

Summons

WESTERN DAKOTA ASSOCIATION OF LEGAL ASSISTANTS

An Association for Paralegals/Legal Assistants

Melissa M. Klimpel, ACP, Editor

President’s Message

By Alice M. Johnson, ACP



We did it!!! We survived Thanksgiving and Christmas and New Year’s Eve!!! WOO-HOO! Now I get to settle back in to my comfortable back-to-work zone. I always feel that way around this time of year. Hmmm ...

The “holidays” are a very special time. They are meant to reflect on and celebrate the blessings of abundance in our lives; the wonder and awe surrounding the survival of dark times and promise of life anew; and the reflection of the year past mingled with the anticipation of the year ahead. Sadly, these “holidays” have been turned into a time of stress and anxiety, of trying to make the perfect dinner, decorate everything to the hilt, give the perfect gift, cram as much as we can into the little time we have to spend with our loved ones, and “party ‘till the ball drops” (well, not so much in my case anymore – I can barely stay awake past 9pm!)

Inside this issue:

Volunteer Spotlight	3
New Supreme Court Clerk Reflects on First Year	5
Tips for Your New Normal	8
My Non-Traditional Paralegal Role	12
Immigration Law - Past, Present, and New Horizons	14
What Does Estate Planning Look Like Under Biden?	17
Successful State Bar Exam Held Amid Pandemic: Health and safety remained top priority	21
Officers/Board of Directors’ Reports	25
Birthdays	34
List of Officers/ Executive Committee, Board of Directors, and Committees	35

President's Message continued

So why do we put such pressure on ourselves to “out-perform” what we have done in the past? I have seen this in both my personal and work life. In my humble opinion it comes down to one word ... expectations! We know what we have been able to accomplish in the past. Based on this, we have these expectations that we can at least do that ... and then some! At some point, it becomes far too much for most of us to gracefully maneuver and we beat ourselves up over the things that didn't get done the way we wanted.

Don't get me wrong! I don't think *some* expectations are a bad thing. After all, that's what pushes us to go farther, do better, learn more, and advance our career. Self-expectations are a fantastic motivator! The trick is to balance that motivation and expectation with reality and ability. Just how many Christmas cookies am I really able to bake and still be able to go to work the next day?!?!

I may *want* to be able to know everything there is about mineral rights but the truth is – I don't! That's where my expectations met my reality in a head-on crash! That's also, however, where I was able to draw on one of the perks of WDALA YOU!!! The fallout of my head-on with the truth was that I needed help and I was able to rely on the best perk of being a WDALA member – networking!!! That's what we have each other for! We are all unique in our areas of work and expertise and I want to encourage each of you to reach out to each other in times of need.

I want to thank all of you for your help in my little endeavor and for reinforcing my faith in our membership! And for taking some of the stress and anxiety out of my work life!

Now – if only I could convince someone to help me out around the holidays

“Self-expectations are a fantastic motivator! The trick is to balance that motivation and expectation with reality and ability.”



Volunteer Spotlight on Candy Schafer, CLA



Why do you volunteer for WDALA?

Both my mom and dad were very involved in the community and as I was growing up they set a very good example of the importance of being involved and volunteering. My sister says it best: it was not a question of **if** we would serve, it was a question of how we could **best** serve.

Which event is your favorite? Why?

Sorry, I can't pick just one. I love all the projects because they involve families. The summer picnic, the Christmas shopping and baking, and the Santa Run all provide opportunities to help strengthen family relationships. Before the pandemic, I tried to attend the Friday Drug Court

sessions as often as I could – just to pop in to remind the participants that there are people in the community who are supporting them and wanting them to succeed.

Do you have a favorite memory from volunteering?

Last fall, I was at McDonalds on Main grabbing a quick lunch. I saw a beautiful young lady with a huge smile who looked vaguely familiar. I smiled back and asked how she was doing (still not quite able to place her). After a few minutes we started chatting a little and I finally said “You look so familiar...” Before I could finish she said “Aren't you one of the WDALA Ladies?” I immediately remembered her. With a huge smile on her face and a great deal of pride in her voice, she told me that she had graduated from Drug Court in May - as she counted the months on her fingers – and that she was doing great. I have never been as proud to be a “WDALA Lady” as I was just then. I floated out to my car in the parking lot thinking “some things in life are just right”.

And then, of course, there are the looks of joy & delight on the children's faces when they see the Christmas gifts stacked up and they realize the presents are for them! And the Mom's and Dad's faces – just grateful and happy because their child is happy.

What would you tell new members about volunteering for WDALA?

You don't have to be involved in every project but I would encourage you to pick at least one. Working with the caring, generous, and compassionate ladies of WDALA is a blessing in itself. They give of themselves emotionally and financially and are an inspiration to me.

Volunteer Spotlight on Candy Schafer, CLA continued

What motivates you to stay involved?

I have so much admiration and respect for how hard the participants work at maintaining sobriety, working at least one (sometimes two) jobs, attending school, community service, rebuilding broken relationships and raising their children. I am inspired by their desire to have a different life and amazed at their determination to make it happen.

What volunteer contribution or achievement are you most proud of?

I am proud to be known as one of WDALA Ladies. I have made some very dear friends and, hopefully, done some good for others along the way.

What other organizations or causes do you volunteer for and support?

Abused Adult Resource Center, American Legion Auxiliary (supporting veterans and their families), the North Dakota Veterans Cemetery and the Convent of the Holy Spirit in Techny IL (My aunt was a missionary sister and we spent a lot of time running around the halls of that convent.)



Tell us a fun fact about yourself!

