

Supreme Court Board of Legal Document Preparers

Arizona State Courts Building
1501 West Washington, Phoenix, AZ 85007
Conference Room 119
10:00 .m. - 2:00 p.m.

August 18, 2003
Approved Minutes

Members Present:

Judge Roland J. Steinle, III, Chair
Carol L. Wells
Dr. Roger E. Hartley
Donald F. Steward
Nancy Swetnam
J. Ward Sturm
Margaret J. Kleinman
Mary Carlton
Susan C. Vasquez
Vellia M. Pina

Members Present by Phone:

Virlynn Tinnell

AOC Staff Present:

Doug Brooks
Lauren Hargrave

Guests:

Frances Johansen
Allen Merrill
Stephanie Villalobos
Fernando Varlas
Victor Calvario
Rick Gordon
Ray Del a Rosa
Cindy Wong
Jim Hill

Call to Order

The meeting was called to order by Judge Roland J. Steinle, III at 10:02 a.m.

Certification and Eligibility

Presentation of additional information regarding paralegals of Mexican and American educational systems. Appearing on behalf of the Mexican Consulate, at the request of the Board, Fernando Varlas, Consul Adscrito.

The Board addressed Mr. Varlas and thanked him for attending and speaking on behalf of the Mexican Consulate regarding schooling in Mexico. The Board requested Mr. Varlas explain the parallels with the school system in Mexico as compared to the United States, and what would be the equivalent education in Mexico to a High School Diploma in the United States. Mr. Varlas stated Mexico has three levels prior to University schooling. Primary school consists of six years, secondary school consists of three years. In the United States high school is from 9th to 12th and in Mexico secondary school is from 7th to 9th. The third level is preparatory school and is equivalent to U.S. high school years from 10th through 12th. If an individual completes secondary education in Mexico it is considered the equivalent to a G.E.D. When individuals complete a preparatory program they receive a certificate and may continue on to University. Preparatory is considered the same level as vocational school within the United States. If individuals in the United States do not have the appropriate secondary

schooling certificate, they can go to the Mexican Consulate and request a copy of the certificate from Mexico.

Review and Approval of Meeting Minutes

Regular Session Minutes of July 28, 2003

Discussion was held regarding the regular session minutes of July 28, 2003. Nancy Swetnam requested the following grammatical changes be made:

Page 2, Lines 7 & 8, delete “states”

Page 4, Paragraph 2, Line 8, prepares to preparers

Page 6, Paragraph 2, Line 7, invited to invite

Page 6, Legal Document Certification Denial Hearings, Line 3, insert “each hearing” after present for

Page 7, Paragraph 2, Line 8, issues to issue

Page 7, Paragraph 2, Line 10, delete “the question was not clearly answered”

Page 11, Motion LDP-03-79, Line 2, and to an

A **motion** was made by Nancy Swetnam and seconded by J. Ward Sturm to adopt the Regular Session minutes as amended from July 28, 2003. Motion passed. **LDP-03-105**

Administrative Issues

Review and discussion of policy development relative to referral of complaints received regarding non-certified individuals and entities engaging in legal document preparation.

The Board discussed adopting a policy regarding complaints on non-certified individuals. A notice letter could be issued prior to requesting an order of cease and desist from the Superior Court within the individual preparer’s county. Complaints which come to Board attention regarding legal document preparers acting without certification would result in a letter to ask the individual requiring a response to the Board prior to the next Board meeting. If the Board does not receive a written explanation and/or is not satisfied with the explanation, further action can be taken. The Board reviewed Rule 75 of the Arizona Supreme Court, which provides that complaints regarding the alleged unauthorized practice of law to be referred to the State Bar. Pursuant to §7-208, the Board may also initiate action. The general consensus of the Board was to establish some form of communication with the non-certified individuals and then pursue a cease and desist order from the Superior Court, if necessary, pursuant to §7-208. Frances Johansen of the State Bar addressed the Board and stated if the Board did not act, the State Bar will, however, overlapping actions from both entities may cause difficulties. Copying the State Bar on any correspondence to non-certified individuals will ensure overlapping does not occur. The Board further discussed that pursuant to the Arizona Code of Judicial Administration Section § 7-208, all complaints must be received in writing.

