

FLORIDA BAR SPECIAL COMMITTEE
TO STUDY PARALEGAL REGULATION

TAKEN AT: Tampa Airport Marriott Hotel
Hillsborough Room
5521 West Spruce Street
Tampa, Florida

DATE AND TIME: Friday, October 28, 2005
10:15 a.m. to 3:10 p.m.

REPORTED BY: Christine L. Oertling, RPR
Notary Public, State of
Florida at Large

COMMITTEE MEMBERS PRESENT:

Ross M. Goodman, Chair
Tana J. Stringfellow, Vice-Chair
Phillip A. Baumann
Linzie Fitzgerald Bogan
Louis T.M. Conti
Susan Smotherman Demers
Scherry Elson
Susan Whaley Fox
John Hume
Lori S. Holcomb
Karen S. McLead
Shame Thomas Munoz
Johnna Phillips
Bradley Edward Powers
Michelle Marie Rehwinkel Vasilianda

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1 P R O C E E D I N G S
2 THE CHAIR: Good morning. Welcome to the
3 public hearing of the Florida Bar Special
4 Committee to Study Paralegal Regulation. I am
5 Ross Goodman, chair of the special committee.
6 And I'd like also to introduce to my left Tana

7 Stringfellow, the vice-chair of the committee
8 and Lori Holcomb to my right, the Florida Bar
9 staff person assigned to assist this committee,
10 and who I might add is doing a very good job.

11 The special committee is charged with the
12 study of the status of the paralegals in the
13 State of Florida in light of the proposed
14 legislation filed during the 2005 legislative
15 session which sought recognition and/or
16 regulation of the paralegal profession.

17 The charge relates to paralegals working
18 under the direction and supervision of a member
19 of the Florida Bar. Current Bar rules define a
20 paralegal as a person qualified by education,
21 training or work experience who works under the
22 supervision of a member of the Florida Bar; and
23 who performs specifically delegated substantive
24 legal work for which a member of the Florida
25 Bar is responsible.

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1 The charge of the special committee does
2 not relate to the unlicensed practice of law.
3 And testimony regarding the unlicensed practice
4 of law will not be taken at this hearing. This
5 hearing will focus on the following issues, and
6 it would be appreciated if you would address
7 these points.

8 First, public policy issues such as
9 whether it is in the public interest to

10 establish educational and ethical standards for
11 persons using the title paralegal. If so,
12 should the standards be voluntary or mandatory.

13 Second, definitional issues such as what
14 problems will be resolved if there is paralegal
15 regulation and whether the current Florida Bar
16 definition is sufficient and accurate.

17 Third, design issues such as whether
18 standards -- excuse me -- if standards are
19 established, who should make the determination
20 that the paralegal has met the standards; the
21 supervising attorney or another body such as
22 the Florida Bar. Should a grievance system be
23 established. Should a distinction be made
24 between the terms paralegal and legal
25 assistant. Should there be multiple status

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1 levels for paralegals.

2 Fourth, implementation issues. Issues
3 such as who will bear the cost of the
4 regulatory scheme. What should be the
5 composition of the regulatory body; all
6 paralegals, all lawyers, nonlawyers who are not
7 paralegals, or a combination.

8 Fifth, ancillary issues such as should
9 there be regulation regarding what paralegal
10 fees may be charged and recovered as part of
11 attorney's fees. Should there be more

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12 standardization in the educational institutions
13 offering paralegal studies. Should the
14 requirements for paralegals to be an affiliate
15 member in certain Bar sections be standardized.

16 Due to the number of issues to be covered,
17 the time for your testimony will be limited to
18 five minutes. You will be given a warning at
19 three minutes and at one minute. After your
20 testimony the floor will be open to the
21 committee members for questions.

22 The hearing is scheduled to end at 4:00
23 p.m. We will try to take a lunch break from
24 12:00 to 1:00 p.m.

25 If you have written comments, please give

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1 them to Ms. Holcomb, and you may submit
2 comments to her after the hearing, but we would
3 appreciate if we could have them by November
4 the 9th.

5 At this time I would like to invite the
6 members of the committee to introduce
7 themselves starting with Susan Demers.

8 MS. DEMERS: I am Susan Demers. I am
9 president of the Clearwater Bar.

10 MS. PHILLIPS: I am Johnna Phillips, and
11 I'm President of the Paralegal Association of
12 Florida.

13 MS. McLEAD: I'm Karen McLead --
14 (unintelligible.)

15 COURT REPORTER: I'm unable to hear what
16 you're saying.

17 MS. McLEAD: I'm a certified paralegal.

18 MS. ELSON: I'm Scherry Elson. I'm a
19 paralegal at Greenberg, Traurig in Tallahassee.

20 MR. MUNOZ: I'm Shane Munoz. I practice
21 law in Tampa, Florida at a labor and employment
22 firm. And I'm on this committee to represent
23 the labor and employment section of the Florida
24 Bar.

25 MS. STRINGFELLOW: I'm Tana Stringfellow,

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1 certified paralegal. I'm the chairperson of
2 the Florida Alliance of Paralegal Associations.
3 And I work with the firm Foley and Lardner in
4 Jacksonville.

5 MS. FOX: I'm Susan Fox. I'm an appellate
6 lawyer here in Tampa and I'm chair-elect of the
7 appellate practice section of the Florida Bar.

8 MR. BOGAN: I'm Linzie Bogan. I'm a
9 senior assistant attorney general, and I am the
10 current chair of the general practice solo in
11 the small firm section of the Florida Bar.

12 MR. BAUMANN: My name is Phillip Baumann.
13 I'm a lawyer here in Tampa, and I'm here as a
14 representative of the real property, probate
15 and trust law section of the Florida Bar.

16 MR. HUME: I'm John Hume. Private

17 attorney in the City of Coral Springs. I'm a
18 member of the unlicensed practice of law
19 committee.

20 MR. POWERS: Brad Powers with Fowler,
21 White here in Tampa. I'm chair-elect of the
22 trial lawyers section here in Tampa.

23 THE CHAIR: Thank you. I've got --
24 basically we're taking witnesses on the list in
25 the order in which they are listed here.

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1 I want to thank everyone who came,
2 especially those people who are from south
3 Florida and came in spite of our friend Wilma
4 and what she has done.

5 We recognize that not everyone who wanted
6 to be here is here and that includes members of
7 the committee as well as people who want to
8 speak. If we can, in terms of time limitations
9 and the ability, we will certainly try to make
10 arrangements to have those people who have not
11 been able to attend to have an opportunity to
12 give input to the committee. But to the extent
13 any of you came here -- you may have come here
14 because we have air conditioning and a hot
15 shower, but we appreciate the extra effort that
16 you made.

17 The first person we have listed is Marc
18 Leventhal. Mr. Leventhal?

19 MR. LEVENTHAL: Thank you for the
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20 privilege to address you-all this morning.
21 (Unintelligible.)

22 THE CHAIR: Sir, can you speak into the
23 microphone?

24 MR. LEVENTHAL: And generally they don't
25 ask me to use a microphone.

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1 I am the director of the legal studies
2 institute at the University of North Florida.
3 Because of the expediency of time, I urge you
4 to read our witness list very, very carefully,
5 including the underlying documents, to wit:

6 What I think we have to ask ourselves, why
7 are we here? What are the abuses to the
8 public? What are the abuses to the
9 marketplace? And I think if you look at the
10 purposes of the proposed legislation, every one
11 of those stated purposes is already being
12 served or there is no problem to remedy there
13 with the exception of the last subsection 4 of
14 the purposes, which is to certify paralegals in
15 a kind of bootstrap method.

16 We don't have here, and I don't think
17 you'll hear here, but I certainly can be
18 corrected, I don't think you are going to get
19 major consumer groups. I don't think you are
20 going to get major groups of lawyers coming
21 forward here and saying we've got a problem and

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22 let's fix it. I think what you are going to
23 get with all due respect -- because I've
24 testified in various issues close to my heart
25 before the US Congress, before the Israeli

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1 Parliament, and no issue has been as close as
2 what I speak here, for my students and my
3 graduates and universities, as you'll
4 understand what I'm talking about around the
5 country, and what may be happening here in
6 terms of us considering something that may be,
7 with all due respect, a minority of paralegals
8 themselves are putting forward.

9 Why should Florida get involved? Let's be
10 the leader where there are great problems and
11 abuses. Well, I'm not sure why. We wouldn't
12 be a leader anyway. Many states have
13 considered many kinds of regulatory schemes and
14 read my documents and rejected them.
15 Concluding as -- one of the most extensive
16 scrutiny was the state of New Jersey. And the
17 New Jersey Supreme Court concluded that
18 paralegal oversight is best conducted by the
19 supervising attorneys who are responsible for
20 all legal work done by paralegals.

21 If we got involved in this, we would be
22 leading no one, and no one would follow us and
23 we would be creating divisiveness in paralegal
24 standards in other parts of the country.

25 Why are universities such as UNF -- and I

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1 also -- I don't believe they were able to make
2 it here. And I'm speaking on behalf of Florida
3 International University as well. And you'll
4 hear from a private university, University of
5 Miami later, but also in my correspondence in
6 terms of what goes on around universities and
7 their paralegal programs around the country.

8 We also believe in standards. We all
9 believe we have quality education as good as
10 any in the state. We have judges, prosecuting
11 attorneys, paralegals with advanced degrees and
12 20 years of experience who teach with us, the
13 best facilities, the biggest libraries. And
14 yet part of the problem is we're trying to play
15 by the current rules, which is give them the
16 best education that your law firms and your
17 lawyers say we need. Here's what we need, here
18 are our demands, here are the kind of
19 paralegals we'll hire, and by the standards
20 that have come along with the examinations.
21 The national examinations, we look to those.
22 We see how many hours, what kind of law courses
23 you need, and we also gear and educate our
24 students -- our students for that.

25 What's happening now is an attempt to

1 change the rules of the game. And
2 unfortunately one size does not fit all. If
3 you said okay, we're just going to have an
4 examination for everybody, CLA or one of the
5 other major organizations, I would sit down
6 now. But what's happened is, and you've got to
7 understand this, in the minute that's left to
8 me, is that a high school graduate, and we have
9 many of those as well, high school diploma who
10 comes and studies the requisite number of
11 hours, the requisite number of hours that the
12 ABA talks about for its approval, which
13 includes mostly nonlaw courses -- for instance,
14 most of the university programs I know of
15 including ours have more law courses than the
16 ABA requires. But because of the other
17 situation, someone who just goes through an
18 ABA-approved program is on equal footing with
19 someone who has to pass a CLA, a rigorous CLA
20 exam, and on better footing than our students
21 who have taken more law courses and have a BA
22 or an associate's degree. That's the problem
23 of you mixing someone who can pass a test, and
24 equivalent with that, someone on an educational
25 level.

1 I guess if I have other things I would
2 have wanted to say, and I don't know how you
3 are going to overcome the Sunrise Act, but if
4 we are going to do anything productive here, it
5 would be for this committee, for the Florida
6 Bar, for the various educational institutions
7 and every university that has a program here,
8 to beseech the ABA, which as I understand never
9 did this, to open up and re-examine its
10 accreditation processes, have public hearings
11 about it. Because we have no problems meeting
12 standards that makes sense to our particular
13 clientele of students.

14 Do not overlook lightly -- and I suggest
15 for all of you to read paragraphs 2 and 3 of
16 the Sunrise Act, because I do not know how we
17 overcome -- I don't know how you can make
18 recommendations to the legislature without
19 addressing the harm to the public and finding a
20 very serious harm, and a compelling argument
21 must be made.

22 And I do -- and the last thing I will say
23 is please read the new definition of the
24 statute. The statute is flawed in two major
25 ways. Number one, if you read the new

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1 definition as opposed to the definition that
2 Chairperson Goodman read to us, I wonder where

3 the supervision is. ^{bar.txt} It's been taken out and
4 gets very close to unauthorized practice of
5 law. Please compare the two.

6 And lastly, the whole regulatory body
7 scheme, which is essentially self-policing, is
8 very, very problematic.

9 I thank you for your time. I'm sorry I
10 went a few seconds over. But, you know, what
11 can I tell you. I'm an attorney. Questions?

12 THE CHAIR: Any questions from the members
13 of the committee?

14 Yes, Mr. Hume?

15 MR. HUME: Do you have any thoughts on how
16 to handle specialization experience
17 requirements? If you graduate someone as a
18 paralegal, can they do everything? Can they do
19 probate? Can they do real estate?

20 MR. LEVENTHAL: There are two answers to
21 that. Number one is that we found, the
22 marketplace, the law firms themselves, within a
23 week or two knows if I send someone there or
24 they hired someone from our program to be
25 involved in their trust and estates practice,

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1 and they don't really know -- and they get our
2 transcripts, and we have courses in almost
3 every field, they will know.

4 And secondly, specialization exams are
5 being -- have already -- are already out in the

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6 marketplace with the National Association of
7 Legal Assistants. They have specialties, not
8 all of them yet, but again, it will be for the
9 attorney to look at the person, the transcripts
10 and see how the work is in particular areas.
11 And we're careful to offer just about every
12 area that we get from the law firms themselves.

13 We need paralegals in this area, we put on
14 a course. We try -- we try. We can succeed in
15 getting a specialist in that area to teach it,
16 an attorney in that area to teach it. Our
17 criminal law is taught by a prosecutor. Our
18 real estate law is taught by a real estate
19 practitioner, et cetera.

20 So that -- you know, it's again, the
21 attorneys -- it's the attorney's license. It's
22 the attorney's practice and business that's on
23 the line. And if our paralegals are not well
24 enough prepared or aren't prepared enough in a
25 particular area, even if they got an A in

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1 criminal law, they are not going to last, and
2 we hear about it and we take care of it. And I
3 don't know how you regulate that.

4 THE CHAIR: Other committee members?
5 Mr. Powers?

6 MR. POWERS: I think I understand your
7 position that you don't need to be regulated or

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8 paralegals don't need to be regulated. But if
9 paralegals are going to be regulated, do you
10 have opinions or comments about whether the
11 legislature should do it or others?

12 MR. LEVENTHAL: Well, first of all, the
13 legislature that does it, and probably even if
14 it's the Bar or Supreme Court that does it, as
15 the various proposals around the country, none
16 of which have ever been accepted, except for a
17 very weak system in California, the first --
18 again, you have the Sunrise Act problems --
19 anyway, but if you are going to do it, you
20 could either say, you know what, we're going to
21 go with an examination kind of system that's
22 fair for everybody.

23 But we want an even playing field. That's
24 essentially what we need. Where you have --
25 you can have like a super paralegal, someone

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1 who passes that exam and the Bar is involved
2 and lawyers charge them or bill out for that,
3 or however it might be, but that the
4 examination is much looser, sort of like the
5 Bar exam. You know, the rigors of what it
6 takes to be an accredited law school are far
7 less than the fact that what it takes to become
8 ABA approved in terms of the needs of our
9 students.

10 And otherwise it is to look carefully, and
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11 it's a very difficult process, and/or get the
12 ABA involved to get educational equivalence to
13 say I offer a superior program with more law
14 courses. But I'm at a disadvantage. If I have
15 someone with a BA, I'm at a disadvantage to
16 someone that's come through one of the other
17 programs.

18 Now, I have no problems, be it the ABA, be
19 it the Florida Bar, we're going to have our own
20 accreditation of paralegal schools. No
21 problems meeting those provided we have
22 hearings on that, all are heard, what is the
23 best way to go, and we would all gear and adapt
24 our programs to that, but it is not the case
25 now.

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1 And I looked around the university -- to
2 give another example, there are five or six
3 ABA-approved programs in the state of Georgia.
4 There's only one university that offers a
5 paralegal program that I could find, the
6 University of Georgia. It is not ABA approved
7 for the same problems and reasons that we have.
8 They require far too many nonlegal courses for
9 us to adapt.

10 And we have mostly those with -- at least
11 if you had a BA -- we have in this particular
12 bill -- well, and another two years' of

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13 practice, something that a high school diploma
14 graduate does not have to do. Someone with an
15 associate's degree, has one or two years with
16 English and history or whatever and then comes
17 to one of the -- most of the university
18 programs are designed the same -- comes there
19 and takes more law programs than some of the
20 ABA-approved programs, there's no way they can
21 be certified. None. They do not fit under any
22 criteria except to take the CLA exam, which as
23 I said, if you want, we'll all take the CLA
24 exam. We'll prepare our students for that.
25 But they don't fit anywhere under the

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1 present bill. And I have many students like
2 that. Ours are mostly women in their 30s to
3 50s, most have BAs or associate's degrees.
4 Most of them, their kids are gone or this is a
5 second career and this is what I want to do.
6 And I'm speaking on behalf of them and many
7 across the country like that. This is the
8 situation.