My dad has land in Grant County that has a pretty big hill on it. It was steep enough that we could not walk up the face of the hill. Instead we had to climb up from the side to get to the top. We often climbed the hill, going up and down the side. Well, one day when I was about 12 years old, I decided that it would be okay to go down the face of the hill and I proceeded to do just that. I started out okay, but it was so steep that I quickly picked up momentum and before I knew it I was rolling head over heels down that hill and landed in a heap at the bottom. The hill is known as "Candyland" ('cause that's where Candy landed!)

New Supreme Court Clerk Reflects on First Year

By Petra H. Mandigo Hulm, Clerk of the ND Supreme Court



As I close my first year as the Clerk of the North Dakota Supreme Court, I have been given this wonderful opportunity by WDALA to reflect. On January 1, 2020, I became the Clerk of the North Dakota Supreme Court. Not only was I a new clerk, but Justice Jon J. Jensen began as Chief Justice on January 1, 2020.

The first year of a new position always brings with it a lot of “firsts”. I was lucky to have been trained for many years by longtime clerk Penny Miller. However, as it always is, people do things differently. Not the big picture things, but the nitty-gritty day-to-day things. I spent most of the first three months trying to find my way. I would say picture a duck who appears to be gently swimming along, but is paddling like crazy underwater. Chief Jensen and I found our way of doing things, as the chief and the clerk work closely together on motions and many other issues that arise.

Then COVID. On Thursday night, March 19, 2020, I was notified and I notified my staff that by noon on Friday March 20 all non-essential employees of the judicial branch were to go home to work. That meant everyone but me in our office. This presented huge challenges. The team would not have scanners or printers at home. Our staff all had desktop computers and none had remote access to our servers. Sending them home to work meant sending their whole desktop computer home.

My office had electronic files and paper files. However, we operated by way of a main paper correspondence file that contained the case history. Our correspondence was all printed and put in this file. That file was moved around our office for various things. It was taken to a team member’s desk to process filings. One thing I knew after that sleepless Thursday night was that we were done with my office’s paper processes. It would have been difficult to keep up with paper files in that circumstance. So, on Friday, I notified the staff we were now essentially a paperless office. We developed one central electronic processing queue for all fillings, whether received by mail, through

New Supreme Court Clerk Reflects on First Year continued

our portal or by email.

A paperless office is something everyone talks about. After our change, I am reminded of a quote by *David Lloyd George*: “Don’t be afraid to take a big step when one is indicated. You can’t cross a chasm in two small jumps.” Although a chasm, the switch to paperless went much better than expected. I would dare say it has been an amazingly positive change for our office. We save time chasing paper and our office is timelier processing filings. I have a fantastic team who banded together to make it work. Without them, this reflection might look very different. Their ideas and flexibility have been invaluable.

Another major change came with oral argument. We started earlier the week of March 20 preparing for remote arguments knowing that being together in a room was ill-advised. I am proud to say I believe our court was the first appellate court in the country to hold online oral arguments. A lot of people worked hard to make that happen so quickly. We have improved that process over during 2020 and the Supreme Court as a whole kept operating without missing a beat.



The last major challenge was the bar examination. Immense preparation went into holding the July 2020 bar exam. Keeping people safe was the paramount goal. We had to keep people 6 feet apart, which meant mapping out examinees’ and staff’s every movement. Purchasing personal protective equipment became difficult. Luckily, North Dakota was hit later with the worst of the pandemic, so we were fortunate to safely hold an in-person examination. February 2021 will be a remotely administered exam, and brings a whole new set of challenges. Laurie Guenther, the Director of Admissions and WDALA member, was – and always is – invaluable.

New Supreme Court Clerk Reflects on First Year continued

Did we have hiccups? Of course. We had technical problems that our IT department and the State IT department swiftly rectified. We had to change business processes. We learned every day what worked and did not work. Remaining flexible to change was important because change was the constant in 2020.

Thankfully, the best thing 2020 brought is grace. It seems that everyone has been given grace to make major changes and grace when things do not go quite right. We benefited greatly from the freedom and innovation that grace brought.

I am a thinker. I like to think through problems and ideas from front to back before doing them. This has advantages and its disadvantages. In 2020, I learned a valuable lesson. Sometimes, it is better to just jump in and figure it out as you go. Sometimes, the advantages of that far outweigh the disadvantages.

Petra H. Mandigo Hulm has been the Clerk of the North Dakota Supreme Court, since January 2020, and previously was the Chief Deputy Clerk since 2010. She completed her Bachelor of Arts in Chemistry-Biology at Ripon College in 1998. After graduation, she worked for two years as a chemist in the drug development field. She completed her Juris Doctor at Creighton University School of Law in 2003. From August 2003 through July 2004, Petra was a law clerk to North Dakota Supreme Court Justice Mary Muehlen Maring. From August 2004 through September 2010, she was in private practice focusing mainly on civil litigation.

Petra is a member of the National Conference of Appellate Court Clerks, previously serving on its executive committee.

Petra is married to Jason and has a daughter, Leah, as well as three dogs. She is an active volunteer for Special Olympics and serves on the Bismarck area management team.

Tips for Your New Normal

By Andrea Johnson



This year paralegals have faced numerous challenges throughout the COVID-19 pandemic. Many of us have been called to work from home, a new challenge for a profession of individuals who are accustomed to an in-office atmosphere. When COVID-19 hit our area of North Dakota, I was told to work from home. When the cases started to drop, my employer informed me that I was more productive and had greatly increased my billable hours working from home. As a result, instead of returning to the office full time like the rest of my co-workers, I continue to spend most of my workweek from the comfort of my home. This is now my “new normal.” It took some time to make this transition, but there are some wonderful tips that can make working from home a wonderful and productive change.

