

PARALEGALS TODAY

Corporation Paralegals or Corporate Paralegals?



by Carolyn M. Saenz

Should I work for a corporation or should I work for a law firm? These are questions that are often asked by entry-level paralegals or persons who are considering the legal profession. Working for either entity would still involve dealing with legal issues, although one of the main differences is who the client is.

Generally, paralegals who work for law firms are a part of the profit-generation of the firm and contribute a great deal of added value — literally in dollars and cents. Although a paralegal is prohibited by statute from negotiating and setting fees, and cannot be the recipient of financial rewards from a client, his/her value is derived from billings submitted to the client by the law firm for services rendered. Paralegals working in corporations are usually a part of the administration of the company, and they do not generate profits directly. The value of a paralegal working in a corporation is realized when legal tasks which would customarily be sent to an outside law firm can be handled in-house.

It appears that the actual tasks performed by law firm paralegals and paralegals working in corporations are very similar, although law firms deal with “outside” clients and corporations deal with clients within their own company. On that basis, the latitude given to paralegals working in corporations seems to be wider and the levels of responsibility are more diverse.

Certain administrative statutes and court authority permit paralegals to represent clients, draft and submit pleadings to court, attend hearings and argue for their clients, without the need for a lawyer being present. (*See box on facing page for a listing of some of the agencies that permit non-lawyer representation.*)

A portion of my duties and responsibilities as senior paralegal at Western-Southern Life Insurance Company relates to unemployment compensation appeals, hearings, etc. I am permitted (in almost every state) by administrative statute to review rulings of the unemployment agency, submit pleadings for appeals and represent the company at any hearings. Such hearings are generally held before an administrative referee or judge. I may introduce witnesses, cross-examine them, prepare and enter exhibits and make closing statements. The appeals process customarily moves

through several levels, but if the former employee were to take an appeal through all levels up to the court of common pleas, then at that point I no longer represent the company and engage the services of outside counsel.

My job often takes me into the field, throughout the country, to conduct investigations related to employment law. The majority of these investigations involve activity of Western-Southern employees and former employees. In this particular role, I work independently of a lawyer. I determine the persons to be interviewed, what questions I will ask them, the order in which I interview people, how I will write my report and what recommendations to make. Such reports do not enjoy the “attorney-client privilege,” so I need to be concise with my writing and also be cognizant that such documents may become a part of discovery in the event of litigation.

On more than one occasion I have testified on behalf of the company in small claims court or at civil trial on an employment matter. In that role, I am the representative for the client and can testify, for example, as to my personal knowledge of the processing of a life insurance claim or defend the manner in which I conducted an investigation on an employment case. I do not believe that a corporate paralegal working for a law firm is permitted to testify for a client, but rather may assist the lawyer who actually represents the client.

Paralegals working in corporations are a part of the management team and enjoy the benefits that are associated with this team. There also may be other career opportunities which are available throughout the company outside of the law department. Paralegals often work in areas of compliance, tax, human resources (within other departments) and are not necessarily under the direct supervision of a lawyer.

In discussions I’ve had with other paralegals who work in law firms, particularly in the area of litigation, some thrive on the “peaks and valleys” that become a natural part of the cases they work on. Paralegals in corporations do not necessarily have the same urgency about their work, particularly as relates to court filings and deadlines — we leave that job to our outside counsel! By the same token, my peers have stated that they would not want to work without the adrenaline “rush” from the

deadlines and demands that typically go with litigation practice.

One area that seems to be a great "relief" for paralegals working in corporations is the "luxury" of not having to bill their time. Most paralegals who work for law firms are obligated to bill a minimum number of hours each year, and bonuses and pay raises can be directly "tied" to this measure of their performance. Measuring a paralegal's performance when it is not a direct part of the profit of a corporation can be a more difficult task, and I find myself trying to recollect each quarter what I accomplished and how efficiently the work was completed.

My employer is very supportive of my professional activities, both within the legal arena and in the local community, and will gladly grant me "professional time off" during customary working hours to accomplish some of these activities. Some law firms also support their paralegals, while others mandate that paralegals "make up" any lost time, even if that time were devoted to pro bono publico activities.

If you are new to the paralegal profession and are not sure where you want to work, be sure to do your research before making any snap decisions. What's right for one person is not necessarily right for another. As for lawyers — whether or not they choose to utilize the services of paralegals in law departments or in law firms is up to them. However, the smart ones have been doing this for years and are keeping pace with what's going on in the legal profession. ■

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Agencies Permitting Non-Lawyer Representation

Certain administrative statutes and court authority permit paralegals to represent clients, draft and submit pleadings to court, attend hearings and argue for their clients, without the need for a lawyer being present. Some of the agencies that permit this include the following:

- ▶ Board of Immigration Appeals — Immigration and Naturalization Service (8 CFR 292.1-3)
- ▶ Bureau of Indian Affairs (25 CFR 20)
- ▶ Civil Aeronautics Board (14 CFR 300.1-6, 302-11)
- ▶ Comptroller of the Currency (12 CFR 19.3)
- ▶ Consumer Product Safety Commission (16 CFR 1025.61 et seq.)
- ▶ Department of Agriculture — Food Stamps (7 CFR 273); Marketing Service (7 CFR 50.27)
- ▶ Department of Commerce — Patent and Trademark Office (35 U.S.C. Section 31-33)
- ▶ Department of Health and Human Services — Food and Drug Administration (32 CFR 12.40, 12.45); Public Health (42 CFR 405); Welfare (45 CFR 205)
- ▶ Department of Justice — Drug Enforcement Administration (21 CFR 1316.50)
- ▶ Department of Labor — Benefits Review Board (20 CFR 802.201(b), 802.202); Employee Compensation Appeals (20 CFR 501.11); National Railroad Adjustment Board (45 U.S.C. 3153); Wage and Appeals Board (20 CFR 725.362(a), 725.365, 725.366(b))
- ▶ Department of Transportation — Maritime Administration (46 CFR 201.21)
- ▶ Department of Veterans Affairs — Veteran's Administration (38 CFR 14)
- ▶ Federal Deposit Insurance Corporation (12 CFR 308.04)
- ▶ Federal Energy Regulatory Commission (18 CFR 385.2101)
- ▶ Federal Maritime Administration (46 CFR 502.30)
- ▶ Federal Mine Safety & Health Review Commission (29 CFR 2700.3(b))
General Accounting Office (31 U.S.C. 731-732; 4 CFR 11, 28; GAO Orders 2713.2, 2752.1 and 2777.1)
- ▶ Internal Revenue Service (13 CFR Part 10; 31 U.S.C. 330)
- ▶ Interstate Commerce Commission (49 CFR 1103)
- ▶ National Credit Union Administration (12 CFR 747)
- ▶ National Mediation Board (29 CFR 1200)
- ▶ National Transportation Safety Board (49 CFR 821, 831, 845)
- ▶ OSHA (29 CFR 2200.22)
- ▶ Small Business Administration (13 CFR 121.11, 134.16)
- ▶ Social Security Administration (42 U.S.C. 406(a); 20 CFR 416, subpart O)
- ▶ U.S. Customs Service (no statute or regulation)
- ▶ U.S. Environmental Protection Agency (40 CFR 124, 164.30, 22.10)

Source: National Federation of Paralegal Associations, Inc.



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