

PARALEGAL SOURCE



BALANCING THE SCALES
OF JUSTICE

The Association of Trial Lawyers of America

Fall 2006

MESSAGE FROM THE CHAIR

By Dennyce Korb, Chair
ATLA Paralegal Advisory Task Force

It was great to have an opportunity to see a few of you during ATLA's 2006 Annual Convention in Seattle this July. We had over 60 paralegals registered for the convention. I hope those of you who attended enjoyed the experience. Although I am disappointed I didn't get to meet all of you, I am certain we will have that opportunity in the future. If you were unable to attend the convention in Seattle, now is the time to start making plans for the Winter convention in Miami, Florida, Feb. 10-14, or the next Annual Convention in Chicago, Illinois, July 14-18.



For those of you who may not have been aware of it, Julie Hunt of the Saladino, Oakes & Schaaf law firm in Paducah, Kentucky was selected to receive the ATLA Paralegal of the Year Award at this year's annual convention. Unfortunately, Julie was unable to attend the convention in Seattle because she was doing what earned her that award—assisting at trial! However, we are hopeful that Julie will be able to attend the next annual convention in Chicago in July to receive her award.

At the convention, we had a very productive meeting of the Paralegal Advisory Task Force. Paralegal affiliate membership is up 11%. We now have over 1,300 paralegal affiliate members. What a fantastic resource to look to

when you need information!

Wendi Rogers, Regina Westenfeld, Penny Herman Grisamore, and Shea Jacome volunteered to serve along with me on a program committee to assist in planning our paralegal program for the next annual convention. A possible theme is "What You Didn't Learn in School." If you have suggestions of topics you would like to see, please feel free to contact the members of this committee. We need your input in order to make the program as beneficial as it can be. And also, please remember, if you have articles to share for our paralegal newsletter, e-mail them to Nathalie Etori at nathalie.etori@atlahq.org. The articles need not be lengthy—in fact, shorter articles are better. It can be as little as

a paragraph or two if you've found a useful resource or great tip that helps you in your work and would like to share it.

Penny Herman Grisamore, Wendi Rogers, and I will be working over the next several months to formalize a proposal for the Paralegal Achievement Recognition program. This is an idea that has been in the works for about a year now, whereby paralegal affiliate members can gain recognition and earn the right to use titles such as "AAJ Advanced Paralegal" or "AAJ Distinguished Paralegal" based upon their attendance at AAJ seminars and conventions.

You may have noted that I used the designation "AAJ" in the above paragraph. As most of you are probably aware, during the membership meeting at the Seattle convention, ATLA's members voted to change the name of our association to the American Association for Justice. This change will take place over the next year. I was fortunate enough to attend the membership meeting where there were passionate and persuasive arguments presented by members on both sides of this issue. Although it was obvious that feelings were very strong and that there were very valid arguments to be made, I was extremely proud of the civilized manner in which the debate was conducted, and

(Message, cont. on page 2)

Julie D. Hunt is the 2006 ATLA Paralegal of the Year Award Recipient

Julie D. Hunt, CP, a paralegal at the law firm of Saladino, Oakes & Schaaf, PLLC, in Paducah, Kentucky, is the winner of the 2006 ATLA Paralegal of the Year Award. The award, sponsored by Thomson West, honors an ATLA paralegal affiliate who demonstrates commitment to the profession and dedication to ATLA's mission. Ms. Hunt will receive an all expenses paid trip to ATLA's 2006 Annual Convention in Seattle, Washington.

Ms. Hunt has been a paralegal since 1980, and has been at the firm of Saladino, Oakes & Schaaf, PLLC since 1982. She has been a member of the National Association of Legal Assistants since 1992, and was the Director on the Board of the National Association of Legal Assistants from 1997 to 2000, where she represented the association at several speaking engagements and appearances in different states. Aside from being a member of ATLA and the Kentucky Academy of Trial Attorneys, Julie, along with three other paralegals, co-founded the Western Kentucky Paralegal Association where she served

as one of its Presidents and remains an active member. In 2001, the Kentucky Paralegal Association awarded Ms. Hunt with its top honor by presenting her with the KPA Founder's Award. She has also published numerous articles in local, state, and national newsletter publications, and was involved in the publication of "Facts and Findings" published by the National Association of Legal Assistants' Continuing Education Counsel. Julie has been involved in training and mentoring paralegals through her participation in television programs, house training videos, and guides.