9 We have the proverbial tale of the
10 elephant. And first I think you-all have to
11 figure out is the system broken, and if it's
12 broken, fine, let's all work together to fix
13 it. But I don't think it's broken, and if it
14 is broken, do it on an even playing field.

15 THE CHAIR: Thank you, Mr. Leventhal.

16 Any other committee members? Thank you
17 very much.

18 MR. LEVENTHAL: Thank you.

19 THE CHAIR: Vera Long?

20 MS. LONG: Good morning everyone. I am
21 Vera Long. I am a paralegal manager with the
22 law firm of Gunster and Yoakley in West
23 Palm Beach, Florida. I've been with that firm
24 for 20 years. And for the past 20 years have
25 been actively working as a paralegal.

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1 I obtained my CLA designation in 1988 and
2 my specialty designation in 1993, both of those
3 are boarded by the National Association of
4 Legal Assistants. Because of the trend towards
5 the use of the term paralegal now made
6 available to its successful designees, the CP
7 designation, and many of us are using that, I
8 certainly am one of them, so I consider myself
9 a certified paralegal at this point in time.

10 I am a member of NALA's certifying board.
11 The board has the responsibility to set policy,
12 to work on exam content and also to deal with
13 disciplinary issues.

14 I am a graduate of Palm Beach Community
15 College, a two-year paralegal program. And am
16 currently a member of the business partnership
17 council with that college.

18 Because of the nature of the work that I
19 do at my law firm, I am also a certified
20 financial planner and completed a course at the
21 college for financial planning.

22 I am a member and past president of the
23 Paralegal Association of Florida. I am a
24 current officer of the Florida Alliance of
25 Paralegal Associations. I have been active

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1 with that organization for the past five years,
2 and I am speaking on behalf of the Alliance
3 today.

4 The Florida Alliance of Paralegal
5 Associations existed -- has been in existence
6 since 1996. The purpose of the Alliance was to
7 establish a forum by which the various
8 paralegal associations within the state of
9 Florida could meet and address issues that were
10 common and that affected the paralegal
11 profession.

12 There are currently six member
13 associations in the Alliance; the Northwest
14 Florida Paralegal Association in the Panhandle
15 area, the Northeast Florida Paralegal
16 Association in Jacksonville, the Central
17 Florida Paralegal Association Orlando and the
18 Southwest Florida Paralegal Association
19 Sarasota area, south Florida Paralegal
20 Association Miami, and Paralegal Association of

21 Florida, which is a statewide organization.
22 Certainly to the extent that the Alliance
23 is aware of any other associations that
24 developed within the state of Florida, they are
25 extended an invitation to participate.

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1 For the past several years the Alliance's
2 focus has been on a regulated profession.
3 After years of research, information gathering
4 and discussion there was a determination, a
5 very strong determination, that there was a
6 need for regulation for our profession and that
7 there were several components that were
8 essential to that in order to have an effective
9 plan.

10 The Alliance also strongly believes that
11 paralegals are closely aligned with the Bar and
12 certainly share the same legal and ethical
13 considerations. Because of the need to
14 integrate, the Alliance has in the past
15 attempted to partner with the Bar to develop
16 and work towards some type of regulatory plan.

17 The components that are needed in any
18 effective plan, certainly a very key component
19 is to distinguish and define the profession.
20 Paralegal and legal assistant, the terms have
21 been used synonymously for many years.
22 However, there are a number of factors that

23 have impacted that use, certainly the survey
24 that was done on behalf of the Florida Bar in
25 1998. The end result of that survey was that

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1 the public perception was that paralegals had
2 special training, knowledge about legal issues
3 and worked under the supervision of an
4 attorney. The public was not as certain about
5 legal assistants or legal technicians.

6 The legal assistant term has been diluted
7 through the years. It's not uncommon for other
8 law office personnel to use the term "legal
9 assistant." And because of that use, there was
10 a need to go towards one term and paralegal
11 certainly is it. There are too many similar
12 terms. There's paralegal, legal assistant,
13 legal technician, attorney assistant, and so
14 on. There needed to be a way to distinguish
15 the profession and paralegal was the preferred
16 term.

17 It's more recognizable. It better
18 describes the substantive nature of what a
19 paralegal does. The Alliance certainly prefers
20 the term paralegal, and as a result of that,
21 every association within the Alliance changed
22 their name to remove the term legal assistant
23 and that includes the Alliance itself.

24 There certainly needs to be a clear
25 definition. And while the Alliance recognizes

1 that there is a rule in 10-2.1 of the Florida
2 Bar rules governing the Bar, the definition is
3 just that, it rules the members of the Bar. We
4 need to have a definition and place that's
5 going to govern everybody.

6 There needs to be the establishment of
7 minimum uniform and yet fair criteria. We need
8 to have criteria on who can use the term
9 paralegal and who can call themselves a
10 paralegal. There needs to be minimum
11 competency level. There needs to be that level
12 of competency in order to protect all
13 individuals that come in contact with a
14 paralegal.

15 Certainly the law is complex, and there is
16 a need for education or special training.
17 There used to be but a few paralegal programs
18 many, many years ago. There are now over 600
19 across the nation. Employers require it,
20 certainly my firm does.

21 Back in 1987 they established a policy by
22 which all paralegals, to be a certified
23 paralegal, have a two-year degree or four-year
24 degree with experience. And the comment that
25 was made by the firm at that time was to

1 position the firm to be more responsive to
2 client's needs and to be able to assure our
3 clients that our paralegals are highly
4 qualified. Other firms certainly have that
5 requirement. Courts have that requirement.
6 They are looking very closely at paralegal time
7 in fee awards to make sure that the individuals
8 do have that specialized training.

9 And there needs to be continuing legal
10 education. Just as it's required for attorneys
11 to have mandatory education, it should be for
12 paralegals as well. And certainly having an
13 independent body to oversee a plan is
14 essential. There has to be that credibility.
15 All certifying boards generally are comprised
16 of various individuals that provide a wide
17 perspective of viewpoints. NALA certainly has
18 a combination of paralegals, educators and
19 attorneys; other boards have it as well.

20 THE CHAIR: Ms. Long, could you please
21 wrap up?

22 MS. LONG: I will.

23 THE CHAIR: Thank you.

24 MS. LONG: Voluntary certification was a
25 way in the past. However, in today's world

1 there needs to be some mandatory requirements
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2 for minimum competency level. We've got an
3 opportunity to be proactive, and I would like
4 to see us move forward by being proactive
5 rather than having something put in place for
6 the paralegal associations or the paralegals
7 themselves under less than favorable
8 conditions.

9 Thank you for your consideration.

10 THE CHAIR: Thank you.

11 Members of the committee?

12 Thank you, Ms. Long.

13 Oh, I'm sorry. Mr. Baumann?

14 MR. BAUMANN: Has your organization taken
15 the issue of paralegal registration to the Bar?

16 MS. LONG: Yes. The Alliance -- the
17 Alliance itself as well as some of the member
18 associations as far back as I can think in the
19 early '80s have worked with the Bar in various
20 manners. And I know that a number of the
21 people, at least one of the people on this
22 committee here, has participated in special
23 committees with the Bar in the past on
24 determining issues with regard to the paralegal
25 profession. Yes, they have.

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1 MR. BAUMANN: What's the result of that
2 been?

3 MS. LONG: There has been really no

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4 success in that regard. I do know that at one
5 time there was a committee that made a
6 recommendation to the Bar, and the Bar did not
7 act on that recommendation. And that was a
8 good number of years ago.

9 MR. BAUMANN: So are you saying that your
10 organization has taken this issue to the Bar,
11 that they've considered it and thought better
12 of it?

13 MS. LONG: I'm not quite sure. I can't
14 speak on behalf of what the Bar's position was
15 at the time. But any attempts that the
16 Alliance or the members made with the Bar has
17 not come to any acceptable conclusion.

18 MR. BAUMANN: Acceptable to whom?

19 MS. LONG: Acceptable to the paralegal
20 profession and what we perceived was necessary
21 to the profession.

22 THE CHAIR: Mr. Conti?

23 MR. CONTI: This is Ross Conti. You
24 mentioned -- (unintelligible.)

25 THE CHAIR: Mr. Conti --

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1 MR. CONTI: Sorry. Thank you. I'm
2 curious, is the NALA certification something
3 that the paralegal association in Florida
4 endorses in terms of what's required to become
5 certified as a paralegal.

6 MS. LONG: That was one of the acceptable
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7 methods that was included in the proposal, in
8 the legislative proposal, was that
9 certification by NALA would be an acceptable
10 competency level.

11 MR. CONTI: Thank you.

12 THE CHAIR: Mr. Bogan?

13 MR. BOGAN: Good morning.

14 MS. LONG: Good morning.

15 MR. BOGAN: Couple of quick questions for
16 you. In terms of the Florida Alliance of
17 Paralegals, do you have an estimate as to what
18 percentage of your members work in small or
19 solo practices? And when I say small, I'm
20 talking about firms with possibly six or fewer
21 attorneys.

22 MS. LONG: I do not have that statistic
23 available. I could not say what the percentage
24 of our members --

25 MR. BOGAN: So based on your perception,

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1 would it be fair to say that the majority of
2 your members are from large firms?

3 MS. LONG: Not necessarily. Quite
4 frankly, I do not know. Some of them are from
5 large firms, some of them are from small firms.
6 And all I can speak to is those paralegals
7 certainly that are active in the Alliance and
8 whom we have had an opportunity to discuss

9 these issues with, have been in support of the
10 regulation, so they really come from a wide
11 variety.

12 MR. BOGAN: And in terms of what it is
13 that you are seeking to have regulated, let me
14 make sure I understand. What you are saying is
15 essentially a two-pronged attack, if you
16 will. First you'd like to have exclusive use
17 of the word paralegal. And then as a part of
18 that, would you also like to have sort of
19 carved out, unique things that only folks with
20 the title paralegal are able to do?

21 MS. LONG: Certainly, yes, to the first
22 question. We want the term paralegal to
23 describe those individuals that currently work
24 for law firms or that are authorized by
25 government or administrative rules to perform

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1 paralegal tasks. And the thought process is
2 not necessarily what they can or cannot do,
3 because each paralegal area of law is going to
4 have different job responsibilities. It's who
5 is entitled to call themselves a paralegal.
6 And there needs to be that minimum competency
7 level established. And that's really what
8 we're striving for. Not necessarily what a
9 paralegal can or cannot do because that will
10 vary. There needs just to be a minimum
11 competency level on who is entitled to use the

12 term paralegal .

13 THE CHAIR: Any others? Mr. Munoz?

14 MR. MUNOZ: Yes, I have two questions.

15 First, have you polled the members, the
16 paralegals who are members of the Alliance, to
17 see how much support there is among the members
18 as opposed to among the leadership of the
19 Alliance?

20 And also similar to that question, do you
21 know of the paralegals, other people in Florida
22 who are working as paralegals calling
23 themselves paralegals, how many are members or
24 what percentage of them are members of your
25 organization?

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1 MS. LONG: Yes. We have polled our
2 members. We've been doing that for years
3 through the conduct of meetings within our own
4 respective associations. We all have annual
5 meetings within the associations and the
6 Alliance and certainly at routine meetings that
7 are held. Through communications. There have
8 been written communications for the last
9 several years, and we have been addressing the
10 regulation of the profession. And it is
11 overwhelmingly -- we have overwhelmingly
12 received support in favor of the regulation.

13 MR. MUNOZ: There tends, I think, to be an

14 inclination on the part of those who are active
15 in organizations to sometimes be active for
16 particular reasons and perhaps to not be
17 representative of others who may be less
18 active. Do you know percentage-wise how many
19 of the members of your organization are
20 represented in these meetings where people have
21 spoken out in favor of the regulation?

22 MS. LONG: Because of the size that --
23 particularly -- and I'll speak for the
24 Paralegal Association of Florida. It's a
25 statewide organization, so obviously when we

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1 have a meeting statewide, we don't necessarily
2 get a lot of people that are able to attend,
3 but within that statewide organization there
4 are chapters. And whether the information was
5 disseminated or discussed verbally with these
6 members or done so in written format, that's
7 the way we receive the feedback; both in a
8 verbal setting and an open forum setting as
9 well as through verbal feedback.

10 We have very sophisticated e-mail systems
11 that we communicate with our members; in our
12 newsletters. And through those means we have
13 determined and received the support that we
14 thought we had, and certainly it was confirmed
15 in that respect.

16 And each of the alliance associations,
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17 some of which are certainly smaller than the
18 statewide organization of the past, their
19 groups are smaller. They may have 50, 70, 100
20 members, so they would get a good percentage of
21 their people at their meetings, but again, they
22 also did written communication and obtained
23 feedback.

24 We certainly wanted to be assured that we
25 had the support of the majority of the

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1 paralegals that we could reach before we
2 pursued looking towards establishing a
3 regulatory plan.

4 MR. MUNOZ: My second question is --
5 (unintelligible.)

6 THE CHAIR: Shane, can you speak up? We
7 can't hear you.

8 MR. MUNOZ: Sorry. My second question is,
9 as attorneys we all have ethical obligations to
10 the courts and to our clients and to our
11 adversaries. And, of course, when a paralegal
12 is working under our direction, those ethical
13 obligations extend to the working paralegals
14 too.

15 Putting aside the unlicensed practice of
16 law, can you address why that regulation, if we
17 can characterize it as that, is not sufficient?

18 MS. LONG: Is your question why, even

19 though we work under the direction of an
20 attorney, we would still want to have a
21 regulation plan put into effect?

22 MR. MUNOZ: Yes. In light of the ethical
23 obligations that attorneys have to adhere to.

24 MS. LONG: Well, I think certainly a
25 paralegal and an attorney are a team. I think

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1 there's no question they are part of a team.

2 And I think any client -- and when I say
3 "I," am really speaking on behalf of the
4 Alliance, and forgive me if I use that term --
5 I think we believe that it's essential that any
6 paralegal that performs legal work, albeit
7 under the direction of an attorney, should have
8 the competency level, so that when a client or
9 any individual that seeks out the services of
10 an attorney or a paralegal that's authorized to
11 work outside the scope of an attorney through
12 an administrative agency, has got the knowledge
13 in order to make sure that the end result is
14 going to be the product that that client is
15 looking for. So I think paralegals need to
16 have that minimum competency level. Because
17 there are just too many people that are
18 practicing in a paralegal role that do not have
19 the requirements to do so.

20 I certainly have seen in the past, and
21 more than one time, where an individual comes

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22 into a law firm setting, and without even
23 having any kind of background, is immediately
24 made or designated to be a paralegal without
25 having that specialized education or training

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1 or some kind of advanced learning. And I think
2 the public expects that a paralegal have -- has
3 certain specialized training or certification.
4 And by setting that minimum competency level
5 across the board, they would be assured of
6 having that when they walk in the door.

7 MR. BOGAN: Just a follow-up.

8 THE CHAIR: Mr. Bogan?

9 MR. BOGAN: I guess I want to be clear on
10 exactly what your position is. Because I guess
11 one of the issues that I'm dealing with is
12 trying to make sure that I understand that when
13 a client comes in and the client trusts the
14 lawyer enough to be retain the lawyer's service
15 for assistance, then I think as a part of that
16 process, shouldn't the lawyer or shouldn't the
17 client necessarily trust that the support staff
18 that the lawyer has hired will necessarily meet
19 those standards that have been set by that
20 particular lawyer? Do you understand the point
21 that I'm making?

22 MS. LONG: I believe you are saying that
23 it's the ultimate responsibility of the lawyer

24 at the end product of the service.

25 MR. BOGAN: How do you address that issue?

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1 MS. LONG: Certainly that's true. I mean,
2 the attorney has the ultimate responsibility
3 for any work product that goes out the door.
4 There's no question about that.

5 But I believe that it's essential, and in
6 any law office practice, I know certainly in
7 ours, every attorney is certainly responsible
8 for what the end product is. But they also
9 rely on the qualifications of the individuals
10 that are working with them in providing the
11 service.

12 MR. BOGAN: But isn't that interaction
13 between the lawyer and the paralegal as opposed
14 to the paralegal and the client?

15 MS. LONG: Certainly. And were it the
16 case that every single law firm or every single
17 attorney assured that they had that type of
18 individual that was competent to provide the
19 service, that would be great. But,
20 unfortunately, what happens is that oftentimes
21 there are individuals that are working in a
22 paralegal position that don't necessarily have
23 the proper qualification to do so. And quite
24 frankly, those of us that are working as a
25 paralegal and have taken those steps to become

1 competent or have advanced learning, feels that
2 it's essential that's the way it should be for
3 all paralegals.

