

PARALEGALS PAGE

Should Disbarred, Suspended Attorneys Be Eligible for Paralegal Work?

BY VALERIE A. DOLAN
Special to the Legal

In a legal environment where in 2007, 249 attorneys received some sort of disciplinary action (48 of whom were suspended and 25 were disbarred), it begs the question of whether disbarred and suspended attorneys should be allowed to work as paralegals in the legal profession.

According to 42 Pa C S Section 2524, any person who practices law or who holds themselves out to be a practitioner of the law in Pennsylvania without actually being a lawyer is subject to misdemeanor violations, and 83 Pa R.D.E Section 217(j) provides that a formerly admitted attorney may not engage in law-related activities in Pennsylvania with the exception that the activity is under the direct supervision of an attorney in good standing with the bar preparatory or clerical in nature.

Also, 83 Pa.R.D.E Section 217(j)(4) specifically prohibits a formerly admitted attorney from performing any law-related activities: if it relates in any way whatsoever to the former firm or activity that led to the disbarment or suspension; without the supervision of an attorney in good standing with the bar; if it relates in any way whatsoever to any former client; if it means representing himself or herself



VALERIE A. DOLAN
has 12 years of experience as a paralegal. She works at the Law Offices of David T. Shulick and is board advisor to the Philadelphia Association of Paralegals. Dolan also serves as one of the Keystone Alliance of Paralegal Associations and the National Federation of Paralegal Associations.

as an attorney; which would require the rendering of legal advice; which would require appearance at a hearing or proceeding or deposition; or which would require negotiating or transacting any matter; and if it brings him/her in direct contact of receiving disbursing or otherwise handling client funds

In most states, attorneys who have been suspended and even disbarred for unethical conduct are permitted to work as paralegals. (Illinois, Massachusetts, New Jersey, Rhode Island, South Carolina and Wisconsin have a total ban against disbarred and suspended attorneys working as paralegals.) Since much of the work performed by paralegals is performed by attorneys, some disbarred and suspended attorneys come close to crossing the line into unauthorized practice of law. Many say they believe that allowing

disbarred and suspended attorneys to practice as paralegals condones unethical behavior, may put the public at risk and creates negative perceptions of the legal profession.

The perception of the public can become diminished or negative when a disbarred or suspended attorney is allowed to perform paralegal tasks. It is also believed that allowing disbarred and suspended attorneys to work as paralegals will minimize the severity of the act that caused their disbarment and/or suspension.

The argument allowing a suspended attorney to work as a law clerk or paralegal is that, by working in the legal profession it will allow the attorney to maintain legal skills and competence while addressing the issues that caused his or her misconduct. It is also believed that when that individual is ready to apply for reinstatement, the testimony of his or her attorney employer can be persuasive.

Paralegals draft pleadings and discovery documents, conduct legal research, interact with various courts and court personnel and have heavy client contact, among many other duties and responsibilities. The role of a paralegal has evolved over the years to its own professional status in the legal community, wherein a paralegal is placed in a role of trust both with the employer and the public.

That trust is seriously placed in jeopardy when the individual calling himself or herself a paralegal is really a disbarred or suspended attorney who lost the right to practice law, either for a short period of time or permanently. A suspended or disbarred attorney will find it hard to maintain his or her required distance from practicing law when that individual is now restricted to preparing documents or legal research, or when that individual must interact with clients and court personnel. The perception to the public that a disbarred or suspended attorney can work as a paralegal or continue to work in the legal field is one of negativity and can pose questions and demands that that individual not be allowed to work on that client's case, which, in turn can create issues for the employer.

While there are pros and cons to every argument about whether a disbarred or suspended attorney should be allowed to work as a paralegal, it is the opinion of the majority of paralegals in the United States that public risk, negative perceptions and the overall ethical considerations outweigh the argument to allow disbarred or suspended attorneys to continue to work in the legal profession as paralegals.

To view the Philadelphia Association of Paralegals' October calendar of events, turn to page 3.

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