Along with all her accomplishments, Ms. Hunt has truly demonstrated her dedication to the clients she works for. Whether the case is large or small, Julie works with equal diligence and determination. She will go far beyond the call of duty when needed, troubleshooting for clients and lawyers on all things case related, being the occasional wardrobe consultant to help clients look their best in court, and even making sure that a client's children received presents at Christmas through



Julie D. Hunt

a local church. Julie has established an in-house benevolent fund through charity auctions, law-oriented scavenger hunts, and a snack store, where the proceeds are used to benefit the less fortunate. Attorney David V. Oakes, who nominated Ms. Hunt for the award, said: "Our community and our clients are both better off because of Julie's dedication."

Ms. Hunt is truly deserving of this award and we are pleased to have her as our 2006 ATLA Paralegal of the Year recipient.

(Message, cont. from page 1)

there was little doubt that no matter the outcome, the members of this organization are very much united with one another and have not lost sight of the goals of upholding the honor and dignity of the legal profession, promoting the public good, and championing the cause of those who deserve redress for injury.

Our paralegal program at this summer's convention was entitled "The Nitty-Gritty on Medical Records." We had a fantastic presentation on using the internet to assist with research

given by Janabeth Fleming Taylor, a legal nurse consultant, ATLA paralegal affiliate member, and former ATLA Paralegal of the Year. Attorney Janice Kim did a wonderful presentation on how to find and prove pain and suffering with the medical records, while attorney Jim Frickleton based his presentation on understanding electronic hospital data and records. And last but certainly not least, attorney John Leighton treated us to his presentation on figuring out what's there and what's not in a hospital chart. The room was packed, so much so that at one point extra chairs had to be brought in. One of the speakers remarked that he had

been in every program that afternoon and that ours was the best attended. That's very exciting!

I could not begin to summarize for you here all of the things that I learned attending the various programs throughout the week of the convention. But just as important as the fantastic pearls of wisdom I always pick up at these seminars, is the chance to meet legal professionals from all over the country, the opportunity to renew friendships formed over the years, and returning to the office with a renewed sense of pride and excitement about what we do.

Gain an Advantage by Using the ATLA Exchange For Case Preparation and Legal Research

Looking for a defense expert deposition? Or the names and contact information of other lawyers who are handling or have recently handled the same type of case, defendant, or legal issue? The ATLA Exchange (www.exchange.atla.org) is a unique online networking tool that offers ATLA plaintiff members the opportunity to tap into the knowledge, insight, and experience of their colleagues. The Exchange contains more than 140,000 depositions (including thousands of defense expert and corporate representative depositions), company manuals, court documents, names and contacts of lawyers handling similar matters, CLE speaker papers, *Law Reporter* documents, and expert witness information.

The Exchange's newest feature—the “Sort By” function allows you to sort

search results by case name, case date, witness name, jurisdiction, subject area, or author. Once you run a search on the Exchange, at the search results page, click on the category you wish to view and then on the drop down menu next to the “Choose a category to sort by:” option. Your documents will appear in order of date, witness name, jurisdiction, and so on.

The Exchange online resources are secure and safeguarded. In order to search and view documents and other Exchange offerings, members must certify that they are a Regular, Sustaining, Life, or President's Club member of ATLA, or an employee of such an attorney member, such as a Paralegal Affiliate employed by an ATLA voting member. Also, when requesting Exchange materials, members must certify that they are

doing so on behalf of a plaintiff in a civil action or on behalf of a defendant in a criminal action.

ATLA plaintiff members have contributed thousands of expert depositions and court documents to the ATLA Exchange. You too, can share your depositions and other case documents with your colleagues by uploading them directly to the site at www.exchange.atla.org, and clicking on “Send Your Documents” on the left hand toolbar. Documents can also be e-mailed to docdrive@atlahq.org. And, for every document that is contributed and added to the Exchange database, the contributing ATLA attorney member will receive a \$5 credit to his or her Exchange account. Please call the Exchange if you have any questions at (800) 344-3023 or (202) 965-3500, ext. 615.

