

# L.A.W.S. LEDGER

2022—Volume 2

July 12, 2022

Columbines—Grand Mesa  
Photo by Angela Classen



## ***NEXT MEETING: JULY 20, 2022***

The next meeting of the Legal Assistants of the Western Slope is scheduled for Wednesday, July 20, 2022, at 4:00 p.m. at the offices of Hoskin, Farina & Kampf, 200 Grand Avenue, Suite 400, Grand Junction, Colorado.

Our guest speaker will be Barb Butler who will speak on estate planning and probate issues: Estate Planning and Probate: What Could Go Wrong?

If you plan to attend, please RSVP with Penny Landeis by phone (970-986-3400) or e-mail (plandeis@hfak.com) so we can have an accurate head count. Also, feel free to invite your friends! Let's spread the word about our great organization!

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### **GOALS OF L.A.W.S.**

- To provide local access to continuing education
- To encourage a high order of ethical and professional attainment
- To promote the legal assistant profession
- To inform and educate the public and legal community about the effective utilization of legal assistants

## MESSAGE FROM THE PRESIDENT

Hope everyone is enjoying their summer so far. We have a new meeting coming up and I hope you can attend.

I recently read an article about the changes that the COVID-19 pandemic brought on. A lot of employers have learned that employees CAN work remotely and still be productive. I, for one, have begun working remotely after a move. During the pandemic I worked solely in the office, but decided that I need to live closer to family and wasn't ready to retire. Or change jobs! I am now blessed to be working at a job I enjoy and being close to family.

There has been an adjustment~~for those in the office (maybe mostly attorneys!) and out of the office, but I have learned that with proper communication and being open, it's a workable situation. It may not work for every employee or every employer, but it is nice that the option is available more now than before.

A closing remark. Just remember we must be mindful of our own needs as well as the needs of others. Enjoy your summer and hope to continue to see you at our meetings and elsewhere down the road!



*Penny Landeis*, President

## CALENDAR OF EVENTS

July 14-16, 2022	NALA Conference-Phoenix, AZ
July 20, 2022	LAWS meeting
August 24, 2022*	LAWS meeting
October 19, 2022*	LAWS meeting

\*tentative dates—subject to change

## SPEAKER BIO

Our speaker will be Barb Butler, who will give a presentation on probate and estate planning matters.

### Estate Planning and Probate: What Could Go Wrong?

As a partner with Dufford Waldeck, Barbara spends most of her time with estate planning and probate matters. Her number one goal is to make sure the client's wishes become reality. This is an important step in the continuum of a person's legacy and Barbara is there to assist her clients and their families through these complicated and sometimes contentious processes.

When out of the office, Barbara enjoys spending time with her husband Brad (who is an awesome photographer), traveling to see family, and listening to live music.





## EDUCATIONAL ARTICLES

FEATURE

# FEDERAL ESTATE TAX

*The Basics*



*Written by Robin A. McCormick, CP*

Even working in an estate planning and probate practice for an entire career, a paralegal may never see a Federal Estate Tax Return much less prepare one. This article discusses the basics about preparing the United States Estate (and Generation-Skipping Transfer) Tax, Form 706. The IRS calls the estate tax “a tax on your right to transfer property at your death.” It is a tax owed by estates (not individuals) that is calculated by determining the value of a decedent’s assets. This article will not discuss income tax owed by estates (talk to a CPA) or state inheritance taxes (taxes paid to a state by an individual who inherits).

## IT IS ALL UP TO CONGRESS

Because Congress passed a law in 2017, a person may die owning assets worth \$12,060,000, and their estate will pay no Federal Estate Tax. Clients worth \$12,060,000 represent a rarity in many firms. As I said, even in a lifetime of probate work, one may never need to complete a return.

