schwarzenegger on October 11, 2009. The new law becomes effective in July 2011.

Court Closures to Continue Through June 2010 in Response to Judicial Branch Budget Cuts



Report Shows Estimated Savings of \$63 Million

At a public meeting on January 21, the Judicial Council of California approved the continuation of one-day-a-month court closures through June 2010, in response to severe budget reductions in the judicial branch budget for fiscal year 2009–2010.

“Today’s action to continue court closures through June 2010 reflects the severity of the state’s economic crisis and the unprecedented reductions in the judicial branch budget,” stated Chief Justice Ronald M. George, chair of the 28-member council, the administrative policymaking agency for state courts.

“The council’s decision does not lessen our longstanding goal to provide access to justice for Californians, he continued. “For this reason, the council today reaffirmed its commitment to seek adequate resources from the Governor and Legislature to avoid statewide court closures in the next fiscal year.”

History of Court Closures

The court closures are designed as a uniform cost-saving tool to assist California courts in absorbing substantial budget reductions imposed in fiscal year

2009–2010. The closures were authorized by Government Code section 68106, passed by the Legislature and approved by the Governor as part of this year’s state budget.

At a public meeting on July 29, 2009, the Judicial Council designated the third Wednesday of each month from September 2009 through June 2010 as a uniform statewide court closure day. The council directed that on that day, all superior courts, Courts of Appeal, and the Supreme Court would be closed. The Administrative Office of the Courts closes on the same day as the courts.

Impact of Court Closures

At the time the court closures were approved, the Judicial Council directed that an evaluation be conducted of the impact of closures on the courts, the public, and justice system partners. The evaluation included statewide survey responses of 54 superior courts, all 6 Courts of Appeal, the Supreme Court, and 275 justice system partners.

The evaluation report included the following findings:

- By June 2010, it is estimated that the total cost reductions achieved as result of statewide court closures will be approximately \$63.3 million.
- This figure includes estimated savings for the Supreme Court, the Courts of Appeal, and the Administrative Office of the Courts (AOC) that will exceed the initial partial year savings estimate of \$8.5 million by about 13 percent.
- The impact of the court closures varied considerably from court to court. Although a few courts reported that there was no discernible impact or minimal impact, many courts reported there was some real impact on court operations and court users, as the council anticipated.

- There were mixed findings on the selection of Wednesday as the court closure day. Many trial courts disagreed with the selection of that day, although others felt differently. Some courts asserted that the selection of Wednesday had no greater or lesser impact than any other day of the week; others found Wednesday to be the best day. Justice system partners also expressed mixed views.
- By a margin of nearly three to one, trial courts believed it would be more confusing for court users if the closures occurred on different days of the month. Courts reported that the statewide uniformity of the court closure day made the delivery of the message to the public easier and prevented confusion among court users.
- Justice system partners generally reported that if the courts are going to close one day a month, it is best that the day be uniform statewide.
- The Supreme Court and Courts of Appeal reported considerably less impact on court operations and calendaring. The selection of Wednesday was not seen as problematic, and one-third believes it was the best day to select.

In addition to continuing court closures through June 2010, the council also reaffirmed that keeping courts open and accessible to the public remains a top priority and renewed its commitment to advocate for sufficient resources in the next fiscal year to avoid the need for further court closures. The council directed that recommendations and uniform guidelines be developed for limited closures of courts, on a court-by-court basis, if the Legislature and Governor do not provide sufficient resources for the judicial branch in fiscal year 2010-2011. That plan will be presented to the council for consideration at its April 2010 meeting.

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