- Create an actual “office” within your home. Make sure you have all the necessities in your home office that you have at your work office. Remember little things, such as passwords, notepads, highlighters, pens, tabs, Post-it Notes, etc.
 - Make your home office feel like you are in the office. Bring home monitors, a work chair, your favorite coffee mug, and anything else that reminds you of the office so that you have an actual work environment atmosphere.
 - Set-up your office where there are no distractions, such as televisions and doors that people frequently walk in and out. Choose an area where you are away from household chores.
- Ask you employer to provide a remote connection between your work computer and home computer. Remotely connecting both computers is a powerful tool to make sure that all work is transferred between comput-

Tips for Your New Normal continued

ers.

- Install an app on your cell phone that allows you to make calls as if they are generated from your office. Clients will then be prevented from having direct access to your personal phone number.
- Continue with your normal morning routine. A consistent routine makes it feel like you are actually “going” to work, even if work is in your home.
- Take the same scheduled breaks at home that you would in the office. Having a work routine at home is just as important as the daily routine in the office.
- Communicate, communicate, communicate! Working from home can work well if you still communicate regularly with those in the office. Whether this is by telephone or email, make sure to stay connected to the office. Every morning review to-do items and deadlines with your supervisor. This can be as quick as an email stating what you plan to work on for the day and a reminder of any upcoming deadlines. When your employer sees you completing the tasks you set out for yourself for the day, he or she knows that you really are working hard from home.
- Take advantage of the time you are in the office to do things you cannot do from home. Personally, I cannot print, mail, or execute documents from home. Therefore, I make sure that everything I need to print, mail, have signed, be notarized, etc., is already completed at home. Then, when in the office, everything is ready to be finalized and the next task can be



Tips for Your New Normal continued

tackled.

- When at home, you are not distracted by constantly ringing phones, clients, people hovering over your desk, or in-person questions. Take advantage of this. By being distraction free, you can accomplish so much more. Set aside times where you will only focus on work and times when you will return phone calls and emails. You will be surprised to see how much more you can do in a day when you do not have in-person distractions. Being more productive means more billable hours.
- Keep close track of your time. Even though you are at home, you are still using your skills and knowledge. Make sure to bill for every task you complete.
- Correspondence with clients via email and your cell phone is just as important from home as if the call or email was made while in the office.
- At home you will find that you have more time to commit to billable projects as opposed to in the office. When at home, you cannot be asked to assist with as many administrative duties, such as answering the phone, greeting a walk-in client, and other day-to-day tasks we all feel obligated to assist.
- If you find that you cannot continue a project until you either have approval or an answer from your supervisor, email your supervisor with what you have completed and request approval or specifically state what you need to know. While waiting for a response, move on to the next task. Because you are not asking in-person, generally you will not receive an immediate response and you will have to wait until your supervisor has a moment to check emails. By moving on to the next project, you will not waste time waiting and will be able to complete more in your day.

Tips for Your New Normal continued

- Be flexible. Other co-workers may still be in the office and need time away. Things such as scheduled vacations, sick kids, lack of daycare, and many other reasons can cause co-workers to be absent. If your supervisor asks you to work in the office for a day to help, do it. You are still part of the team, even when you are working from home.

While adapting to something new can always be a challenge, remember that you are a paralegal and are able to adapt to and overcome anything! You might find that your “new normal” is a wonderful gift.

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Andrea Johnson is originally from Tolna, North Dakota. She went to college at MSUM and graduated with honors obtaining a bachelor's degree in Paralegal Studies in 2006. Andrea worked in Fargo, specializing in bankruptcy, for a few years before moving closer to home. She has been with the Traynor Law Firm in Devils Lake since 2010. As the only paralegal in the firm with multiple attorneys, she assists in all areas of law. However, most of her time is primarily focused on personal injury, insurance defense, municipal prosecutions, and research. Andrea was the paralegal for Daniel M. Traynor who recently was appointed as the Federal Judge for the Western District of North Dakota.

When not at work, Andrea enjoys being a volunteer firefighter for the City of Devils Lake, where she has volunteered since 2015. She also enjoys side-by-side rides, camping, volleyball, darts, gardening, and just being outside and being active. Andrea live in Devils Lake with her husband Jason; daughter Cadence; chocolate lab/German shorthair Addie; and, two mischievous cats, Garfield and Tigger.

My Non-Traditional Paralegal Role

By Laurie Guenther, ACP



My goal when attending college was to become a great legal secretary. The paralegal profession was new and something I knew little about. Fortunately, I worked part-time for an attorney who did. He encouraged me to look into a paralegal career. He thought I would find it challenging. I took his suggestion and earned a Bachelor of Science in Paralegal Studies.

I worked in three litigation firms over the next 20+ years, loving trial work. When a position with the North Dakota State Board of Law Examiners came to my attention, the job sounded intriguing. Fast forward nine years and I have a dream job. Bonus - no billable hours!

You work for who? That is a common question I get when I tell someone I am the Director of Admissions for the North Dakota State Board of Law Examiners.

What is the Board of Law Examiners? The North Dakota Supreme Court is vested with the power to admit persons to practice as attorneys in North Dakota state courts. The Supreme Court established the Board of Law Examiners to carry out this mission for the protection of the public. The Board is comprised of three practicing attorneys and a Secretary–Treasurer serving as an ex-officio member.

As Director of Admissions, I carry out the day-to-day operations of the Board with the help of a part-time assistant. **We are involved with all aspects of admitting and licensing attorneys.**

The most common way for applicants to be admitted is to take the bar exam. This is a two-day exam given twice a year. I coordinate the bar exam by verifying applicants' eligibility, purchasing exam materials, securing venues, recruiting and training proctors, and working with vendors who offer laptop testing software. On exam days, I serve as the test administrator with the help of proctors who keep a watchful eye. After the exam, I coordinate scoring of the exam with graders. Once final scores are determined, I notify applicants of their results. Preparing for a bar exam is a lot like preparing for trial. There are a lot of details to coordinate, anticipating what might go wrong, and having multiple plans for all eventualities.

