

PRECEDENTS

2024 Q1

A San Diego Paralegal Association Publication



2023 Party Pics
CA Civil Discovery Act
Maximize Your Billables
The 2024 SDPA Board
AND MORE



Cover/Beach Photos by Denise Blassak, Editor

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Corrin Swintosky, Freelance

COVER PHOTO: Hotel Del
Coronado

PRESIDENT'S MESSAGE

Welcome! I am honored to serve as the 2024 President of the San Diego Paralegal Association. As we embark on another year, I am grateful to our outgoing and incoming Board of Directors and our members for their support and commitment to SDPA's goals. Our shared efforts allow us to meaningfully impact our community and our profession.

SDPA is committed to reinforcing key elements of our mission, including:



Michelle Pendleton, CP

**“If your actions inspire others to dream more, learn more, do more, and become more, you are a leader.”
– John Quincy Adams**



PRESIDENT'S MESSAGE CONTINUED

communication
collaboration
innovation
participation &
education

We must each strive to be exceptional in whatever we do, and we must never tell ourselves no. In doing so, we keep ourselves, SDPA, and all paralegals at the forefront of our community and in the legal field. The directors and members of SDPA embody these goals, using their diverse backgrounds, practice area experience, and personal talents to help the legal community.

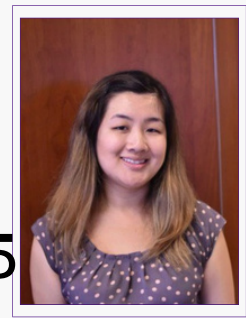
As my predecessor stated, as SDPA members, we have the responsibility and privilege to act with honesty and justice. By doing so, we inspire others. My hope is that we

use the momentum we have gained over the last few years and continue our popular programming. Moreover, we can increase that momentum and bring back in-person events. Lastly, we will reinforce our partnerships with other local, regional, state, and national paralegal and professional associations to bring our collective members together.

SDPA is only possible with the help and contributions of our volunteers and members. Please participate wherever and whenever you can, whether that be in the form of actively recruiting other members, attending events, volunteering for a committee or a community outreach event, or seeking a position on our board.

How to Hit Your Billable Goals as a Paralegal

Ellen Maniwan, CP



Does it feel like you are constantly busy, but your billables don't reflect it? Does your annual bonus depend on how much you bill in a year? Whether you are newly transitioning into a firm with a billable requirement or looking to maximize your hours and hit those goals, this guide is here to show you how to translate your hard work into billable hours.

Why Do Some Firms Have Billable Requirements for Paralegals? Billable requirements are a way for law firms to make money using the time their attorneys and paralegals spend working on a matter. Many firms, especially on the defense litigation side, have an annual billable goal for paralegals ranging from 800 to 1,800 hours a year. The lower end of this range

tends to be for hybrid paralegals who also handle a lot of administrative duties. The higher end of this range would require lots of overtime to meet.

The amount of time one spends working on a case is often billed by the firm to a client in units of one-tenths of an hour (six minutes each). If you spend six minutes or less on a task, you would bill 0.1 hours to the client.

The Bigger Picture: Your Annual Billable Requirement

To maximize your billables, it is helpful to look at the bigger picture: what is your minimum billable goal or requirement for the year?

If your billable requirement is 1,500 hours, you would need to bill at least an average of 125 hours a month to meet the goal. If you go on vacation or get very sick during one month

and end up billing less than 125 hours, you can make up for the deficit in the following months. In these instances, if you already have a surplus of hours, you are still on track to meet your yearly goal even if you have a slow month.

Divide your monthly goal by 20 workdays (4 weeks x 5 workdays a week = 20 workdays a month) to get an idea of your daily goal (at least 6.25 hours a day). This estimate does not account for

holidays, sick days, and paid time off, but it gives you a rough idea of what you should aim to bill. Bill more to give yourself some cushion for vacations and sick days.

Keep Track of Your Time Throughout the Day

Use the timer in your billing software to track how much time you spend on a task. If you are more comfortable using paper, you can jot down the time you begin working on

a task and the time you stop (example: “9:03 AM – 9:08 AM DAVIS case – RFP responses”), but it takes longer to add up and transcribe those time and task descriptions.