A **motion** was made by Judge Roland J. Steinle and seconded by Susan C. Vasquez to have the program coordinator draft a complaint form for the Board’s review at the next scheduled

meeting. Motion passed. **LDP-03-106**

The Board further discussed issuing a letter of inquiry to individuals who have complaints filed against them, and to give the individuals a specified amount of time to respond to the Board. The Board discussed the need to have the program coordinator investigate issues and complaints pursuant to §7-208. The Board further discussed the complaint process and the separation of certificate holders and non-certificate holders. If a cease and desist order is needed regarding a person who is not certified, Judge Roland J. Steinle will sign the request, as chair of the Board, the program coordinator will file the request with the Superior Court as a civil action and a Superior Court judge will be assigned. The filing of the civil action will be in the county where the alleged conduct is occurring. Judge Roland J. Steinle will inquire into the process the Superior Court will use and report back at the next Board meeting. The Board will copy the State Bar; the State Bar also has the authority to enter into a consent agreement with the individual to cease and desist; this has the effect of a judgment. The consent agreement order would go to the county where the conduct was occurring.

A **motion** was made by Nancy Swetnam and seconded by Susan C. Vasquez to adopt a policy regarding complaints received involving individuals allegedly practicing without certification, authorizing the program coordinator to send an inquiry letter to the person in question with a copy of the complaint and inquiry letter to the State Bar. Upon receipt of a response from the individual the program coordinator will bring the response to the Board for information and/or action which could include the Board filing a request with the Superior Court for a cease and desist order. If no response is received the program coordinator will bring the issue to the Board at the next Board meeting with a request for a cease and desist order or further investigation. Motion passed. **LDP-03-107**

Review of United States Bankruptcy Court, District of Arizona General Order No. 89

Judge Roland J. Steinle reported he was not able to secure a Bankruptcy Court judge to speak at this meeting and asked the issue be deferred to the next Board meeting. Frances Johansen reported the Clerk at the Bankruptcy Court indicated to her they have been monitoring non-certified individuals filing documents in the Bankruptcy Court and the number is approximately seventy to seventy-five non-certified people. The Bankruptcy Court has begun action against those individuals. The Bankruptcy Court judges are meeting to determine how they are going to handle all the situations regarding non-certified individuals preparing Bankruptcy Court documents.

Certification and Eligibility

Report from the Board of Legal Document Preparers Continuing Education Subcommittee

Mary Carlton, spokesperson for the Continuing Education Subcommittee, reported the subcommittee has met, but because the parameters for the subcommittee have not been established, the subcommittee is unable to come to the Board at this time with specific recommendations. The Board discussed the requests that have been made for continuing education as follows:

1. The Arizona Paralegal Conference of September 19, 2003 sponsored by the Maricopa

County Bar. The subcommittee has requested a final agenda and an hour by hour breakdown. The Maricopa County Bar Association is offering six hours continuing education with 1 hour of ethics for paralegals. The subcommittee consensus is, if a Bar Association has structured the seminar and has delineated the continuing education hours, the Board should accept the seminar for approval. The subcommittee is asking for direction from the Board regarding granting or denying continuing education. Mary Carlton presented the conference description from the Maricopa County Bar Association website.

2. The WestLegalEdcenter website information containing numerous seminars offered for the paralegal/document preparer industry.
3. The H & R Block seminar. Mary Carlton reported this class is geared towards a legal document preparer business and the document preparer would be taking the seminar to meet their own accounting standards. The subcommittee questioned how often the class should be offered as continuing education. Mary Carlton further reported the US Business Institute has been in business for many years and many attorneys, paralegals, accountants, etc. take these classes.

