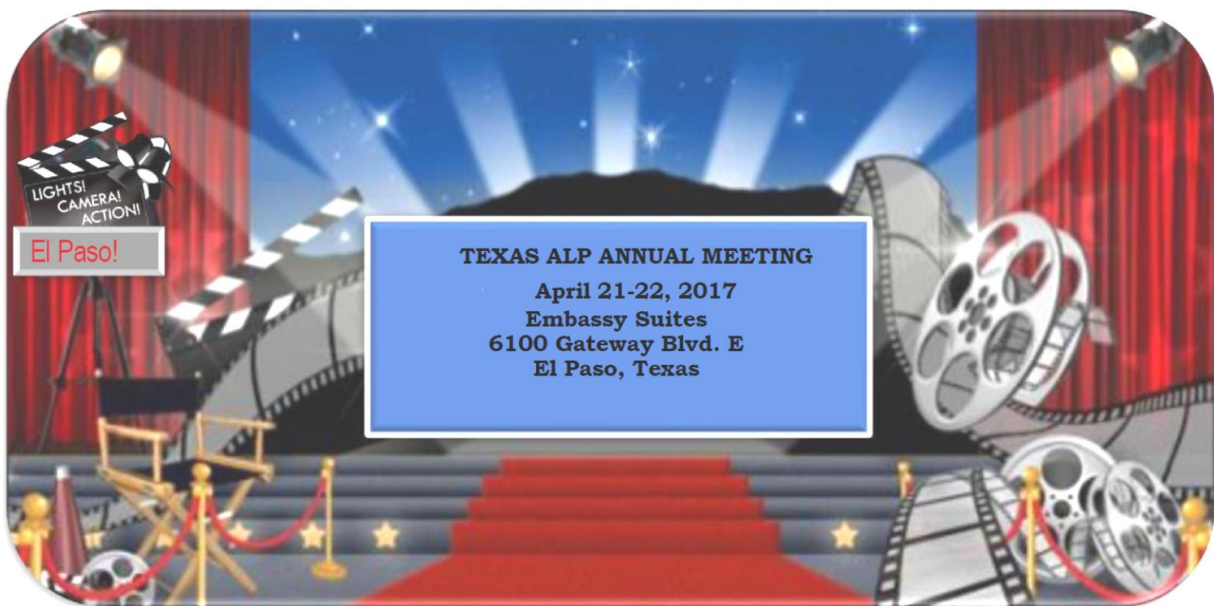




The Texas Docket

www.texasalp.org

April 2017
Volume 14, Issue 4



**Make Your Plans!
See You There!**

Editor

Lola J. Smith-Gentry, ACP
lgentry@hkwwlaw.com

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The Texas Docket

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President's Message

Mary H. Bullard, ACP, TSC-RE
Texas ALP President 2016-2017



Like every president before me, I am amazed at how quickly the year has passed. On our part of Planet Earth, we have four seasons: spring, summer, autumn, and winter. Just as the weather is different during each season, the growth of trees is also different. Trees bear green leaves in the summer, they change colors and fall to the ground in autumn, and the branches become bare in winter. These seasons also coincide with activities that occur every year within our association.

In spring, buds swell on trees and blossoms and new leaves appear. For Texas ALP, the spring of 2016 saw the installation of officers, directors, and chairmen and the beginning of the new fiscal year on May 1. It was also the time for committees to review the previous year's files, read the Texas ALP Strategic Plan for their committee's goals and strategies, and then formulate plans to achieve those goals. Carol Gutierrez, Rita Alesi, Andrea Griffin Darland, Samantha Tandy, and I

attended a weekend executive committee retreat to coordinate the association's plans for the year. Our local chapters also were busy at work.

Summer is the season when the leaves on trees have matured and photosynthesis uses carbon dioxide to produce oxygen. A tree's fully-leaved canopy also provides shelter from the summer heat. By summer, Texas ALP's officers and committees had also matured and were busy at work. In the summer of 2016, San Antonio LSA was hard at work with its plans for the Fall Educational Conference, the Nominations and Elections Committee sent out the call for nominations, the Website was updated, and *The Texas Docket* was published.

Autumn is always a particularly busy time for Texas ALP and this year was no exception. The Fall Educational Conference was held in San Antonio, and if you were unable to attend, you missed the opportunity for great continuing legal education and networking. All of its hard work really paid off and SALSA hosted an outstanding conference. Additionally, the election of officers for 2017-2018 was held, the Texas ALP Official Roster was distributed, the first financial period ended, and another issue of *The Texas Docket* was published. Texas ALP hosted a brand-new event, Texas Firecamp, at the Girl Scout's Zilker Cabin in Austin. The leadership training camp was made possible through a grant from the NALS Foundation.

Winter also saw another new event—a continuing legal education Webinar. The Webinar was something that Education Chairman Marty Olson had wanted for quite some time, and she is to be congratulated for her efforts to make it happen. The winter season also saw another issue of *The Texas Docket* published, a leadership page created on the Website, and El Paso ALP busy at work as host of the Texas ALP 62nd Annual Educational Conference.

The members of Texas ALP were very busy this year and not just with the usual business matters. It was exciting to discover our members have new ideas and are willing to work to bring them to life. Your vision and work ethic mean this association will continue to exist to further the interests of legal professionals in Texas.

This spring, Texas ALP will be installing new officers. Carol Gutierrez, Rita Alesi, Andrea Griffin Darland, Tina Hurley, and Donna Dendy will take an oath to continue Texas ALP's mission to promote a high standard of competence for legal support professionals. Please support them in their efforts to further the work of this association.

