

Utilizing Paralegals in Probate and Estate Planning

by Christina R. Bedel

Estate planning and probate/estate administration are areas in which paralegals can prove how cost-effective their services can be. Paralegals who work in this area of law typically have experience in real estate, estate planning and probate.

In estate planning matters, a paralegal's responsibilities may include assisting the attorney during the initial client interview to obtaining information on the type of assets comprising the client's estate, as well as any existing documents the client may have, including any trusts created by others for the benefit of the client or his/her family members. Thereafter, the paralegal is charged with drafting wills, codicils, health care directives, trust agreements and amendments for the attorney's review, as well as preparing documents and assisting with effectuating the transfer of assets into trusts. This may include preparing and recording powers of attorney, deeds, memoranda of trust and other recordable instruments. Because some of the client's assets may be located out of state, this may include researching foreign jurisdictions for the purpose of re-registering assets in the name of the trust and recording the proper instruments in those states. Keeping abreast of state and federal tax law changes is very crucial in estate planning matters. Formulating an effective estate plan to meet a particular client's needs is always exciting as it affords the paralegal an opportunity to exhibit his/her creativity.

During estate administration, the paralegal is often present during the initial client interview to assist in identifying and locating next of kin and will beneficiaries. Thereafter, the paralegal's duties focus on collection and valuation of estate assets, preparing and filing probate documents in administration of the estate or to relieve the estate from administration, filing life insurance claims and other death benefit claims, ensuring that beneficiaries and next of kin are properly noticed regarding the admission of the will and other probate hearings, administering estate accounts and assisting with investment, transferring and/or liquidating estate assets, and assisting with the transfer of non-probate assets. The paralegal's duties also include preparation and filing of the decedent's final income

tax returns, any estate and federal estate tax returns and fiduciary income tax returns. Duties may also include preparing documents to assist in land sale proceedings, drafting documents to approve distribution of wrongful death settlements, or ancillary administrations, participating in the administration of guardianships and trusts, including preparation and filing of inventories and accountings, as well as assisting with name changes and adoption proceedings.

It is the responsibility of the paralegal to research the law and local court rules and act as a source of procedural guidance for the attorney. Because the majority of the activities can be performed by the paralegal without the attorney's appearance before the court, utilizing the services of a paralegal in estate administration and other probate matters is very cost effective. Paralegals in most local counties are able to meet with the magistrates and account managers in presenting routine filings and accountings. In more complex matters, paralegals are charged with drafting the necessary applications and entries, organizing pertinent documentation for trial and preparing exhibits. Where a matter must be presented before the probate judge, paralegals in Hamilton County are allowed to sit at counsel's table so as to provide the needed background documents to the attorney for effective testimony during trial.

Paralegals are an important asset in any type of law, and those paralegals who are active in estate planning and probate/estate administration have a varied, challenging and valuable role. ■



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