Ideas for Toxic Tort Case Evaluation

Janabeth Fleming Taylor R.N., R.N.C.
President/Owner of Attorney's Medical Services, Inc.
Corpus Christi, TX

Do a general search on www.google.com for “*chemical name and lawsuits*.” There are many informational legal websites that will link to related resources and/or contain verified literature resources.

Beware of scam websites and unverified information. There are those who tend to “jump” on the bandwagon when a toxic tort claim is filed. They have bold headlines, eye-catching claims and in general hold themselves out to represent clients in toxic tort claims. But in truth have not performed any initial investigation. The purpose of these websites is to sign up clients, then refer them to the firms that actually investigate and work up the case.

Get CAS number of chemical, if you don't know the CAS number you can find it using www.google.com by doing a search for “CAS number *chemical name*.”

Go to the news search feature of www.google.com and click “news.” Check for news articles related to the chemical by using the chemical name and doing a search at this tab. You can also set up a “news alert” which will send to your email news stories related to the chemical and/or its manufacturer as soon as they are released.

Do a search on www.chemfinder.com using either the chemical name or CAS number, this site links to various sites which discuss exposure and other issues.

Do a search on PUBMED found at: <http://www.ncbi.nlm.nih.gov/entrez/query.fcgi>. At this site search for “*chemical name and morbidity*” “*chemical name and mortality*” and see what articles are found. Some may reference exposure hazards not reported in the news services. At this site you can also search for chemical name and particular condition your client experienced after exposure.

Do a search of the NIOSH online guide to toxic chemicals found at: <http://www.cdc.gov/niosh/npg/npgd0000.html>.

Finally, be sure to get a complete client intake interview identifying all potential
(Ideas, cont. on page 5)

The Benefits of Mediation

Christina Koch, CLA, Inserra & Kelley, Attorneys at Law
Omaha, NE

Mediation is a voluntary and confidential process in which a neutral person called a “mediator” assists disputing parties in clarifying issues, developing options and working toward a mutually beneficial resolution, or a settlement of a plaintiff’s claims. Almost all mediations involve all parties to the dispute, along with their attorneys. Sometimes insurance representatives and other advisors are included in the mediation. The mediator serves as an impartial, neutral, and balanced facilitator to insure that all points of view are evident and all possible settlement opportunities are fully explored. Mediation can be a very favorable (less confrontational) alternative to litigation or arbitration.

Statements that are made and positions that are taken in the course of mediation cannot be used in court

should the case fail to settle. Mediation is cost effective because settlement can often be reached early in the litigation process before large sums have been spent on discovery proceedings, such as expensive medical depositions. Mediation affords an efficient opportunity for litigants to evaluate the issues between them, and to attempt to achieve a win/win result. If the parties are open-minded enough to listen to the other side of a dispute, mediation has the opportunity to be successful. Both parties are given an opportunity to express their feelings openly, and in the end, they will have the opportunity to insure that any proposed solution parallels their common interests. The biggest benefit to a plaintiff in choosing mediation is that mediation is not binding, and a plaintiff does not give up any rights simply by agreeing to attempt to mediate their claim. If mediation is unsuccessful,



Christina Koch

the litigation process simply begins again where it left off prior to the mediation.

In conclusion, by resorting to mediation, there’s virtually nothing to lose. The expense is not great, the time demand is minimal, and neither party gives up their “day in court” should the mediation be unsuccessful.

Attend Upcoming ATLA Education Programs

Hailed as invaluable and cutting-edge, ATLA Education programs will certainly improve your legal knowledge and enhance your career as a legal professional. Paralegals can sharpen skills, gain new insights, and learn new techniques through ATLA Education seminars, workshops, and teleseminars. Please visit www.atla.org/Education to learn more.

You must be an ATLA Paralegal Affiliate to attend ATLA Education programs.

ATLA Paralegal Affiliates are welcome to attend any and all ATLA Education programs offered during ATLA’s Winter Convention in Miami, FL, February 10-14. ATLA Paralegal Affiliates receive a 50% discount on their first ATLA convention. Please visit www.atla.org/conventions.

In the coming months, ATLA is offering the following CLE Programs, which are **open to ATLA Paralegal Affiliates at a 50% discount** provided they attend with an ATLA Attorney Member from the same firm, with the same address.

