COMMUNICATION IS KEY – JUST OPEN THE DOOR!

Let’s talk numbers. Do you worry about your chapter membership growth? Do you wonder how to resolve a slump in your membership numbers? Do you get frustrated of finding ways to increase membership?

While there are the usual planned social events and membership drives which prove to gain some new members, I have found success in simply boosting communications. During my term as your state President I have worked on being as transparent with our members as often as is necessary. Much work occurs at the top level; however, the end result affects everyone of us.

Communication can reap so many benefits amongst your chapter Executive Committee, Board of Directors, Committees and Members. Simply communicating with them on a regular basis fosters energy, interest and the ability to voluntarily promote the best qualities of your individual chapters! Here are some tips that may help:

* Networking is a strong form of communicating and builds camaraderie. If you’re holding monthly luncheons or dinners, are you showing up early or staying afterward to mingle and chat with your peers? Or do you settle on finding a seat and chatting with the same group month after month? Many of your chapter members are simply shy but hold a volume of talent just waiting to be discovered.

* Chapter Presidents (or other Board members) can send a quick uplifting message to chapter members (use Pmail folks!). Send out a thought provoking question to your members to generate responses. Doing this once or twice a month means so much to them. They want to hear from you!

* How about sending a quick survey to your Chapter members to enlist their interest or talents?

* Consider picking up the phone and calling your members (one a day chips away). Wow -- what a treat to hear from their leaders! Seek out
their suggestions, recommendations, ideas or concerns.

* Be sure to keep your Chapter social media chairperson in the loop so frequent postings can be made (be sure to follow our Social Media Policy).

* Chapter newsletters should be filled with a variety of information that sparks the interest of its readers.

Start small and build. Some of the best advertising is word of mouth and it certainly speaks volumes with communication.

Until next time . . .

Bea LeVine, CP, FRP
Certified Paralegal
President, Paralegal Association of Florida, Inc.
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Talking Heads: When a High-Level Corporate or Government Official May Be Deposed
By Scott A. Mager

In an increasingly litigious society, attempts to depose high-ranking corporate executives, often referred to as “apex officials,” have likewise increased and indeed become commonplace. Broad-stroked claims against parent companies and lax discovery rules seem to serve as a launching pad to harass executives and extort settlements through threats to take - and in many cases the actual taking of - depositions from chief executive officers, chief operating officers, chief financial officers, or other officials (called “apex officials”). Since apex officials are rarely involved in the acts about which a party complains and often lack personal knowledge of the facts and issues surrounding a given case, the taking of such depositions as a first offense may be abused, imposing an undue burden on an individual whose time is already consumed by the endless matters and responsibilities of his or her business.

On one hand, it would obviously not be appropriate to allow the deposition of Jeff Bezos every time someone initiates a suit against Amazon, or Bill Gates on every occasion that someone initiates a suit against Microsoft. On the other, there could be circumstances in which the unique and specialized knowledge of the CEO may warrant taking his deposition. With this tension at play, judges should exercise discretion in permitting apex-type depositions and decide only after balancing the liberality of discovery rules against the dangerous precedent of permitting unfettered “top-down” discovery, particularly when less intrusive means may be available to secure relevant information.

In recent years, courts across the country have sought to address this issue by articulating the most useful analysis to apply when considering discovery directed to apex officials, with most courts building upon the test and precedent set out in the Texas Supreme Court case Crown Central Petroleum Corp. v. Garcia, 904 S.W.2d 125 (Tex. 1995) (commonly referred to as the Crown Central test or “Apex doctrine”).

Under this test, Courts restrict when an apex official may be deposed, first requiring a showing the official has “unique personal” knowledge of the facts at issue and there is no lesser intrusive way to secure the desired information. Some courts have explained what efforts are sufficient to constitute attempts at less intrusive ways. There are courts that suggest an additional or alternative “good cause” showing before the deposition of the official may be taken, while other courts require a showing of harm to the deponent before a protective order is entered.