Because I am a genealogist, I chose for my theme for this year a quote about families: "Like branches on a tree, we grow in different directions, yet our roots remain as one." This is true for us as a family of legal support professionals. It is also true for Texas ALP. Just like branches on a tree, the association may grow in different directions, but its roots will remain grounded in the mission's goals to provide opportunities for legal education, provide opportunities for networking, support certification, and provide opportunities for professional development.

Thank you for allowing me to serve as your president. It has been one of the most rewarding times of my life, and I am so honored you entrusted me with the care of the Texas Association of Legal Professionals.



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Fight, Finish, Faith

Submitted by Mary D. Teague, PP, PLS

How quickly the 2016-17 year has flown. My previous articles for *The Docket* have discussed the definition of a legal professional, your personal growth as a legal professional, and the recognition of positive contributions of others. In that light, I would like to recognize a young man whose contribution in only one year has been outstanding and who serves as a positive role model to be emulated.

This young man, whose name you football fans will instantly recognize, is Dak Prescott—the rookie quarterback for the Dallas Cowboys. He states that his mother, who passed away from cancer before she was able to celebrate his achieving his childhood dream of playing for the Dallas Cowboys, taught him three principles to live by, and he credits his success to following them. Those principles are:

Fight—he has had to fight for every opportunity that he has been given.

Finish—he has diligently worked to finish the opportunity.

Faith—he has walked in faith.

I would encourage each of you to apply these principles in your journey to becoming the best legal professional you can be by asking yourself these questions: What goals do you have that you truly want to see accomplished? What changes are you willing to make to reach those goals? Will you choose faith in believing you can reach your goals or will you choose fear and refuse to move forward?

In considering these questions, I would like to leave you with the following thoughts:

- It is what it is. We may not be in control of our circumstances, but we are in control of our response. We have power in the present moment.
- Let go of the expectations that are not working for you. Change what you can change—yourself.
- Shift your focus. Stop focusing on what you do not have and start focusing on what you do have.



We judge ourselves by our intentions, but the world judges us by our actions.



Gabby can't wait to see you!

Texas ALP
Annual Meeting
April 21-22, 2017
El Paso, Texas

While you're here,
check out some of our
"Things To Do"

Things To Do

Cattleman's Steak House
Chihuahua Baseball Game
Drive to Mesilla Park
El Paso Art Museum
El Paso Border Patrol Museum
El Paso Mission Trail
El Paso Zoo
Fountains at Farah
(lots of shopping and eateries)
Holocaust Museum
Hueco Tanks
Painted Dunes Golf Course
(carved out of the Chihuahuan Desert)
Scenic Drive
Speaking Rock
Sunland Park Racetrack and Casino
Wyer Aerial Tramway
(view 3 states and 2 nations)
Zin Valle Vineyards



San Antonio LSA received its Charter on June 7, 1957.

Wichita County LPA received its Charter on July 7, 1958.

GETTING TO KNOW YOUR TALP OFFICERS



CAROL GUTIERREZ
2017-2018 PRESIDENT

Carol Gutierrez has been a member of NALS since 1987. In 1990, she obtained her first leadership role and quickly moved up the ranks in her local chapter, holding several chairmanships and officer positions—some more than once. Carol was selected as El Paso’s Legal Professional of the Year in 2005 and 2012. She is always willing to help out and is open to new ideas in order to move the association forward. Carol believes in its purpose and takes advantage of its value.

On the state level, Carol has co-chaired Awards; chaired Membership, Marketing, and the 2001 Annual Meeting Committee; and served as a member of strategic planning, certification, and *The Texas Docket* committees. She obtained her PLS in 2004 and then again in 2014.

Monica Acuna, Past President of EPALP, writes “Carol believed in me and didn’t give up, and her persuasion paid off when I was nominated for and accepted the Presidency role of our local chapter. Carol has guided and mentored not only me, but other members. I am truly blessed because of this experience. Her passion for the association is contagious, and I have learned that I can lead others and want to be involved rather than just sit back and watch opportunities pass me by.”

Liliana Flaco, Immediate Past President of EPALP, describes Carol as a person who motivates others and is enthusiastic about wanting to make the association grow.

Carol stated that she renews her membership every year because Texas ALP provides her with the skills and knowledge to allow her to better assist the attorneys she works for on a day-to-day basis and you just cannot beat the networking opportunities. The people you meet along the way become good friends and the social networking keeps us all connected.

In looking back on her leadership journey thus far with Texas ALP, Carol stated that she has learned the value and importance of the leadership track and is anxious to do her part in leading Texas ALP into the future. She believes membership is vital to our organization to keep it going and to bring in new ideas which will help us better understand the needs of our members in an effort to not only get new members, but to keep them. In order to accomplish these goals, she plans to work on improving our communication skills at all levels of our association.

Carol has been married to her husband Danny for nearly 31 years. They have three sons and four grandchildren! In her spare time, she enjoys music, dancing, scrapbooking, and spending lots of time with her grandkids.

Her commitment and participation will benefit Texas ALP and its leadership team.