The Board discussed developing a policy which would state if the course/seminar has been approved by the State Bar, State Accounting Board, or any other Board for continuing education the Board will adopt the hours approved by the other agency. The Board further discussed adopting a policy which would state no more than three hours of required annual continuing education can be in the area of Business Management and/or Tax Preparation. The Board further discussed the process for approval of continuing education not falling within the policy. The individual would be required to submit an application for approval of continuing education, once received by the program coordinator the information would be forwarded to the continuing education subcommittee for its recommendation.

A **motion** was made by Mary Carlton and seconded by Judge Roland J. Steinle to approve the courses listed above for continuing education. Motion passed. **LDP-03-108**

A **motion** was made by Nancy Swetnam and seconded by Judge Roland J. Steinle to adopt a policy pre-approving continuing education hours set by other professional boards and associations that are relative to legal document preparation, and any continuing education sponsored by the State Bar, local Bar, AAIP, and NALA as a presumptive total, with no more than three hours in a course involving business management of the certified legal document practice and/or preparation or tax advice. Motion passed. **LDP-03-109**

Review and discussion of Arizona Code of Judicial Administration §7-208, Appendix A, Standard 5(c) and Rule 31 (A)(2)(B)(2)

Douglas Brooks reported Mr. Dennis Lawrence addressed the Board during the July 28, 2003 Board

meeting regarding his use of J.D. after his name. Mr. Lawrence is aware of Arizona Code of Judicial Administration §7-208 Appendix “A”, Code of Conduct, Standard 5 (c) and has agreed to abide by it. However, he was requesting clarification as to if he could verbally advise people of his educational background when asked without being in violation of his agreement, the Code, or Rule 31. The Board questioned if an individual who holds a law degree but is not admitted to practice law in Arizona tells perspective customers about his/her background, education, etc., if the individual is still giving the impression they are more qualified than other certified legal document preparers? The Board consensus was the general public does not make a distinction between licensed to practice and not licensed to practice; that is, if an individual states they have graduated from law school, the public considers this person is admitted to practice as an attorney. The Board agreed Mr. Lawrence, or any other individual, can petition the Court to change the code or rules; the Board is not responsible or willing to interpret a Supreme Court Rule.

Discussion and review of hearings conducted on July 28, 2003

Judge Roland J. Steinle identified the Board needs to clarify the procedures for approval and/or denial of applicants. The Board discussed making an affirmative motion regarding each applicant with the individual Board member making the motion specifically stating the reason for denial on the record.

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to adopt a policy that the individual Board member making a motion to deny an applicant must specify on the record the reasons under the Arizona Code of Judicial Administration Section §7-208 for denial of the certificate. Motion passed. **LDP-03-110**

The Board further discussed the current procedure when motions are made in public session regarding granting/denying certification of an applicant, they will be made according to numbers assigned to retain confidentiality. There was Board discussion regarding the Rules of the Supreme Court, Rule 123: Public Access to Court Records and applicability to the Board’s consideration and decision of applications for certification. The Board agreed to continue with the same procedure they have in the past for this meeting, and have the Board’s legal advisor, Nina Preston, advise them at the next Board meeting regarding this procedure. Judge Roland J. Steinle requested the issue be placed on the next meeting agenda to specifically discuss and receive legal advice from the Boards legal advisor.

Call to the Public

Allen Merrill addressed the Board regarding a concern from the Arizona Association of Independent Paralegals involving an applicant on the agenda being considered for certification. Mr. Merrill

