

TPA TIMES

Tucson Paralegal Association

First Quarter 2007

An Affiliate of the National Association of Legal Assistants, Inc.
www.tucsonparalegals.org

PRESIDENT'S MESSAGE

Happy Holidays!

However you are celebrating this holiday season, I hope you carve out time to do that which is most meaningful to you.

As you plan and prepare for 2007, I encourage you to do something meaningful for your career. TPA has lots to offer! Mary Jane Leon has lined up some great speakers and topics for our monthly membership meetings. Remember, January is a lunch meeting and will be held at the Pima County Bar Association conference room. Immediately on the heels of learning about professional writing from Suzanne Rabé, professor of writing at the U of A Law School, you have the opportunity to overcome your legal research fears! On Saturday, January 6, TPA member, Zhanna Helwig will share the experience, insight, and *secrets* she has garnered over the past seven years in her position as research/reference librarian. These are topics applicable to everyone's daily responsibilities! Be a part!

Have you gotten your TPA polo shirt yet? If not, Lisa Busciglio can help you with that. The shirts are nice enough to wear to the office. And, they are very reasonably priced . . . \$20 (\$23 for the larger sizes). Show your spirit!

Lisa can also help you get a purse hanger so that you don't have to set your purse on the floor in restaurants or, even worse, on the table! Did you read the recent articles about all the germs that are transferred from purses to tables and counters?!? The purse hangers also make great gifts for all the women you love! Keep some on hand for birthdays. And, Mother's Day will be here before you know it!

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Nominations & Elections			

(President's Message continued from p. 1)

Emily Lamphear has been hard at work updating the website. Be sure to visit it often. The website is TPA's *Information Central* . . . the first place to look for answers about anything having to do with the Association. Get involved in *The Forum*. It's a great place to network and exchange ideas. Looking for a job? Mary Jane Leon has developed a job bank that would be the envy of any employment service! And, what about the *TPA Times*? Sandy Holm has spent hours and hours tweaking her format to produce a top-notch newsletter. ALL available on the website . . . use it!

In addition to giving TPA a voice with the Pima County Bar Association, Valarie Valencia is working with Pima Community College in ways that will help the paralegal students which will ultimately help the legal community as a whole. Valarie Hall is looking at ways to increase our membership. Lana Ryan and her seminar committee are planning another outstanding event for April. And, the list goes on!

There is room for YOU to be a part of the Leadership Team! In particular, I need people to assist with marketing. Let me know how you would like to be involved. I'd love to have you!



The graphic is a scroll-like border containing a logo and text. The logo is a circular emblem with 'Dependable' at the top and 'Personnel' at the bottom. Inside the circle, two arrows form a loop, with the text 'Where employees and employers come together' written across them. On either side of the circle is a line drawing of a dove in flight, holding an olive branch. Below the logo is a holiday message in a cursive font, followed by the company name and phone number.

Dependable
Where employees and employers come together
Personnel

*May the joy and peace of the holiday season
be yours today & always!*

Dependable Personnel
Tucson's Legal Staffing Specialists since 1994

325-1131

PCBA BOARD HIGHLIGHTS

By Valarie Valencia, C.P.
PCBA Liaison for TPA

ARIZONA STATE BAR REQUESTS DONATION FROM PCBA

- a. **October 18, 2006 Diane Johnson Investiture (Maricopa County)**
- b. **Replacement for Judge Sult (Maricopa County)**

The Arizona State Bar has requested PCBA donate \$100.00 toward the new Division 1 Judge. In the past PCBA has not been asked nor has provided any funds for the Division 1 Judges. Jim Dyer, President of PCBA, believed PCBA should fund this money since many attorneys in Pima County practice in Division 1. A vote was taken by the PCBA Board and the Board voted in favor of the donation.

PCBA'S SOCIAL EVENTS

Jim Dyer has a plan to bring the PCBA members closer together by offering more social events. One such event was the tailgate party that was sponsored and fully funded for the members on Saturday, October 21, 2006. The food was free to all members and the member's families.