Being worth that much money does not please some political types. Sometimes members of Congress seemingly knock each other out of the way to get in front of a camera to decry, “The rich do not pay their share!” What those members of Congress fail to mention is that Congress makes the rules about

who pays estate tax. U.S. Code, Chapter 26, Internal Revenue Code and its regulations are all the work of Congress. Thanks to Congress, that \$12,060,000 figure, known as the “basic exclusion amount” will go up each year until December 31, 2025. Congress even generously allows the basic exclusion amount to be recalculated each year due to inflation. How many estates pay the estate tax? Not many. A study by the Tax Policy Center at the Brookings Institution estimates that out of 28 million deaths in the United States in 2018 (the latest data available), only 4,020 estates were large enough to even file a Form 706. Of those, only 1,890 estates paid tax. About 0.00675% of estates in 2018 paid estate tax. Even with those low figures, do not believe knowledge of estate tax is worthless. On January 1, 2026, the basic exclusion amount will plunge (rhetorically speaking) to only \$6,000,000 when the sunset provision that Congress put in the Tax Cuts and Jobs Act takes effect. \$6,000,000 was the basic exclusion amount when the Tax Cuts and Jobs Act took effect. Considering how real estate values have climbed, and the values of stock portfolios and retirement accounts have gone up, that plunge in the basic exclusion amount will dramatically increase the number of taxable estates, so don’t tune out yet.

Congress threatened to radically change estate tax law in 2021. To the surprise of many, Congress took no action, and the end-of-year holidays of many attorneys and paralegals were saved. No need for massive end-of-year tax planning with hours of drafting and revising.

Now that it is 2022, Congress can change the estate tax law if it can ever get its act together. With midterm elections in November, Congress may not change it much even though Congress can do virtually anything it wants with tax law. Representatives and senators generally like their “public service jobs,” and no one gains votes by making people file estate tax returns. Before the next presidential election in 2024, look for bills to be introduced in Congress to lower the basic exclusion amount. Since the law will automatically expire with no action on the part of Congress in 2026, Congress may continue to kick the can down the road and do nothing.

## COMPLETING A RETURN

Since this is an article about estate tax returns and not a polemic against Congress, let us discuss some basics of completing a federal estate tax return. These returns can take months to complete. The return is due nine months after the death of the decedent. I rarely get one completed that early.



As long as the preparer has not missed the nine-month deadline, the preparer, or the estate, can apply for a one-time, no reason needed, six-month extension. Fifteen months is generally enough time. I have been completing estate tax returns for more than 20 years, and only once did I have to review the Tax Code and regulations on how to apply to the IRS requesting more time to file after fifteen months. Just as with Form 1040, an extension to file is not an extension to pay. Happily, it is the attorney's duty to estimate the gross estate at these times. Also, the attorney gets to tell the client how large a check the client needs to bring to add to the extension form.

I learned from an attorney, when he was practicing as a CPA, that he would complete IRS forms in pencil, so errors and changes could be erased. When finished, he would copy it on bond paper, sign it, and file it. A Form 706 is not that type of tax return. Calculating the tax yourself using the instructions and tables is possible, but the schedules of assets can run from dozens to hundreds of pages. For example, brokerage accounts are usually placed on Schedule B. A schedule will be created by listing every date of death value for each asset of every brokerage account owned by the decedent. The decedent may have five brokerage accounts with a hundred positions each, and each asset value is needed for the schedule. Schedule B can be very long. Perhaps there will be appraisals of closely-held or family-owned businesses for Schedule F when asset values will be discounted. All of this is not a job for paper and pencil; a good software program is a necessity. This is not a paid promotion, but my firm uses CCH ProSystem. I spend hours entering data, so the program can do the math.

To start entering the data, gather together bank statements, brokerage statements, appraisals of personal and real property, local tax records for real estate values, loan and mortgage statements, etc.

After listing assets (Schedules A – I), start listing deductions (Schedules J – O) in detail. Funeral expenses (deductible



in certain circumstances, ask a CPA), attorneys' fees (always deductible), accountant fees, any appraisals, and executor's fees are deductible. Costs incurred during administration for maintenance of estate property, repairs, or storage can be deducted. Real property taxes are deductible as well as property insurance. These are only a few deductible items from the gross estate.

After preparing schedules of assets and deductions, let the software program calculate the taxable estate, and determine if anything is owed. I will warn you, changes occur in the asset schedules and on deductions as often as there are changes when drafting a will, so the software program will have plenty of opportunities to work.