Don't Be Afraid of an Ugly Draft Entry

You do not have to make your billing entry pretty right away. On busy days, you can make a placeholder draft entry. Write the matter name, time you spent, and a general note of what you did.

Feel free to use abbreviations in this draft. You can go back later to clean it up and flesh out any other descriptive details. A wise attorney once advised me to use asterisks before the task description to identify which time entries still need to be cleaned up.

Example 1:

2.7 [matter name]
*****doc production.
Review RFPs to ID
scope of requested
files. Review files

from client to ID responsive docs.

Example 2:

0.2 [matter name]

*****call custodian of records of health facility re decl. in support of medical records produced.

Stick to a Schedule

Your firm may have a rule on how often you should post your billing—it could be once a week, once a month, or every day. Keep a consistent schedule (like every Friday) of revising and posting

your billing entries. Do it often enough that you do not feel overwhelmed with the amount of billing entries to finalize and submit by the end of the month. If you fall behind (and it does happen, especially when we're busy), set aside an hour or so each day to catch up on billing.

Use a Template for Billing Language

Typically, and especially in large firms, you will have

some tasks that you do again and again for different cases. If you work in litigation, this may include reviewing subpoenaed records, drafting discovery responses, or conducting legal research. Every office has a preferred way of describing a task for a billing entry. You can create a Word document to hold all your template billing entries to save time and effort in trying to remember your office's billing guidelines for certain types of

tasks. Each time you finish a good billing entry for a task you do often, save a copy of the text to that Word document. You can then tweak the entry going forward, as you come across the same types of tasks.

Example of a billing entry you can use as a template: *Review subpoenaed [medical] records regarding plaintiff received from [facility] (___ pages) to ensure compliance with the scope of requested*

records. Note that in this example, you can tailor the entry to reflect the types of records, facility name, and number of pages.

Redirect Non-Billable Work

Is some of your work written off as “administrative tasks”?

Generally, larger firms have more specialized duties for paralegals, and the administrative duties are handled by legal secretaries or office operations personnel. In smaller firms, paralegals tend

to wear more hats and juggle paralegal work and administrative duties. Check to see if your firm has written guidelines on tasks handled by paralegals versus legal secretaries and other staff. Figure out which tasks are considered administrative or non-billable and if you can, refer those tasks to the appropriate staff member. Also, if you find that some non-billing staff are handling billable tasks, offer to handle those

projects so that you can use them towards your billable goal.

Get Out There and Bill Consistency and good recordkeeping habits will push you towards your annual billable goals. When you use the billing tools and templates that work for you, your billing entries and hours will reflect the hard work that you do every day.



Ellen Maniwan, CP is a litigation paralegal at Jackson Lewis P.C. In 2016, she earned her paralegal certificate from UCSD Extension's paralegal program. She is grateful to those attorneys, seasoned paralegals, legal secretaries, and other office professionals who taught her things along the way and hopes to pay it forward and continue learning.

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MEET THE 2024 SDPA BOARD



Michelle Pendleton, President

is a seasoned paralegal with more than 20 years of experience. She is a litigation and eDiscovery paralegal with Allen Matkins Leck Gamble Mallory & Natsis LLP. Michelle, who was recently certified (CP), is committed to paralegal growth, training and education.

Perla D. Cuevas, VP Programs/Education

is a Regional Office Manager overseeing four offices for Tyson & Mendes. She is also a professor at SDSU. Perla has prior experience as an employment defense paralegal. She will be mentoring two program assistants, Dori and Samantha, identified on page 17.



Katie Oliver, VP PR/Marketing

has been a paralegal since 2005, and has experience in civil litigation, employment law, intellectual property, immigration, and more. She has previously served SDPA and SFPA, and is currently the Treasurer for the San Diego Chapter of ACEDS. Katie is also an ACP (eDiscovery & trial).



THE 2024 SDPA BOARD CONTINUED

Angela Michaels, Treasurer

is a litigation paralegal who has extensive legal experience involving complex corporate matters, PI and injury claims, aviation matters, and many more. She works at Sheppard Mullin Richter & Hampton LLP.



Reina Rodriguez, Director-Bar Liaison and School Liaison

is a paralegal with a law enforcement background. She enjoyed networking at bar association events in 2023, and looks forward to a dual role this year.