While most States have endorsed the Apex doctrine, Florida has not expressly adopted the Apex doctrine at the State level except in cases involving government officials, finding it inconsistent with the Florida Rules of Civil Procedure, which allow broad discovery rights. Florida federal courts, however, have effectively endorsed a similar standard that looks at whether the type of discovery should be limited under Rule 26. Utilizing a rationale that restrictions are necessary because the high-ranking officials (by virtue of their position) “are vulnerable to numerous, repetitive, harassing, and abusive depositions, and therefore need some measure of protection from the courts,” they fashioned a test that requires “a party seeking to depose a high-ranking corporate officer [to] first establish that the executive: (1) has unique, non-repetitive, firsthand knowledge of the facts at issue; and (2) that other less intrusive means of discovery, such as interrogatories and depositions of other employees, have been exhausted without success.”
Whether you are representing the “apex official” or trying to depose one, you are well served by fully understanding the rules and the protections.

1Scott A. Mager, an “av” rated attorney, is the founding member of Mager, Paruas, LLC. He has represented numerous C-level officials and worked with large companies and handled complex trials and appeals across the country, for plaintiffs and defendants, and among other honors, served as the National/Lead Counsel for one of the large multi-billion-dollar insurance conglomerates in the world - where his success yielded him the unique honor of being named the National Litigator of the Year Award. Scott can be reached at Service@MagerParuas.com or (954) 763-2800. Special thanks to Eric Savin for his edits.


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Member Spotlight on

Jennifer M. Heape, CP, FRP
2019 Paralegal of The Year
Solo & Small Firm Section of
Florida Bar

Want to get to know someone, ask random questions ~ here goes:

Name: Jennifer M. Heape, CP, FRP
Title and Company Name: Paralegal at Spohrer Dodd

Why I decided to work in the paralegal field: I worked at the State Attorney's Office for a while and loved the work, but felt I could better help others if I worked in the private sector. I went to school in the evenings after work to obtain my paralegal degree and the rest, as they say, is history.

What I did before I did this: I went to school on a music scholarship and graduated college with a degree in musical performance. I played the bassoon in an orchestra for a while but quickly realized that I needed something more.

One of my favorite things about working on paralegal projects: I work on complex personal injury cases (including aviation crashes). Unfortunately, a large percentage of my clients are deceased. I feel a great responsibility for helping to guide the surviving family members through the legal process. Most of them have never been involved in any legal matter before and are dealing with the stress of losing a loved one, in addition to the complexities of a lawsuit. It can be overwhelming to say the least. Sometimes they just need someone to listen to them as they try to adjust to their new normal. When you have helped someone through this process and achieve a positive outcome, it is very rewarding. Often times, I remain in contact my former clients long after the case is over because of the bond we have built.

One of my least favorite things about working in the paralegal field: When good people are injured by no fault of their own and your hands are legally tied which prevents you from getting the justice they are deserved.

One of my proudest career-related moments: Being the recipient of The Florida Bar Solo & Small Firm Section's 2019 Paralegal of the Year Award. I think I am still in a state of shock over this recognition, but it is such a great honor to be acknowledged by your fellow colleagues.
If I hadn’t chosen my current career, I would be: I don’t really know. I could see myself as a nurse, a computer programmer, a travel agent, or a teacher.

Not many people know I’m also good at: Well it isn’t such a well-guarded secret any longer, but I have a talent for baking. That kind of knowledge seems to spread by “word of mouth”.

The coolest vacation spot I can imagine is: Well now we are getting to the good stuff! All of my friends and family know that I have a true love of travel and adventure. I love seeing how other people live and experiencing different cultures at home in the U.S. and abroad. If you don’t see me at the 2019 PAF Annual Seminar at Safety Harbor this September, it is because I decided not to come back from my trip to Scotland/Ireland. If you do see me, it is because Asha Maharaj-Lucas drug me back to reality.

My idea of perfect happiness: Traveling and spending time with family and friends.