In order to have more social events, PCBA is looking for volunteers to head off an Official PCBA Social Committee.

DISCIPLINARY RULES AMENDMENTS

This was a presentation that was provided to the PCBA Board by Robert Van Wyck, Chief Bar Counsel, Arizona State Bar; and Dan McAuliffe, Chair, Discipline Oversight Committee. The presentation focused on the potential changes to be made when disciplining an attorney.

1. Whether or not an attorney should be able to file a Summary Judgment Motion or a Partial Summary Judgment Motion in order to narrow issues and to avoid a full blown hearing when responding to a bar complaint.
2. Whether or not an immediate default judgment will be filed against an attorney for not timely filing a response to a Default Judgment.

3. What standard should be used to determine if an attorney should be disciplined. Should the standard be set by using the "preponderance of the evidence" or by the old standard, "by clear and convincing evidence."

HABIT FOR HUMANITY UPDATE

Jim Dyer was pleased to announce, "The debt is over." Approximately \$14,000 dollars had been raised and paid to Habitat leaving about \$11,000 left. Habitat has agreed to waive the rest of the fee for free advertising in the *Writ* and legal directory. PCBA has also been able to offer Habitat pro bono legal representation to assist in a large real estate project.

NOTE: Many of our members have participated in donating money to PCBA to help PCBA meet it's obligation to Habitat House. Though PCBA has personally recognized these members in the *Writ* and through personal letters, I would also like to thank those members for their participation and generosity.



Have you heard the one...

A brain walks into a bar and takes a seat. "I'd like some wings and a pint of beer, please." he says.

"Sorry, but I can't serve you," the bartender replies. "You're out of your head."

Or . . .

Car-pooling to work, a man got increasingly stressed with each trip. After a week of panic attacks, he went to the doctor. "I'm fine on the bridges, in the traffic and even in the dark after a long day," the man explained. "But when I go through tunnels with those four other guys, I feel like I'm gonna explode. Am I crazy?"

"Not at all," the doc said. "You just have Carpool Tunnel Syndrome."

The 2006 TPA Annual Seminar & Installation of Officers was a success!

We would like to acknowledge and thank the following for their presentation on Wrongful Death (Criminal & Civil):

Andrew Petersen, Esq.
Louis Hollingsworth, Esq.
Robert Hooker, Esq.

The Seminar Committee would like to thank the following sponsors and vendors:

Tucson Legal Copy
Pima County Bar Association
Reproductions, Inc.
Bleaman Law Firm, P.C.

First Credit Union
Arizona Jury Research
Blasted Contraption Computer Services
Court Server
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Reproductions, Inc.
United Court Reporters
DepoNet
Blackstone Legal Supplies
RediTabs
Washington Savings & Loan
Griffin & Associates
Hawkins-EZ Messenger

The Manning House provided excellent service and the facilities were beautiful.

SAVE THE DATE:

Our Mid-Year Seminar is scheduled for Saturday, April 7, 2007.

Please plan to attend!

From the Editor . . .

I think we should give a big thank you to the members of the Seminar Committee (and please do so in person if you are so inclined) for the wonderful seminar that they put together in October. The vendors were great, informative and had lots of special gifts for us. It was just like Christmas! The speakers were excellent; and the subject was a good topic. Thank you for all your hard work!

P.C.C. STUDENT UPDATE

By Valarie Valencia, C.P.
PCC Liaison for TPA

Everything is going well at PCC. I have had two meetings with the PCC Students this school year. These meetings have been great. These students are bright, energetic and have a desire to learn what they can to become a valuable part of our legal community. The meetings are very rewarding.