**RITA C. ALESI, PP, PLS, TSC-CL
2017-2018 PRESIDENT-ELECT**

Rita C. Alesi joined NALS in 1988 and is a NALS Life Member. She has been elected to the Texas ALP Board as President-elect for 2017-2018. Rita has been married to Joe Alesi for 30 years and has two adult sons, Tobias and Carl; one granddaughter, Camryn; and two grandsons, Cameron and Nicholas. Rita's hobbies include volunteering for HALP, TALP, and NALS and, when she has free time, fishing and reading. Rita retired from the legal field and now helps her husband in their handcrafted mattress business. They have one loving dog, Bella (a four-year-old Staffordshire Terrier).

In addition to holding the NALS Professional Paralegal and Professional Legal Secretary certifications and being Specialty Certified in Civil Litigation by the Texas Institute for Specialty Certification, Rita earned the Certified Legal Assistant designation from NALA and was Texas Board Certified as a Legal Assistant in Personal Injury Law. Since her retirement, she no longer uses the CLA or TBLS designations.

Shortly after joining, Rita began working on the local level and has served as a committee chair or elected officer every year since. Of particular note, Rita has served as Houston ALP's president three times (1995-1996, 1997-1998, and 2002-2003) and has served as Director a half dozen times or more throughout the years.

Rita became involved on the state level in 1995 and has been chairing committees or has been involved as a member of a committee every year since, until being elected as an officer. In addition to working for Texas ALP, Rita joined the board of the Texas Institute for Specialty Certification in 1997 after taking the first civil litigation exam and was part of the committee that wrote the real estate exam. Beginning in 1999 she became president of the Institute for the next three years and then served in one capacity or another until the Institute was dissolved in 2010.

Rita has always been a big promoter of education, especially through certification, and has served as a NALS exam administrator many times. In 2006 she was given the opportunity to join the NALS certifying board and has been a member of the certifying board since that time, including serving as the chair for 2013-2014. Since that time, Rita has joined the NALS Education Products Task Force.

With the help of the members of our tri-level association, Rita's dedication to our association has continued to grow throughout the years. When Rita showed an interest in becoming part of the Texas ALP board, she deserved our support. As part of running for a state office, Rita wrote the following in her personal statement:

I believe I can offer a lot by way of leadership that can only be done at a higher level than on a committee. In that way, I can help mold the current Texas ALP and the future for our members who have different levels of experience and different levels of needs and keep our association relevant for the future. Being an officer for Texas ALP is a privilege, and I want to help lead Texas ALP to reach and exceed its goals. To climb the ladder is to put your heart into it.



**ANDREA DARLAND GRIFFIN, PP, PLS
2017-2018 TREASURER**

Andrea currently works for McWhorter, Cobb & Johnson, L.L.P., under the supervision of her boss, Gwynn P. Martin, who is also a partner in the firm. Andrea started her legal field career in 2001.

Andrea has been married to Michael for five years and between them they have five children. Andrea worked out of an abusive marriage to a life showing her children that no matter what happens you can pick up the pieces and have a good life with hard work.

Andrea is involved in several organizations, including Lubbock LPA and West Texas Paralegals Association (“WTPA”). She is Chair for the NALS Manuals Task Force. Outside of the legal world, she is a volunteer firefighter for New Deal’s Fire Department and currently studying to become a basic level EMT, Treasurer for the New Deal FFA Booster Club, and President of the New Deal Economic Development Board. Andrea currently serves as Lubbock LPA’s Vice President and Director and chairs various committees. She has been chair for LLPA’s Day in Court for several years and has chaired WTPA’s semi-annual educational seminars. She is all about education. She actively serves on all three levels of our tri-level association, including previously serving as TALP’s Membership Chair and Editor for *The Texas Docket*.

Offices/Committees

- 2016-2017–LLPA Vice President and Director; Committees: Day in Court and others
- 2015-2016–LLPA Treasurer, Historian, Director; Committees: Day in Court, *Legal Eagle*
- 2014-2015–LLPA President; Committees: Day in Court, Bosses’ Night, Legal Eagle; TALP Editor for *The Docket*
- 2013-2015–LLPA other offices

Awards/Recognitions

- 2012-2013—LLPA’s Legal Professional of the Year
- 2013—Legal Aid of Northwest Texas–Volunteer Lay Advocate
- 2015–West Texas Paralegal Association–Paralegal of the Year



**TINA HURLEY, A.A.S., PP, PLS
2017-2018 SECRETARY**

Tina Hurley, A.A.S., PP, PLS, is a Legal Administrative Assistant at Jackson Walker LLP in Dallas, where she assists five attorneys in their real estate practice.

Tina has been a member of NALS and Texas ALP since 1996. She has served on the board at the local, state and national level since 2001, including serving as Region 6 Director (2009-2010) and as NALS Education Director (2013-2014). She is currently serving as a Trustee for the NALS Foundation and will be the Foundation's Secretary for 2017-2018.

Tina has attained both the PLS and PP certifications through NALS and continues to recertify through many hours of continuing education. In 2016, She earned an Associate's Degree in Paralegal Studies Magna Cum Laude from Kaplan University.

Tina has been in the legal field for over 28 years, with experience on both sides of a case. She worked on the plaintiff side in personal injury, medical malpractice, and catastrophic construction accidents. She also worked on the defense side in asbestos litigation and environmental litigation. Tina worked for 12 years in the area of bankruptcy law assisting attorneys with Chapter 11 cases representing creditors and creditor committees. Currently, Tina works in Jackson Walker's real estate section on due diligence matters for portfolio acquisitions across the country.

In her spare time, Tina enjoys scrapbooking and creating wreaths and other craft projects for family, friends, and the occasional trade days show. Tina is also an avid Disney fan and tries to visit Disney World as often as she can.