While the attorney is deciding what final amounts to use, collect the attachments to the return. Make sure to obtain a certified copy of the decedent's will, letters testamentary, and a certified death certificate. Add any real estate, business, art, or collectible appraisals. Don't forget copies of trust agreements where the decedent was a grantor and Forms 712 for life insurance death benefits. Include copies of gift tax returns for any years in which the decedent made

gifts or in which the decedent split gifts with their spouse. (One of my least favorite activities is spending hours locating old gift tax returns and then copying them. These returns have already been filed with the IRS but must be included as attachments to the estate tax return.) All these items are necessary and are sent to the IRS with the final return. Do not forget a cover letter, and do not forget the big check if necessary. The completed Form 706 can be volumes in length. If the return will fit in an 11x14 envelope with attachments, use USPS Certified Mail. For a larger return that may turn out to be several 3-ring binders in length, put it in a box, and use FedEx. Obtaining proof of delivery from FedEx is easy. Proof of sending to the IRS is more important than delivery. The return is deemed filed the date it is sent, and many returns are "filed" on the deadline.

Other topics of importance in estate tax returns include Maximum Marital Deduction, Alternate Valuation, Portability, § 6166 payment plans, gifts in the gross estate, Stepped-Up Basis, automatic lien on decedent's property; but this is a basic article.

Print out a blank Form 706 and the separate instructions from the IRS website. The instructions contain much minutia, but really hone in about the schedules. Putting an asset on the correct schedule can be as important as making sure one has complied with the minutia.

The best advice I can offer is to find someone who has completed several returns and take a few lessons. Ask them for shortcuts and how to avoid easy errors. Also, locate a completed return and review how it was done. Form 706 is complex, but take it slow, look at some examples, and you can do it!

*Robin Ann McCormick, CP, has been practicing as a Paralegal for almost 40 years. She graduated from Texas A&M University, survived two years at LSU Law School, and found her life's calling more than 25 years ago in estate planning at Oliver Maner LLP in Savannah, Georgia.*  
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## EDUCATION

# Anatomy of a Social Security Disability Claim

*Written by Lucinda Calhoun*

Social Security Disability is a program in which benefits are paid to individuals and families who are disabled and need assistance. People who have worked long enough to pay Social Security taxes can reap the benefits of the program and are therefore able to apply for assistance if needed. Many people pay into the benefit; however, quite often applicants are unapproved should they apply. It is important to understand and know the basics of a disability claim and understand the claims process when assisting the attorney. There are five stages through which an application for a Social Security Disability claim is processed. The stages include the Application or Initial level, Request for Reconsideration, Request for a Hearing, Appeals Council, and the Federal Court level.

The Initial level is the level at which the applicant applies for disability. The applicant can fill out the application form in person at the local social security office, over the phone, or online. Once the application is completed and submitted, the Social Security Administration (SSA) makes a final decision to determine if the now claimant is qualified to receive the benefits. The SSA routinely checks for the basic requirements to determine if the applicant has worked enough years to receive the benefits and reviews the evaluation of current work activities. The information is transferred from the SSA to a local office within the claimant's state to determine if the claim is approved or denied. Unfortunately, many

applicants are denied at this level, but they may be able to receive benefits later by means of filing a new claim or filing a Request for Reconsideration.

The Reconsideration level involves the claimant filing a Request for Reconsideration within 60 days of receiving the initial denial from the SSA. In this stage, the claimant will usually wait an average of 90 days to receive a decision from the SSA. Should the claim be approved, the claimant will go on to receive benefits, but if the applicant is denied, as with the initial level, the claimant has the option to file a new claim or Request a Hearing.

The Request for a Hearing involves the claimant presenting their case before an Administrative Law Judge (ALJ). The claimant has 60 days from the date of their most recent denial to request this hearing. The hearing will take place within the claimant's local office known as the Disability Adjudication and Review. Legal representation is not required of the claimant; however, it is usually highly recommended the claimant have legal counsel present on their behalf. It usually takes a few months before the claimant will receive a notice from the ALJ regarding the decision. If the claim is approved, the claimant will receive the Notice of Decision and the Award Letter. However, if the claim is denied, the claimant may present the

matter to the Social Security's Appeal Council.