To date we have had two meetings:

1. The introduction meeting - discussing what TPA intends to offer to our Student Members this school year: PCC Student Forum through TPA's Website, PCC Student Book Exchange through TPA's Website, 10% reimbursement for any textbooks, workbooks, etc., purchased by the TPA Student Member for a paralegal class(es) at PCC. The reimbursement will come from the PCC Student Member Budget, which has been approved by the TPA Membership.
2. At the second meeting we discussed the TPA student member updates, internships and volunteer positions available at the Pima County Attorney's Office (PCAO) - presented by Pat Weidhopf of PCAO and PCAO's Community Justice Board (CJB)- presented by Georgia Eddy. CJB is a wonderful program for a student that has an interest in working in law in any capacity. The training involved will enhance the communication skills, the analytical skills, decision making skills and team work of any potential paralegal. CJB will also help to teach investigative skills, if the paralegal has an interest in getting involved in investigative type work.

Next month, I plan to have our TPA Board and Committee Members meet with the PCC Students and to talk with the students about their positions with TPA and the professional jobs each member works. This is a great opportunity for TPA to personally reach out and get to know our future TPA members and to open up a comfort level between the PCC student and TPA. With that comfort TPA will have an opportunity to discover what is important for upcoming new members to find when they become a part of TPA.

Beginning January of 2007, I plan to assist the PCC students in discovering the job market for paralegals in

Tucson by bringing the Human Resource Professionals to PCC to meet with these students. If you have a name of a hiring authority that would be interested in talking with the PCC students at one of our upcoming meetings in January or February of this next year, please let me know. I would like to personally invite that person to speak to the PCC Students on behalf of TPA.



Editor's Notes

All TPA members are encouraged to submit articles, letters, ideas, classifieds, jokes, recipes, etc. to Sandra K. Holm, C.P., skholm@qwest.net, no later than February 15, 2007, for inclusion in the second quarter issue.

DISCLAIMER: TPA TIMES is a publication of the Tucson Paralegal Association (TPA) and is dedicated to informing and educating the paralegal/legal assistant profession. Opinions expressed in by-lined articles are those of the author and do not necessarily express the view(s) of TPA. Articles may not be reprinted without the written consent of the author and TPA.

Website: tucsonparalegals.org

TPA Calendar

Dec. 26, 2006	Board meeting (if needed)*
Jan. 2, 2007	General Membership meeting (lunch)
Jan. 30, 2007	Board meeting*
Feb. 6, 2007	General Membership meeting
Feb. 15, 2007	Newsletter deadline
Feb. 27, 2007	Board meeting*
Mar. 6, 2007	General membership meeting
Mar. 27, 2007	Board meeting*

*contact Linda Mattern, PLS, CNSA, CLAS for location.

NALA NEWS

Hello, from the National Association of Legal Assistants, your professional association! This is a broadcast e-mail correspondence message to NALA Members about the NALA Campus LIVE! program and other important announcements.

Product Liability Litigation for Paralegals – December 7

Make plans to attend the NALA Campus LIVE! Product Liability Litigation for Paralegals on Thursday, December 7 from 11:00 am – 1:00 pm Central Time. This is an intermediate program, presented by Patricia J. Gustin, CP, CFEI of Harrisburg, PA. To view the course description and register visit <http://www.nalacampus.com>.

NEW!!!! to NALA Campus LIVE! Federal Rules for Civil Procedure

Are you ready? We will see many changes to the Federal Rules of Civil Procedure in 2007. Most amendments are a result of the transformation of information from paper to electronically produced and saved "documents". Effective December 1, 2006, the rules of discovery, particularly, are changing to encompass electronic discovery. NALA will be offering an overview of these changes on NALA Campus LIVE! Register today to join us on Tuesday, January 30, 2007 from 11:00 am - 12:30 pm at <http://www.nalacampus.com>.