**DONNA K. DENDY, PP, PLS, CLA, TSC
2017-2018 PARLIAMENTARIAN**

Donna K. Dendy, PP, PLS, CLA, TSC, is a paralegal with the law firm of Pakis, Giotes, Page & Burleson, P.C., in Waco, Texas. She has been in the legal field for 41 years. She is a past president of NALS . . . *the association for legal professionals*, past chair of the NALS Certifying Board, past president of the Texas Association of Legal Professionals, and past president of Waco Legal Professionals Association. She is a member of the NALS Certifying Board. She has been a speaker at numerous state and national workshops and is a Life Member of NALS.

Donna is married to her high school sweetheart, Kirby W. Dendy, retired Chief of the Texas Rangers. They have two children, Andrea DeLaCruz (husband Simon DeLaCruz, a DPS State Trooper) and S. Travis Dendy, Special Agent with Texas DPS (wife Amy Dendy), and five grandchildren. They spend their free time playing with grandchildren and working on their ranch in Hamilton, Texas. Donna's hobby is volunteering.

CERTIFICATION NEWS

Submitted by: Cynthia Huffman, PP, PLS

Congratulations again to the following who attained their Accredited Legal Professional and Professional Paralegal certifications this year:

Amanda Ring, ALP

Sarah Blanchard, ALP

Robert Carlisle, ALP

Hadley Ford, ALP

Vicki Gates, ALP

Jobeth Hines-Lorraine, ALP

Ashley Nyeholt, ALP

Jennifer Screen, ALP

Rebecca Short, ALP

Ana Stickell, ALP

Stacy Tanet, ALP

Gena Olney, PLS

Suzanne Beatty, PP, PLS

Mary Jahn, PP

Norma Rios, PP, PLS

I hope you all make plans to attend the Recognition Luncheon at the Annual Meeting in El Paso for the opportunity to “walk” and be recognized by your fellow TALP members! The next opportunity to sit for the Accredited Legal Professional exam is May 20, 2017, and the application deadline is April 10, 2017. The next exam dates for the PLS and/or CLP and for the PP will be September 30, 2017, and the application deadline is August 1, 2017. For more information, check out the following link, <https://www.nals.org/?page=certification>, or feel free to contact Cynthia Huffman at chuffman@bf-law.com if you have additional questions.

Note from the Editor:

Have you read an article you think other members might be interested in reading?

If so, you can share it for others to read in *The Texas Docket*.

Feel free to e-mail the article to me at lgency@hkwwlaw.com



Chapters and Members of TASP—

I WANT YOUR BRAGS!

Let me know if your chapter has done something special!
Let me know if you have a Member who has done something special!
Do you have exciting news to share with other Texas members?
Let's build our friendships by sharing other information.

WHAT IS ACCEPTABLE? ANYTHING!!!

Here are some examples:

Chapter X donated 150 pairs of shoes to the homeless through the local Z Group.

Jane Doe and John Doe celebrated their 25th wedding anniversary at a party thrown by their 3 children at the Elks Lodge.

Jane Doe graduated from University P with her degree in animal science.

John Doe completed a marathon.

Jane Doe was awarded “The Best Member Ever” of the local Lion’s Club.

MAKE IT EVEN BETTER—SEND PICTURES!!!

Please send submissions to:

Lola Smith-Gentry, Docket Editor, at
lgentry@hkwwlaw.com

Waco Legal Professionals Association

Waco LPA has been busy with its ongoing project with the Arc of McLennan County. Items were donated to the organization as the year progressed, and a monetary contribution was sent in December. The Arc of McLennan County is a 501(c)(3) association organized in 1954. It is also affiliated with The Arc of the United States and The Arc of Texas. The Arc is honored to be one of twenty agencies funded by the United Way of Waco-McLennan County. The Arc is dedicated to expanding opportunities, care, and support for persons and families impacted by intellectual and developmental disabilities.

In November, Waco LPA held its annual membership event. This event was held at The Waco Escape Rooms where members were locked into a room, given clues, and had the opportunity to solve the clues to be released from the room. The members had a very enjoyable experience, although they were not able to escape.



El Paso ALP

- ❖ EPALP had a drive in November to support the Center against Sexual & Family Violence. It was a mixed drive where both food and personal hygiene items were donated.
- ❖ EPALP partnered with the El Paso Young Lawyers Association “Christmas of Hope” Program. The association chose El Paso Children’s Hospital to benefit 10 families. The membership donated \$628.25. This is EPALP’s 4th year in co-sponsoring this event.
- ❖ EPALP participated in the Christmas Campaign for Child Protective Services and 40 gifts were given to children under their care.



Wichita County Legal Professionals Association

Our Brags:

In 2016, our local association prepared and sold a Legal Directory of attorneys and courts in our Judicial District and surrounding areas to raise funds to be able to contribute to local nonprofit organizations.

Our Association annually sponsors and donates Christmas gifts for children at Child Care, Inc. The gifts help the low income working families served by Child Care, Inc. in our area. Members of our organization donated gifts to 14 children which were delivered to them at the Huey Learning Center.



Santa gives a gift!



Debi Gendron, Bev Sloan, Tammy Dedmon, and Jessica Myers getting ready to deliver the gifts.