reported he was a member of the ad hoc committee appointed by Chief Justice Jones regarding legal document preparers. That committee was in full agreement that disbarred lawyers should not be allowed to be certified legal document preparers. The Association believes more than 50% of divorce and bankruptcies being done by legal document preparers in Maricopa County are currently actually being done by disbarred attorneys or individuals certified by the Board who are “fronting” for the disbarred attorneys. The Association will be filing written complaints regarding these certified individuals. Mr. Merrill further reported the Association believes Mr. Duane Varbel, a disbarred attorney, has signed an advertising contract with Viacom for billboard advertising; one telephone number appearing on the billboards is 623-915-1903 which is for a business called Cathy’s Docs. The Association believes Ms. Catherine Bradley-Hill, principal for Cathy’s Docs, is preparing documents for Mr. Varbel and fees being charged for her services are being paid to Mr. Varbel’s company, or that Ms. Bradley-Hill is collecting funds and then paying part of them to Mr. Varbel. Mr. Merrill reported that recently a member of the Association had an employee go to a business located at 1114 W McDowell, which is the same address of a certificate issued to Bankruptcy and Divorce; telephone number 602-253-5292; which is also the telephone number appearing on billboards. Upon arrival the employee was interviewed by a man who identified himself as Duane Varbel. The 1114 W McDowell is also the known address of Mr. Varbel’s document preparation business for several years. Mr. Merrill stated the Association believes at least five certified legal document preparers are located at addresses where Mr. Varbel pays the rent and the phone costs. The Association estimates Mr. Varbel is preparing at least 400 divorces and 200 bankruptcies per month through the fronting individuals. Mr. Merrill informed the Board the Association believes the other disbarred attorney who is using individuals to front for him is Mr. Dick Berry. The Association has identified at least three certified legal document preparers who are based at Why Pay A Lawyer but contend they have no connection with Mr. Berry. Mr. Merrill stated Mr. Berry has a history of using others to front for him. The Association estimates Mr. Berry, through his contacts, is preparing in excess of 100 divorces and perhaps another 100 civil suits each month. Mr. Merrill stated the Association believes this is an emergency and the Board should act quickly regarding certified individuals fronting for disbarred lawyers, further the Board should petition the Superior Court to order Duane Varbel and Richard Berry to immediately cease and desist from the practice of document preparation.

Frances Johansen addressed the Board regarding Duane Varbel and Richard Berry. Ms. Johansen reported that based on information received from the Bankruptcy Court, it appears Mr. Varbel is filing bankruptcy actions from his McDowell address. Ms. Johansen has provided these documents to the program coordinator and in addition provided a letter from Mr. Berry using the McClintock address which involves a number of the certified legal document preparers. The State Bar is still gathering information and will continue to provide the program coordinator with additional information.

Victor Calvario addressed the Board and stated that Preparatory education in Mexico is the same as a community college education within the United States. Mr. Calvario also stated he held a Real Estate license in California, and to obtain a Real Estate license you are required to have two years at a community college and for renewal continuing education courses are required yearly. Mr. Calvario retained his Real Estate License for nine years.

James Hill addressed the Board and stated he is the owner for Cathy's Doc's. Mr. Hill stated he opened the business for his wife Catherine Bradley-Hill. Mr. Hill confirmed he has billboards with the number for Cathy's Doc's throughout the community, however, he denied any association with Mr. Varbel and stated he, not Mr. Varbel, pays for the advertising. Mr. Hill stated he started the business from scratch and does part-time work at Cathy's Doc's. Mr. Hill further stated his wife was previously Mr. Varbel's secretary, and he (Mr. Hill) also previously worked for Mr. Varbel.

Cindy Wong addressed the Board and stated she is an employee for The Divorce Store. Ms. Wong stated that on July 14, 2003 she was instructed by her employer to go to a facility which advertised \$200 divorces, located at 1114 West McDowell. Ms. Wong stated a man who said his name was Duane Varbel presented himself to her upon her arrival and stated the business prepares documents for divorce and he could help her with her paperwork. Ms Wong further reported that Mr. Varbel told her he was a retired attorney who had practiced law for thirty years. Ms. Wong is filing a written complaint this day against the business at 1114 West McDowell.

Rick Gordon addressed the Board stating he is on the Board of the Arizona Association of Independent Paralegals and is also the owner for the Divorce Store. Mr. Gordon stated he has personally called the 623 number and a person identifying himself as James has answered the phone on three separate occasions. Mr. Gordon stated James told him his wife worked for a retired attorney and they have three offices with a retired attorney on staff at one of their other offices. Mr. Gordon further stated there were three certified individuals working at the McClintock address with Mr. Richard Berry.