NALA Campus LIVE! – Spring 2007 Program on Line

The NALA Campus LIVE! Spring 2007 program kicks off February 1. Registration is open so make plans to attend NALA Campus LIVE! today. Programs include Evidence (Basic, Intermediate and Advanced), Trademark Prosecution, Commercial Leases, Advanced Ethics, Immigration Pitfalls along with many others. NALA Campus LIVE! also offers CLA/CP Review programs. View course descriptions and register at <http://www.nalacampus.com>.

NALA Campus LIVE! is great for Group Participation

All NALA Campus LIVE! educational programs are available to groups. Qualification for a group is more than one person attending from the same site and

telephone line. The first person is charged \$75 for NALA members or \$100 for non-members and each additional person is charged \$40. To register your group or questions concerning group registration contact Krista Lower (klower@nala.org) at NALA Headquarters.

CLE Credit....

Need CLE credit? Remember NALA Campus offers ten courses available twenty-four hours/seven days a week. Visit <http://www.nalacampus.com> for course descriptions and registration information.

Most NALA Campus LIVE! and NALA Campus self-study programs qualify for credit toward maintaining the CLA/CP credential. In addition, NALA is a State Bar of California approved MCLE provider; the State Bar of Montana has approved NALA as a MCLE provider; the Paralegal Division of the State Bar of Texas has approved several NALA Campus programs for credit toward maintaining Texas paralegal certification and North Carolina State Bar has given provisional approval to NALA Campus and NALA Campus LIVE! programs for CPE credit. For more details visit <http://www.nalacampus.com>.

Happy Holidays from NALA!

We wish you all the best and look forward to working with you in 2007!

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Impact on Family Law Matters Bankruptcy Reform Legislation

By Lisa Vander Weide, CLAS

The *Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA)* was signed into law by President Bush on April 25, 2005, and most of the provisions of the act became effective on October 17, 2005. Significant modifications to family law in bankruptcy are contained in BAPCPA.

Domestic Support Obligation

Under the former bankruptcy code, family obligations were defined as "in the nature of support" or "alimony, maintenance or support" obligations. Under BAPCPA, these terms have been replaced with the term "domestic support obligation." This term includes all obligations in the nature of support that can arise from a divorce decree, settlement agreement or other court or administrative order involving support. The debt is owed to or recoverable by a spouse, former spouse, child of the debtor or such child's parent, legal guardian or responsible relative, or a governmental unit (*11 USC §101(14A)*).

A domestic support obligation is not limited to a support claim that existed prior to the filing of a bankruptcy petition. It also includes post-filing obligations and assigned support debts to governmental entities.

Property of the Estate

Under BAPCPA, property acquired after the bankruptcy filing and future earnings of the individual *Chapter 11* or *Chapter 13* debtor now constitute property of the estate. However, in *Chapter 7* cases, earnings of the debtor and property acquired after the filing are not property of the estate (*11 USC §101(14A)*).

Automatic Stay

The automatic stay provisions of the new code exempt nearly all divorce and domestic relation matters from the automatic stay. The new provisions of *11 USC § 362(b)(2)* provides for the following exceptions to the automatic stay:

- Proceedings concerning child custody, visitation, domestic violence and divorce to the extent the divorce does not seek to divide property of the estate

- Employer withholding for domestic support obligations
- Driver's license suspension to collect support
- To permit tax refund intercepts to collect support
- To permit credit reporting to collect support
- To enforce medical support obligations

Priority for Distribution

The new code provides even greater protection for support obligations. The amendment to §507 of the bankruptcy code moves the priority for support obligations from the seventh position to first. This means that assets of the debtor which are not subject to liens will be distributed first to holders of domestic support claims. The assets are used to pay support claims prior to other expenses of the case, except those related to the collection and liquidation of assets necessary to pay the domestic support obligation. This includes a priority over payment of attorney's fees.

Preferences

Under the bankruptcy code, payments made 1) to or for the benefit of a creditor, 2) on account of a debt of the debtor, 3) while the debtor was insolvent, 4) on or within 90 days before filing the petition, and 5) that enables the creditor to receive more than he or she would under a *Chapter 7* proceeding, is an avoidable transfer that can be recovered by a debtor or trustee (*11 USC §101(14A)*). Until BAPCPA was enacted, this included domestic support payments.

