

What Your Paralegal Always Wanted To Tell You But Didn't Dare Because She Needed The Job

A Paralegal Gets A Chance To Talk Back

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With an introduction and postscript by Del O'Roark, Loss Prevention Consultant for
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INTRODUCTION

The well directed work of paralegals and staff support members of a law office is a significant contribution to the success of any practice. Conversely, paralegals poorly led by supervising lawyers often experience problems with clients and make avoidable errors. If these errors are serious enough, a malpractice claim against the lawyer is the result. Few lawyers enter practice with much appreciation of the leadership, training, and motivation that these invaluable members of the office require. Yet paralegals can leverage the scope of a lawyer's practice, increase the availability of legal service to the public, and be a major part of every firm's loss prevention and risk management program. What follows is some feedback for you from a paralegal with a little over a year's experience who I happen to know has a sense of humor. I asked her to keep it light, but to the point. You might ask your office nonlawyer staff if they see anything familiar in her experience. It could just save you a lot of trouble.

MY TURN

When it was first suggested I write about the attorney-paralegal relationship, I considered being even-handed. Every relationship has two sides, after all. The crises that punctuate the average day in any law office aren't always the fault of the attorneys, I argued to myself. Even legal assistants occasionally fall from grace. And then I thought, wait a second. I have a forum here, a regular bully pulpit. Why use it to air the dirty linen of my paralegal brothers and sisters in arms when I could hang out to dry our beloved--and sometimes not so beloved--employers? I leaned back in my chair and cracked my knuckles. This, I thought, is going to be fun.

Let me hasten to point out that I do have a serious purpose here. The attorney paralegal relationship is a symbiotic one. When mistakes are made on either side, everyone suffers. When an attorney consistently acts in ways grievous to their assistants, said attorney may quickly discover that such behavior can impede their practice. Let me offer you a few examples.

Many paralegals are familiar with the attorney who has a telephone phobia. This attorney apparently suffers from post-traumatic touch tone syndrome and avoids Ma Bell like the plague (unless the caller is one of his golfing buddies scheduling a little tee time). This leaves the paralegal in the uncomfortable position of spending much of the day taking abuse from disgruntled clients who want to know why Attorney X hasn't returned their calls. Eventually, the paralegal may be tempted to hand out legal advice himself (the "I'm not an attorney, but I play one on my job" syndrome). This unauthorized practice of law can lead to some pretty messy situations, and is in general frowned upon by most bar associations. Then there's the case of the Procrastinating Attorney. She's the one who remembers at the last minute that she needs three orders drawn up, five witness statements copied from the DA's file, two subpoenas issued, and she needs it all done NOW. Of course, it's always 4:35 p.m. when the Procrastinating Attorney issues her demands, but her

trusted legal assistant rolls up her sleeves and takes care of business. Unfortunately, by the time she gets around to drawing up those orders, the trusted assistant is a little groggy and isn't quite sure what her boss, who has long since gone home, wants. So the orders filed the next day with the court clerk aren't quite what the Procrastinating Attorney had in mind (not that she knows this; she didn't quite bother reading them over) and by the time the errors are discovered, it's too late. Funny thing is, when the client files a malpractice suit, it's not against the trusted assistant.

As with all relationships, the break down in communications between attorney and paralegal is an undeniable source of conflict. Had the Procrastinating Attorney kept her trusted assistant updated on her current caseload, perhaps the assistant could have anticipated the need for subpoenas, witness statements, et al. One mistake many attorneys make is they don't always take the time necessary to specify to their assistants what they need and when they need it. When my boss, Attorney Bob, is particularly busy with court dates, he does most of his communicating to me through hastily scrawled notes, I'll find "Get records on Client Y" scribbled on the back of a docket, and I'm left to ponder which records he means and how I'm supposed to get them. Should I draw an order up or call the client to come in and sign release forms? I spend a lot of valuable time determining exactly what Attorney Bob wants from me. It's not a problem of catastrophic proportions, but it's frustrating and time consuming.

It would appear that there are those attorneys who expect their paralegals to be mind readers. More than one paralegal has been chewed out for not completing a task that was never assigned in the first place. Obviously, a lawyer shouldn't have to constantly oversee her assistant to make sure that routine paperwork is filled out and matter of course office duties are performed. But to assume one's paralegal is telepathic is to ensure that:

a) incredibly important legal documents will not be filed; and

b) one's paralegal will think, and perhaps express, many unkind things about how one's new haircut is not at all becoming.

My own personal pet peeves include attorneys who show up late for appointments with clients, leaving their assistants to make nervous small talk and offer lame excuses for their bosses' tardiness. This sort of situation is undesirable for a number of reasons. One, in an effort to be upbeat and amusing, the assistant might inadvertently leak confidential information about strange, but true, cases currently being litigated by her boss. Two, in an effort to placate the client, the assistant might offer information about strange, but true, habits practiced by her boss. Three, the client may not be in the mood to be amused and placated and may consider taking his business elsewhere.