Psychology of Persuasion: What You Need to Know to Win for Your Clients in Today’s Environment
September 15-16, 2006, Atlanta, GA

New Approaches for an Ever-Changing Defendant: Holding the Nursing Home Industry Accountable
October 4-5, 2006, Memphis, TN

Deconstructing a Landmark Resident-on-Resident Abuse Nursing Home Case Against Summit Care Corp. (AIG as Insurer) Seminar
October 6, 2006, Memphis, TN

Protecting the Public: Pharmaceutical and Medical Device Litigation Seminar
November 17-18, 2006, Las Vegas, NV

20th Annual Weekend with the Stars: New Secrets of Success
December 9-10, 2006, New York, NY

You must be an ATLA Paralegal Affiliate to attend ATLA Education programs.

If you have any questions, please contact Nathalie Etori at 800-424-2725, ext. 593, or 202-965-3500, ext. 593.

Humor in the Legal Profession!

Tippi Polito, Law Offices of R. Bruce Macmurdo, LLP
Baton Rouge, LA

Working in this profession for many years, I have come to realize that not only do I have a passion for my profession, but I also have a good sense of humor. Though much of our profession deals with sad and tragic circumstances, I have learned that our clients (bless their little hearts!) can be quite amusing at times. For instance:

I sent a letter to a client that I had been trying to reach for quite some time. Apparently this person had moved all over the place and, of course, had not provided us with a change of address. I finally sent out a letter that evidently reached the client, and received a phone call. The client asked the receptionist if she could speak to “the undersigned.” The receptionist had to hurry and put this person on hold before cracking up. You see, my letter said “. . . have been unable to reach you and it is imperative that we speak with you regarding your personal injury claim. Please contact the *undersigned* at your earliest opportunity.” This is a true story!!!

Not only are some of our clients amusing, but witnesses can be too. I was asked to take a statement from an employee in a tire store. It was a young

man, and his job was to wait on customers and keep the store presentable. The tragedy was that our client, an above the knee amputee, came into the store, slipped and fell, breaking his good hip. I approached this young man, identified myself, and asked him if I could take a recorded statement from him regarding this incident. He agreed and started his statement by saying “Man, I really messed up.” How is that I asked? He replied “Well, I was mopping the floors and my girlfriend called, so I picked up my bucket and mop, took them to the back of the store, and answered the phone. The floors were all wet and slippery and you know, with these kinds of floors you can’t see all the water. So this poor old guy came in and, well, hit the floor really hard. I think I broke his hip.” All I could say was, “Well son, I thank you very much for taking the time to speak with me,” and ended the conversation. Obviously, we settled that case.

I have several stories I could tell regarding dealing with clients, taking statements, and many other aspects of our jobs. Some of my favorites though are about preparing clients for trial. Remember—if you tell your client to “dress like you’re going to work”—be careful what you ask for. Believe me

when I say “be specific!” Also, telling them to “not wear a lot of jewelry” is definitely not specific enough—a lot of jewelry and great big, huge discount store jewelry are definitely too different things—be as specific as possible.

There are many more examples of humor in our profession and someday we should get together, swap stories, and maybe write a book!

We Need Articles from You!

We need articles for the *Paralegal Source* newsletter. If each of you would write just one article, we would have a tremendous bank to choose from.

Please e-mail your article to Nathalie Etori, ATLA staff liaison at nathalie.ettori@atlahq.org.

(Ideas, cont. from page 3)

sources of exposure. That includes residential history, educational history, occupational history (even part-time jobs are important) medication history, and medical/surgical history. It is good to go back as far in time as the client is able. Some exposures that occur in childhood take years to impact an individual’s health.

Do not to forget to have potential clients send a letter per 29CFR1910 to

the employer demanding any and all information on what they may have been exposed to, including the OSHA logs for the last 3 years listing such exposure etc. They have to provide information at no cost right away.

Scientific Evidence—Resources for Daubert/Frye:

Federal Judicial Center: [<http://air.fjc.gov/>] This site contains many resources that can be downloaded including the 1994 and 2000 Reference Manual on

Scientific Evidence, Manual For Complex Litigation and more plus links to Federal District Courts. This is the best place to start learning about scientific principles as well as use of scientific evidence in Federal Courts. This manual contains an explanation of key Supreme Court cases on scientific evidence—Daubert, Joiner and Kuhmo. In addition, the manual contains sections explaining principles of science and areas of expert testimony including toxicology, epidemiology and engineering.