Kristine Custodio Suero, Director-NALA

is an award-winning legal professional and highly sought after speaker. A true servant leader, she has lead SDPA and the California Alliance of Paralegal Associations as President. She is proud to champion diversity as the first Filipina at the helm of the statewide professional trade association.



THE 2024 SDPA BOARD CONTINUED



Denise Blassak, Director-Newsletter

has over 15 years of paralegal experience and an ABA approved, bachelor's paralegal degree. She has written a variety of articles for local, state and national paralegal organizations. Denise is also a participating member of the Southwestern College Paralegal Program Advisory Board.

Samantha Corrales, Director-Pro Bono

has 15 years of experience providing paralegal support (in family law, civil lit, construction law and at trial). She has a passion for justice reform, helping indigent communities, and serving marginalized people. When off the clock, she enjoys spending time with her 15-year-old son Adam, and 3-year-old cat Midnight.



Dori Elliott, Acting Secretary

is a recent graduate of USD's Paralegal Program. She received her bachelor's degree in communication from San Diego State. Dori is studying to become a NALA Certified Paralegal and is eager to become an active participant in the legal community.



THE 2024 SDPA BOARD CONTINUED

Christina Hough, Acting VP Membership

is a seasoned legal professional with more than 22 years of experience in the legal field, working in a variety of practice areas. In 2023, she received the NALA Affiliate Award, was NNA Notary of the Year, and was recognized as a Woman of Influence in Law by the SDBJ.



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CANNABIS AND CLEMENCY



Corrin Swintosky

California was at the forefront of cannabis legalization. It was the fifth state to make cannabis legal recreationally back in 2016. In addition, California's history of clemency has gradually grown more inclusive of different offense types for a wider range of relief.

As of 2023, California has expunged, sealed,

or resentenced over 200,000 cases. While this is certainly a feat, it may be too early to celebrate as several states and the federal government are severely behind in their efforts.

Decriminalization

About 24 states have legalized adult recreational use of cannabis. While these states have classified

themselves as decriminalizing cannabis, the effects of decriminalization are limited.

Decriminalization essentially removes the recreational use of cannabis as a criminal penalty. In addition, it prevents any future criminal sanctions against recreational use. The downfall is that decriminalization has created little to no impact for those who already have a cannabis-related offense on their

record from before cannabis was legal.

State Clemency

Many states have implemented clemency processes for cannabis-related offenses. These can include sealing a criminal record, lifting the consequences of a criminal conviction, or reducing the length of criminal case sentences.

The impacts of cannabis-related offenses create a

myriad of collateral consequences for individuals including, but not limited to:

- Difficulty obtaining employment
- Difficulty obtaining housing
- Difficulty obtaining occupational licensing
- Difficulty obtaining post-secondary education

Some states, such as the state of Washington, have created a process for the individual with the

criminal record to ask the court to expunge or vacate the conviction. Other states, such as California and Minnesota, have developed an entire process internally that automatically expunges or resentences cannabis-related offenses.

It is important to note the automatic processes only allow certain offenses to qualify. Most of the eligible offenses are

low level possession or private use.

Alternatively, states like Minnesota have established a state appointed review board to review higher level offenses. The board determines if those cases qualify for expungement or other forms of relief.

Federal Clemency

Unfortunately, cannabis is still illegal under federal law. This creates a myriad of issues pertaining to

cannabis usage and federal cannabis-related criminal records. One of the main problems with cannabis being federally illegal is the extremely limited forms of decriminalization or clemency options available for federal criminal cases.

Currently, the main form of relief for federal cannabis offenses is a pardon or commutation granted by the President of the United States.

Historically, Presidents only grant around 10% of clemency applications received during their Presidential term.

In October 2022, President Biden signed a proclamation which pardoned simple cannabis possession offenses. Later in December 2023, he granted another proclamation expanding his powers to different offense types including attempted possession and use of cannabis.

While these efforts are certainly an unprecedented use of Presidential power, the pardons do not release any individuals from federal custody.

Pardons granted by the President forgive the person convicted of a crime. When these individuals are released, their civil rights are restored such as voting, obtaining housing, obtaining employment, and other lost opportunities from

their criminal conviction.