Executive Session #1

A **motion** was made by Judge Roland J. Steinle and seconded by Donald F. Steward to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-03-111**

Executive Session #1 ended

Legal Document Preparer Certification Hearing

A legal document certification hearing was held regarding a denial of certification.

Executive Session #2

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to go into Executive Session to discuss records exempt by law or rule from public inspection or for advice of counsel. Motion passed. **LDP-03-112**

Executive Session #2 ended

Review and Approval of Meeting Minutes

Executive Session Minutes of July 28, 2003

A **motion** was made by Judge Roland J. Steinle, III and seconded by Mary Carlton to adopt the Executive Session minutes of July 28, 2003 as amended in Executive Session. Motion Passed. **LDP-03-113**

Review of Applications

Presentation of applications pending Individual and Business Entity Initial Legal Document Preparer Certification

(During Executive Session the Board reviewed the confidential records of the legal document preparers and business entities. For the purpose of public session these will be identified as numbers 12, 14, 20, 29)

12 14 20 29

A **motion** was made by Judge Roland J. Steinle and seconded by Virlynn Tinnell to defer the above listed applications pending further information. Motion Passed. **LDP-03-114**

(During Executive Session the Board reviewed the confidential record of the legal document preparer business entity, and for the purpose of public session this entity will be identified as number 30)

30

A **motion** was made by Judge Roland J. Steinle and seconded by Nancy Swetnam to defer the above listed application pending further information. Motion Passed. **LDP-03-115**

The following legal document preparers requested they be granted Initial Individual Certification/Initial Business Certification based on documentation provided showing all qualifications for Initial Certification have been met.

- | | |
|---|------------------------------------|
| Carol Aragon-Montgomery | Taquir Jilani |
| Northern Arizona Investment Group, Inc. | Josephine Norton |
| Anita Schatz | Justin Scott |
| Carol Smith | Lil Stephens Murray |
| Lory Toon | Alianza Latina/United/Unidos Int'l |
| AZ Lien Services, Inc. | Victor Calvario |

Shaaron Miller

A **motion** was made by Judge Roland J. Steinle and seconded by Margaret J. Kleinman to grant Initial Individual/Initial Business Certification to the applicants listed above, based on documentation provided showing they meet all qualifications for Initial Certification. Motion Passed. **LDP-03-116**

(During Executive Session the Board reviewed the confidential record of the legal document preparers and business entity. For the purpose of public session these will be identified as number 15, 21, 22)

15 21 22

A **motion** was made by Judge Roland J. Steinle and seconded by Susan C. Vasquez to deny Initial Individual/Initial Business Certification of the applicants listed above based on Arizona Code of Judicial Administration §7-208, Subsection (E)(5)(b)(1)(c) and (E)(5)(b)(1)(d). Motion Passed. **LDP-03-117**

The following legal document preparer requested she be granted Initial Individual Certification based on documentation provided showing all qualifications for Initial Certification have been met.

Amy Luster

A **motion** was made by Nancy Swetnam and seconded by Donald F. Steward to grant Initial Individual Certification to the applicant listed above, based on documentation provided showing she meets all qualifications for Initial Certification. Motion Passed. **LDP-03-118**

The following legal document preparer business entity requested it be granted Business Entity Exemption based on documentation provided showing all qualifications for Business Entity Exemption have been met.

Pearson Luster and Associates

A **motion** was made by Nancy Swetnam and seconded by Donald F. Steward to grant Business Entity Exemption to the applicant listed above, based on documentation provided showing it meets all qualifications for Business Entity Exemption. Motion Passed. **LDP-03-119**

(During Executive Session the Board reviewed the confidential record of the legal document preparer and business entity, and for the purpose of public session these will be identified as number 18, 24)

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger E. Hartley to deny Initial Individual/Initial Business Certification of the applicants listed above based on Arizona Code of Judicial Administration §7-208, Subsection (E)(5)(b)(1)(c) and (E)(5)(b)(1)(e). Motion Passed. **LDP-03-120**

The following legal document preparer requested she be granted Initial Individual Certification based on documentation provided showing all qualifications for Initial Certification have been met.