The bankruptcy code now states that all domestic support obligation payments made by the debtor within 90 days prior to filing of the bankruptcy will remain with the support creditor and cannot be avoided. This means that a domestic support creditor should no longer receive a demand letter or an adversary summons and complaint from a trustee demanding the return of support payments made by the debtor.

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Confirmation

A requirement is also added that the debtor must remain current on all domestic support claims after filing a *Chapter 11*, *Chapter 12*, or *Chapter 13* bankruptcy. To achieve confirmation of a plan, a debtor in any of these bankruptcy cases must certify that post-petition obligations for support are current (11 USC §101(14A)). Otherwise, the debtor's plan cannot be confirmed. The inability to confirm a plan subjects the case to possible dismissal.

Under the new code enacted in 11 U.S.C. §§1222(a)(4) and 1322(a)(4), domestic support claims assigned to governmental units need not be paid in full if the debtor pays all of his or her disposable income to a plan for five years.

Discharge

The most notable amendments to the code for family law are the discharge provisions in 11 USC §523 (11 U.S.C. §101(14A)). The new code states that a domestic support obligation is excepted from discharge under *Chapter 7*, *Chapter 11*, *Chapter 12* and *Chapter 13* bankruptcies. Nearly all obligations to a spouse, former spouse, or child of a debtor incurred in connection with a divorce, separation agreement, or other family law related order are not discharged in a case under any chapter of the bankruptcy code.

Pursuant to the new 11 U.S.C. §523(a)(15), debts which are not domestic support obligations, but were incurred as a result of separation or divorce, are non-dischargeable. All property settlement debts are made non-dischargeable in *Chapter 7* cases. However, property settlement debts are still dischargeable in *Chapter 13* cases (11 U.S.C. §101(14A)).

Before receiving a discharge under *Chapter 12* and *Chapter 13* cases, a debtor must certify that all amounts payable under a domestic support obligation have been paid. A *Chapter 13* plan, however, can provide for payment of less than all pre-filing obligations to the domestic support obligation creditor if all of the debtor's projected disposable income is devoted to the plan for a five-year period. In such case, the unpaid domestic support obligation is still not discharged.

Another important amendment to §523 is that an adversary proceeding by support creditors is no longer

required to achieve a finding as to the dischargeability of family law related debts. The reference to 11 U.S.C. §523(a)(15) was deleted in 11 U.S.C. §523(c).

Once the discharge has been entered, the trustee is required to furnish all domestic support creditors with certain information, including the last known address of the Debtor, the Debtor's employer and names of creditors holding claims reaffirmed by the debtor and excepted from discharge under §523(a)(2), (4) and (14A).

The Impact

These changes to the bankruptcy code aim to prevent debtors from using the bankruptcy system as a way to avoid support obligations. The amendments also attempt to ease the support creditor's ability to obtain payments and enforce family law orders and statutes.

Melissa A. Vander Weide, CLAS, works in bankruptcy and creditor's rights in the Orlando, FL, office of the Broad and Cassel law firm. She has a BA in Legal Studies from the University of Central Florida, and earned her CLAS in Bankruptcy in 2002. She is a member of the Central Florida Paralegal Association and the Central Florida Bankruptcy Law Association. She currently serves on the NALA Certifying Board, was formerly NALA Affiliated Associations Director for two terms, and served two terms as NALA's Region III Director. lvanderweide@broadandcassel.com

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TALA'S NETWORK OF LEGAL ASSISTANTS

The following TALA members have agreed to share their expertise in the following fields with other TALA members who may require assistance/information from time to time. If you would like to be added to TALA's Network, please contact Linda Mattern, PLS, CNSA, CLAS (lmatt0704@aol.com), 623-8866. Changes or corrections notify Editor.

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