My Non-Traditional Paralegal Role continued

Applicants can also be admitted based on years of practice or a test score earned in another jurisdiction. These applicants - if they meet certain eligibility criteria - do not have to take the bar exam.

All applicants undergo a character and fitness investigation. We use the National Conference of Bar Examiners to verify most of the information in an application. I do more in-depth investigations of applicants with employment, credit, substance abuse, mental health, or civil and criminal issues. This process is similar to discovery work done by litigation paralegals.

When the investigation is done, I refer the file to the Board with a recommendation to admit, deny, or interview the applicant. The Board makes the final determination.

Once admitted, our office is also in charge of licensing attorneys. We generate annual fee statements and issue licenses for nearly 3,000 attorneys.

This non-traditional paralegal position is an all-inclusive job that also includes the following: processing pro hac vice, in-house counsel, and temporary licenses; compiling statistical data; writing minutes, findings, letters, and emails; answering the phone and processing mail; making presentations to law students; and assisting with bar admission ceremonies.

This position is busy, varied, interesting, and educational. I believe my paralegal experience prepared me for this non-traditional paralegal role. I encourage you to remain open to unique opportunities to use your paralegal skills. You might just end up with a job you never dreamed about—or your dream job.

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Laurie A. Guenther, ACP, has been the Director of Admissions for the North Dakota State Board of Law Examiners since July 2011. She obtained her CLA designation in 1989 and CLAS/ACP specialty in 1999. She has been an active member of the Western Dakota Association of Legal Assistants since 1988, holding various Board positions over the years.

Immigration Law—Past, Present, and New Horizonsⁱ

By Jane Sportiello, Law Clerk



The majority of Americans have immigrant ancestors. Yet despite this common experience, the modern immigration system is poorly understood. A review of the differences between historical and present-day immigration contextualizes the critical work of immigration law professionals in America today.

The population of North Dakota grew dramatically in the 19th century due to immigration, often by settlers of German, German Russian, or Scandinavian descent, resulting in a proud cultural heritage still celebrated today. However, the experience of these forbears differed vastly from that of the modern immigrant.

Did the 19th-century German or Norwegian family need to consult an immigration lawyer or apply for a visa before coming to the United States? No. They were free to simply board a boat bound for America. After enduring a harrowing sea voyage and managing not to succumb to cholera, they would arrive at their new home.

Many Europeans took advantage of these opportunities. Between 1815 and the Civil War, for instance, two million Germans immigrated to the United States. During this period, U.S. immigration was essentially unrestricted. Although Ellis Island features vividly in the popular image of immigration, it did not even open until 1892.ⁱⁱ

In the 1870s and 1880s, around the time that the expansion of the railroad led to explosive immigration growth here in the Great Plains, Congress started passing federal immigration laws.ⁱⁱⁱ These included the explicitly race-based Chinese Exclusion Act of 1882, as well as laws excluding other specific groups, such as prostitutes, convicts, the “diseased,” and polygamists.^{iv}

Immigration Law—Past, Present, and New Horizonsⁱ continued

However, the vast majority of immigrants were allowed to enter. Exact figures vary, but until World War I, only one to two percent of immigrants who arrived at Ellis Island were turned away.^{v, vi} The average immigrant spent three to five hours in the inspection process before walking out onto the streets of New York.^{vii} None of them needed advanced permission to come to America, as no visas were required under our system until 1924.^{viii}

Under our modern immigration system, founded on the 1952 Immigration and National Act^{ix}, immigration is anything but unrestricted. Permanent immigration is generally limited to three grounds: employment-based, family-based, or humanitarian, such as asylees and refugees. (The humble German farmers wishing to better their lives – the pioneers of our past – would likely have no basis to even *apply* for permanent immigration, although they might have options to come on a short-term basis.)

For the minority of the world's population with a legal basis to apply for immigration to the United States, and others who may be able to come here temporarily, the application process is highly technical, fraught, expensive, and generally extremely stressful. A tiny error can have devastating consequences. This is, of course, where immigration law professionals can play an invaluable role. Due to the technical nature of immigration law, professionals such as legal assistant and paralegals with experience in the field are highly sought after by law firms and nonprofits alike. The American Immigration Lawyers Association, the primary professional organization in the field, has special guidance, resources and trainings exclusively for paralegals, reflecting their critical importance in the practice of immigration law.

In addition to the complexity of the field, immigration law changes rapidly. On January 20, 2021, our new President signed several executive orders relating to immigration. These orders will have dramatic effects, and the legal assistant who can

Immigration Law—Past, Present, and New Horizonsⁱ continued

adapt to these changes on the horizon will be worth their weight in gold to the organizations who employ them and the future Americans they serve.

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- ⁱ This article draws in part from another article by this author published in the Legal Services Sentinel in May 2019.
- ⁱⁱ *About Ellis Island*, available at <https://www.nps.gov/elis/faqs.htm>.
- ⁱⁱⁱ David Weissbrodt & Laura Danielson, *Immigration Law and Procedure*, 6-7 (5th ed. 2005).
- ^{iv} *Id.*
- ^v American Immigration Council, *Did My Family Really Come Legally?* (2016)
- ^{vi} The Statue of Liberty – Ellis Island Foundation, *Ellis Island History*, available at <https://www.libertyellisfoundation.org/ellis-island-history> (last accessed March 22, 2019).
- ^{vii} *Id.*
- ^{viii} American Immigration Council, *supra*.
- ^{ix} Weissbrodt, *supra* at 15.

Jane Sportiello works as a law clerk for Magistrate Judge Clare Hochhalter at the United States District Court. She resides in Bismarck with her husband and two daughters. Jane has lived in five states since graduating law school; this article was particularly inspired by her time in California, where she practiced immigration law with a team of wonderful legal assistants, many of whom were immigrants themselves.