A talent I wish I had: I wish that I was more graceful. Not sure if it is a talent or not, but I did not get the graceful gene. I have also been told that I do not have a poker face. If I think it, you can probably read it on my face. Sorry about this!

The greatest extravagance I enjoy on a regular basis is: Hello….shopping! Anyone who knows me, knows that I have a weakness for shopping, especially when there is a Macy’s nearby.

They should hire me as a spokesperson for: Macy’s (see above). LOL

A philosophy I live by: You can achieve whatever you put your mind to so don’t limit yourself! Also, never ask more of others than you are willing to do yourself.
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Congratulations
Asha Maharaj-Lucas
Recipient of the 2019 NALA Affiliates Award
The Missing Link

by D. Culver Smith III

Success is a journey, not a destination. The doing is often more important than the outcome.

~Arthur Ashe

Your writer originally conceived this article to be a bit of a scold of those who sign up to participate on committees and then fail to do so. Commitment, after all, is an integral part of professionalism. Yes, even our Professionalism Committee had year-long no-shows—those who attended not one meeting. Rather than lecture truant colleagues, however, I began to think about the benefits that they were denying themselves.

This may surprise some and astonish others, but there is more to practicing law than earning a fee. (I like to say that I never expected to get rich practicing law and that I have succeeded in that philosophy beyond my wildest dreams.) The organized bar today is awash in conversation about life-balance and personal wellness, targeting, one assumes, the Unhappy Lawyer. Why all this unhappiness? We lawyers are under pressure from many directions—self included—to maximize earnings. We sit within the four walls of our offices, churning out work product, launching embarrassingly caustic communications in the pursuit of one-upmanship fed by the courage of isolation. Meanwhile, the holes in our souls linger, immune to any amount of greenback balm. Something is missing.

Service through leadership positions and committee work offers some balm. If pursued for its own objectives and not merely as a résumé-booster, it provides opportunities for connection with others (so important even to us off-the-chart introverts), for personal enrichment
and growth, and for relief from the bondage of self. It also is unfailing in enhancing one’s career. That, at least, has been my personal experience. Whatever success or reputation I have achieved has been in great part because of service to colleagues and the profession. No one remembers our biggest cases—heck, I hardly remember my own—but people do remember positive impacts that we have on the profession, in the community, and on their personal and professional lives. I may not have become financially rich, but I have been enriched through service and the personal growth and connection with others that it offers—the kind of enrichment that fills the hole that otherwise can lurk in one’s soul.

Yes, success is a journey. Embrace the journey. Sign up—and show up. The rewards await you.

D. Culver “Skip” Smith III focuses his practice on the ethical and professional responsibilities of lawyers. He maintains an office in West Palm Beach and can be reached at 561-598-6800 or at <csmith@culversmithlaw.com>.
Ms. Vera Long,

Wishing you only good in your “semi” retirement. Thank you for all your service and wisdom to PAF, Inc., and especially to the Palm Beach County Chapter. Your enthusiasm and continuing guidance have truly followed our creed:

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Calling All Florida Registered Paralegal:

The FRP Enrichment Committee is proud to announce the dynamic FRP Corner page is now live on The Florida Bar's website: FRP CORNER. (https://www.floridabar.org/about/frp/frp-corner) The FRP Corner is your one stop page to find the latest news and announcements regarding your membership to The Florida Bar Registered Paralegal Program, CLE resources, and connect with local paralegal groups.
The Seventh Amendment to the United States Constitution states that “The right of trial by jury shall be preserved.” Similarly, Article I, section 22 of the Florida Constitution guarantees that “The right of trial by jury shall be secure to all and remain inviolate.” The fair and impartial jury is crucial to the administration of justice under our legal system. It is the foundation upon which our society places its confidence in the justice system.