4 MR. BOGAN: But the attorney who is
5 working most closely with that paralegal, would
6 you not agree that attorney is in the best
7 position to make the determination as to
8 whether that paralegal is qualified and capable
9 of performing the work that the attorney needs
10 for them to perform? I guess sort of following
11 up on what the first speaker mentioned.

12 MS. LONG: But I don't know in reality
13 whether that is actually happening in all
14 situations.

15 I believe that certainly -- and I'll use
16 my law firm as an example. Certainly in our
17 law firm setting when an individual comes in
18 for an interview, they are looking for certain
19 things. They are going to look for whether the
20 person is a certified paralegal, whether they
21 have completed a two-year degree, whether it's
22 a four-year degree in paralegal studies,
23 whatever is appropriate for our minimum
24 competency requirements. And we have
25 individuals that actually interview and test.

1 And we will during the interview process
2 determine whether that candidate has that kind
3 of knowledge level and can adequately perform
4 the job.

5 But when you have someone that comes into
6 a law firm, or maybe they don't have the
7 certification or the education or the four-year
8 degree, I don't know whether an attorney -- and
9 certainly there have been cases where an
10 attorney will look and say, well, I don't know
11 if the person can perform the job, but I'll
12 take a chance and let them perform the job.
13 And that's all well and good if that's the
14 attorney's decision. But as a paralegal
15 practicing in the profession, it's strongly
16 believed that that's just not an acceptable
17 practice anymore; that there should be some
18 minimum standards established.

19 THE CHAIR: Mr. Hume?

20 MR. HUME: Could you then summarize the
21 public harm that regulation will solve?

22 MS. LONG: Okay. Certainly a key factor
23 is those individuals, the paralegals, that work
24 in administrative-type capacities. Because
25 there certainly is the option of nonlawyer

1 personnel that can assist the public in Social
2 Security Administration-type areas. Having

3 someone that already has a minimum competency
4 level in that kind of position would certainly
5 protect the public; those individuals that are
6 going directly to those paralegals to obtain
7 that type of service. And certainly any
8 public -- any individual that comes into a law
9 firm setting, again, having a paralegal that's
10 assisting as part of the team member with the
11 attorney to perform certain tasks and is
12 assured that individual has the minimum
13 competency level and can adequately service
14 their needs.

15 MR. BAUMANN: If I understand your
16 comments right, if I can use your firm you work
17 for as an example, if all the lawyers selected
18 and supervised paralegals the way your firm
19 does, regulation wouldn't be required. Is that
20 fair to say?

21 MS. LONG: That's probably a fair
22 statement, if that was mandatory across the
23 board.

24 MR. BAUMANN: And so the problem is that
25 some lawyers do not take enough care in

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1 selecting and supervising qualified people to
2 work for them?

3 MS. LONG: That's probably fair. But I'd
4 like to qualify it and make one additional

5 comment.

6 MR. BAUMANN: All right.

7 MS. LONG: Even if attorneys had a
8 standard, let's say every single attorney in
9 the state of Florida, every single law firm had
10 a standard that they used to hire paralegals,
11 that certainly would be wonderful. But you
12 still have the issues of individuals who are
13 working outside the scope of a law firm.
14 Certainly, as I mentioned before, the
15 administrative agencies where those individuals
16 are allowed to provide services directly to the
17 public like representation before the Social
18 Security Administration. That would not have
19 any impact on that particular area. So you are
20 back to the beginning again to say that there
21 needs to be a statewide mandatory competency
22 level that would be applied to every situation
23 where a paralegal performs his or her task.

24 MR. BAUMANN: Just focusing on paralegals
25 that work for law firms or for lawyers right

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1 now, if that's the issue, then isn't that part
2 solved by making sure that lawyers properly
3 supervise their employees?

4 MS. LONG: Well, supervise -- having the
5 qualification is one. Supervising the employee
6 is a whole other issue. You still may -- when
7 an individual comes into a law firm setting,

8 they may have the initial qualifications
9 certainly, but there is that secondary aspect
10 of it that the attorney still has to supervise
11 what that individual is doing. So you would
12 still have -- whether the individual is -- has
13 the minimum standards, you still have that
14 supervisory aspect of it.

15 THE CHAIR: Thank you, Ms. Long.

16 MR. BOGAN: I apologize, Mr. Chairman.

17 But how do we cure that by then just
18 simply saying -- to follow up on his
19 question -- how do we cure that by simply
20 saying, well, let's just regulate paralegals,
21 when the attorney can use some other label, and
22 you may still arguably still have the same
23 problem; legal assistant, legal specialist,
24 whatever the case may be? If it's the lack of
25 supervision, of quality supervision by the

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1 attorney, then maybe the real issue here is
2 maybe the Bar needs to do a better job of
3 educating and explaining to attorneys what
4 their roles and responsibilities are with
5 respect to paralegals.

6 MS. LONG: Well, certainly that would be
7 extremely beneficial. But the other issue too
8 is, yes, you could have in a law firm setting
9 going around that by having the law firm or the

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10 attorney give a different label to someone in
11 their office. But there's still the issue that
12 paralegal fee awards are certainly scrutinized
13 very closely these days by the courts.

14 And we've certainly become aware of a
15 recent directive in the 12th Circuit where
16 there was a judicial directive that went out
17 that stated that the fee award, and I believe
18 this is related to a guardianship-type
19 situation, which is monitored very closely,
20 that the paralegal that the attorney was
21 billing time for, had to be certified. So
22 certainly the court is looking for something
23 other than just a law office personnel-type
24 individual.

25 By establishing the minimum criteria,

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1 that's going to take that very far and be
2 beneficial in that regard because, let's face
3 it, when you have paralegals that are working
4 in a law firm environment, the law firm and the
5 attorney needs to bill their time. It's a
6 financial situation. So by having that same
7 standard for all paralegals, it would alleviate
8 and certainly work towards alleviating problems
9 with regard to fee awards for paralegals.

10 THE CHAIR: Thank you very much, Ms. Long.
11 Appreciate it.

12 Mark Workman?

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13 MR. WORKMAN: Good morning, Mr. Chairman,
14 committee members. My name is Mark Workman.
15 I'm here today -- (unintelligible.)

16 THE CHAIR: Could you speak into the mike,
17 please?

18 MR. WORKMAN: My name is Mark Workman.
19 I'm here today as current president of the
20 South Florida Paralegal Association. This
21 professional nonprofit organization represents
22 nearly paralegals, educational institutions and
23 others. SFPA is a member of FAPA, whom Vera
24 spoke of, and is part of the initiatives and
25 efforts FAPA has undertaken in this regard.

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1 I have worked in the paralegal field for
2 over 20 years and am currently employed as a
3 senior litigation paralegal for the law firm of
4 Gunster, Yoakley and Stewart. Although I stand
5 before you as one person, my voice is
6 representative of the majority of SFPA members.
7 And I speak not only on behalf of SFPA but of
8 my own position on this very important issue.

9 After listening to comments and being in
10 contact with numerous members and other
11 professionals who have voiced their various
12 positions and ideas and provided much insight
13 regarding this issue, all of which were
14 considered in formulating SFPA's position on

15 paralegal regulation.

16 With this said, the majority of the
17 representative members agree that paralegal
18 regulation is imperative both to protect the
19 quality of services rendered to the public by
20 paralegals and to provide mandatory, ethical
21 and educational guidelines to protect our
22 professional integrity and public image.

23 Without reiterating the importance of
24 paralegal regulations and -- which is and will
25 be spoken of in great detail today, I wish very

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1 briefly to speak on points two and three of
2 today's agenda. But before getting into those
3 specifics, I wish to briefly touch on the issue
4 of public policy.

5 Several have already spoken, and more may
6 follow, indicating there is no need for
7 regulation of our profession because the public
8 is already protected through the offices of the
9 attorneys with whom most of us work. I cannot
10 disagree more. More and more as our profession
11 changes, it involves indirect supervision by
12 attorneys, not because the responsible attorney
13 does not care or is too busy, but because there
14 is a high expectation as to our competency
15 level and professional responsibility.

16 Although the idea is global and is the current
17 rule, the reality of direct supervision is

18 nothing more than a diversion of responsibility
19 and in some cases may not exist.

20 Further, even though the overall services
21 we provide are theoretically the responsibility
22 of the attorney, the substantive nature of what
23 we do increasingly impacts the overall process
24 and quality of services we provide to the
25 public.

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1 We in our profession are considered the
2 right arm of an attorney as much as a nurse is
3 to a doctor or a realtor is to a broker. Just
4 as realtor/broker is ultimately responsible for
5 a realtor associate, the realtor associate has
6 mandatory ethical guidelines, regulations and
7 educational requirements before serving in that
8 capacity. The procedural guidelines are
9 structured and enforced.

10 Similarly our profession is ever
11 increasingly in direct contact with the public
12 to provide services to the consumer in the form
13 of a contract paralegal, or as I am, in a law
14 firm setting. We must do all that's within our
15 power to protect the public and for those
16 retaining our services that the services they
17 receive are quality and professional services.

18 Our profession must be guided by mandatory
19 educational and ethical standards separate and

20 distinct from the current diluted and voluntary
21 standard that now exists. Just as the term
22 realtor and nurse reflects a public sense of
23 security and professionalism, so should the
24 term paralegal.

25 There is no simple answers as to how to

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1 accomplish these goals, but it is SFPA's
2 position and my personal opinion that a basic
3 paralegal-specific educational standard be
4 established, that mandatory ethical and
5 procedural guidelines be established, and that
6 a committee be established to enforce these
7 standards. Preferably SFPA believes that this
8 should be administered by the Florida Bar via
9 the establishment of a board delegate with the
10 powers of responsibilities to administer and
11 enforce such rules that may be promulgated.

12 In regards to the definition of a
13 paralegal, I think it is clear that a more
14 thorough definition needs to be established
15 other than the one that is currently adopted by
16 the Florida Bar. When most envision a
17 paralegal, they see someone sitting in a room
18 working hand in hand with one specific
19 attorney. In the real world this is not the
20 case. The paralegal is given a long leash of
21 professional responsibility. And those who
22 utilize the services expect a high standard in

23 their individual abilities to perform specific
24 tasks.

25 Even though they work for a specific firm,

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1 group of attorneys or single attorneys, their
2 duties in performing these services mandate
3 individual competency at a level of
4 professionalism that cannot be monitored on a
5 moment-to-moment basis.

6 Given the diverse nature of these
7 scenarios, it seems prudent that -- doesn't it
8 seem prudent that some mandatory guideline be
9 established to make sure that all calling
10 themselves paralegals meet certain criteria and
11 are responsible for their actions? In all
12 these instances, whether in a law firm setting
13 or otherwise, the public who seeks legal advice
14 or assistance is affected by what we do.

15 The term paralegal must be a term distinct
16 and definitive and should only be used by those
17 with the education and standardized
18 qualifications that the term paralegal infers.
19 Therefore, it is my opinion the term should be
20 specific and more clearly defined than what is
21 currently adopted by the Florida Bar.

22 SFPA finds the majority of its members
23 support regulation in our profession and stand
24 in unison with FAPA and our sister associations

25 throughout the state in support of this issue.

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1 THE CHAIR: Thank you very much,
2 Mr. Workman.

3 Members of the committee?

4 Ms. Stringfellow?

5 MS. STRINGFELLOW: Can you tell me,
6 please, Mark, how many members you have in your
7 association in Miami?

8 MR. WORKMAN: A hundred and eighty-six
9 members.

10 MS. STRINGFELLOW: Going back to some of
11 the earlier questions of the committee members
12 with Ms. Long, can you tell us an approximate
13 amount of the members who work in small or
14 six-man or less firms?

15 MR. WORKMAN: I can't give you those hard
16 numbers, but, you know, just an estimate, I
17 would say 50 percent in small firms and
18 50 percent in the larger firms. We are pretty
19 diverse down there as well as the workforce.
20 Some work as sole practitioners and some work
21 with large firms such as us.

22 MS. STRINGFELLOW: Thank you.

23 MR. WORKMAN: You're welcome.

24 THE CHAIR: Mr. Bogan?

25 MR. BOGAN: Is it Workman?

1 MR. WORKMAN: Workman, yes.

2 MR. BOGAN: Mr. Workman, a couple
3 questions for you.

4 You cited to sort of, I guess, this
5 analogy of realtors and nurses and how -- in a
6 lot of ways you see yourself as similarly
7 situated being a paralegal.

8 MR. WORKMAN: Correct.

9 MR. BOGAN: Now, with respect to the
10 realtor, for example, I don't practice real
11 estate, but I think we would all agree the
12 realtor has a direct contractual relationship
13 with the client; in other words, when the
14 client comes in, they hire the realtor to
15 assist them --

16 MR. WORKMAN: On behalf of the broker.

17 MR. BOGAN: Or whatever that may be, but
18 there is some contractual relationship between
19 the realtor and the client. Would you agree
20 with that?

21 MR. WORKMAN: Yes, I agree with that.

22 MR. BOGAN: And with respect to the nurse,
23 in terms of the delivery of the services, they
24 tend to have a fair amount of patient/nurse
25 contact where there may be times when a

1 physician is back at the office, but the nurse
2 is sort of carrying out those orders in terms
3 of delivering those services to the patients.

4 And I'm trying to understand your analogy
5 how -- in terms of how that applies to the
6 paralegal who does not have a contractual
7 relationship with the client and who in a lot
8 of instances may have very limited interaction
9 with the client, but certainly not to the point
10 of dispensing any legal advice. So how are
11 those the same?

12 MR. WORKMAN: Well, I certainly
13 understand, you know, we do not have direct
14 contact -- you know, most firms, most attorneys
15 don't allow their paralegals to have contact
16 with the clients, and in some instances they
17 do. There's interview processes that go forth
18 and things of that nature which is allowed by
19 rule.

20 But in regards to the analogy between the
21 realtor -- you know, the realtor associate and
22 the paralegal, although we work in the
23 background, our services are still seen by the
24 public, by the client although not directly.
25 And, you know, it's more behind the scenes than

1 it is direct one on one with the client. You
2 know, our work is substantial, substantive, and
3 it does play a role in the ultimate outcome of

4 what the attorneys do.

5 MR. BOGAN: And in your capacity as a
6 representative for the South Florida Paralegal
7 Association, do you-all have any type of
8 program that sort of says to the public that
9 if, for example, you have received bad advice
10 from an attorney's paralegal to your detriment,
11 there may be certain things that we can assist
12 you with in terms of getting that information
13 to the Bar for appropriate consideration?

14 Because what I'm trying to understand here
15 is that, you know, to the extent there may be
16 some interaction between paralegals and the
17 clients, is it the case that the public is
18 complaining about that interaction, i.e.,
19 because the paralegal gave me bad advice and my
20 attorney didn't catch it, that I am now worse
21 off because of that?

22 MR. WORKMAN: A paralegal giving advice is
23 a bad thing to begin with.

24 MR. BOGAN: But I'm just saying, have you
25 seen those types of complaints?

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1 MR. WORKMAN: No, we haven't. We haven't
2 seen those types of complaints, and we do have
3 contact with the public through an appropriate
4 Web site that we run. But we do not make
5 reference to those types of things, like if you

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have a complaint. And maybe that's something
7 we should consider doing, but, you know.

8 MR. BOGAN: Thank you.

9 THE CHAIR: Mr. Baumann?

10 (Cell phone ringing.)

11 THE CHAIR: If anybody knows the words to
12 this song, please feel free to sing along.

13 MR. BAUMANN: I think what I heard is one
14 of the major justifications of putting a
15 standard is that in the real world paralegals
16 are not as closely supervised as you might
17 think. Is that just -- is that because of the
18 nature of the work; in other words, it's not
19 possible to do it, or is it just that lawyers
20 are being -- are lax in doing that?

21 MR. WORKMAN: I think it's the nature of
22 the work. And I think in our firm we have
23 cases all over the country. Our attorneys send
24 us to California, you know, anywhere outside of
25 the jurisdiction to perform specific tasks. We

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1 have a professional responsibility in
2 performing those tasks. And the attorney is
3 not there to watch us. We may be gone for a
4 week, two weeks on a document production,
5 document review, whatever. And in doing those,
6 it requires a certain level of competency and a
7 certain level of professionalism, and the
8 attorney is not going to be there to supervise

9 us in terms of that.
10 You know, there are judgments that our
11 profession makes irregardless -- although the
12 attorney would like to think that they know
13 everything that we're doing, they don't always
14 do that. And, you know, I think it's in your
15 best interest as well as ours to know what it
16 is that we're doing. And if we have some level
17 of responsibility that is mandated by law and
18 not just some nice words, then I think
19 everybody would be in a better position
20 including the public, yourself and our
21 profession.