What Does Estate Planning Look Like Under Biden?

By Randall Borkus, Borkus Law Group



Joe Biden has been declared the winner of the 2020 Presidential election by key news outlets and more and more states continue to certify their election results in his favor. We still await the official certification of each state election which may take to December or January.

One thing we know for sure is that the 2020 election and its aftermath pretty much so guarantee substantial changes in the tax law. Though it's all still unknown, we can glean significant details from the Biden-campaign rhetoric to help us prepare for the future.

Here is what we know to date about President-Elect Biden's proposals that impact your estate planning:

Estate, Gift, and Generation-Skipping Transfer (GST) Tax

The 2020 estate and gift tax exemption is \$11.58 million (per taxpayer), with asset values in excess of that amount taxed at 40% before passing to your heirs. This exemption amount is slated to be reduced the end of 2025 to \$5 million (per taxpayer). This is what we know for sure under present law.

During President-Elect Biden's campaign he embraced legislation that would reduce both the estate and GST tax exemptions to \$3.5 million per taxpayer and lower the lifetime gift tax exemption to \$1 million per taxpayer.

President-Elect Biden has also discussed additional proposed legislation that intends to restrict annual and aggregate donor limits on gifts to certain irrevocable trusts and family limited partnerships. That would put a dent in our advanced planning tools without a doubt so time is of the essence. Get your advanced planning completed now and ensure it's grandfathered in before the changes come.

What Does Estate Planning Look Like Under Biden? continued

Moreover, numerous Democratic tax reform proposals suggest returning estate tax rates to historical norms. So what does that mean exactly? Back in the 1940s, the top estate tax rate was 77%, and under 2001 federal tax law, the rates were as high as 45-55%.

We're expecting to see an upward adjustment in the estate and gift tax rates. The good news is that our clients who have committed to advanced planning before these changes will be safe. Remember, paying the estate tax is a choice because it's easily planned around if your committed to advanced planning!

Capital Gains Taxes

Current law taxes capital gains at regular income tax rates when those gains are realized on property held for less than one year. For long-term capital gains (which are gains on property held more than a year), there is a graduated tax rate contingent upon the taxpayer's income level (0%, 15%, or 20%).

For individuals and couples who earn more than \$200,000 and \$250,000 per year respectively in net investment income, there is an additional 3.8% surtax added to their capital gains tax rate.

Current tax law also permits for a step-up in basis of appreciated property at the death of the property owner. This allows heirs who inherit property to sell the property shortly after the owner's death with little or no capital gains tax on the sale of the inherited property.

Present law also allows for like-kind exchanges on appreciated property such as real property and artwork. This allows taxpayers to reinvest the gains on appreciated property into similar types of property without incurring capital gains tax when the property is sold.

If the taxpayer keeps making such like-kind exchanges on appreciated property until the individual's death, the capital gains built up in that property will be eliminated by the step-up in basis rules.

What Does Estate Planning Look Like Under Biden? continued

Under a Biden presidency the step-up in basis rules would either be eliminated or impose recognition of gain on property at each taxpayer's death. Furthermore, the Biden tax proposal eliminates like-kind exchanges and imposes a 39.6% long-term capital gains tax rate for individuals earning more than \$1 million a year. With the addition of the 3.8% surtax on net investment income, the effective federal tax rate on long-term capital gains would exceed 43% for high earners.

This means many taxpayer's estates could see significant increased capital gains tax bills upon death.

What to do Now

You can still take some concrete steps to prepare while you wait for the upcoming changes. There are solid advanced estate planning strategies that can help preserve a family legacy and protect the next generation from estate tax as well as protect our children from their future decisions while disinheriting the IRS.

While taxes are certainly important, they should not overshadow the need to get your personal Joe Biden has been declared the winner of the 2020 Presidential election by key news outlets and more and more states continue to certify their election results in his favor. We still await the official certification of each state election which may take to December or January.

If you have not started planning or it has been 3 years or more since you had your estate plan reviewed, your Trusts, Wills, powers of attorney, and healthcare directives could become stale, or worse, no longer align with your goals, so now is the time to get it done.

Putting your estate plan in place or reviewing an existing estate plan goes a long way towards establishing peace of mind for your family and creates security for you and your family legacy in these ambiguous times.

What Does Estate Planning Look Like Under Biden? continued

We Are Here to Help

No one knows for sure what the future holds for our country or for our family legacies. Nevertheless, what is certain is that here at the Borkus Law Group we will continue to examine tax law developments closely and keep you updated as the rules evolve.

Moreover, we are always here to guide you through your family's legacy planning, business succession planning and estate planning.

Contact our team at Borkus Law Group today and make a live online appointment!

Please note that information contained in this news alert is not and should not be construed as legal advice or opinion nor does this information alert create an attorney-client relationship.

Randall Borkus is the president of Borkus Law Group, a law firm that focuses on tax law, estate planning, business and farm succession planning, with offices in Williston, North Dakota and Oak Brook, Illinois.



**Watch your
inbox for
information on
the spring
seminar!**

Successful State Bar Exam Held Amid Pandemic: Health and safety remained top priority

By Kylie Blanchard, Clearwater Communications

As the COVID-19 pandemic became a reality in the U.S. and the state of North Dakota in March, the State Board of Law Examiners (BLE) began discussing its impact on the state's summer bar examination. "From the beginning, the board was committed to holding the July 2020 bar examination if possible," says Petra Mandigo Hulm, clerk of the North Dakota Supreme Court. "Paramount to the board's decision and planning was the health and safety of the examinees, proctors, and staff."