Article I, section 22 of the Florida Constitution guarantees the right to an impartial jury. State v. Neil, 457 So. 2d 481 (Fla. 1984). That is, a panel of jurors that does not come into any case with preconceived biases on material issues. As the Neil court noted, “A cross-section of the fair and impartial is more desirable than a fair cross-section of the prejudiced and biased.” Of great importance is the right to determine whether there is a reasonable basis for fear that a particular juror can't be fair. Johnson v. Reynolds, 121, So. 793, 796 (Fla. 1929).

We live in the most polarizing of times. Americans have rarely disagreed more than we do today. We disagree about just about every aspect of our lives. Worst, we watch TV 24 hours a day reinforcing these disagreements. People have strong opinions. Not only do they have strong opinions, but, they often believe that people with opposing opinions are inherently bad people. A multitude of studies reveal that when someone has a strong opinion on an issue, they filter any facts that don't agree with that opinion and only accept those facts that reinforce their already held beliefs. This is known as confirmation bias.

When it comes to trial, given the foregoing, the only way to find out whether a juror is appropriate for a particular case is a thorough and complete voir dire. Inherent in that concept is the provision of adequate time to ask questions on important issues relevant to a case and then engage in proper follow up. But, the inquiry doesn’t stop there. Because when a particular juror voices opinions and beliefs that may make that juror not appropriate for the case at hand, counsel must speak with the rest of the venire to see if any of them share the same thoughts. Often, jurors are not directly in touch with their feelings and it can take a few minutes for them to accept their truth before they can reveal it to the lawyers and the judge.

To do this properly—-to best represent your client—-takes time. Florida courts, time and time again, have held that arbitrary restrictions on the time to conduct voir dire are improper. See O'Hara v. State, 642 So. 2d 592 (Fla. 4th DCA 1994); Ritter v. Jiminez, 343 So. 2d 659(Fla. 3d DCA 1977).
Think of some of the issues that we face in a typical automobile case that require exploration in voir dire:

1) No property damage and someone was hurt  
2) Causation  
3) Burden of Proof  
4) Pre-existing injuries  
5) Letters of Protection  
6) Bias against lawsuits/lawyers  
7) Immigrant client  
8) Seat Belt Defense  
9) Malingering  
10) Familiarity with injuries  
11) History of Lawsuits  
12) Jobs in Insurance industry  
13) When something bad happens it is God’s will

A fair inquiry requires time. No one is advocating for a jury selection that goes on forever, nor one where the lawyers are trying to indoctrinate the panel before the case starts. A poorly done voir dire should not be condoned by anyone. However, where the voir dire is being conducted properly, in an effort to determine who should be stricken for cause and to determine how to best use the available peremptory challenges, arbitrary time limits are just that—arbitrary. Justice cannot be sacrificed on the altar of expediency.

We spend hundreds of hours and tens of thousands of dollars, often hundreds of thousands of dollars, before we get to trial. It is our clients’ only chance at justice. It makes no sense that after all of that time and effort, at the most important moment of the case in which we decide the judges of the facts, that our time to conduct a meaningful voir dire should be arbitrarily capped. Put simply, there is no “one size fits all” when it comes to picking a jury.

It is up to us as lawyers to be prepared to ask appropriate questions with appropriate follow up. It is up to the Court to ensure that we do that. However, each case is its own. Each venire is its own, and comes with its own set of beliefs and ways of communicating those beliefs. If you feel that arbitrary time limits are being set, be prepared to argue for more time. Make a record of the areas of inquiry that you have left to go over. Make a record of the follow up questions you have for the answers that have been given. Always be respectful of the courts, but remember that we must be prepared to argue for the time necessary to ensure we can make informed decisions about the who will sit on our juries. Your client’s future depends on this preparation.

This article originally appeared in the Palm Beach County Justice Association June 2019 Newsletter. Sean Domnick is a PBCJA past president.
Welcome to Kudos Korner

Please feel free to submit the accomplishments of a colleague/friends or your own for inclusion in the next edition, so the entire PAF family can join in saying "congratulations".

Pat DeRamus received for 2019 Consumer Protection Moving Team from AG Ashley Moody.