The Appeals Council will determine if the ALJ erred in their decision or if the decision was properly made. The Council usually takes up to eight months to make their determination. It is common for the Council to uphold the ALJ's decision. If the ALJ's decision is upheld by the Council and the claim is denied, the claimant will have the opportunity to file an appeal in Federal Court.

Claimants who appeal to the Federal Court are either denied or sent back to the hearing level. The District Court Judge hears briefs and oral arguments at this level. The Judge will decide based on information presented and review decisions from the previous levels leading up to the appeal in Federal Court. It can take more than a year before a decision is reached at this level.

Social Security Disability is a beneficial program designed to assist individuals and families in need. The application process can be long and difficult for an applicant, but it is a little less stressful if the applicant understands the process to prepare them to pack a little patience.



*Lucinda Calhoun is the lead paralegal at Shelby County Government, County Attorney's Office in Memphis, Tennessee. Her responsibilities include, but are not limited to, performing substantive legal research, assisting with preliminary investigations, discovery, and county commission legislation. She holds a bachelor's degree in Paralegal Studies from the University of Memphis and has worked in the legal field for over 18 years. Lucinda is a member of the Greater Memphis Paralegal Alliance, Inc. and NALA. She is the past president of the Greater Memphis Paralegal Alliance, Inc. ✉ calhoun.lucinda@yahoo.com*

## LEGAL LOL

# Proof That Blog

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## Grammar Gigue – The Honorable or The Horrible?

By [azsieck@msn.com](mailto:azsieck@msn.com) | June 13, 2022 |

[grammar giggles](#), [legal assistant](#), [legal proofreading](#), [legal secretary](#), [misspellings](#), [paralegal](#), [proofreading](#)

A local judge shared this Twitter post from a Florida judge. This perfectly illustrates a couple of points that I feel are most important in our jobs. First, proofreading is really important—spell check would not have caught this error. Second, taking the time to look at your work product is well worth it. Take the time! Third, this is a really good example of the usefulness of a master caption file for every case—that is proofread multiple times—that contains information that attorneys don't typically review like the case name, court name, attorney ID, service list, and judge name. This judge seems to have a sense of humor, but I'm pretty sure she will remember this in this case and with this lawyer and firm in the future. Always follow Judge Weston's advice and don't forget to proofread!



**Judge Kathryn Weston**  
 @KathrynWeston

Unfortunate typo.  
[#HorribleorHonorable](#)  
[#DontForgetToProofread](#)



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## I'M DYING TO KNOW

Find the estate planning and probate related terms in the puzzle below.

X Y U G U I H P Q P A A Q L U U K U E B G E C C W Y M F S N  
 U J H B C J W G G B F B L L I W E A E Y Z D X I V E X E Y O  
 L Y N U G D J X L G L C M I R G T N M K R P E F P N M I G I  
 Y L G N V Q J D A T D S V W Y E E C T O N M I N X J X S N T  
 E D I L B G W D G R B V C R R F Y R A I C U D I F C N U F A  
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 F H D G Y A I W D L T W Y I B U G M G Z A V Z D U X L D V F  
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 Z M T T T R T U C I G F Q J D A F Y H I G F Z T Y S I A M D  
 Y X T A X Y I L A O X Q P V T D F X H J M R N E B L I P D N  
 H E I R I Q B P L G U J Z H C I X R J C B A W K R C Z T Z S  
 Y N Z M Z Z J C B M T N Q O X F L J N Y H M W E N T G P L I  
 R K S X Y T N C S O Q T T Y K X A W N J H X B A L A T S Q F  
 S X B A V B W P O Z M G K I U K O D R J A K S M Z E F G P O  
 T V K T U Q C W Z U Q U S L N J Z A L F G R I D H R P C K Y  
 Z A P R D B W T N M F C M Q D G Y O P P Z M X L X I L M S C  
 H U N J M T Z G G J F L N U L F J S N E S Y N Y T L Q R Z B

accounting  
 beneficiary deed  
 heir  
 letters  
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 power of attorney  
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beneficiary  
 fiduciary  
 issue  
 notice of publication  
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 will