The push for federal legalization from advocates and stakeholders has been amplified this past year. The Department of Health and Human Services recommended the DEA reschedule cannabis from Schedule I to Schedule III back in August 2023. The DEA is currently reviewing their recommendation.

Rescheduling cannabis would reduce barriers

for cannabis businesses, users, and those with a cannabis criminal offense.

Federal illegality of cannabis creates issues pertaining to banking, taxes, and complications for legal recreational use among immigrants of the USA.

Conclusion

Cannabis legalization should create equity and opportunity for the entire community.

Without decriminalization and clemency

systems developed to prevent further injustice, many residents continue to be limited.

The more automatic procedures developed to reduce the use of cannabis-related criminal records, the more equitable and inclusive states can become after legalization for all their residents. The hope is

for the federal government to follow in the steps of states like California, to adequately legalize, decriminalize, and develop clemency options for cannabis-related offenses.

Corrin, a freelance paralegal in Minnesota, is the founder and CEO of Lucid Legal Support LLC.

CALIFORNIA HISTORY TRIVIA

The state's first constitution of 1849 was in both English and Spanish, true or false?

Answer on page 54.



SAN DIEGO PARALEGAL ASSOCIATION'S ANNUAL
BRIDGING THE GAP
Saturday, April 13, 2024
(Virtual)

THREE TRACKS

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Litigation/Tech

WATCH SDPA WEBSITE/LINKEDIN FOR DETAILS

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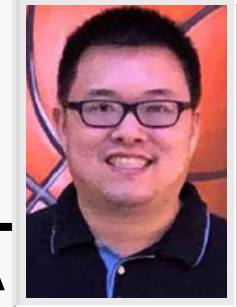
Party at The Dana



California Civil Discovery Act Undergoes Significant Overhaul: A Closer Look at The Extensive Initial Disclosures and Their Possible Impact

ARTICLE POSTED IN LAPA AND SDPA NEWSLETTERS

Travis Chow, Executive VP of LAPA



Procedurally

Last year, State Senator Umberg introduced Senate Bill 235. After going through the legislative process, Governor Newsom signed the bill into law on September 30, 2023. This bill amends Civil Code of Procedure §§ 2016.090 and 2023.050 and officially took effect on January 1, 2024.

Broadly

The new disclosure obligations under Section 2016.090 are similar to the obligations under Federal Rules of Civil Procedure, Rule 26(a)(1). That rule requires parties to disclose any documents and identify any witnesses “that the disclosing party may use to support its claims or defenses.”

The amended statute now requires any party to a civil action to disclose, within 60 days of a demand (unless otherwise stipulated), information that is relevant to the subject matter of the action. Additionally, it will require disclosure of information and records related to insurance policies. Further, the amended statutes increase sanctions to be imposed for failure to comply to \$1,000.

The amended statutes are applicable to all civil cases filed on or after January 1, 2024, and will remain in effect until January 1, 2027. Exclusions from the amendment are small claims cases, actions or proceedings made under the Family Code or Probate Code, and unlawful detainers (evictions).

Additionally, the disclosure obligations under the amended statute do not extend

to parties representing themselves (pro per).

Specifically

The first component of the disclosure requirement states that a party must identify “all persons likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, or that is relevant to the subject matter of the action or the order on any motion made in that action . . .”

What it does not include is any information that would be used for impeachment only. Further, parties do not have to disclose any expert witnesses that they may designate later as expert witnesses.

Second, a party must identify, produce, and describe the location of all documents within the same categories as the first component.

Thirdly, a party must identify any agreement or insurance policy that “may be liable to satisfy, in whole or in part, a judgment entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.”

Lastly, the disclosures must be verified by a written declaration by the disclosing party, its representative or by the party’s counsel.

But Wait, There's More

A party only needs to make “disclosures based on the information then reasonably available to it.”

Beware, however, that a party cannot make an objection based on language that it has not fully investigated the case yet. Further, a party cannot withhold disclosures because the other party has not made any disclosures or if the party is challenging the sufficiency of another party's disclosure.

Additionally, a party may “propound a supplemental demand twice before the initial setting of a trial date ... [and] once after the initial setting of a trial date.” The inherent problem with this is that the Los Angeles Superior Court automatically assigns a trial date for certain types of cases upon the filing of the complaint.