Facing the Challenge

Mandigo Hulm says the fluid environment created by COVID-19 required flexibility on the part of both the BLE and bar admission applicants. "The BLE team continuously assessed public health conditions and gave examinees as much notice as is possible of any changes," she notes.

The first challenge faced was the limitation on gatherings implemented after the initial shutdown. "The BLE team began looking for alternative venues immediately," says Mandigo Hulm. "A number of backup locations were secured so examinees could be spread out if necessary."

The BLE established a limit of 85 participants at the July exam and, with the state's recommended increase in the number of individuals at a gathering, the BLE was safely able to secure the use of the Bismarck Events Center and the education rooms of the Supreme Court to administer the exam.

The other major challenge faced by the BLE was safely giving the examination and complying with all local and state health regulations, says Mandigo Hulm. "The BLE team identified early that securing personal protective equipment was a priority," she notes, adding between April and July, a constant effort was made to find and secure these items. "The BLE team also spent uncountable hours mapping out the exam locations to control the flow of people. The goal was to keep

Successful State Bar Exam Held Amid Pandemic: Health and safety remained top priority continued

everyone six feet apart if at all possible. Maps of the venues were used, and mental walk throughs were done to examine every part of the exam from check-in to bathroom use.”

The Decision to Move Forward

While many other states across the nation began cancelling upcoming bar exams, the BLE decided to move forward with its scheduled July exam. “North Dakota is a small state, so we did not face the same challenges that large states, California and New York for example, faced,” says Mandigo Hulm. “We usually test less than 100 people in July verses the thousands that those states test.”

“It’s always important for us to have a bar exam,” adds Jane Dynes, president of the BLE. “With a profession like ours, where we need to make sure there are qualified attorneys to serve the public, it was important to move forward.”

Dynes notes students who were planning to take the bar exam in July were depending on this time frame to secure jobs and move forward after years of schooling and hard work.

Mandigo Hulm says there was also discussion to move the exam date to the fall, but the BLE concluded the virus threat was, at that time, manageable. “We did not know what the fall would bring and by then, it may have been unsafe to hold the examination.”

“We worked with the North Dakota Department of Health to discuss our plan,” she continues. “The BLE was confident, based on the planning and advice, that North Dakota could safely give an examination.”

Holding the Bar Exam

Mandigo Hulm says in preparation for the exam, the director of admissions and a part-time employee started working from home in late March. “This was done to

Successful State Bar Exam Held Amid Pandemic: Health and safety remained top priority continued

protect them, limit their exposure, and hopefully not run into a staffing issue at the examination,” she notes. “As it was, shortly before the exam, I went into self-isolation due to close contact and we retained the prior clerk of court to cover for me.”

The day of the exam, Mandigo Hulm notes, events were tightly controlled. Examinees signed a code of conduct prior to the examination and they were also provided with a copy of the testing conditions. “The code of conduct clarified for each applicant what was expected of them to ensure everyone’s health,” she says.

In addition, many additional steps were taken to ensure the safety of all in attendance including staggered check-ins, multiple check-in stations, pre-packaged testing supplies, room flow control, and the availability of hand sanitizing stations and sanitizing wipes. “Masks were required to be worn anytime an examinee was within six feet of another person,” says Mandigo Hulm. “The only time they were permitted to be removed was when they were seated at their table taking the examination.”

The Success of the Exam

A total of 58 individuals participated in the July bar exam. “The examination was successfully given, and we know of no one, examinees, staff or proctors, being diagnosed with COVID-19 as a result of their presence at the examination.”

“Things were changing so fast and things came up at the last minute that even the best of preparation couldn’t prepare for,” says Dynes. “The staff did a great job of addressing these changes to make the exam happen. From the feedback we have received, I thought the exam was handled correctly.”

“Things were changing so fast and things came up at the last minute that even the best of preparation couldn’t prepare for”

Successful State Bar Exam Held Amid Pandemic: Health and safety remained top priority continued

Mandigo Hulm notes passage rates for the bar exam were up, which was also the trend nationally. Of the 58 applicants that took the July exam, 44 achieved a passing score. This equates to a 76 percent overall pass rate, compared to 73 percent for the 2019 July exam.

The success of the exam can be attributed to the careful planning that took place, which will likely carry over to the February 2021 exam, says Mandigo Hulm. “We planned for a variety of different scenarios amidst a changing set of health regulations and conditions,” she notes. “It remains challenging to plan for the February 2021 examination. We anticipate incorporating some of the check-in procedures because they turned out to be beneficial.”

In addition, following the cancellation of the April 2020 spring bar admission ceremony, the fall bar admission ceremony was also held virtually for the first time on September 18.

Mandigo Hulm credits the BLE team of attorney members Dynes, Lawrence King, and Brad Beehler; Director of Bar Admissions Laurie Guenther; and staff Johnelle Odegard for their hard work and perseverance. “The BLE team was outstanding. Put simply, without their dedicated service, the bar exam would not have happened. The board is proud it was able to safely give the bar examination and ensure those seeking a law license could do so,” says Mandigo Hulm.

“For some examinees, this exam is the final piece, the culmination of 12 years of primary education, four years of college, and three years of law school,” she continues. “I am sure the prospect that they may have to delay was heartbreaking and affected job opportunities. Delay was something the board wanted to avoid if possible.”

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Officers/Board of Directors' Reports

1st Vice President's Report

By Holly A. Radke



Well, we all made it through 2020. I'm hoping for 2021 to be better and praying for a sense of normalcy soon. Who would have thought that we would still be dealing with this crazy Covid stuff a year later. I honestly thought by last summer it would have surpassed, and we could proceed with the Fall Seminar with no worries. My theory was proven wrong. Not only did we have to cancel the 2020 Spring Seminar and make many last-minute changes to the 2020 Fall Seminar, we find that we may be in the same boat this year and have to make some changes so that we can proceed with a 2021 Spring Seminar as planned.