Marianne Smith

A **motion** was made by Margaret J. Kleinman and seconded by J. Ward Sturm to grant Initial Individual Certification of the applicant listed above, based on documentation provided showing she meets all qualifications for Initial Certification. Judge Roland J. Steinle Recused. Motion Passed. **LDP-03-121**

The following legal document preparer business entities requested Business Entity Exemption based on documentation provided showing all qualifications for Business Entity Exemption have been met.

Awareness Legal Services
Langston-Hancock Legal Documents

Klericus Legal Ink, PC

A **motion** was made by Judge Roland J. Steinle and seconded by Dr. Roger E. Hartley to grant Business Entity Exemption to the applicants listed above, based on documentation provided showing they meet all qualifications for Business Entity Exemption. Motion Passed. **LDP-03-122**

Following a denial hearing, the following legal document preparer requested she be granted Initial Individual Certification based on documentation provided showing all qualifications for Initial Certification have been met.

Susana Gallegos

A **motion** was made by Margaret J. Kleinman and seconded by J. Ward Sturm to grant Initial Individual Certification of the applicant listed above, based on documentation provided showing she meets all qualifications for Initial Certification. Judge Roland J. Steinle Recused. Motion Passed. **LDP-03-123**

Following a denial hearing, the following legal document preparer business requested it be granted Initial Business Certification based on documentation provided showing all qualifications for Initial

Certification have been met.

The Help Center

A **motion** was made by Nancy Swetnam and seconded by Mary Carlton to grant Initial Business Certification to the applicant listed above, based on documentation provided showing it meets all qualifications for Initial Certification. Motion Passed **LDP-03-124**

(During Executive Session the Board reviewed the confidential record of an applicant for legal document preparer certification, which for the purpose of public session will be identified as number 34)

34

A **motion** was made by Dr. Roger E. Hartley and seconded by Carol Wells to uphold the denial of Initial Individual Certification of the applicant listed above. Citing Arizona Code of Judicial Administration §7-208, Subsections (E)(5)(b)(1)(d), (E)(3)(a)(3) and (E)(3)(a)(4). Motion Passed. **LDP-03-125**

After being granted a hearing regarding legal document preparer certification, the following legal document preparer entity requested it be granted Initial Business Certification based on documentation provided showing all qualifications for Initial Certification have been met.

Cast'On Corporation

A **motion** was made by Judge Roland J. Steinle and seconded by Mary Carlton to grant Initial Business Certification of the applicant listed above, based on documentation provided showing it meets all qualifications for Initial Certification. Motion Passed. Virlynn Tinnell recused. **LDP-03-126**

Discussion regarding re-application of individuals and entities which have previously been denied certification.

The Board discussed if individuals or entities denied certification have the right to reapply. The Board agreed there is nothing in the Arizona Code of Judicial Administration Section § 7-208, to prevent individuals from reapplying, however, the appropriate certification fee and all other information would need to be resubmitted.

A **motion** was made by Judge Roland J. Steinle, III and seconded by J. Ward Sturm to form a subcommittee to look at documents regarding applicant number 14, as discussed in executive session. The Subcommittee will consist of Nancy Swetnam, J. Ward Sturm, Dr. Roger E. Hartley and Donald F. Steward. Motion Passed. **LDP-03-127**

A **motion** was made by Judge Roland J. Steinle, III and duly seconded to form an Educational

Requirement subcommittee, consisting of Dr. Roger E. Hartley and Mary Carlton. Motion Passed. **LDP-03-128**

The Board discussed the procedure for when a Board member is invited to appear and/or make a presentation to any organization. It was agreed the Board member shall indicate to listeners they are appearing as an individual and any comments they are making are their own individual comments and are not the policy of the Board, or the Board's consensus.

Call to the Public

There was no response.

Adjournment

A **motion** was made by Judge Roland J. Steinle, III and seconded by J. Ward Sturm to adjourn. Motion passed. **LDP-03-129**

The meeting of the Board of Legal Document Preparers adjourned at 2:15 p.m.