22 THE CHAIR: Committee members, anyone
23 else?

24 Mr. Conti? Can you pass the microphone
25 down, please? Thank you.

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1 MR. CONTI: I think Mr. Workman has given
2 me what I've been looking for which is the
3 soundbite for the justification of regulation.

4 One of the things we've been struggling
5 with is there are a number of paralegals who
6 don't believe it is necessary to be regulated.
7 That there are sufficient safeguards in the
8 fact they have to be supervised by a licensed
9 attorney and the responsibility for the work
10 product lies with the attorney, and

11 consequently that should be sufficient.

12 What you gave me today was this long leash
13 of responsibility that really sums up, I think,
14 potentially at least, a number of potential
15 harms to the public. And that is there are in
16 some cases days in which a supervised -- a
17 paralegal is not being supervised but is
18 conducting work and presents a work product
19 which is reviewed but not necessarily subject
20 to the kind of strict supervision that you
21 might envision in many circumstances.

22 And so that long leash of responsibility
23 becomes perhaps a significant reason for
24 requiring a minimum level of competency both
25 educationally and perhaps through some means of

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1 certification. So it's a valuable point and I
2 thank you for it.

3 MR. WORKMAN: Thank you.

4 THE CHAIR: Anyone else?

5 Mr. Munoz?

6 MR. MUNOZ: Yes. Just a follow-up comment
7 to Mr. Conti's comments.

8 Certainly in our office we don't send a
9 paralegal off on that type of document review
10 whether outside our direct supervision for some
11 period without first making a determination
12 that they are qualified to conduct that review
13 without us being in the room with them.

14 But the question I wanted to address is
15 standards and how we could develop them. It
16 seems to me that we do currently have a
17 standard, perhaps arguably a vague standard,
18 but certainly paralegals are not tightly
19 regulated. They have to work under the purview
20 of an attorney who is responsible for making
21 sure that their work is up to our ethical
22 obligations. And when we talk about an
23 alternative standard, we've heard, of course,
24 various proposals and educational requirements,
25 et cetera.

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1 And you said you are with the Gunster
2 firm. Is that correct?
3 MR. WORKMAN: Yes.
4 MR. MUNOZ: I've had the opportunity to
5 work with your firm in the past in labor
6 employment matters, which is really the scope
7 of my expertise. In my particular area of the
8 law, we could hire someone who met any of these
9 various tests that have been proposed, and
10 almost every one of those people, if they did
11 not have practical experience, would be
12 woefully ill-prepared to represent -- to work
13 on matters where we represent our clients.
14 We have in our office someone who we call
15 a paralegal who did not go school to be a

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16 paralegal. She started in our firm as a
17 receptionist, became a secretary. In the role
18 as secretary was given work over the years that
19 was not billed as paralegal work, was done
20 under close supervision, and she developed
21 expertise to the point where now she's
22 incredibly qualified in my opinion, but might
23 not might pass any of these particular tests.
24 And I assume being at the Gunster firm and
25 knowing the type of law they practice, that you

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1 can see that. And I also expect there are a
2 number of other practice areas where the same
3 thing would be true where someone could get
4 straight As in the greatest school in their
5 paralegal program and yet be unqualified to
6 practice in a given area.

7 And I have difficulty envisioning a
8 regulatory scheme that allows us to bring that
9 very qualified person into the group of, quote,
10 paralegals, who could be called paralegals
11 across a broad range of practice areas that
12 works any better than the current scheme where
13 the attorney with his ethical obligations makes
14 that determination. Can you address that
15 issue?

16 MR. WORKMAN: Yeah. I think that's a very
17 valid point. And there certainly needs to be
18 some sort of grandfathering clause and,

19 obviously, taking some things into
20 consideration. NALA has as well as our
21 association in terms of that.

22 If a paralegal has been working as a
23 paralegal for 20 years should have a mandate
24 that they have to take a test in order to reach
25 this regulation, to qualify for this

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1 regulation. There should be some sort of
2 standard in place that says that, you know, if
3 you've been doing this for 20 years, and an
4 attorney can vouch for you as to your
5 competency, then, you know.

6 I think what we're really addressing here
7 is the future of our profession, not the past
8 of our profession. And in order to accommodate
9 the past paralegals -- you know, I am not a
10 certified paralegal. I've been doing this for
11 20 years, although I have the schooling.

12 I know several paralegals that do not have
13 any formal training. It's on-the-job type
14 of -- and they've been doing it for a long
15 time. You can't exclude those. You have to
16 make room for them, and I think that can be
17 done through a grandfathering clause that
18 allows for the people who are currently in the
19 profession. And if the attorney vouches for
20 those standards that they have met these

21 standards or they are qualified, then they
22 should be brought in and fit under that scheme.

23 THE CHAIR: Thank you, Mr. Workman.

24 MR. WORKMAN: Thank you.

25 THE CHAIR: Mr. Raymond Zamora?

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1 MR. ZAMORA: Good morning everyone. My
2 name is Raymond Zamora. I work for the law
3 firm of Boyshu and Flexer (phonetic) in Miami.
4 I have over 10 years of experience as a
5 paralegal.

6 I'm a current member of the South Florida
7 Paralegal Association. And I also teach at the
8 Florida International University for paralegal
9 program.

10 And one of the things that I would like to
11 address this morning is the public policy
12 issue. As I've learned through time, I feel
13 that it should be a standard to have the
14 community -- and when I say "the community,"
15 the people who use paralegals -- to have some
16 kind of educational standards or some
17 competency level.

18 I think the standardization will ensure
19 the public that mandatory education standards
20 and ethical guidelines are uniform throughout
21 the state. That the public's perception is
22 that paralegals have special training, are
23 knowledgeable about legal issues and are

24 supervised by an attorney.

25 I further want to say also that the United

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1 States Department of Labor and Bureau of Labor
2 Statistics says that while paralegals are
3 trained on the job, employers increasingly
4 prefer graduates of postsecondary paralegal
5 education.

6 As currently defined, anyone with a
7 substandard education or minimum legal
8 experience may use the title paralegal or legal
9 assistant. This may adversely affect the
10 perception of those individuals who seek the
11 services of attorneys, law firms and
12 paralegals, especially the term legal assistant
13 since it has been inaccurately used in the
14 legal profession.

15 I want to share something. I had an
16 experience. I had a person come up to me and
17 tell me I have a problem. I went to a
18 paralegal and she says she was working for an
19 attorney, and I needed to fill out some forms.
20 I gave her my money. I gave her my forms.
21 Apparently she was supposed to submit this to
22 the immigration department, and the paralegal
23 never did.

24 Through the course of time we've learned
25 afterwards that the paralegal was not employed

1 by the attorney. The attorney didn't have any
2 record and didn't even know that this paralegal
3 was doing business, you know, and that he was
4 the supervising attorney.

5 So, you know, this is something -- I said
6 if there is any question about the issues, this
7 is a UPL thing and you need to make a complaint
8 to the UPL.

9 So the person using the title of paralegal
10 should have mandatory continuing legal
11 education to preserve the ethical standards and
12 professionalism. Certain paralegals seeking
13 voluntary certification must adhere strictly to
14 the accepted standards of legal ethical
15 principles of conduct as outlined by certifying
16 associations.

17 One of the things I find is without
18 continuing education, I think a lot of
19 (unintelligible) with e-discovery. One of the
20 big issues in litigation today is the cost of
21 handling the discovery process in the
22 electronic information.

23 If you have a paralegal that's been
24 working for a firm for 10 or 15 years, but
25 hasn't continued the education, what kind of

1 challenge are they going to face when we have
2 this new evolving electronic discovery where we
3 have over a million or billion e-mails going
4 around the world.

5 So I think having a standard education
6 where they have a competency level and they
7 continue that education is key.

8 I encourage the committee to establish
9 regulatory guidelines for the paralegal
10 profession. Through education and ethical
11 standards, paralegals will maintain the
12 integrity and high degree of competency in the
13 legal profession.

14 That's all. Thank you.

15 THE CHAIR: Thank you, Mr. Zamora.

16 Mr. Hume?

17 MR. HUME: Could you again summarize the
18 great public harm that would be prevented by
19 regulation.

20 MR. ZAMORA: The great public harm? Well,
21 one example is what I just mentioned. Someone
22 that was acting outside the scope of their
23 employer. They were claiming essentially fraud
24 telling this young lady that she could process
25 her immigration papers for her when, in fact,

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1 she wasn't being supervised by an attorney.

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MR. HUME: Thank you.

MR. ZAMORA: I mean, I think by doing that we're going to have a lot less UPL when you have paralegals that know there is going to be a consequence if they start doing things outside their scope of work.

THE CHAIR: Mr. Bogan and then Ms. Stringfellow.

MR. BOGAN: Since I've asked so many questions, I'll --

MS. STRINGFELLOW: Go ahead.

THE CHAIR: You're doing such a good job.

MR. BOGAN: Yeah. I think reasonable minds may differ on that.

Is it Mr. Boyette?

MR. ZAMORA: No. My name is Raymond Zamora, not Mr. Boyette.

MR. BOGAN: Mr. Zamora?

MR. ZAMORA: Yes.

MR. BOGAN: Mr. Zamora, let me just ask you a question about, let's say, the small firm practitioner who is in, say, Macclenny, Florida and has a very small pool in which to pool in terms of folks who he can employ or she can

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employ at the law firm. Sort of following up on what Mr. Munoz talked about a little bit earlier in terms of someone who at his office sort of started out maybe at the front desk and

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5 worked their way up and with their experience
6 became quite proficient at the job.

7 If you've got someone who is in, let's
8 say, Macclenny, and we've got this standard
9 that says, you know, for certain types of
10 services that you seek to be compensated for
11 that would traditionally be paralegal-type
12 services, that you can only recoup in certain
13 types of litigation, for example, the cost of
14 those services if that person is a designated
15 certified, quote, paralegal, well, that seems
16 like quite a burden on some of these
17 practitioners who may be in these rural
18 communities who may not have the same pool from
19 which to pool folks who may possess this
20 certain certification that you allude to. How
21 do you address that issue?

22 MR. ZAMORA: I think one way I would
23 address that issue is though -- you know,
24 there's been -- there's been a greater use of
25 paralegals only because we have seen through

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1 the years the associates coming out of law
2 school are demanding a higher pay, so I think
3 that's why paralegals are becoming more useful
4 is because of the experience that they have.

5 One of the things that I had spoken with
6 Mark about, and we're working back in South

7 Florida, we have a group that we do pro bono
8 work. If there is such a thing that these
9 clinics that you are talking about in the urban
10 areas, then I think the paralegals would work
11 also.

12 MR. BOGAN: I didn't say a clinic. I said
13 Macclenny. It's a town, very small town.

14 MS. STRINGFELLOW: Very small town in
15 North Florida.

16 MR. BOGAN: That's my Texas accent. I'm
17 sorry. If it sounded like clinic, I meant to
18 say Macclenny.

19 MR. ZAMORA: If you are going to use a
20 paralegal, you can either use a paralegal or
21 you can use an associate. An associate can
22 cost you more on an annual basis than a
23 paralegal is going to cost you, so I think it
24 outweighs. I've seen through the years there
25 is more and more demand for the paralegals only

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1 because the associates coming out law school
2 are demanding that much more money.

3 THE CHAIR: Ms. Stringfellow?

4 MS. STRINGFELLOW: Going back to your
5 earlier comment about the policy issues and the
6 public perception and the requirement and the
7 necessity for CLE and for training of
8 paralegals, do you think that if there were
9 certain minimum competency levels established

10 by the -- some sort of regulatory scheme that
11 would enable attorneys to then better
12 supervise, would that enable educators to
13 better educate and prepare their students?

14 MR. ZAMORA: I would agree with that
15 question. And furthermore, I think an
16 attorney -- you know, when I've had the
17 opportunity -- I've sat down with clients on
18 personal injury cases. I've sat down with CPOs
19 preparing for discovery. And I think it
20 comes -- when that attorney feels comfortable
21 and knows that that paralegal has gone to two
22 years of school, has struggled and taken an
23 exam voluntarily and is continuing his
24 education voluntarily, it gives that attorney a
25 sense of comfort knowing that he can send him

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1 off to do these certain tasks and know at the
2 end of the day when the work product comes back
3 he's going to review it, and most of the time
4 there's going to be very little grammatical
5 errors or whatever it might be.

6 So I agree that some standard, you know,
7 across the board is something that needs to be
8 mandatory.

9 THE CHAIR: Thank you very much,
10 Mr. Zamora.

11 Albert Dawson?

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MR. DAWSON: Yes.
13 THE CHAIR: Are you prepared to speak?
14 MR. DAWSON: Sure. I wasn't expecting to
15 but I will.
16 Hi everybody. My name is Albert Dawson.
17 I recently moved to Tampa from New York City.
18 My wife was a corporate paralegal for Schulte,
19 Ross and Zabel in New York, and upon arriving
20 in Florida, she encouraged me to get into the
21 employment of law. I am currently employed at
22 Butler Pappas as a file clerk.
23 I have experienced some changes that are
24 happening with the law firm, more or less with
25 using a program called Summation where now

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1 attorneys are relying on scanning documents and
2 those documents are being coded so that it can
3 be easily accessed depending on their queries
4 when they're working on cases for discovery or
5 exhibits.
6 I'm also an assistant to paralegals. And
7 right now I am discussing with human resources
8 as to what really is my title, which brings me
9 here today, because I am starting to see the
10 frustration that the experienced paralegals may
11 have at our firm in relationship to the new
12 blood that is infused into the workplace.
13 From my own witness, when a new associate
14 comes in, they usually rely on experienced

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15 paralegals to cradle this new associate in
16 their process. There are certain situations
17 where human resource may get involved if there
18 is a problem with the work product.

19 Attorneys are not necessarily there in
20 their office. Their jobs require them to
21 travel back and forth, so they are relying on
22 the work product to be valid. However, there
23 is no medium between the opinion of the work
24 product from an attorney versus the paralegal
25 that is actually performing the function. And

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1 in some cases what actually happens is that you
2 will have paralegals that will ask for
3 assistance from other paralegals on the staff.
4 Or you'll have a situation where, for whatever
5 reason, unless someone is really checking the
6 work before it gets to the attorney, nothing is
7 found that is incorrect until it's necessary.
8 So there is an issue.

9 In New York City you have different
10 regulations for paralegals wherein as opposed
11 to in state of Florida, from what I understand,
12 you may not necessarily be required to take an
13 examination. That is an issue since I am
14 attempting to go into this profession. It
15 needs to be clearly defined as to what
16 determines a paralegal, what type of schooling.

17 I recently went to FMU to apply for their
18 paralegal program, and they wanted \$16,000 for
19 a two-year degree, and they are not approved by
20 the ABA. I have a problem with that.
21 St. Petersburg College is changing their
22 two-year degree program into a four-year
23 program because they required more
24 prerequisites in order to become a full-fledged
25 paralegal.

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1 So I believe, in my opinion -- and I'm
2 only speaking as a novice. This is not to go
3 against anyone who has diligently put their
4 hours into the profession. If you want to take
5 your car into a mechanic, we know by law they
6 have to do the right thing and you sign a
7 contract to get the work done, but how do you
8 really know that this work is going to get
9 done. I've had experience where I've taken a
10 car to a mechanic, and the guy that I spoke to
11 was not doing the work, but it's some other guy
12 that he hired that you don't even have a
13 relationship with that is probably going to
14 work on your car, and you don't know for sure
15 if the car is reliable or not when you get it.

16 The fact that there are more cases in
17 litigation than ever before now, thanks to our
18 society, it is my personal opinion as a person
19 that is pursuing this profession that I want

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20 more confidence knowing that there is some type
21 of legal official standard, and I'm not relying
22 on one school versus no school versus what the
23 law firm is looking for to establish the
24 definition of a role as a paralegal.

25 So that's all I have to say right now.

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1 THE CHAIR: Thank you, Mr. Dawson.

2 MR. DAWSON: Any questions or anything
3 like that?

4 THE CHAIR: Thank you very much.

5 MR. DAWSON: Thank you.

6 THE CHAIR: Mary Crew?

7 MS. CREW: Good morning. I'm Mary Crew
8 with the Florida Department of Education. I'm
9 the state supervisor for public service
10 education.

11 I think we all just figured out that's not
12 an attendance roster outside. That was to
13 speak.

14 THE CHAIR: Before you do, apropos of what
15 happened over the last week, if you have a cell
16 phone, if you would put it on silent or mute or
17 vibrate or off, we would appreciate it. Thank
18 you.