Lastly, the Senate Bill amended Civil Code of Procedure § 2023.050. The Bill increased the

sanctions from \$250 to \$1,000 if a party “did not respond in good faith to a request for the production of documents,” “produced requested documents within seven days before the court was scheduled to hear a motion to compel production of the records,” or “failed to confer . . . with the party or attorney requesting the documents in a reasonable and good faith attempt to resolve informally any

dispute concerning the request.” Further, the amended statute gives judges the discretion to direct the attorney to report such a sanction to the State Bar.

Impact, Intentions, and Issues

I believe the amendment aims to expedite the discovery process by compelling all parties to investigate and disclose information more promptly, potentially enhancing overall efficiency.

However, concerns arise regarding situations where a party fails to disclose due to lack of prior knowledge or if the opposing party neglects to demand a supplemental response later in the case. In such instances, the question arises whether the lack of disclosure would impact the admissibility at trial.

An additional challenge arises when dealing with large

corporate entities. Such companies often possess a multitude of witnesses and documents pertinent to the case, making early identification challenging. It would appear the amendment goes further than Rule 26, in that a party may also have to list witnesses and documents that would be harmful to their case.

Further, the requirement to disclose actual insurance

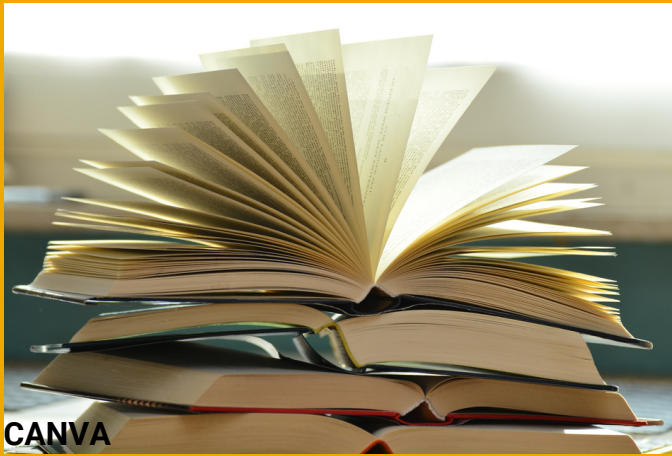
policies can potentially lead to complications between the insured and insurer, particularly in the context of coverage disputes. It is worth noting that the nature and substance of insurance policies are typically safeguarded from disclosure by Civil Code of Procedure § 2017.210.

The success of the new section and the enforcement of its various aspects and

requirements will become clearer over time as we observe its implementation and how the courts interpret and apply the new requirements.

Travis Chow is currently the Paralegal Coordinator at Collins + Collins LLP. Before that, he freelanced at several private practice firms in Southern California. He has been a paralegal for over 15 years. Travis is a Certified Social Media Intelligence Expert and

Certified Cyber Intelligence Professional. He is also a California Licensed Realtor and notary public. With the help of a scholarship, he earned his Paralegal Certificate from Pasadena City College along with an associate degree in Social Behavioral Science, Humanities and Paralegal Studies. He then earned his Paralegal Certificate and bachelor's degree from the University of La Verne in Legal Studies.



CANVA

BLUEBOOK VERSUS CALIFORNIA STYLE MANUAL

April 9, 2024

12:00-1:00 pm PDT

1.0 CLE

\$55 Non-member

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REMOVING CASES FROM STATE TO FEDERAL COURT

April 10, 2024

12:00-1:00 pm PDT

1.0 CLE

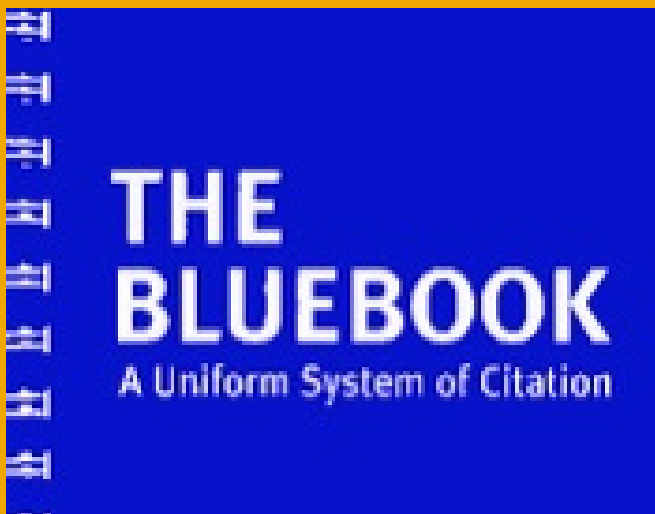
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ADVANCED CITATIONS