In addition, our chapter made donations of \$50 each to nonprofit organizations in the Wichita Falls area, including:

Campfire, Children's Fund, Faith Refuge, MSU Fantasy of Lights, Food Bank, Guardians of Children, Hospice, Interfaith Ministries, P.E.T.S. Low Cost Spay and Neuter Clinic, Shrine Hospital for Children, Snowball Express (for children of fallen heroes), Straight Street, and the YMCA. Eight matching donations from our group were also made.

The local chapter made a donation to purchase a memorial brick with our chapter name on it from the Wichita County Sheriff's Office Citizen's Alumni Association. The Memorial Project is raising funds to build a memorial for fallen county officers and volunteer firefighters.

I am so very proud of our Association!

Thank you,
Cheryl Whalen, CLA,
President Wichita County Legal Professionals Assn.

Wichita County Legal Professionals Association

Front row: Jennifer Williams and Nancy Adams (Corres. Secretary);

Back row: Tammy Dedmon (Co-Treasurer), Debi Gendron (Director), Lesley Chasteen (Recording Secretary), Cheryl Whalen (President), Linda Lam, Beverly Sloan (Treasurer), and Jessica Myers.



WHAT'S GOING ON—AUSTIN LPA, INC.

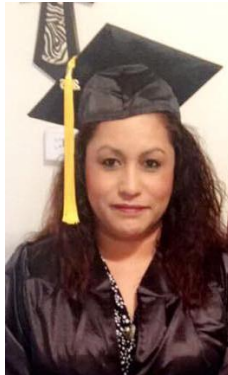
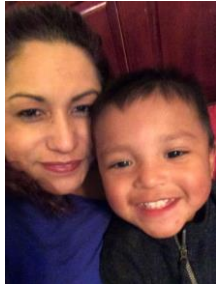
In December 2016, Austin LPA hosted a Membership Bake Sale. Many of our members contributed homemade goods as well as monetary donations. It was such a success that Austin LPA will be hosting a *free* Professional Development and Membership Drive for its members and nonmembers. Members and nonmembers will be introduced to the 2017-18 Officer Candidates. In addition, they will get an inside view on how Austin LPA conducts business throughout the year.

In February 2017, Austin LPA hosted its 47th Annual Recognition Event. The Keynote Speaker was Thom Singer, CSP. Mr. Singer is an expert in human engagement and has trained thousands of professionals in the art of building professional contacts. He shared with the members and guests how to be more engaged and enthusiastic in all of their actions. In addition to our Keynote Speaker, Austin LPA announced its 2016-17 Scholarship Recipient and Legal Professional of the Year Awards. This year's Scholarship Recipient was Lauren Noe, who is a senior at James Bowie High School in Austin. Our President, Marlena Johnson, PLS, was named Austin LPA's Legal Professional of the Year. Marlena works at Lloyd Gosselink Rochelle & Townsend, PC. Congratulations to both—job well done!

Lubbock LPA has Students to BRAG about!

Melissa Tobias

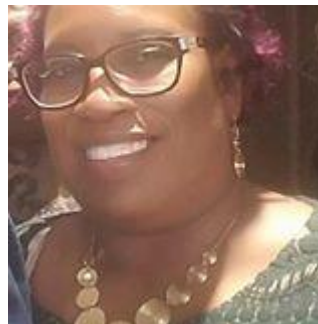
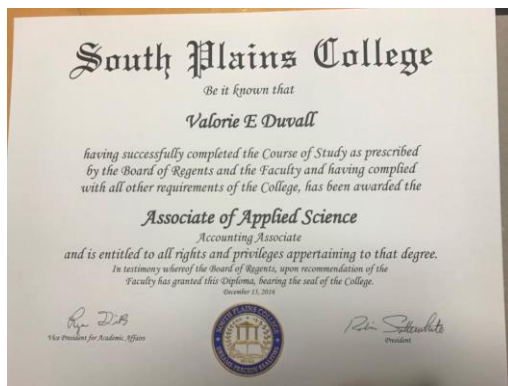
By Sylvia Juarez



Late Night Creations by Mel

I met Melissa years ago when we worked together at a law office. I know she went through some hard times in her life and marriage, but overall she came out ahead. Melissa grew up in the small town of Wilson, where you can wear more hats than one. She was involved in sports and cheerleading. Working with her, I realized she was a very intelligent individual and always completed the assignments given to her by her attorney. She moved away for a few years to the DFW area, and then ended up back in Lubbock. Melissa raised her two daughters as a single parent, and then adopted her nephew who is her pride and joy. Though having to work a fulltime job and adopting a baby in her later years, she managed to put herself through school by taking online courses. She has obtained an Associate of Science in Paralegal Studies with honors, and on Friday, January 20, 2017, she will be recognized for her accomplishment. She is already gearing up for more classes and will continue her studies to obtain her Associate in Science in Accounting. She continues to wear many hats, as she has started her business *Late Night Creations by Mel* making custom handmade Bible or book covers. I just want to say how proud I am and brag a little on one of our Lubbock Legal Professionals Association's student members. Go Melissa!

CONGRATULATIONS VALORIE DUVALL!!



Lubbock LPA Member Valorie Duvall graduated from South Plains College with her Associates of Applied Science in Accounting Degree. She is also going to South Plains College to get her Associates Degree in Paralegal Studies.



YOUR TALP RECORD

Updating your TALP member record is easy.
It only takes a moment.

You don't have to log in, and you don't
have to go through several screens to make your change.

All you need to do is e-mail me the information you want changed.
Easy. Simple.

I'm here waiting to hear from you. So e-mail me.