19 I'm sorry, Ms. Crew. Please, go ahead.

20 MS. CREW: In my role as state supervisor
21 in public service education, I have about 70,

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22 that's 7-0, different curricula that I'm
23 responsible for. An AS degree in legal
24 assisting is one of them. For the purposes of
25 me standing up here, I'm going to use legal

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1 assisting and paralegal equally.
2 If you'll take a look at the black
3 notebook that I left before you, first in my
4 presentation is strictly informational. I'm
5 not going to offer you an opinion on anything.
6 I wanted to make you aware of what the base
7 level of education is for paralegal within the
8 public school system, postsecondary public
9 school system, at this time.
10 On your blue page there I wanted to show
11 you there is an AS degree that's been in
12 existence since 1979. That's a 64-hour degree.
13 School year '03/'04 we trained almost 4,000
14 students. This is in the community college
15 public school system alone.
16 To get a full picture of how many students
17 are actually taking this program, I did not
18 have the opportunity, but needed to, to go to
19 the Commission for Independent Education who
20 registers all private schools and also the
21 four-year university systems that have these
22 type of programs as well. This represents just
23 the number of students that went through the
24 community college in legal assisting AS degree.

25 Twenty-two of the 28 community colleges in

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1 Florida offer this degree.

2 Directly behind that piece of paper, if
3 you'll look, this chart is simply the number of
4 students per school. It's a breakdown, so
5 you'll see who your larger enrollments are
6 versus your smaller enrollments.

7 Behind that is a document called a
8 curriculum of framework. That's the Florida
9 Administrative Code when the auditor of general
10 counsel evaluates -- to audit a particular
11 program. Say it was the legal assistant
12 program, this is the document they would use to
13 compare it to the competencies being taught
14 within the degree program. Schools are
15 mandated to teach this curriculum.

16 November 18th I'm meeting with the
17 community colleges that currently offer this to
18 do revisions for my responsibilities to review
19 programs annually. We haven't done a revision
20 to this program in some years. One of the
21 requests has been to change the name from legal
22 assisting to paralegal. And the other is to
23 take a look at the competencies and make sure
24 they are currently what business and industry
25 needs.

1 I'm very answerable to business and
2 industry. I have attended advisory committees
3 where there are no educators on them except in
4 an ex officio capacity. It's people like you
5 that actually employ paralegals or are a
6 paralegal yourself that would be sitting on
7 that committee.

8 On the left-hand side all this is, I took
9 the liberty of going through the college
10 catalogs for the 22 programs that offer this
11 program. That is their college catalog page.
12 I can only bring your attention to very briefly
13 three. They are in alphabetical order.

14 MR. BOGAN: Where?

15 MS. CREW: The left-hand side of your
16 black folder.

17 I just want to give you an idea of some of
18 the variation. Since -- part of what I've --
19 I've been listening to your questions. I
20 wanted to address this.

21 The very first school you have listed
22 there is Brevard Community College. If you
23 take a look at that, you will see there is
24 general educational requirements as to be
25 expected with any Associate's of Science

1 degree. Beyond that are the major courses.
2 There is no flexibility in that. On the back
3 of that page you will see technical electives.
4 And of that 15, which means there would be five
5 of those. That's their choice. That's one
6 example.

7 The next four right behind that -- and
8 these are yours too keep -- Central Florida
9 Community College is an example. You have far
10 more program core courses. The only electives
11 you have, as you'll notice, are business
12 electives. If you look on the back page,
13 you'll see those business electives include
14 records management, computer applications, and
15 things like this, your technology skills.

16 A third somewhat very different program is
17 St. Petersburg College, which was previously
18 mentioned. St. Pete, in addition to your core
19 general educational requirements and 40 credits
20 of major courses, allows a student special area
21 electives in which they select three areas. If
22 you look on the back, St. Pete College, you can
23 see that they have to take 18 credits, which
24 would be three courses, and they choose a track
25 basically is what I'm saying. Someone

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1 mentioned specializations earlier.

2 So there's a great deal of variety even

3 within a standardized program. So you can
4 tailor it to the individual needs of your
5 community, your constituency depending on what
6 your employer's needs are, or you can offer a
7 more broad-based core so that the student would
8 go out anywhere and have this core of
9 competencies.

10 This is what exists today. This is what
11 has been out there. So it's not like there is
12 no standard educational standard. Now, is this
13 mandatory to be hired? No. One of the things
14 the Department of Education has attached by the
15 legislature are postsecondary adult vocational
16 programs, and I'll explain what those are in a
17 minute. Those are basically the technical part
18 of this without the general education
19 requirement. And they can also be offered by
20 votechs.

21 If we don't have some type of
22 certification, the legislature has threatened
23 to cut funding, because they want it
24 standardized statewide, and they want if at all
25 possible tied to a national certification.

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1 My time is up. I have more to inform you
2 about, but does anybody have any questions?

3 THE CHAIR: Thank you, Ms. Crew.

4 Mr. Baumann?

5 MR. BAUMANN: Thank you. Would you just
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6 explain that last point? Are you saying that
7 you need a certification?

8 MS. CREW: No. What I'm saying is -- my
9 understanding is -- I'm just going to be frank.
10 My understanding is this committee has been
11 convened for fear or to try and head off the
12 legislature assigning an agency like the
13 Department of Business and Professional
14 Regulation who mandates some type of
15 certification program. I deal with this all
16 the time. This isn't unusual. I deal with a
17 variety of people at DBPR. Like I said, I have
18 70 different curricula.

19 I can tell you what's going to happen if
20 something like DBPR takes over this program.
21 They'll do a fine job, but your AS degree will
22 not be the requirement. It will be the
23 technical piece of it that I mentioned, the
24 postsecondary adult vocational piece of it.
25 They don't deal in general education. That's

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1 not what they are about. There will be a board
2 formed like all of their other boards. There
3 will be business and industry folks sitting on
4 it. There will not be educators sitting on it.
5 And the staff there will have no expertise in
6 legal assisting or paralegal. And their board
7 will be business and industry folks. Don't get

8 me wrong, not a mixture of paralegals and
9 attorneys because all of their boards are set
10 up that way. But what you will have is a
11 standard that's less than an Associate in
12 Science degree, because it will be just the
13 technical skills you need to do the job.

14 THE CHAIR: Ms. Holcomb?

15 MR. BOGAN: Is that a fact?

16 MS. CREW: Simply because they are not an
17 educational institution.

18 MS. HOLCOMB: I'm aware that there are
19 several programs out there that are not on your
20 list. So for lack of a better term, the
21 independent colleges and universities or
22 paralegal programs, do you know whether they
23 try to follow the similar standards that are
24 set forth by the programs that are on your list
25 that are governed by FDOE?

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1 MS. CREW: Yes. And that's one of the
2 things I said. I was simply notified a little
3 late for me to be able to pull all of this
4 together. We have a commission for independent
5 education. That's a fancy name for those of us
6 who look at the private schools. Private
7 schools are required to be registered with that
8 commission, which is another part of DOE. I
9 oversee public schools. They oversee the
10 private schools. So they are in that provision

11 of framework at the time of registration.

12 Now, are they allowed to offer something
13 less? Yes. Because they are not taking state
14 tax dollars. Our club is that if you take
15 state tax dollar money or DOE money, or however
16 you want to call it, then you must meet this
17 mandate.

18 So, yes, could they offer something less?
19 I'm not aware that they do. The certificates
20 that I'm aware of are advanced technical
21 certificates, which are beyond an AS or
22 sometimes even a baccalaureate degree.

23 THE CHAIR: Mr. Conti?

24 MR. CONTI: The paralegal versus legal
25 assistant, you mentioned there might be a

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1 movement away from legal assistant in the
2 educational field?

3 MS. CREW: Last week here in Tampa I
4 attended the American Association of Paralegal
5 Educators. It was brought to my attention that
6 they wanted to change the name from legal
7 assistant to paralegal. I am not voiced
8 entirely on why. I know it had something to do
9 with the American Bar Association, that type of
10 certification, which will also possibly go by
11 the wayside if an agency like DBPR were to
12 certify this program. Because my understanding

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13 is, and somebody correct me if I'm wrong, but
14 the American Bar Association would not be
15 certifying programs that did not have a general
16 education. And that's why not all community
17 colleges are certified ABA, one, the costs,
18 membership costs, which is thousands of dollars
19 a year, but the other is they simply do not
20 require as much of the management-type courses
21 as the ABA. It can be a matter of 15 hours
22 versus 18.

23 My understanding was that the term legal
24 assisting was something that was required years
25 ago, and Dr. Demers can address this better

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1 than I can, but had something to do with the
2 ABA and their requirements. The terms in my
3 mind are fairly synonomous.

4 THE CHAIR: Thank you, Ms. Crew.
5 Anyone else?

6 MR. BOGAN: Is there an average cost
7 associated with these public-funded programs?

8 MS. CREW: They have tuition issues, but
9 then they also have individual fees. So it's
10 no more or no less than any other associate
11 degree would cost that does not have a great
12 deal of lab fees tied to it. So I realize
13 that's not an answer, but it is an Associate of
14 Science degree like any other.

15 THE CHAIR: Thank you very much, Ms. Crew.
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16 Appreciate it.

17 Valerie Williams?

18 MS. WILLIAMS: Good morning. My name is
19 Valerie Williams, and I work for a sole
20 practitioner and am a supervising paralegal in
21 the office, and there's actually three of us.

22 I graduated from Lithia Community College,
23 which is an ABA-approved college. I'm a member
24 of CFPA, which is the Central Florida Paralegal
25 Association and an original member of the

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1 Alliance when it was first formed with Karen
2 McLead. And I'm a member of the Lithia
3 Paralegal Advisory Committee, and this is my
4 second term.

5 And I'm here regarding the Orange County
6 Bar Association's paralegal committee and going
7 to give a statement for them.

8 The Orange County Bar Association
9 paralegal committee is a professional committee
10 under the regulation of the Orange County Bar
11 Association. Our membership comprises
12 paralegals who are members in good standing
13 with OCBA and whose goal is to promote the
14 profession of paralegals, educate and support
15 fellow paralegals in their endeavor to obtain
16 professional certification and encourage
17 professional development.

18 After much discussion of our committee
19 members, it is the general consensus that we
20 are in favor of the proposed legislation.
21 However, we have great concerns regarding the
22 following issues. One, we would like to see
23 the paralegal profession defined in a manner
24 that is distinctly separate from the legal
25 secretaries and the legal assistant profession.

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1 Legal secretaries and legal assistants should
2 be defined as professionals whose hours are
3 nonbillable and whose work is administrative in
4 nature. Whereas a paralegal should be defined
5 as a professional whose work hours are billable
6 and whose substantive work is performed under
7 the direct supervision of a licensed attorney.

8 Two, we believe that paralegals should
9 abide by all federal, state and local laws and
10 regulations which govern legal practices and
11 services. As such, paralegals should fully
12 expose their titles to clients and refrain from
13 engaging in the unauthorized practice of law.
14 We are in favor of the Florida Bar closely
15 monitoring our profession and vigorously
16 imposing disciplinary actions on all offenders.

17 Third, many well-seasoned paralegals who
18 have been working in the paralegal field prior
19 to 2005 should be grandfathered in as
20 paralegals regardless of their educational

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21 background or lack thereof. However, all
22 future paralegals should be subject to the
23 following credentials: One, a two-year
24 paralegal studies degree from an ABA-approved
25 community college, or two, a BA in paralegal

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1 studies from an accredited college. And third,
2 all paralegals should be subjected to a minimum
3 annual CLA requirement to be determined and
4 monitored by the Florida Bar.

5 The Orange County Bar Association and
6 paralegal committee requests a special
7 committee to set up paralegal regulations,
8 provide our organization with periodic updates
9 so we can inform our colleagues and paralegal
10 students as future developments unfold.

11 Thank you for your consideration.

12 THE CHAIR: Thank you very much,
13 Ms. Williams.

14 Any questions from the committee?

15 Ms. Diamond?

16 I'm sorry. And then I think we're going
17 to take a break. The committee may lynch me
18 for this, but with the number of people that we
19 have signed up, we're probably not going to
20 have time for lunch, but we'll take a 20-minute
21 break so you can grab a muffin or something to
22 tide you over. Is that okay with the

23 commi ttee?

24 MS. DIAMOND: Thank you, Mr. Chair.

25 My name is Sandra Diamond. I am the

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1 current probate division chair for real
2 property and probate trust law section of the
3 Florida Bar. I have just finished a four-year
4 term as legislation chair of that section as
5 well, so I am very familiar with the statutes
6 that brought us here, though I understand that
7 we move beyond that legislation hopefully.

8 I do want to tell those of you who don't
9 know that our section represents 9,000 members
10 of the Florida Bar. We are transactional
11 attorneys, office practitioners and litigators.
12 And I think that we are fairly representative
13 of the Bar in that we have members in large
14 firms, small firms and many section
15 practitioners.

16 All of us have legal assistants,
17 paralegals, secretaries, whatever the
18 appropriate term is, and we have the highest
19 respect for them. And we could not practice
20 law and provide legal services without them.
21 But we have grave concerns certainly about some
22 of the concepts that were contained in the
23 original legislation and many of the issues
24 that have been discussed here today.

25 We would certainly oppose any legislation

1 or rule which would limit how we individually
2 can hire employees and how we can supervise,
3 train and bill for the services of those
4 employees that are provided in our firms. We
5 have not taken a formal section position on
6 this, because, quite honestly, we don't know
7 the forum of either the rule or the legislation
8 that is being proposed. But we have solicited
9 opinions from many members of our executive
10 committee of our section, which is 125 members.
11 We got back comments from many people. And the
12 amazing thing is that they were all quite
13 similar, and I think they were -- no one spoke
14 in favor of mandatory regulation.

15 I'd like to talk about some specific
16 issues that were in the goals, purported goals,
17 in the original legislation. And then some
18 specific comments that were presented to me by
19 many of our members.

20 First of all, one of the goals, purported
21 goals, of the original legislation was to
22 protect the public from the unauthorized
23 practice of law, certainly an important goal.
24 But we were quite concerned, and I know this
25 legislation may fall on the floor and never

1 rise again, and this is the only part of that
2 legislation that I will turn your attention to.
3 But in Section 454.39(B), the definition of
4 paralegal, one of the definitions, the second
5 definition, is a person who is qualified under
6 this part and is authorized by local state or
7 federal statute rules of court or
8 administrative rules to perform substantive
9 legal work without the supervision of a
10 licensed attorney.

11 And I do understand from the discussion
12 here today there are some situations,
13 administrative situations, where apparently
14 that is appropriate and allowed, but we are
15 very concerned that that particular definition
16 would open the door to some sort of
17 freestanding paralegal clinics which would
18 suddenly receive legitimacy.

19 One of the other goals of the legislation
20 was to assist in the effective delivery of
21 legal services. But the bill seemed to require
22 that only the services of a qualified
23 paralegal, whatever that definition ultimately
24 is, may be billed by the attorney. The result
25 would mean that many law firms might have to

1 replace their current status. Because many of
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2 us are not in large law firms like Mr. Gunster,
3 Yoakley, even though we're in large cities, we
4 are in small firms. And we don't have the
5 services of anybody currently who has been
6 certified or under the very restrictive
7 definitions in the statute could become
8 grandfathered.

9 Historically, attorneys who train their
10 own paralegals to perform specific tasks as
11 limited and regulated by the rules of the
12 Florida Bar, that system has worked
13 successfully for many years. We don't perceive
14 that there is any public harm to be corrected.
15 We certainly want to encourage educational
16 competency and high ethical standards for all
17 employees regardless of their titles. And we
18 support programs that encourage such competency
19 and standards.

20 We support the efforts to regulate persons
21 who call themselves paralegals that are often
22 engaged in unsupervised and unlicensed practice
23 of law. While we would support voluntary
24 regulation, we would oppose mandatory programs
25 and legislation or rules which would restrict

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1 who an attorney might hire by limiting how an
2 attorney might bill for that service.

3 The ultimate irony of mandatory

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4 certification is that I could hire an
5 incompetent certified person but not hire a
6 competent person who is uncertified. Thank
7 you.

8 THE CHAIR: Thank you very much.
9 Committee members?

10 Mr. Powers?

11 MR. POWERS: Given your experience as a
12 liaison for your section with the legislature,
13 and I think Ms. Crew's accurate description was
14 that we're here out of fear of some proposed
15 legislation, does the legislature hear someone
16 like you who says, well, you've told us that we
17 should look at that, and if this committee was
18 to say that regulation isn't needed, does the
19 legislature hear that kind of thing?

20 MS. DIAMOND: Well, I wouldn't presume to
21 speak for the legislature. And, you know, we
22 have certainly been very successful. We've
23 found members of the legislature to be
24 extremely willing to talk to us and understand
25 what the issues are. We have certainly had

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1 many instances over my tenure in the past four
2 years where there have been what we have
3 perceived has been bad, unwise, ill-conceived
4 legislation that we have been able to assist
5 the members of the legislature and correct it.
6 So, you know, I think they have an open mind.