April 23, 2024

12:00-1:00 pm PDT

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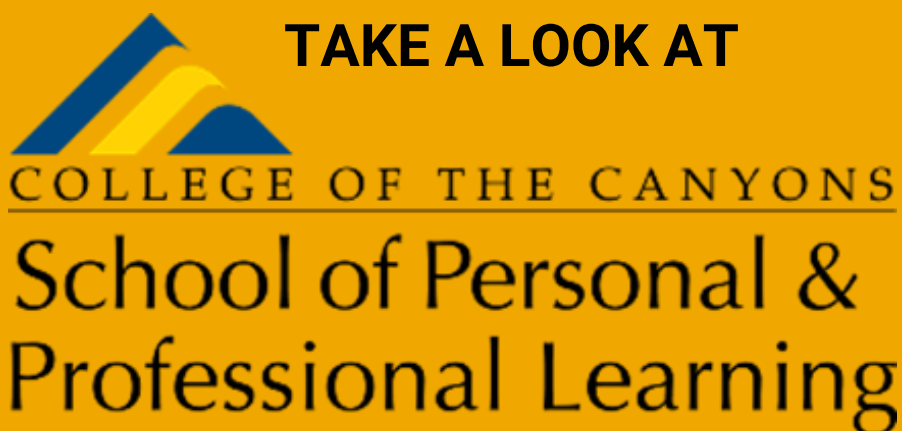
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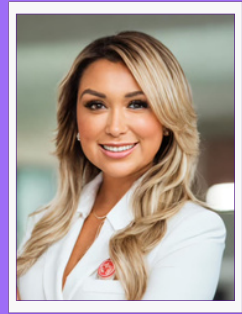
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MAINTAINING WELLNESS AND ACHIEVING WORK-LIFE BALANCE: ESSENTIAL STRATEGIES FOR PARALEGALS



Perla D. Cuevas, SDPA VP of Programs/Education

As indispensable members of the legal profession, paralegals often find themselves navigating a demanding and fast-paced work environment. Balancing the rigorous demands of casework, client expectations, and deadlines can take a toll on one's physical and mental well-being. However, prioritizing wellness and achieving a healthy work-life balance is crucial for

long-term success and fulfillment in this field. Here are some practical tips, resources, and strategies for paralegals to manage stress and maintain a sense of equilibrium in their professional and personal lives.

Establish Boundaries: Set clear boundaries between work and personal life. Define

specific working hours and stick to them as much as possible.

Avoid checking work emails or taking calls during personal time, unless it is absolutely necessary.

Practice Time

Management: Use time management techniques such as prioritizing tasks, creating to-do lists, and breaking down large projects into smaller, manageable tasks. Allocate time for both work-related

responsibilities and personal activities.

Take Regular Breaks:

Schedule short breaks throughout the workday to recharge and rejuvenate. Step away from your desk, take a short walk, or practice deep breathing exercises to alleviate stress and improve focus.

Stay Organized:

Maintain an organized workspace and digital filing system to streamline workflow

and reduce clutter. A clutter-free environment can contribute to a sense of calm and efficiency.

Prioritize Self-Care:

Make self-care a priority by incorporating activities that promote physical, mental, and emotional well-being into your daily routine. This could include exercise, meditation, hobbies, spending time with loved ones, or pursuing interests outside of work.

Seek Support: Do not hesitate to reach out for support from colleagues, supervisors, or professional mentors when feeling overwhelmed.

Discussing challenges and seeking advice can provide perspective and help in finding solutions.

Utilize Employee Assistance Programs (EAPs):

Many employers offer EAPs that provide confidential counseling,

resources, and support for employees facing personal or work-related challenges. Take advantage of these services if available.