Helene L. Wood, PP, PLS-SC, TSC-RE
Texas ALP Communications Chair
helene.wood@nortonrosefulbright.com

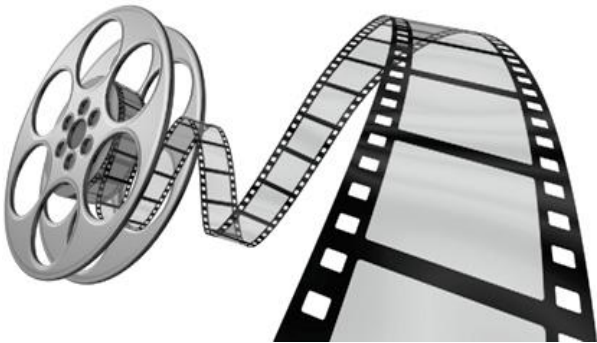


TEXAS ALP ANNUAL MEETING
April 21-22, 2017
Embassy Suites
6100 Gateway Blvd. E
El Paso, Texas

LIGHTS, CAMERA, EL PASO!

April 21-22, 2017

Embassy Suites
6100 Gateway Blvd. E
El Paso, Texas 79905



TEXAS ALP 62nd ANNUAL EDUCATIONAL CONFERENCE
"Lights, Camera, El Paso!"
 El Paso, Texas ♦ April 21-22, 2017
 Registration Deadline—March 31, 2017

REGISTRATION FORM

Name _____
 Address _____
 City/ST/ZIP _____
 Daytime Phone _____
 E-mail _____

(Check all that apply)

Certifications:

ALP PLS PP SC _____
 CLA/CP ACP RP TSC _____
 Other _____

- NALS Life Member
- Texas ALP Past President
- This is my first Texas ALP meeting
- I want to be a Texas ALP PAL
- I have a special dietary request (contact Registration Chair)

Local Chapter _____

Current Local Position Held _____

Current Texas ALP Position Held _____

Current NALS Position Held _____

SCHEDULE OF EVENTS
 (Please indicate each event you will attend)

Friday, April 21, 2017

- 8:00 am – 10:45 am Registration
- 9:00 am – 9:30 am Texas ALP Committee Meetings
- 9:45 am – 10:30 am Open Forum/PYI Workshop
- 10:45 am – 11:45 am Carlos Rincon –
The Commoditization of the Legal Profession
- 12:00 pm – 1:30 pm Rebecca Licalsi-Developing a Winning Attitude
- 1:45 pm – 2:45 pm Cori Harbour-Valdez –
The ABC's of UAV's Rules and Regulation of Drones
- 3:00 pm – 3:30 pm Credentials Check in
- 3:30 pm – 5:15 pm Annual Meeting

Saturday, April 22, 2015

- 9:00 am – 10:00 am Alejandro Acosta-Dram Shop Laws
- 10:15 am – 11:15 am Sherry Bunn-Uniformed Justice
- 11:30 am – 1:00 pm Kerie Trindle Byrne-Branching Out
- 1:15 pm – 2:15 pm David Ferrell-Lightning Legal Research on the Internet
- 2:30 pm – 3:30 pm Ron Jackson-Native American Law
- 3:45 pm – 4:45 pm Noel Gattis-Medical Malpractice
- 4:45 pm – 5:00 pm Raffle
- 7:00 pm – 10:00 pm President's Reception/Presidents' Banquet

FULL REGISTRATION FEES

Note: Regular and Late Registrations include all events

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- Texas ALP Chair.....\$ 85
- Nonmember\$150
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- Education Only—Student\$ 55
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- Recognition Luncheon (Nonmember)\$ 25
- President's Reception/Dinner (Nonmember)\$ 50

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- Recognition Luncheon\$ 25
- President's Reception/Dinner.....\$ 50

Guest's Name _____

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TEXAS ALP 62nd ANNUAL EDUCATIONAL CONFERENCE
El Paso, Texas – April 21-22, 2017

SCHEDULE OF EVENTS

Friday, April 21, 2017

8:00 a.m.	to	10:45 a.m.	Registration
8:30 a.m.	to	5:00 p.m.	Vendors
9:00 a.m.	to	9:30 a.m.	Texas ALP Committee Meetings
9:45 a.m.	to	10:30 a.m.	Open Forum/PYI Workshop
10:45 a.m.	to	11:45 a.m.	Carlos Rincon "The Commoditization of the Legal Profession"
12:00 p.m.	to	1:30 p.m.	Rebecca Licalsi – "Developing a Winning Attitude"
1:45 p.m.	to	2:45 p.m.	Cori Harbour-Valdez "The ABC's of UAV's: Rules and Regulations of Drones"
2:45 p.m.	to	3:00 p.m.	Break
3:00 p.m.	to	3:30 p.m.	Credentials Check-In
3:30 p.m.	to	5:15 p.m.	Annual Meeting Dinner On Your Own

Saturday, April 22, 2017

8:00 a.m.	to	10:45 a.m.	Registration
8:30 a.m.	to	3:00 p.m.	Vendors
9:00 a.m.	to	10:00 a.m.	Alejandro Acosta Dram Shop Law
10:00 a.m.	to	10:15 a.m.	Break
10:15 a.m.	to	11:15 a.m.	Sherry Bunn Uniformed Justice
11:30 a.m.	to	1:00 p.m.	Kerie Trindle Byrne – "Branching Out"
1:15 p.m.	to	2:15 p.m.	David J. Ferrell "Lightning Legal Research on the Internet"
2:30 p.m.	to	3:30 p.m.	Ron Jackson Native American Law
3:30 p.m.	to	3:45 p.m.	Break
3:45 p.m.	to	4:45 p.m.	Noel Gattis Medical Malpractice
4:45 p.m.	to	5:00 p.m.	Raffle
7:00 p.m.	to	10:00 p.m.	President's Reception/Presidents' Banquet