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7 THE CHAIR: Mr. Munoz?

8 MR. MUNOZ: Yes, sir. Would your opinion
9 be of an amendment to the Florida Bar rules
10 that limited the use of the term paralegal to
11 avoid possible confusion to the public?

12 MS. DIAMOND: I don't have any concern
13 with the use of the term. And I've heard
14 people speak here this morning passionately
15 about their professional roles and their
16 feeling that they are undervalued or that
17 there's somehow, you know, confusion in the
18 eyes of the public.

19 To be honest with you, I don't perceive
20 that the issue is confusion. I think that the
21 issue is personal pride and professionalism,
22 and I respect that. I think the people who can
23 practice as paralegals, you know, want the
24 ability to have the professional recognition of
25 their education and experience. I don't have a

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1 problem with that. I don't think any lawyer
2 does.

3 I think what is at issue, if you tell me
4 that I can't bill for somebody in my office who
5 has 25 years of experience that I trained and
6 who is -- who is providing excellent service to
7 my clients, and I can't bill for that person
8 because they don't have some sort of

9 designation. That's the issue.

10 THE CHAIR: Other committee members?

11 I have a question. You talked about
12 voluntary regulation. It seems to me like an
13 oxymoron like the pro bono requirement that's a
14 voluntary, mandatory, pro bono requirement.

15 What do you -- what would you envision a
16 voluntary regulation system to look like?

17 MS. DIAMOND: Well, I assume a voluntary
18 regulation system is, you know, similar to
19 what's in place now, and that is professional
20 associations with self-imposed professional
21 standards. You know, and perhaps -- you know,
22 perhaps a requirement that you could only refer
23 to someone as a paralegal if they met those
24 requirements. But beyond that to say that I
25 can only bill that person or I can only use

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1 that person in my office, that's an entirely
2 different issue.

3 THE CHAIR: Anyone else? Ms. Phillips?

4 MS. PHILLIPS: I think one of the concerns
5 is that you can't bill for someone who has 20
6 years' experience. Wouldn't any regulation
7 that allows an experience quotient as a part of
8 either grandfathering or actual compliance
9 resolve that issue?

10 MS. DIAMOND: Well, I guess the question
11 is, you know, we looked at the grandfathering

12 rules, and I don't know how they were drafted,
13 but all of us got our calculators out and felt
14 no human being could possibly be grandfathered
15 with the provisions that were in the original
16 bill.

17 And the question is sure grandfathering
18 would solve the problem now, but going forward,
19 all of us, particularly those of us who
20 practice in small firms -- you know, I have
21 five -- we call them in our firms we call them
22 legal assistants. And I had to go around and
23 ask each one of them which one of you would
24 have met the requirements in this statute. And
25 one of them is certified. The rest of them all

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1 started -- two of them started as
2 receptionists, the rest of them started as
3 secretaries. They've all been working for 20
4 years. They are highly trained, skilled people
5 in very niche areas. So, you know, you can
6 grandfather them, but does that mean going
7 forward I can never hire a young person in my
8 office and train them myself? I would object
9 to that.

10 THE CHAIR: Mr. Conti?

11 MR. CONTI: Thanks. I think that's a very
12 important issue; this whole concept of
13 experience versus education. It doesn't have

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14 to necessarily be one or the other, does it? I
15 mean, at some point if the focus here is to
16 provide competency and some assurance to the
17 public, however that is achieved, is okay,
18 whether it's through experience under the
19 supervision of attorneys for some period of
20 time or minimum level of education or
21 certification or some combination. That
22 really --

23 MS. DIAMOND: No. I don't think it's an
24 issue, and I don't disagree with that.

25 MR. CONTI: And so we don't have to say it

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1 has to be one way or the other in order to
2 necessarily qualify as a paralegal or legal
3 assistant, the nomenclature itself.

4 MS. DIAMOND: No, we don't. But I think
5 ultimately it seems to me I'm in the best
6 position, each of us in our own law firms and
7 our own practices, to judge whether that person
8 is competent. And I think probably many of us
9 have had the experience of hiring somebody who
10 may have been credentialed in that they had
11 just graduated from a program, and we hired
12 them and they come to our firms, and we're
13 lucky if they can answer the telephone.

14 THE CHAIR: You are referring to
15 associates?

16 MS. DIAMOND: Right. But I don't disagree

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17 with that.

18 MR. CONTI: But that goes to the crux of a
19 lot of the problem then, this whole concept,
20 licensing someone, regulating someone as a
21 paralegal and what the requirements are to be.
22 Some say regulation is inevitable whether the
23 Bar does it or whether the legislature does it
24 and hands it over to someone else like DBPR.
25 There are some views that say if it doesn't

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1 happen this year, it's going to happen next
2 year or two years from now or three years from
3 now. Isn't it better for the Bar to be more
4 proactive in trying to figure out what makes
5 sense with respect to where paralegals fit in
6 the system?

7 MS. DIAMOND: I simply haven't heard
8 anything this morning nor have I read anything
9 in the information that I have been provided
10 that shows me why we need regulation other than
11 the perceived public confusion. And I don't
12 believe there is confusion, because I think all
13 of us, I mean most of us, I don't know how you
14 run your law firm, we supervise our paralegals.
15 They're covered by our malpractice carrier, and
16 we were ultimately responsible for their work.

17 And so, you know, I have never had a
18 client, you know, come to me with confusion

19 about, you know, who is that person.

20 MR. CONTI: So it's ultimately lawyers
21 outside Florida that are unsupervised?

22 MS. DIAMOND: Well, I have no idea about
23 that.

24 MR. CONTI: I'm sure nobody in the Florida
25 Bar is not supervising.

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1 THE CHAIR: Ms. Fox?

2 MS. FOX: I have a question about your
3 billing rates for your paralegals. You said
4 you had five paralegals or legal assistants
5 that you work with, and do you bill them at
6 differing rates?

7 MS. DIAMOND: We do.

8 MS. FOX: And my question is just -- my
9 understanding of the Florida Bar rule, which I
10 think is 4-1.5 or something like that, it
11 allows you to pass on the reasonable costs.
12 And it has all these factors for determining
13 reasonableness of costs. And would you take --
14 how do you determine the reasonableness of the
15 costs of a paralegal? And do you take those
16 experience and education factors into
17 consideration?

18 MS. DIAMOND: Well, we primarily take
19 experience and competency into account in our
20 calculations.

21 MS. FOX: So could you just explain to me

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22 how you would decide which paralegal is billed
23 at the top rate and which one at the lowest
24 rate?

25 MS. DIAMOND: It would be -- it would

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1 certainly -- I mean, it's very similar to the
2 kind of calculation you do with an associate in
3 the firm, but it has to do with tenure, you
4 know, complexity of their work primarily, I
5 would say.

6 MS. FOX: And is it based on your judgment
7 of who is the best at what they do at, who puts
8 out the best work product and things like that?

9 MS. DIAMOND: Well, it's -- you know, I
10 would be -- yes. It certainly is a subjective
11 judgment to some extent. We do not have
12 written standards in our small law firm.

13 THE CHAIR: Thank you. Anyone else?

14 I have two minutes after noon. We will
15 take a break until 22 minutes after noon.

16 Thank you very much.

17 (Recess taken.)

18 THE CHAIR: Ladies and gentlemen, we need
19 to get going. I know we're missing some
20 people, but we want to get done on time.

21 Jean McCarter, you have some comments for
22 us, please?

23 MS. McCARTER: Yes, I do. I am here on

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behalf of the Florida Association of Legal
25 Support Specialists. Now, I got this letter

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1 while I was employed in Mississippi for the Red
2 Cross, so I haven't had a whole lot of time.
3 And what I have here, what I'm about to tell
4 you, is not a hundred percent of our
5 association; it's just for the members that I
6 could reach.

7 I am a certified professional legal
8 secretary. The Florida Association of Legal
9 Support Specialists, I assume that many of you
10 won't know who we really are, was incorporated
11 in 1998 in Tallahassee. And one point I want
12 to be clear about is we're not under the
13 umbrella of the Florida Bar. I had heard that
14 rumor somewhere. We did go to the Florida Bar
15 when we first formed and talked about titles
16 and some of the legal aspects of forming a
17 legal association.

18 FALSS is member oriented and built on the
19 premise that each member has a vote on issues
20 regarding governments. It's governed by a
21 board of directors with state officers.
22 Currently we have 16 chapters across the state
23 of Florida.

24 Our membership includes legal secretaries,
25 legal assistants, paralegals, judicial

1 assistants, court reporters and others just
2 interested in the legal field.

3 We have an official Web site. And each
4 one of you here has a copy of all this. And it
5 contains a description of the organization's
6 history, the officers, where the chapters are,
7 the types of meetings that we have, and, of
8 course, membership information as far as
9 joining. The members-only section contains
10 legal and educational articles, FALSS
11 directives, bylaws, standing rules, and many
12 other things.

13 What we did when I first came back this
14 week, a few of us sat down and we just took
15 your issues, and I have comments on some of the
16 issues, so I would like to briefly comment
17 about that.

18 We believe it should be mandatory that
19 educational and ethical standards be
20 established for anyone using the title of
21 paralegal or legal assistant. Between 1999 and
22 2003 FALSS, what our association is called,
23 developed a board certification program that
24 administers examinations in specific areas of
25 the Florida law. These are comprehensive

1 examinations that cover a specific area of
2 Florida law as well as the general section that
3 includes ethics.

4 In order to sit for these examinations,
5 the examinee, the legal secretary, legal
6 assistant, paralegal, whatever, must have at
7 least five years experience in the legal field
8 in that specialty area and meet certain
9 educational criteria. Once the applicant has
10 passed the examination, he or she may use the
11 designation board certified support specialist.
12 And I am a board certified support specialist
13 in civil trial law. To keep this designation,
14 he or she must show proof of 40 hours of
15 continuing legal education every five years.

16 We developed this program to enhance our
17 members level of professional excellence by
18 becoming board certified in the specific area
19 of law.

20 Now, if there is a paralegal regulation,
21 it's our belief that the problem of unlicensed
22 practice of law would be resolved. We believe
23 that the Florida Bar's definition of a
24 paralegal is sufficient and accurate.

25 If standards are established, we believe

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1 it would be beneficial to have a special
2 committee or panel consisting of attorneys,

3 members from Florida legal organizations such
4 as FALSS, the paralegal association, teachers
5 in the legal field, to be appointed by the
6 Florida Bar to establish and be responsible for
7 assuring that certain standards are met.

8 Not every paralegal works under the
9 direction of an attorney. We believe a
10 grievance system should be established. The
11 National Association of Legal
12 Assistants/Paralegals' designation of certified
13 legal assistant and certified paralegal are
14 used interchangeably to identify paralegals.

15 Several of our members hold a CLA
16 designation. These designations are recognized
17 by the American Bar Association. Anyone
18 holding these designations had to pass a very
19 comprehensive two-day examination in many areas
20 of law as well as areas in ethics and judgment.

21 We believe that only two status levels are
22 necessary for paralegals; those working in
23 offices with attorneys and those who work apart
24 from attorneys but still under the supervision
25 of attorneys.

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1 And one last comment. We believe
2 regulating paralegal fees may be charged and
3 recovered as part of attorney's fees needs to
4 be left up to the attorney's discretion for

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those working under the direction of an
6 attorney. We believe it would be beneficial to
7 set up some fee guidelines for independent
8 paralegals who are still working under
9 attorneys.

10 We do not know the current
11 standardizations for educational institutions
12 offering paralegal, and we would like to
13 suggest that the Bar requirements for
14 paralegals to be an affiliate member in certain
15 Bar sections should be standardized and then
16 shared with other Florida legal associations,
17 so that some of its members could become
18 affiliate members in certain Bar sections.

19 THE CHAIR: Thank you, Ms. McCarter.

20 Members of the committee, I'd like to
21 limit our questions to two questions per
22 spokesperson, because we just have a large list
23 of people, and we want to get everybody in this
24 afternoon.

25 So with that being said, are there any

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1 questions for Ms. McCarter?

2 Mr. Baumann?

3 MR. BAUMANN: You mentioned something that
4 I referred to earlier today, and I'm curious
5 about this. You said not every paralegal works
6 under the supervision of a lawyer or an
7 attorney. Can you give me some examples of

8 people who are not doing unauthorized practice
9 of law, but legally are working as paralegals
10 but not supervised by attorneys?

11 MS. McCARTER: All right. As I said, I'm
12 a -- I guess I'm just going to give you a
13 personal experience. I am a certified
14 professional legal secretary with 28 years in
15 the legal field, and I work for Leon County in
16 eminent domain real estate. There are times
17 when I go out and do closings, and I'm not
18 there with an attorney. I'm there with our
19 closing agent. But there are instances when
20 folks in the legal field in a support capacity
21 do go out and work without the attorney's
22 presence.

23 MR. BAUMANN: Should that be prohibited?

24 MS. McCARTER: No. I am still under that
25 attorney's umbrella, but I don't believe it

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1 should be prohibited. He is still in charge of
2 what I do and I know that. Is that what you
3 mean?

4 MR. BAUMANN: Yes. I mean, that's what I
5 was trying to figure out.

6 THE CHAIR: Thank you very much.

7 Kristine Hill?

8 MS. HILL: Good afternoon. My name is
9 Kristine Hill, and I'm a paralegal with the

10 Escambia County Attorney's Office in Pensacola,
11 Florida. I've been there for three years, and
12 prior to that I was a paralegal for Magistrate
13 Judge Susan Novatny with the US District Court.

14 I have a BA in legal administration from
15 the University of West Florida. I'm a
16 certified paralegal with NALA, and I'm an
17 officer and member of the Northwest Florida
18 Paralegal Association, which is a member of
19 FAPA.

20 Our county attorney thought this hearing
21 was so important that when I approached her
22 about coming here, she not only encouraged me
23 to come, she paid my airfare. And we have six
24 attorneys in our office, and I just took an
25 informal poll, and all of them were in favor of

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1 mandatory regulations.

2 Our paralegal association is a small one.
3 There's about 70 members. Out of that number,
4 I believe, approximately 50 percent work in
5 mid-size firms. I don't know if we have any
6 large firms in Pensacola. And the rest of us
7 work in small, six or under attorney firms, or
8 sole practitioners.

9 I am here to express our association's
10 support for the Florida Alliance of Paralegal
11 Associations and the mandatory regulation of
12 paralegals. I really hadn't come prepared to

13 address the public purpose issue. What I would
14 like to talk about just briefly are the design
15 issues.

16 Because I do research for the county
17 attorney's office, that was my first thought
18 was to see what information is out there on the
19 net as far as all the other states as well as
20 the history of Florida with regard to
21 regulation. And you'd be amazed at the wealth
22 of information that's out there. All states,
23 virtually all states, have proposed some type
24 of regulation. And even though many states are
25 stalled right now, nothing is dead.

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1 I have contacted paralegals from all the
2 different paralegal associations that have
3 proposed legislation, and all of them are still
4 very excited and interested in continuing this.

5 Many of the design questions you have,
6 have been thought of and answered by other
7 states. I don't know if the committee has
8 really taken a poll of how other states have
9 addressed all these issues, but I would like at
10 this time to offer my assistance. If you think
11 that would be helpful for you, I would be happy
12 to gather information about how other states
13 have addressed all these issues.

14 THE CHAIR: We do have a summary of the

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15 different states.

16 MS. HILL: Is it current?

17 THE CHAIR: I think so.

18 MS. STRINGFELLOW: Current as of about a
19 month ago.

20 MS. HILL: Well, that's great. Then I
21 won't offer my assistance.

22 Florida is not alone in this. All the
23 states are working towards it. And as
24 Mr. Conti mentioned, it may not happen right
25 now. It may be one year or three years, but I

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1 believe the whole nation is heading in this
2 direction.

3 So with that, I would just like to
4 encourage you in really giving full thought to
5 all the different sides of this issue and
6 realize there are a lot of attorneys and
7 paralegals and members of the community that
8 are behind paralegal regulation.

9 Now, I would just like to end with one
10 quick mention that while looking at other
11 states' legislation, I've seen several states
12 have specifically pointed out in the
13 legislation that attorneys are not to be --
14 they don't have to specifically hire paralegals
15 to perform certain tasks. This is not
16 something that it was my understanding that we
17 were trying to direct. The attorney would

18 still have their own independent judgment to
19 hire whoever they want to for whatever tasks
20 that they see fit.

21 And that's all. Thank you very much.

22 THE CHAIR: Thank you. Committee?

23 Thank you very much, Ms. Hill.

24 Roma Molinaro?

25 MS. MOLINARO: My name is Roma Molinaro.

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1 I'm here from Melbourne, Florida, and I work
2 for a sole practitioner, so I think I can
3 represent the small town in a small firm, at
4 least from a perspective.