Set Realistic

Expectations: Be realistic about what you can accomplish within a given timeframe. Avoid overcommitting or taking on more than you can handle. Learn to delegate tasks when necessary and communicate openly with

supervisors about workload concerns.

Practice Mindfulness:

Incorporate mindfulness practices such as meditation, yoga, or mindful breathing into your daily routine to reduce stress, increase self-awareness, and enhance resilience in the face of challenges.

Stay Connected:

Cultivate a strong support network of friends, family, and peers who understand

the demands of your profession and can offer encouragement, empathy, and perspective.

By implementing these strategies and making wellness a priority, paralegals can effectively manage stress, maintain a healthy work-life balance, and thrive in their professional and

personal lives.

Remember, prioritizing self-care is not only beneficial for individual well-being, but also enhances overall productivity, job satisfaction, and longevity in the legal profession.

Perla is a Regional Office Manager with Tyson & Mendes and an SDSU professor.

CALIFORNIA HISTORY TRIVIA

The delegates for the state's first constitution were aged 25-41, true or false?

Answer on page 54.

E-DISCOVERY PLAYERS

KEEP AN  EYE ON RECENT CASE LAW

**LOOK AT 2023 FEDERAL CASES OUT
OF CALIFORNIA'S NORTHERN DISTRICT**

In re Google Play Store Antitrust Litigation
(N.D. Cal. Mar. 28, 2023)

AND

In re Stubhub Refund Litigation
(N.D. Cal. Apr. 25, 2023)



CANVA

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LEGAL PROJECT MANAGEMENT 101

ODW2005

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ETHICAL BILLING FOR PARALEGALS W2417

May 1, 2024

12pm CT

\$49 Member; \$70 Non-member

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PARALEGALS, THEIR LAWYERS, AND COMMUNICATION

Denise Blassak, Editor



Paralegals need to be ready when their boss says, "Let's meet."

Maybe he only has five minutes between depositions. Other days, he is back in court after lunch. Well-prepared paralegals develop a communication game plan beforehand. Here are four different strategies that may work for you:

- Mindfulness

- Clarity
- Word Choice and
- Active Listening

Be **mindful** of your attorney's modus operandi--his way of communicating. It can take time to learn it. Yet knowing it will give you an edge. You will not be off guard if he interrupts you, or leads disjointed discussions.

Should your boss be overconfident,¹ or unconventional, do not fear. Instead, maintain focus on your responsibilities. It will still be your job to gather information from clients, or prepare documents.

When meeting lawyers in person or virtually, bring more than pen and paper. Bring a **clear** approach for relaying information and asking questions.

¹ Clip from the 1992 Golden Globe winning and Oscar nominated movie: *A Few Good Men*.

A transparent query is something like, “What issues do you want me to research?” An ambiguous line is, “Would you give me the gist of your plan?” See the difference?

The **words** you use with your inquiries are also important. Note that why questions may unintentionally put your attorney on the defensive.²

Though do not forget to ask what,

² Marquet, *Avoid Asking Why, And What Good Leaders Say Instead* (Feb. 11, 2017) in Forbes.

when, where and how, if needed.

Last, engage in **active listening**. That does not mean wiggle your ears like Yoda of Star Wars. It involves "a conscious effort to hear not only the words . . . but, more importantly, the complete message being communicated." You may find yourself picking up some important details.

Should a follow up email be necessary, limit your words.

Consider two sentences rather than four.

An attention grabbing subject line may be needed. Though refrain from being an alarmist. Do not start off with, "Mayday, Mayday !!!!!"

With strategic communication, you will eliminate misunderstandings, improve relationships, and attain x-ray vision. Well, maybe not that last point. Yet good

communicators gain a sixth sense about lawyers with whom they interact.

Denise is a juvenile

dependency paralegal with the County of San Diego and a member of Southwestern College's Advisory Board.



TRIVIA ANSWERS

TRUE - the first constitution was in both languages
(<https://www.sos.ca.gov/archives/collections/constitutions>)

FALSE - age range for delegates was 25 to 53
(https://archives.cdn.sos.ca.gov/pdf/1849_Constitution_Facts.pdf)

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