_This Spot is Reserved for You._

_Great Job._
2019 ANNUAL SEMINAR

PROGRAM HIGHLIGHTS
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- Exhibitor Hall
- Professional Development
- Reception
- Refreshments

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THURSDAY, SEPT. 26, 2019

1:00 pm – 1:30 pm    Check-In of Officers

1:30 pm – 5:30 pm    PAF Board of Directors Meeting  
                      (Includes Executive Committee, Directors & Guests)

6:30 pm – 8:30 pm    Dinner with Committee, Directors, Guests

FRIDAY, SEPT. 27, 2019

6:00 am – 7:00 am    Exhibits Move-In

7:00 am – 5:00 pm    Registration Desk Open

7:30 am – 8:00 am    Continental Breakfast with Exhibitors

8:15 am – 8:30 am    Welcome Comments

8:30 am – 9:30 am    General Session  
                      TITLE: Challenges in the Work Place  
                      SPEAKER: Felice Solomon

9:30 am – 9:45 am    Refreshment Break with Exhibitors

9:45 am – 10:45 am   Breakout Sessions

Track #1: TITLE: What to do When Your Attorney Will Not Take Client Calls  
           and Negotiating Settlements Without Your Attorney  
           SPEAKER: Yusuf Haidermota and Jessica Hicks

Track #2: TITLE: Increase Your Outlook Knowledge  
           SPEAKER: Tara Eberhart

10:45 am – 11:00 am  Refreshment Break with Exhibitors

11:00 am – 12:00 pm  Breakout Sessions

Track #1: TITLE: Employment Law  
           SPEAKER: Janet McEnerg

Track #2: TITLE: Email Mistakes and How to Avoid Them  
           SPEAKER: Tara Eberhart

12:00 pm – 2:00 pm   General Session, Luncheon, Exhibitor Presentations  
                      TITLE: Professionalism; Leadership; Being an Ethical Paralegal  
                      SPEAKERS: Sue Thomas, Bea LeVine, Karen McLead
2:00 pm – 2:15 pm  Refreshment Break with Exhibitors
2:15 pm – 3:15 pm  **Breakout Sessions**
   Track #1: TITLE: What Does the Confidentiality Rule Address
               SPEAKER: Honorable Gregory P. Holder
   Track #2: TITLE: Online Notary
              SPEAKER: Linda Monaco
3:15 pm – 3:30 pm  Refreshment Break with Exhibitors
3:30 pm – 4:30 pm  **General Session**
   TITLE: Florida E-Court Updates
   SPEAKER: Todd Newberry
5:00 pm – 7:00 pm  Official PAF Meet and Greet

**SATURDAY, SEPT. 28, 2019**

7:00 am – 7:30 am  Exhibitors Open Booths
7:30 am – 8:00 am  Power Paralegal Breakfast w/Exhibitors
8:00 am – 9:00 am  **General Session**
   TITLE: Active Shooter
   SPEAKER: Investigator Robert Lucas
9:00 am – 9:15 am  Refreshment Break with Exhibitors
9:15 am – 10:15 am  **Breakout Sessions**
   Track #1: TITLE: Leadership/Mentoring
              SPEAKER: Melanie Griffin
   Track #2: TITLE: E-Discovery
              SPEAKER: IST - Nicole DiBlasi and Mark Alscher
10:15 am – 10:30 am  Refreshment Break with Exhibitors
10:30 am – 11:30 am  **General Session**
   TITLE: Technology
   SPEAKER: John Stewart
11:30 am – 12:15 pm  Exhibitor Challenge
   Closing Ceremonies
IN BRIEF is the official publication of the Paralegal Association of Florida, Inc. Unsolicited articles of a legal or educational nature written by members and non-members will be considered by the Editorial Board for publication. Please send articles to: Editorial Board Chair, Paralegal Association of Florida, Inc., Post Office Box 14051, Clearwater, FL 33766, or they may be submitted in electronic format to Sherry Webber at swebber@pbcgov.org.

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