5 I've been in the legal field for 17 years,
6 12 of those as a paralegal. I'm certified by
7 NALA. I'm certified by PAF. I am also an
8 adjunct instructor at Brevard Community
9 College. I teach in the business department,
10 the paralegal program, several courses, usually
11 one a semester.

12 I have served on the technical advisory
13 committee of the Brevard Community college for
14 that program since about 2002. I am the chair
15 of that program.

16 I am a former Florida Circuit ABA
17 committee member. I am currently completing my
18 master's degree at Rollins, and I would -- in
19 addition to teaching I also train intern --

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20 paralegal interns at my office on a regular
21 basis.

22 I would like to talk to you today from the
23 perspective of my experience as a teacher in
24 the paralegal program, and hopefully address
25 the issue of public interest and harm.

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1 In Missouri v. Jenkins Justice Brennan
2 recognized and defined paralegals and their
3 contributions to the legal profession. The
4 importance of this contribution to the legal
5 field is in furtherance of public interest by
6 delivering cost-effective services to the
7 client. The highest legal authority encouraged
8 the use of cost-saving paralegals instead of
9 attorneys whenever possible.

10 At BCC, Brevard Community College, we are
11 teaching our students the value of paralegal
12 education and certification. The ultimate
13 payoff for our students would be regulation
14 that ensures their tuition dollars were well
15 spent to work in a profession that recognizes,
16 requires and respects their credentials.

17 This issue centers around the commerce of
18 law, that is, who has the right and privilege
19 of charging clients to provide legal services?
20 According to Justice Brennan in Missouri v.
21 Jenkins there are only two professions that can
22 offer legal services and bill for those

23 services, attorneys and paralegals.
24 The problem then becomes what exactly
25 qualifies a person as a paralegal. It's very

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1 clear what qualifies a person as an attorney.
2 The answer today is uncertain regarding
3 paralegal definition. It's ambiguous and
4 prevents anyone to hold themselves out as a
5 paralegal which demeans the Supreme Court act
6 of permitting the paralegal profession in the
7 commerce of law.

8 As a paralegal and as an educator, I'm
9 committed to advocating the regulation of my
10 profession for the good of society and the
11 public interest.

12 At BCC -- and we did change our name from
13 legal assistant program or legal assisting
14 program to paralegal program a few years ago
15 for many of the reasons that you already heard
16 today. We thought it was a better term that
17 more realistically or hopefully would define
18 who our students were and what the profession
19 was.

20 It has been our unfortunate and
21 overwhelming experience that the students who
22 transfer into our program from other programs,
23 they are lacking in knowledge. There is much
24 disparity right now in educational requirements

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between us, state colleges, and learning

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1 institutes that will accept anyone who can and
2 will pay their tuition.

3 We have defined our programs, even though
4 the profession itself is not well-defined, and
5 we are providing these students with a quality
6 program which provides them with the knowledge
7 and skill necessary to assist attorneys in the
8 practice of law.

9 Having the Florida Bar provide regulatory
10 standards will serve to sharpen our curricula
11 selection and direct our students towards a
12 discernible goal. It will induce paralegals to
13 seek out and complete a formal education
14 program.

15 Without regulation a paralegal who finds
16 satisfactory employment has insufficient need
17 or motivation to further his or her education
18 or maintain any type of standard. And, no, an
19 A in a paralegal course does not necessarily
20 mean that you will have a competent paralegal
21 just the same way that an A in a law course
22 does not guarantee the competence of an
23 attorney.

24 We are not an ABA-approved program right
25 now, although it is something we address on a

1 yearly basis. We are accredited by SACS. And
2 for those of you who are familiar with SACS
3 accreditation, it's rather rigorous. It's a
4 rigorous standard.

5 Our program does qualify our graduates to
6 meet the criteria necessary to sit for the CP
7 exam. There is a criteria for qualification to
8 sit for that exam. Our technical advisory
9 committee has discussed seeking ABA approval,
10 and we have, in fact, a member right now
11 researching that. I think more often the ABA
12 approval may be sought for independent colleges
13 who don't have to fall under the SACS
14 accreditation, but we are researching that
15 right now.

16 And I'm also competent in telling you
17 today that if regulation requires or recommends
18 ABA approval for our program, we will address
19 that and hopefully be able to comply with
20 that regulation. I'm very confident we will do
21 that if that's what you require of us.

22 I wanted to say, too, that I do take issue
23 with the comment that there is no confusion.
24 It is my experience there's a lot of confusion,
25 and a lot of the confusion is with attorneys,

1 even as much as with the public if not more.
2 I know my time is up. I'm often called --
3 in my community a lot of the attorneys know me.
4 They will call me often for a paralegal. And
5 when I send them sometimes a paralegal, we have
6 to sit down and define what a paralegal is.
7 Because what they might be looking for is a
8 receptionist, a legal secretary or something
9 else. They are not aware across the board, and
10 maybe it's just in Melbourne, you know, but we
11 are trying to educate them one at a time. So I
12 do see a lot of confusion in this field with
13 attorneys.

14 THE CHAIR: Thank you, Ms. Molinaro.
15 Committee? Thank you very much.
16 Penny Bell?

17 MS. BELL: Good afternoon. My name is
18 Penny Bell. I am the general manager of Lowe
19 Title and Escrow in Merritt Island. I have a
20 bachelor's degree from the University of
21 Central Florida in legal studies, and have been
22 a paralegal since 1977. I earned the certified
23 paralegal designation from the National
24 Association of Legal Assistants, and I have a
25 second certification as a real estate

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1 specialist.

2 I have served on the Florida Bar UPL
3 Circuit Committee for District 18A. I've also

4 served on the Brevard Community College
5 technical advisory committee as well as being
6 an adjunct at that same institution.

7 I am the former president of Brevard
8 Paralegals Association and the immediate past
9 president of the Paralegal Association of
10 Florida on whose behalf I am speaking today.

11 Paralegal Association of Florida, which
12 I'll refer to as PAF, is the oldest and largest
13 paralegal association in the state of Florida.
14 One of the privileges I had as the two-year
15 president of the association is traveling
16 around to our various chapters throughout the
17 state. We are an 800-member strong association
18 with 10 local chapters ranging from
19 Ft. Lauderdale to Tallahassee. And making
20 those visits to the chapters gave me an
21 opportunity to talk to our members one on one
22 to find out what their needs are with regard to
23 paralegal regulation.

24 There were concerns that were addressed.
25 One of the concerns that was addressed was the

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1 cost, the cost that they personally would
2 have to bear to set up and establish a
3 regulatory board and maintain that board. It
4 was a valid complaint. But in spite of that
5 concern we had polled our members, and between

6 two-thirds and three-quarters of the members
7 that responded were totally in favor of
8 paralegal regulation.

9 Before I came here today, I went on to
10 NALA's Web site, National Association of Legal
11 Assistants, and as of June of this year, there
12 were 13,000 certified paralegals in the United
13 States. I'm proud to tell you that one-fourth
14 of those CPs are right here in the state of
15 Florida. That's phenomenal.

16 What that means is that these
17 professionals took a two-day voluntary exam
18 with a 40 percent pass rate. They are
19 committed to their profession. They are
20 committed to continuing education to keep those
21 credentials and that certification in place.

22 They've joined professional associations.
23 They're adjuncts. They are members of TAC
24 (phonetic) committees. They are involved in
25 their Bar association on a local level.

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1 They're involved and they are committed and
2 they are dedicated.

3 One of the things I did also want to tell
4 you is that the CP exam, in order to sit for
5 that exam, it's a pretty high standard. You
6 either have to have seven years of legal
7 experience and 20 hours of continuing legal
8 education credits. You have to be a graduate

9 of a paralegal program or a BA -- either a BA
10 or an AS program. The other one was either a
11 two-year degree or a BA in any field. Plus
12 there are some other experience requirements
13 that go along with each one of them. So it's
14 not an exam that just anyone can sit for. So
15 when you do pass that exam, it really means
16 something.

17 The work that we perform for our law
18 firms, corporations, governmental employers
19 require a high degree of professionalism and
20 strong ethical standards. Yet I tell you in
21 the state of Florida, the next person coming
22 through that door could call themselves a
23 paralegal and time can be billed for that
24 paralegal, quote, unquote. Without clear
25 distinction as to who can and cannot call

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1 themselves paralegals, how can the public be
2 protected from those who do not have the
3 certification, education or experience to
4 qualify as paralegals and yet they hold
5 themselves out to be.

6 Several months ago I went to the doctor
7 with a respiratory infection. The nurse took
8 my temperature and blood pressure. The doctor
9 came in and the nurse came back after the fact
10 and gave me a shot of antibiotics.

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11 I noticed while she was giving the shot on
12 her lapel was her name but not her credentials
13 after her name. So I asked her why, because I
14 thought if she was an RN or LPN, she'd want
15 that listed there. And she told me, after a
16 moment of silence, the reason was that nobody
17 in that office was permitted to have their
18 position on their name tag. So, of course, I
19 asked why. And the reason was if they got too
20 busy, they would pull somebody from the front
21 office to come back and do that work.

22 I'm going tell you as a member of the
23 public, I was appalled that maybe somebody that
24 didn't have experience stuck me with a needle,
25 first of all. I don't like needles. But my

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1 point is we talked about the parallel between
2 the medical field, doctor and the nurse. The
3 attorney and the paralegal, there's a definite
4 parallel there. That nurse does not have a
5 contractual relationship with me. The doctor
6 is my -- I'm his patient, and that nurse is
7 under his supervision. So if he's sending
8 someone in there to do the job, I'm still
9 paying for it. Had that person not told me, I
10 would never have known.

11 I guess my time is up.

12 THE CHAIR: Thank you, Ms. Bell.
13 Committee?

14 MR. BAUMANN: I have a question.

15 THE CHAIR: Mr. Baumann?

16 MR. BAUMANN: Do you believe there should
17 be some minimum standard of certification such
18 as a CP for all paralegals?

19 MS. BELL: I do. It doesn't necessarily
20 have to be a CPL, although I'm going to tell
21 you it's a great standard, but I believe either
22 experience, education or certification or a
23 combination. Absolutely.

24 MR. BAUMANN: And you said that CP was a
25 pretty high standard, and you think that high

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1 standard should be the absolute minimum to be
2 able to work in this state as a paralegal?

3 MS. BELL: Not necessarily. I'm just
4 saying a person that has sufficient experience
5 and/or education may be as qualified. I'm just
6 saying that should be one of the criteria.
7 Absolutely.

8 MR. BAUMANN: So there could be any, but
9 that could just be one of them?

10 MS. BELL: Right.

11 THE CHAIR: Anyone else?

12 Thank you very much, Ms. Bell.

13 Susan Levine?

14 MS. LEVINE: Thanks for the opportunity to
15 speak to you. My name is Susan Levine. I'm a

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16 certified legal assistant specialist for the
17 NALA organization.

18 Since our time is limited, I had
19 everything prepared to speak to you about
20 today, but right now I want to address a lot of
21 other questions that have come up through the
22 morning topics. And I'm going to start over
23 here. I guess I'll start with the public's
24 protection issues that have been raised.

25 Terry Russell testified in front of a

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1 Florida Supreme Court two or three years ago
2 saying that it is an issue, and it is an issue
3 that the Florida Bar needs to address. That
4 has yet to happen. We have been trying since
5 1986 to promote our profession. And when the
6 Florida Bar studied the issues in the late
7 1990s, we thought this is a great step forward.
8 We're now seven years out and nothing has been
9 done.

10 Over and over again through the Florida
11 Bar's own actions they have shown that the
12 public perceives that we are licensed.
13 Seventy-eight percent of the public polled in
14 their survey shows that they think that we are
15 a licensed professional, and the services that
16 they are paying for on their legal fees are by
17 licensed professionals.

18 In speaking with the local hospital boards
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19 in our area -- again, I'm the founder and past
20 president of the Southwest Florida Paralegal
21 Association in the Sarasota, Manatee and DeSoto
22 County areas. In speaking with the hospital
23 boards and speaking with insurance agencies
24 that hire people to defend their actions, and
25 they have a lot -- they require paralegals to

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1 be part of the legal team for lower costs. But
2 they were amazed to know that there are no
3 licensing requirements out there.

4 The hospital board was surprised with all
5 the licensing that has to go on in the hospital
6 realm from people that take care of bedpans on
7 up, the licensing requirements that are there,
8 they could not believe that the paralegal
9 profession being charged out at 85 to \$125 an
10 hour were out there.

11 The court reporters in the state of
12 Florida are licensed. Do they represent the
13 public? No. They represent and are hired by
14 attorneys and the courts to transcribe
15 proceedings. They are not directly associated
16 or hired by the public at all, but yet the
17 Florida Bar saw it as a thing that needed to be
18 done.

19 I think at a minimum there should be
20 standards set up for paralegals for the code of

21 ethics that are out there and to continue legal
22 education. The laws are constantly changing,
23 the rules are constantly changing. Unless
24 there is a mechanism put in place that the
25 paralegals are shown these changes, we have to

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1 go out and seek it ourselves.

2 We do not get the Florida Bar News. We do
3 not get the publications unless we ask our
4 attorneys for them. So we have to educate
5 ourselves. And I think that the attorneys must
6 be in a position to educate their paralegals on
7 a continuous basis for these types of
8 amendments to the rules and to the laws.

9 The last point I want to make is the term
10 paralegal and legal assistant have been defined
11 not only in the Florida statutes under 57.104,
12 for the reward of attorneys' fees, and then
13 it's defined in three different places in the
14 Florida Bar rules.

15 There needs to be consistency and cleanup
16 all around to try and clarify the term. And
17 the Florida Bar Rule 10.201, just in your
18 comment section, you have attorneys that hire
19 assistants to assist them and those include
20 paralegals, secretaries, accountants;
21 therefore, the attorneys think assistants are
22 all these people, and that's where the dilution
23 of our profession has come. They see that word

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24 assistant and think, okay, this person can be
25 the assistant and this person can be an

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1 assistant, this person can be an assistant.
2 It's the way they are interpreting their rules.
3 And again, the rules of the Florida Bar,
4 nothing in the Florida statutes say that
5 paralegals, legal document preparers, and legal
6 assistants are governed by the rules of the
7 Florida Bar. We need something in place, some
8 mechanism in place in the Florida statutes to
9 join us together in your Bar rules, if that's
10 what you are wanting to do. There's got --
11 something has got to happen to tie us
12 all together, one way or the other, either
13 minimal amendments to the Florida statutes with
14 oversight by the Florida Bar, or it's going to
15 come down. Representative Quiñones was going
16 to put out a bill two years ago, and that's
17 what spurred this whole thing on. It was a
18 joke to the paralegal profession and we wanted
19 to stop it, and more bills will be coming.
20 THE CHAIR: Thank you, Ms. Levine.
21 Committee?
22 All right. Thank you very much voice.
23 Jim Dixon?
24 UNIDENTIFIED SPEAKER: He had an emergency
25 at the office. Can he speak later?

1 THE CHAIR: Yes, absolutely.

2 UNIDENTIFIED SPEAKER: It might take him
3 longer because his paralegal is not with him.

4 THE CHAIR: Daniel Barber?

5 And while he comes up, I know that we're
6 truncating the amount of time, and I know that
7 all of you have a lot that you can give to us.
8 We are still welcoming any written submissions
9 that you want to make, and there are directions
10 where to send those written submissions out on
11 the table.

12 So please, you know, if you feel that
13 you've been given a short trip, please don't
14 feel that way, and appreciate our time demands.
15 But we would very much welcome any written
16 comments that you wish to make. Thank you.

17 Mr. Barber?

18 MR. BARBER: My name is Daniel R. Barber,
19 and I am here representing the University of
20 Miami paralegal program. We oppose regulation
21 in this current form. We polled our students
22 and our graduates of our program, and
23 overwhelmingly they feel the same way. We view
24 this also from an educational standpoint.

25 I'm going to address two issues, one very

1 quickly for you. One is regulation and one is
2 educational standards. You have, I hope, the
3 written document that I have prepared for you.
4 I have more.

5 Is there a need for regulation? The
6 regulation of a profession is usually
7 undertaken to protect society. By simply
8 regulating the paralegal profession at this
9 time is not necessary. The public is already
10 protected from intentional or unintentional
11 acts in which a paralegal might engage
12 including statutes prohibiting unauthorized
13 practice of law and, of course, attorney's
14 supervision.

15 I have to address the comparison that's
16 been made two or three times today to the
17 doctor/nurse relationship. I think there is a
18 substantial difference there, with all due
19 respect. If that shot that had been given by a
20 nurse had been poisonous or had been
21 detrimental to the client, the doctor would not
22 possibly be able to act in time to render
23 assistance in a life-threatening situation.