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 665**

December 2016

QUESTIONS PRESENTED

1. What are a Texas lawyer's obligations under the Texas Disciplinary Rules of Professional Conduct to prevent the inadvertent transmission of metadata containing a client's confidential information?
2. What are a Texas lawyer's obligations under the Texas Disciplinary Rules of Professional Conduct when the lawyer receives from another lawyer a document that contains metadata that the receiving lawyer believes contains and inadvertently discloses confidential information of the other lawyer's client? For example, is the receiving lawyer permitted to search for, extract, and use the confidential information, and is the receiving lawyer required to notify the other lawyer of the receipt of the confidential information?

STATEMENT OF FACTS

Lawyer A represents a client in the settlement of a civil lawsuit. Lawyer A sends a draft settlement agreement to opposing counsel, Lawyer B, as an attachment to an email. The attachment includes embedded data, commonly called metadata. This metadata is digital data that is not immediately visible when the document is opened by the recipient of the email but can be read either through the use of certain commands available in word-processing software or through the use of specialized software. In this case, the metadata includes information revealing confidential information of the client of Lawyer A related to ongoing settlement negotiations. Lawyer B has no reason to believe that Lawyer A intended to include this metadata in the attachment.

DISCUSSION

In this opinion, "confidential information" refers to both privileged information and unprivileged client information, as defined in Rule 1.05(a) of the Texas Disciplinary Rules of Professional Conduct.

The exchange of electronic documents is an essential part of modern law practice. When an electronic document is created or edited, some computer programs will automatically embed information in the document. Embedded information that describes the history, tracking, or management of an electronic document is commonly known as "metadata." A common example of metadata is embedded information that describes the identity of the owner of the computer that created the document and the date and time of creation. Similarly, some computer programs use

embedded metadata to track the changes made to a document as well as the comments of the various reviewers of the document.

Frequently the exchange of metadata between lawyers is either mutually beneficial or otherwise harmless, such as when a lawyer intentionally transmits a document containing tracked changes in order to facilitate the negotiating process. However, the inadvertent disclosure of metadata containing a client's confidential information could be harmful to the client. The risk of such inadvertent disclosure is heightened by the fact that metadata is generally not visible from the face of an electronic document unless the user takes some additional action.

The first question raised is whether the Texas Disciplinary Rules of Professional Conduct require lawyers to take steps to prevent the inadvertent transmission of metadata containing confidential information. The answer is governed by Rules 1.01 and 1.05.

With certain exceptions not relevant here, Rule 1.01 generally prohibits a lawyer from accepting or continuing "employment in a legal matter which the lawyer knows or should know is beyond the lawyer's competence." "Competence," as defined by the Terminology Section of the Texas Disciplinary Rules, "denotes possession or the ability to timely acquire the legal knowledge, skill, and training reasonably necessary for the representation of the client."

Rule 1.05 generally prohibits lawyers from knowingly revealing confidential information to a lawyer representing the opposing party, subject to limited exceptions set out in the Rule. Rule 1.05 reflects a lawyer's duty "to maintain confidentiality of information acquired by the lawyer during the course of or by reason of the representation of the client." Comment 2 to Rule 1.05. "Knowingly," as used in Rule 1.05, "denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances." Terminology Section of the Texas Disciplinary Rules.

In the opinion of the Committee, a lawyer's duty of competence requires that lawyers who use electronic documents understand that metadata is created in the generation of electronic documents, that transmission of electronic documents will include transmission of metadata, that the transmitted metadata may include confidential information, that recipients of the documents can access metadata, and that actions can be taken to prevent or minimize the transmission of metadata. Lawyers therefore have a duty to take reasonable measures to avoid the transmission of confidential information embedded in electronic documents, including the employment of reasonably available technical means to remove such metadata before sending such documents to persons to whom such confidential information is not to be revealed pursuant to the provisions of Rule 1.05. Commonly employed methods for avoiding the disclosure of confidential information in metadata include the use of software to remove or "scrub" metadata from the document before transmission, the conversion of the document into another format that does not preserve the original metadata, and transmission of the document by fax or hard copy.

Whether a lawyer has taken reasonable measures to avoid the disclosure of confidential information in metadata will depend on the factual circumstances. Relevant factors in determining reasonableness include the steps taken by the lawyer to prevent the disclosure of the confidential information in metadata, the sensitivity of the metadata revealed, the identity of the intended

recipient, and other considerations appropriate to the facts. Not every inadvertent disclosure of confidential information in metadata will violate Rule 1.05.

The second question is whether the Texas Disciplinary Rules impose particular duties on a lawyer who receives an electronic document containing metadata that appears to include confidential information of another party. There is no specific provision in the Texas Disciplinary Rules requiring a lawyer to take or refrain from taking any particular action in such a situation. *See* Professional Ethics Committee Opinion 664 (October 2016) (“The Texas Disciplinary Rules of Professional Conduct do not prescribe a specific course of conduct a lawyer must follow upon the unauthorized or inadvertent receipt of another party’s confidential information outside the normal course of discovery.”).