We are putting our final touches on the 2021 Spring Seminar and trying to plan accordingly in case we are still on tight restrictions. We want to offer our members continuing education credits but also want to protect everyone's health as well. We will be finalizing our 2021 Spring Seminar in the coming weeks as well as continue planning for the 2021 Fall Seminar. Watch your email for information on the Spring Seminar! We hope the Covid restrictions are over by then and we can get together the old fashion way!!!

We are still in the works on offering telephonic CLE's over the lunch hour. Keep your eye out for an email in the future to take advantage of getting in some more CLE's. If anyone is interested in presenting a telephonic CLE or willing to secure a presenter, please email me at holly@kalillawfirm.com.

If anyone has any ideas or topics that they would be interested in learning about, please do not hesitate to reach out to me. It would be nice to get everyone's opinion on what they would like out of our Seminars. I have heard so many stories from attorneys that a certain CLE was just a waste of their time and either they didn't learn anything, or the topics just weren't to their liking. We do not want our WDALA members to ever feel that way, so we need to hear from you. What area of law do you feel you need more education on? What are your interests? Let us know what YOU would like to learn about!!!

I hope everyone is staying healthy. Our family got hit with COVID in November. Both my husband and I tested positive. Luckily our kids didn't get it, but they had to quarantine for 24 days. Even though I only had to quarantine for 10 days, I still had to stay home with the kiddos for the additional 14 days. Missing 3 weeks of work in this field is tough!!! So glad that is over! When I was finally able to return to work in December, I was so far behind in my workload and then we throw some holidays in there which led

Officers/Board of Directors' Reports continued

1st Vice President's Report continued

moving into January just as stressful for me. I haven't been able to devote as much time to WDALA and prepare for the upcoming Spring Seminar as I had hoped I would have but after dealing with kids schedules, work, and daily life there just isn't enough hours in the day. I'm really ready for things to slow down. It's been a rough 3 months. I feel like I have been neglecting my duties and failing to serve WDALA as I should. Please bear with me as I am trying as best as I can.

Having faith in 2021 and hope to see everyone at the 2021 Spring Seminar!

2nd Vice President's Report

By Kathy Johnson, CLA



Our current membership stands at 38 member total: 34 active and 4 emeritus.

Hoping everyone is doing fine and feeling healthy. Happy 2021!

If anyone needs to contact me or has any questions regarding membership, you can email me at kjohnson@ndcourts.gov.

Treasurer's Report

By Anna Heinen



Welcome 2021! I hope this new year finds everyone the freedom to conquer all the things they had to put on hold, to see all the people they have had to avoid, and to physically attend all the events that were canceled, postponed, or rescheduled in 2020. May this be the year of new found gratefulness for all the things we may have been taking for granted.

The treasurer balance for the Western Dakota Association of Legal Assistants as of January 12, 2021, is \$14,782.02.

Officers/Board of Directors' Reports continued

NALA Liaison's Report

By ReBecca Wohl, CP



Please keep the nomination deadlines in mind for an affiliate aware. The due date for that will be May 1, 2021.

The WDALA Annual Report was filed with NALA on January 15, 2021. The guidelines were changed last year and going forward our annual report will be due no later than January 15th of each year.

A reminder that WDALA members remain eligible to receive 25% off a NALA active membership fee. The normal membership cost is \$154 per year, which is now being offered to affiliate members at a cost of \$115.50. This discounted membership cost includes access to member benefits such as NALA Commons, Facts and Findings, Utilization and Compensation Report, and an \$80 gift certificate to be used towards NALA continuing education programs and courses.

Also, do not forget, if you have registered for NALA, you will not be receiving a paper gift certificate like you have in the past. You are indeed still receiving the credit, but not a paper reminder. To use the credit, simply call the NALA office at 918-587-6828 and they will help walk you through the steps of applying it.

Region I Report

By Holly Radke



We currently have 2 members in Region 1. Both members participated in the Santa Run and represented our area. I did not know the Santa Run even existed until this year and all I have to say is – WOW!!! What a great event for a great cause! I was excited to get to be a part of that this year and will definitely be doing it again in the years to come. It looked like they had a great turnout this year despite Covid.

We are continuing our process to recruit more members. We do have a few interested and seem excited to join so I hope we see some new applications submitted soon. We will keep pushing forward and continue our mission to recruit more members for our area. I hope everyone is faring well during these times and are staying healthy!!!

Officers/Board of Directors' Reports continued

Region II Report

By Andrea Johnson and Becky J. Hillerud



Due to the pandemic, the Region II members have not been able to hold any in-person meetings or events. Hopefully, we can begin meeting monthly soon as we all enjoy associating with local legal assistants during our meetings.



Despite not being able to meet in person, we were still able to host a charitable Christmas project. We felt that with the pandemic this year would be a great year to support our local food pantries. Our regional members made monetary and food donations to The Hope Center in Devils Lake and the Lord's Cupboard Food Pantry in Minot.

Region IV Report

By Josie Schaefer

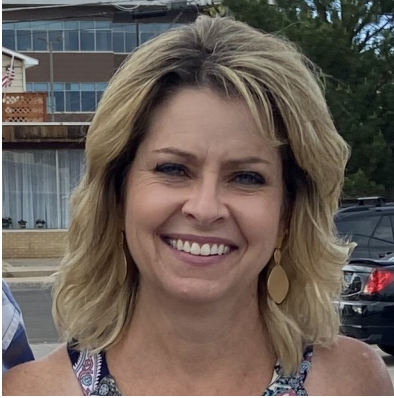


Region IV currently has two members, Frankie Magelky and myself.

We look forward to hearing about what WDALA has planned for the Spring Seminar.