# HEALTHY WAYS TO **AVOID** BURNOUT

*Written by Jackie Van Dyke, CP*

Mid-career malaise is real. We know that paralegal burnout is real. You may be asking yourself, "Is this all there is?" You may have experienced career success but still question what you are doing every day. You want to maintain your productivity level, but perhaps you are feeling restless.

These questions and these feelings mean it is time to be proactive and take a serious look at what can be tried differently. Dr. Ruth Gotian said it best – "Think of the fear of not trying."

**Here are some ideas for looking at work with a positive attitude:**

**First**, reflect on – rather than rethink – your professional journey. Think back to when you were starting your career as a paralegal. Focus on the initial excitement rather than the current stress. You may be approaching a period of uncertainty, but you handled uncertainty well at the beginning of your career, too. It can be easy to forget that we are helping clients who may be going through horrible experiences. It is possible to reignite your passion for becoming a paralegal by taking a few minutes to remember those for whom you are working so hard.

**Secondly**, make small changes in your work environment. Reorganize your desk space, hang a new picture, add a plant, or re-arrange the furniture. Negotiate a different work schedule. Ask for support or flexibility if you find you are working in a self-sabotaging work pattern. Doing different work with different people can re-energize you without adding the stress of changing law firms. Do you schedule breaks that are important for recharging and refreshing? And, when you have the opportunity for a break, do you engage in re-energizing activities such as taking a walk or practicing deep-breathing exercises?

**Third**, perhaps surprising, is to focus on more learning. Boredom contributes to malaise. By the time you reach mid-career, you are comfortable in your responsibilities and know what you are doing. You may easily get bored. Ask to take on a new challenge as a lateral move or apply for a promotion. Another option is to create a new job. Is there something that your firm needs to try? There is a task or area of expertise you find easy that your co-workers find difficult. Make your case for doing something different that in turn helps your firm.

**Fourth**, make efforts to meet new people and grow your network. Think about joining a professional association or taking on a leadership role in your local paralegal association. You will surround yourself with supportive people. Perhaps it is time to connect with experts or mentors that can guide you in a new direction. A mentor can be an encouraging influence during your time of mid-career malaise. Alternatively, consider creating a mentoring team, including someone your senior, peers, and someone your junior. Do not wait for opportunities to find you.

**Finally**, continue to look forward and create a plan for personal wellness. Cultivate that inner resilience. Begin to work on that better balance between personal life and work life. Do not discount the power of making small changes. Remember to set SMART goals: specific, measurable, achievable, relevant, and time-based.

Remember, this mid-career malaise point in time is one chapter and not your entire story. You are responsible for your professional career, and you can take control of the mid-career malaise. We gain more by growing than by standing still. Select one of the options discussed above and make a plan for change. Where will you find yourself in five, 10, or 15 years?



Jackie Van Dyke, MPS, CP, is a virtual-freelance paralegal, writing coach at The Paralegal Writer™, and Professor of Paralegal Studies at The George Washington University College of Professional Studies (GWU) and at the University of San Diego School of Law (USD). Jackie is a solopreneur offering online writing courses for the paralegal community at <https://theparalegalwriter.com>. Jackie earned her Paralegal Certificate in Litigation at USD and her master's in Paralegal Studies at GWU. Jackie serves on the NALA Continuing Education Council and is a member of NALA's Paralegal Educators/School Relations Committee.  
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Legal Assistants of the Western Slope (LAWS) was established to create and maintain good fellowship among association members, the National Association of Legal Assistants, Inc. (NALA), and members of the legal community.

LAWS is an affiliated association of NALA.

LAWS is dedicated to offering educational opportunities to legal support staff. Presentations offered during our meetings are designed to give our members new information and resources in the fast-paced, rapidly changing environment that impact our growth.