In the absence of specific provisions of the Texas Disciplinary Rules governing this situation, the Committee can offer only limited guidance for lawyers dealing with the receipt of documents containing metadata. In most circumstances, the provisions of the Texas Disciplinary Rules that must be considered by lawyers with respect to the receipt of documents containing metadata are Rule 8.04(a)(3), which requires that a lawyer shall not “engage in conduct involving dishonesty, fraud, deceit or misrepresentation,” and Rule 3.03(a)(1), which requires that a lawyer shall not knowingly “make a false statement of material fact or law to a tribunal.” Thus, although the Texas Disciplinary Rules do not prohibit a lawyer from searching for, extracting, or using metadata and do not require a lawyer to notify any person concerning metadata obtained from a document received, a lawyer who has reviewed metadata must not, through action or inaction, convey to any person or adjudicative body information that is misleading or false because the information conveyed does not take into account what the lawyer has learned from such metadata. For example, a Texas lawyer, in responding to a question, is not permitted to give an answer that would be truthful in the absence of metadata reviewed by the lawyer but that would be false or misleading when the lawyer’s knowledge gained from the metadata is also considered.

The Committee notes that professional ethics standards in some other jurisdictions include specific requirements applicable to this situation. These specific requirements vary from state to state and may include a requirement to notify the sender of a document believed to contain inadvertently sent metadata and a requirement not to search for or read such metadata. For example, a number of jurisdictions have adopted part or all of the approach used in the current version of Rule 4.4(b) of the American Bar Association Model Rules of Professional Conduct, which provides:

“A lawyer who receives a document or electronically stored information relating to the representation of the lawyer’s client and knows or reasonably should know that the document or electronically stored information was inadvertently sent shall promptly notify the sender.”

To the extent a Texas lawyer becomes subject to the disciplinary rules of other jurisdictions, the lawyer may be subject to additional requirements concerning the treatment of metadata that would not be applicable if only the Texas Disciplinary Rules of Professional Conduct were considered.

The Committee also cautions that a lawyer's conduct upon receipt of an opponent's confidential information may have material consequences for the client, including the possibility of procedural disqualification. *See In re Meador*, 968 S.W.2d 346, 351-52 (Tex. 1998) (in a case not involving metadata, discussing factors to be considered in deciding whether to disqualify counsel who received the opposing party's privileged information outside of discovery, including the promptness with which the lawyer notified the opposing counsel of the circumstances). If in a given situation a client will be exposed to material risk by a lawyer's intended treatment of an opponent's inadvertently transmitted confidential information contained in metadata, the lawyer should discuss with the client the risks and benefits of the proposed course of action as well as other possible alternatives so that the client can make an informed decision. *See* Rule 1.03(b) ("A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.").

This opinion applies only to the voluntary transmission of electronic documents outside the normal course of discovery. The production of electronic documents in discovery is governed by court rules and other law, which may prohibit the removal or alteration of metadata. Court rules may also govern the obligations of a lawyer who receives inadvertently transmitted privileged information in the course of discovery. *See, e.g.*, Tex. R. Civ. P. 193.3(d).

CONCLUSION

The Texas Disciplinary Rules of Professional Conduct require lawyers to take reasonable measures to avoid the transmission of confidential information embedded in electronic documents, including the employment of reasonably available technical means to remove such metadata before sending such documents to persons other than the lawyer's client. Whether a lawyer has taken reasonable measures to avoid the disclosure of confidential information in metadata will depend on the factual circumstances.

While the Texas Disciplinary Rules of Professional Conduct do not prescribe a specific course of conduct for a lawyer who receives from another lawyer an electronic document containing confidential information in metadata that the receiving lawyer believes was not intended to be transmitted to the lawyer, court rules or other applicable rules of conduct may contain requirements that apply in particular situations. Regardless, a Texas lawyer is required by the Texas Disciplinary Rules to avoid misleading or fraudulent use of information the lawyer may obtain from the metadata. In the absence of specific governing provisions, a lawyer who is considering the proper course of action regarding confidential information in metadata contained in a document transmitted by opposing counsel should determine whether the possible course of action poses material risks to the lawyer's client. If so, the lawyer should explain the risks and potential benefits to the extent reasonably necessary to permit the client to make informed decisions regarding the matter.

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(09/11/2016)

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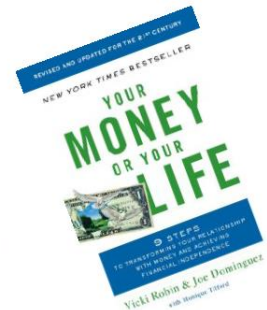
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As we live in a digital age, Texas ALP is asking that when your association has an event, from a meeting to a CLE, you send the information before and after (with pictures) to the marketing chair to post on Facebook and Twitter.

We are trying to increase our online presence and this will help us as we grow. You can also post your event on the Texas ALP Facebook page, but it will be subject to approval.

Additionally, we are trying something new at the El Paso Conference. When you post about being at the conference, and please post often, we are asking all attendees to use the following hashtags: #TALP2017AC and #LightsCameraElPaso.

If you have any questions, please contact Emily Walterscheid, 2016-2017 Marketing Chair, Emily@MatthewHarrisLaw.com or ewalterscheid@gmail.com.

Thank you for your assistance. We look forward to seeing you in El Paso!
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Texas Association of Legal Professionals
62nd Annual Educational Conference
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