Region III Volunteer Projects

By Laurie Guenther, ACP and Melissa Klimpel, ACP



WDALA Elves were busy in its 10th season providing gifts to Adult Drug Court. This year our Drug Court Christmas project looked a little different due to COVID. Due to the pandemic, Region III Members thought it was more important than ever to keep the yearly tradition alive of giving to the Adult Drug Court program. Even though we weren't able to meet in person to wrap the presents or deliver the gifts to the drug court gift recipients, we know we made a positive difference and brought some extra joy to them during this very difficult and unusual holiday season.

This year we were able to provide gifts and a food basket to four families (5 adults and 8 children). We also provided a Walmart gift card to each of the 12 Drug Court participants and a box of homemade treats.

None of this happens without teamwork. Becka Wohl, Anna Heinen, Tami Hulm, Ashley Miller, and Melissa Klimpel provided a breakfast for their firm, Smith Porsborg Schweigert Armstrong Moldenhauer & Smith, in return for a free-will donation. Vicki and Dennis Kunz filled food baskets for each family receiving gifts. The Supreme Court and a former Justice contributed. Morgan Klimpel (Melissa's daughter) was the elf we are so grateful to have wrapped most of the gifts, assembled cookie boxes, and stuffed the boxes!

Region III's Drug Court Christmas project is definitely a group effort. We want to thank everyone for the support they've given to Drug Court the past 10 years. On page 31, you will find some fun facts about Region III's Drug Court Projects: By the Numbers.

Region III Volunteer Projects continued

Region III members made donations, shopped, wrapped, delivered, and/or baked. Our full team of awesome elves included:

Bonnie Banks, CP

Justice Daniel J. Crothers

Linda Hagen Mathern, CLA

Anna Heinen

Chief Justice Jon J. Jensen

Judge Carol Ronning Kapsner

Morgan Klimpel

Justice Lisa Fair McEvers

Pearce Durick Law Firm

Candy Schafer, CLA

Justice Jerod Tufte

Michelle Christie

Laurie Guenther, ACP

Melissa Hamilton, ACP

Tami Hulm, ACP

Alice Johnson, ACP

Melissa Klimpel, ACP and her sister

Vicki Kunz, ACP and Dennis Kunz

Ashley Miller

Redmann Law Firm

Smith Porsborg Schweigert Armstrong
Moldenhauer & Smith Law Firm

ReBecka Wohl, CP

Several of the “WDALA Ladies” also participated in the Santa Run. We were thrilled when the Bismarck Santa Run awarded their Beacon of Hope award to one of the individuals we provided gifts to this year. See his Scrabble board “Thank You” message . . . Pilamaya Lakota iyapi.

Thank you for being an important part of WDALA’s partnership with Drug Court. We included some pictures from the Drug Court Christmas project and Santa Run.



Region III's Drug Court Projects: By the Numbers

10

Number of years

Region III has organized the Drug Court Christmas Project

\$12,664.00

Total donations collected

from WDAVA members, family members, court personnel, and law firms

28

Food baskets donated

by MDU Resources Group (HOPE – Helping Other People Everyday) and Vicki and Dennis Kunz in the last 6 years

164

The number of people

receiving Christmas gifts:

- 67 Adults
- 97 Kids

9

Number of years

Region III has hosted a picnic for Drug Court

38

Movie tickets

given to participants in the last 2 years

31

Walmart gift cards

given to participants in the last 2 years

Region III Volunteer Projects continued



Drug Court Christmas Project

Region III Volunteer Projects continued



The Santa Run

WDA LA BirthdaysFebruary:

- 5 Lorelee Clay
- 16 Laurie Guenther, ACP
- 18 Noni Geer, CLA
- 27 Holly Radke

March:

- 5 Anna Heinen
- 25 Andrea Johnson

April:

- 7 Alice Johnson, ACP
- 8 ReBecka Wohl, CP
- 11 Afton Basden, CP
- 13 Charlene Smith, ACP
- 18 Shannon Barth
- 27 Melissa Klimpel, ACP

Officers/Executive Committee, Board of Directors, and Committees

OFFICERS/EXECUTIVE COMMITTEE

President.....	Alice Johnson, ACP
First Vice President.....	Holly A. Radke
Second Vice President.....	Kathy Johnson, CLA
Secretary.....	Charlene Smith, ACP
Treasurer	Anna Heinen
Parliamentarian	Corrina Pfaff
NALA Liaison.....	ReBecka Wohl, CP

BOARD OF DIRECTORS

Region I.....	Holly Radke
Region II.....	Becky Hillerud and Andrea Johnson
Region III	Unfilled
Region IV	Josie Schaefer

COMMITTEES

Education.....	Holly Radke (Chair); Josie Schaefer; Andrea Johnson; ReBecka Wohl, CP; Anna Heinen; Anna Oleksik; and Alice Johnson, ACP
Membership	Kathy Johnson, CLA (Chair); Josie Schaefer; and Holly Radke
Finance/Budget	Anna Heinen
CLA Chairman and Student Liaison.....	ReBecka Wohl, CP
Nominations/Elections	Melissa Hamilton, ACP
Auditing	Corrina Pfaff and Vicki Kunz, ACP
Legal Assistant Day	Melissa Klimpel, ACP and Melissa Hamilton, ACP
Ethics/Professional Development	Andrea Johnson and Josie Schaefer
State Bar/NDTLA Liaison	Melissa Hamilton, ACP
Historian.....	Laurie Guenther, ACP
Public Relations	Melissa Klimpel, ACP (<i>Summons</i> Editor); ReBecka Wohl, CP (Facebook Administrator); Alice Johnson, ACP (Website); Candy Schaefer, CLA, Laurie Guenther, ACP; and Tami Hulm, ACP