The other thing that really bothers me (and other legal assistants I've spoken too) is attorneys who avoid speaking to other attorneys in their office, preferring that their assistants handle intra-office communications, particularly when the news is bad. Fortunately, it's no longer popular practice to shoot the messenger. Unfortunately, it is apparently perfectly acceptable to verbally harangue him.

In my opinion, most of the bad habits I've examined here have a common source: a lack of respect for paralegals and legal assistants as trained professionals in their own right. Some attorneys regard their paralegals as glorified errand runners, whose duties often as not include fetching coffee and picking up dry cleaning on top of the traditional demands of their jobs. Paralegals are asked to play social worker to clients, therapist to their bosses, and arbitrator to feuding intra-office war parties. Interestingly enough, none of these job requirements are ever mentioned in the interview.

The lawyer who respects his legal assistant as a trained professional will never think of asking her to, say, fax the latest statistics from his fantasy baseball league to a friend across town. Nor will he ask her to make excuses (even lie) to now hostile clients as to why he hasn't had time to do some necessary paperwork for their cases. The lawyer who respects his legal assistant understands that, while legal assistants play an

important role in facilitating attorney-client relations, they should not be expected to lie, cheat, or "borrow" (or fax unnecessarily) for their bosses.

How can attorneys avoid the pitfalls I've outlined here? For starters, a brief weekly staff meeting could serve to get everyone in the office on the same page, thereby eliminating any questions about court dates, appointments, and meetings (as well as eliminating excuses along the lines of "I thought the appointment was at 2:30, not 2:00"). Such meetings will not only ensure that attorneys are updated on the week's agenda, they enable staff members to anticipate potential conflicts, problems, and crisis situations.

Implementing an office protocol for both staff and attorneys will also prove beneficial. The appropriate office procedures for everything from handling phone calls to preserving client confidentiality should be clearly outlined for every new employee. There should be no questions as to what constitutes the unauthorized practice of law, what is expected of attorneys in respect to client communications, and who is responsible for making the first pot of coffee in the morning. It's important to keep in mind that an office is a kind of community, and to function effectively every community needs a shared understanding of what is appropriate and expected behavior on the part of its members. Finally, we all know that it is paramount that lawyers make good relations with their clients a priority. Clients are, after all, the average attorney's bread and butter. Making sure the support staff treats clients respectfully and expeditiously is one way to facilitate good client relations, but it's just as important that the lawyer do the same. This means showing up on time for appointments and returning phone calls. Most people who have stepped into the legal arena have done so with great trepidation; what they want and expect is a trustworthy and stalwart advocate by their side. When a client spends more time talking to his lawyer's assistant than with his lawyer, it makes him nervous (and frustrates the assistant). It's better for business when one's clients aren't plagued by the sort of anxieties that lead them to check out "How to Represent Yourself in Court" books from the library.

As I've observed, the attorney-paralegal relationship is symbiotic. My boss needs me to do my job right so he can do his job right. I need my boss to do his job right so that I don't come to work one morning and find the office closed for business. When my boss and I are in sync, we're a lean, mean fighting machine. When we're not in sync, the office is a breeding ground for error, chaos, and a lot of misplaced files. It behooves any attorney to treat his or her legal assistants with respect, if not downright deference and undying gratitude. A big, fat raise wouldn't hurt, either.

POSTSCRIPT

If you need a little more food for thought, consider this feedback from legal assistants answering a questionnaire used at paralegal CLE programs:

WHAT I LIKE LEAST ABOUT WORKING FOR LAWYERS:

- *Waiting until day of deadline to start a brief.*
- *Redoing documents for insignificant items.*
- *The arrogant attitude of some individuals.*
- *Procrastination.*
- *Disorganized office.*
- *Constant stress.*
- *No room for error.*

- *Lack of interaction, communication, planning.*
- *Dealing with ego problems.*
- *Doing work for attorney that is his responsibility.*
- *The attorney you work for thinks his work is more important than the others.*

HOW I WOULD LIKE TO BE MANAGED (BUT AM NOT):

- *Would like to have more social things planned for legal secretaries such as semi-monthly or monthly meetings.*
- *I would like to be better informed of things happening in the office. I feel like I'm left in the dark.*
- *I would like to be given responsibilities that are accompanied by needed authority and freedom to act as well as necessary support and tools.*

MY WORST EXPERIENCE AS A PARALEGAL:

- *Having to observe inappropriate behavior by a senior level attorney with no means to correct it.*
- *Sending a federal express to the wrong address.*
- *Sending a blind carbon copy to the wrong person.*
- *Redoing a tax return.*

WHAT I LIKE BEST ABOUT MY JOB:

- *Status of working in the legal profession.*
- *The type of practice - litigation.*
- *Flexibility, friends, responsibility, seniority.*
- *Working with brilliant, ethical people.*
- *Preventing mistakes that could impact our clients or our firm.*
- *The attorneys I currently work with are very down to earth, level headed and easy to work with and get along with. They trust me and my judgment.*

In spite of the negativism of some of this feedback when you look at what legal assistants like about their jobs, there is more than a little light at the end of the tunnel. Who wouldn't want to work in an office that had the job satisfaction indicated in the last question? The challenge for you is whether your firm offers the professional working environment that develops legal assistants who feel about their work as these did.