24 With a paralegal -- the paralegals that we
25 train and the paralegal that I have been for 15

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1 years -- the work that I do under the auspices

2 of an attorney always has that safety net of
3 the attorney reviewing the documents that I've
4 prepared. Even if I go to a law firm in Texas
5 to review documents for a week, when I come
6 back, the material that I have prepared, that
7 I've gone over, the attorney reviews that. And
8 he doesn't just send me out without the
9 confidence that I'm prepared to engage in that
10 conduct. There is that safety net of the
11 attorney.

12 One of the rules that we teach in our
13 program is never do anything that the attorney
14 can't later correct. That's one of the hard
15 and real foundational aspects of instruction.

16 The other thing I would like to address,
17 the reason that we're opposed to regulation in
18 this form is it ignores a significant form of
19 paralegal education and that is certificate
20 programs. We're proud that our program at the
21 University of Miami is a certificate program.
22 It offers an educational experience that's not
23 being met and offered by every institution.

24 The two-year programs and four-year
25 programs offer fine educational experiences,

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1 and they produce many very excellent candidates
2 for the profession, and so do we. In fact,
3 about 80 percent of our students have at least
4 a bachelor's degree, some of them have Ph.D.s,

5 and some of them have master's degrees.

6 The way the regulation is currently
7 constructed, if any one of you wanted to become
8 a paralegal and haven't taken a paralegal
9 two-year program or a four-year program, you,
10 even though you've gone to law school and have
11 a four-year degree, you would not qualify under
12 this bill.

13 We think there should be a provision for
14 those who make -- who are life changing
15 individuals. We are addressing a segment of
16 society that's a little different than
17 community colleges. Most of our students are
18 at the University of South Florida, their
19 certificate program. Most of our students are
20 between 30 and 55 years old and are changing
21 careers, or they have experience in law firms
22 for many, many years such as Mr. Munoz's -- his
23 paralegal. We offer an opportunity to those
24 people who can come and get that education and
25 get that foundation without having to go back

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1 to a two-year or a four-year program.

2 And we are proud of the education we
3 provide to our students. And we would ask that
4 if this Bar decides to seek regulation, that it
5 also consider certificate program graduates and
6 amend the provisions as they now stand.

7 THE CHAIR: Thank you, Mr. Barber.
8 Committee?
9 MR. BAUMANN: I just have one question.
10 Do you know of any legal -- paralegals who are
11 working legally who do not work under the
12 supervision of an attorney?

13 MR. BARBER: No. And we discourage it.
14 Of course, we can't track every graduate of our
15 program, but we tell them, our program is
16 designed for people to work under the auspices
17 of an attorney.

18 One other thing I should mention, you had
19 asked the question earlier about, I think, how
20 could you do a voluntary regulation. I
21 testified before the North Carolina Bar
22 Association a year and a half ago. They
23 recently passed voluntary regulation of
24 paralegals. So there is a system out there for
25 voluntary regulation, if that's the way the Bar

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1 wants to go. And you might want to take a look
2 at North Carolina's system. And they do
3 recognize certificate programs.

4 MS. VASILINDA: What are the requirements
5 to get into your program?

6 COURT REPORTER: I couldn't hear that
7 question.

8 MR. BARBER: She said, what are the
9 requirements to get into our certificate

10 program. You have to have a GED or a high
11 school diploma. The vast majority of our
12 students have degrees. We also believe that
13 there are real life experiences that people can
14 bring to this profession. It's also the beauty
15 of this profession over the past 30 years is
16 the diversity and the experience that people
17 bring in.

18 You talk about grandfathering people who
19 have that real world experience and become
20 paralegals. You know what, there are people
21 this year, next year, five years from now who
22 will also have that kind of experience who will
23 make excellent paralegals, and we do not want
24 to disenfranchise them. So we do not require a
25 degree to get into our program even though most

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1 of our students have them.

2 THE CHAIR: Mr. Barber, let me ask a favor
3 of you. One thing I have not seen is what the
4 curriculum and certificate program is. Could
5 you provide that to us in writing?

6 MR. BARBER: Sure can.

7 THE CHAIR: We would very much appreciate
8 that.

9 MR. BARBER: I'll send that out to you.

10 THE CHAIR: Thank you.

11 MR. BARBER: Thank you very much.

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12 THE CHAIR: Barry -- I believe it's Puet?

13 MR. BOGAN: Mr. Chairman, I've got a
14 flight to catch.

15 THE CHAIR: Okay. Thank you, Linzie.

16 MS. PUET: Hey, I wanted to answer some of
17 your questions.

18 MR. BOGAN: Yeah. The transcript will be
19 made available to us. I'm sorry. I've got a
20 plane to catch.

21 MS. PUET: Oh, okay. I'm sorry you have
22 to go.

23 I wanted to start off with a story. Last
24 week -- I am an attorney, and I'll introduce
25 myself more fully in a minute. I was asked for

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1 legal advice by someone. They said a friend of
2 theirs was putting their mother in a nursing
3 home with the agreement of the mother, and they
4 wanted to transfer assets because she had no
5 nursing home coverage. Well, I said, I know an
6 attorney who specializes in that. You have to
7 follow guidelines and you need a will drawn up
8 and a trust. And he said, oh, well, I better
9 call him because he just paid \$1,500 to someone
10 the nursing home referred him to to do this.
11 And that's just to focus you a little more
12 broadly on the dangers to the public of not
13 having clearly regulated paraprofession in the
14 legal field.

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15 My name is Barry Puit, and I'm a paralegal
16 educator right now. I've been doing that for
17 12 years in a community college. I began my
18 legal profession as a paralegal. Worked as a
19 law clerk, worked as an attorney, and finally
20 as a senior supervising attorney. And I can
21 see this from many sides.

22 I hear a lot of fear and concerns by the
23 attorneys. And I think all of us hate change.
24 We worry about change. It's kind of hard to
25 imagine all of the possibilities when you

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1 create a change such as this.

2 But it's not true that this is a minority
3 movement as has been stated today with other
4 witnesses. It is clearly a national movement.
5 And the thing is, the paralegal profession
6 has -- it has grown up. This is not an
7 unprecedented phenomenon. Many professionals
8 have gone through this. Nursing has gone
9 through this. And yet nursing has changed even
10 in the past five years. It's now tiered. It
11 does have lower levels and immediate --
12 intermediate level of nurses and finally you
13 have physician assistants.

14 Well, every concern of every attorney can
15 be met, but do you want as attorneys and
16 paralegals, do you want the legal profession to

17 do it, or do you want some professional
18 regulatory agency that does not understand the
19 dynamics in the law office and has no
20 connection to attorneys to do it?

21 It will occur and it's already occurred in
22 a number of states. You do have models to
23 follow. The legislation that was passed -- I'm
24 sorry -- that was proposed last year is a good
25 place to start. Because while there is

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1 criticism, and there are a lot of holes in, it
2 can be easily adapted.

3 I did sent -- I brought today written
4 comments that are bright canary yellow
5 handouts. And it is entitled, "Comments to
6 Proposed Paralegal Regulation Committee." And
7 on the second and third page I tried to address
8 the major concerns of the committee.

9 And one of our first concerns as paralegal
10 educators is we know people aren't just working
11 in law offices with the training we give them.
12 They are working in governmental agencies.
13 They are working in corporations. They are
14 working in banks and insurance companies. They
15 are often not regulated by attorneys -- I mean,
16 supervised by attorneys. So these people may
17 need their own term, their own definition.

18 And you're thinking mostly about
19 paralegals who work in law offices. And there

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20 are a lot of people out there that do not work
21 in law offices. And, yes, maybe they are
22 committing UPL, but if we define who can be a
23 paralegal and we define what kind of training
24 and education they have, and we have a registry
25 in this state of some sort, then people, as I

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1 mentioned earlier in my opening story, people
2 who need legal services may be able to check
3 the person they are giving \$1,500 to to see if
4 they are at least a registered person. And if
5 they are a registered paralegal, they will be
6 ethically trained. There will be a minimum
7 competency standard, and they will say, "I'm
8 sorry. I can't do that for you. I know an
9 attorney who can do that for you."

10 Now, people who are not ethically trained
11 do not know that they should do that. Where do
12 you get ethical training? Do you get ethical
13 training at a law office when you've been hired
14 as a beginner? Do you get ethical training
15 after a year in the law office? Does anybody
16 ever sit down and go over the rules regulating
17 the Florida Bar Chapter 4 with their
18 paralegals? No. They pick it up by osmosis.

19 Now, that's fine, and I do believe that we
20 should not close the profession to people who
21 want to learn on the job. In the small towns

22 they should be able to hire their neighbors and
23 train them. And those neighbors should be able
24 to grow into registered paralegals or however
25 you want to call it in Florida, whatever the

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1 name you want to give it. We should have the
2 definition to include them and to grandfather
3 anyone who has become a paralegal that way.

4 But lets get them on a track where they
5 all get some training in legal ethics, where
6 they all get continuing education, where when
7 they get special training in the field they are
8 working in it can count to something.

9 This is a time that has really come of
10 age. And the question is, who is going to do
11 it. Thank you.

12 THE CHAIR: Thank you, Ms. Puet.

13 Mr. Hume?

14 MR. HUME: Using your example, isn't that
15 an example of unauthorized practice of law?

16 MS. PUET: Yes, sir, it is. And I wanted
17 to report it, and probably will report. This
18 just happened last week. My concern with it
19 was the person who was doing it had no training
20 but was performing legal functions. And there
21 was no way for the public -- here the public is
22 harmed because the public cannot check to
23 see -- there's no way they can check this
24 person's credentials and training.

25 THE CHAIR: Mr. Munoz?

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1 MR. MUNOZ: How would the additional
2 regulations you proposed prevent exactly that
3 same thing from happening?

4 MS. PUET: Because the public would come
5 to know, just as you've come to know, that you
6 don't hire an unlicensed attorney. The public
7 would come to know that you don't talk to an
8 unlicensed legal practitioner; that you should
9 always go to someone who has credentials. And
10 those people who have credentials will know to
11 refer you to a lawyer. It's a chain. It's a
12 domino chain of events. And it would really
13 help the Bar regulate the unlicensed practice
14 of law. It would assist them greatly and
15 probably streamline functions to be able to
16 include paralegals in that whole UPL
17 investigation format.

18 MR. MUNOZ: With all due respect to the
19 general public, I don't think that we can
20 prevent them from doing things that are
21 foolish.

22 MS. PUET: True.

23 MR. MUNOZ: The person -- I mean, by
24 saying -- to be called a paralegal you have to
25 do X. It seems to me that creates a situation

1 where instead of being a paralegal, the person
2 wants to engage in an unlicensed practice of
3 law is going to be a document preparer, or
4 whatever name they may choose, and the same
5 thing is still going to happen. We still have
6 members of the public who will see, I can get
7 this done for a thousand dollars instead of
8 going and paying an attorney \$300, so I'm going
9 to use this other service, and they make that
10 foolish decision.

11 I don't see how requiring the name
12 paralegal to have some particular standard
13 associated with it is going to stop that from
14 happening. It's just going to happen under a
15 different name.

16 MS. PUET: Well, I think you are speaking
17 from current experience. But regulating
18 paralegals will change the perceptions and
19 understanding of the public about the legal
20 field. And it actually will lower the cost of
21 legal services in the long run in my opinion.

22 MR. MUNOZ: Thank you.

23 THE CHAIR: Thank you very much.

24 Ellen -- and I'm sorry if I'm
25 mispronouncing this -- Lorenzen?

1 JUDGE LORENZEN: Lorenzen.

2 THE CHAIR: Lorenzen.

3 JUDGE LORENZEN: Thank you. My name is
4 Ellen Lorenzen. I'm a Work Comp judge here in
5 Tampa. And I need to make it clear, I'm not
6 speaking on behalf of DOA, which is the agency
7 that houses me. I'm not speaking on behalf of
8 the conference of comp judges. I'm just here
9 speaking on my behalf.

10 I wanted to speak to only the issue that
11 you've identified as ancillary issues, which
12 should there be regulation regarding what
13 paralegal fee may be charged and recovered as
14 part of attorney's fees.

15 I brought with me -- when I got the
16 letter, I went to my closed file cabinet and
17 pulled out this. This is an affidavit of time
18 costs that was filed by an attorney who
19 represented an injured employee who was seeking
20 to recover fees for his time and for his costs
21 against the employer, and in this case, perhaps
22 the insurance company. I think it was actually
23 a self-insured employer. And I just wanted to
24 give you a flavor of what gets charged as
25 office paralegal time.

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1 My personal viewpoint is, yes, there
2 should be some regulation about what can be

3 charged office as recoverable time and what
4 cannot. But I'll just read you a few entries,
5 and then I'll get to the one that starts to get
6 into public protection.

7 5/4/01, .8, schedule request for
8 deposition. 5/4/01, .8, schedule request for
9 deposition. 5/4/01, .8, schedule request for
10 deposition. This is all done by the same
11 person. 5/9/01, .5, different person, notice
12 deposition. 5/9/01, .8, notice deposition to
13 doctor. 5/9/01, letter with notice of
14 deposition.

15 Now, for that same time period the
16 attorney involved billed a total of .3. And
17 I've got two different paralegals billing, I
18 added it up, 5.5 hours to schedule and notice
19 three depositions and for an attorney to say,
20 hey, set three depositions for me.

21 Now, I'm quite convinced if I had the time
22 records for the defense attorney, I would have
23 seen if his office had been the one to schedule
24 the depositions, .5, schedule deposition, .5 --
25 I don't question that for a minute. But all

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1 I'm trying to communicate to you is when you
2 talk about should we try and define what is a
3 true paralegal activity and what isn't, these
4 are the hours that we are dealing with. We're
5 not talking about .1 here and .2 here. We're

6 not talking about 3.5 hours to meet with
7 witnesses and prepare for trial or .7 to fill
8 out form interrogatories or whatever. This is
9 not unusual.

10 Eventually I get to an entry that starts
11 off with 1.37 hours that says, "Office
12 conference with client, conferenced with --
13 their initials from two different attorneys in
14 the firm -- and the client regarding back
15 benefits and the costs that had been deducted.

16 "Client has been very adamant about the
17 amount of money that's been taken out of her
18 back benefits that were awarded by JCC. She
19 does not agree with the \$21,775.64 figure for
20 costs, although they are only deducting
21 \$11,000."

22 And then an attorney has requested I
23 review the back benefits to verify they were
24 paid and look at the back benefits statement
25 and copy of the checks and, et cetera, et

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1 cetera.

2 There's an additional 7.5 hours of time
3 billed in connection with reviewing costs in
4 this attorney's office that the attorney then
5 wanted to come before me and have assessed his
6 paralegal time chargeable against the losing
7 party in this case.

8 Leaving aside all of the issues with
9 attorneys on that, when you asked the question,
10 well, how is this -- what part of the public do
11 we need to protect? We need to protect the
12 claimant in this case who found herself with
13 costs totaling \$28,000, many of them
14 out-of-pocket hard costs, doctors' depositions,
15 transcripts, et cetera. But in addition
16 there's \$7,000 of paralegal cost.

17 More than 30 percent of her total costs
18 were paralegal costs for scheduling deposition,
19 doing a deposition notice, filing in the XYZ
20 file, and I think that's what they call it,
21 letter to client, office conference, set call.
22 They sent a letter to the client saying we need
23 to have you come in for office conference. It
24 adds up significantly. It adds up on the other
25 side significantly.

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1 And I believe if there was some guidance
2 from the Bar as to what is considered
3 appropriate to charge as recoverable paralegal
4 fees, it would assist all of us, at least in my
5 little corner of the world, but I also think in
6 personal injury and medical malpractice as well
7 as workers' comp in protecting the system from
8 everybody, so that overhead costs are overhead
9 and what are true taxable costs for services
10 rendered, professional services rendered,

11 whether they are rendered by an attorney or
12 paralegal, are properly awarded as those costs.

13 The only other comment I have to make,
14 because it's come up several times, again, in
15 my little corner of the world. Attorneys,
16 whether they sit on the bride's side or the
17 groom's side, are not supervising their
18 paralegals. And I know that. I know that
19 because at UMC on Monday afternoons I hear
20 attorneys say, "Well, I don't really know,
21 Judge, but my assistant says . . . my assistant
22 did . . ." Yeah, this is in response to a
23 motion. I said, "What happened?" "Well, I
24 don't really know."

25 And I get documents and exhibits filed

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1 with me that have blanks in them, that have
2 errors in them, that mix up the style of the
3 case with the facts of the case before me. And
4 I know that's because an attorney has said to a
5 paralegal, "Take care of this." It's not read
6 by the attorney. It's signed but it's not
7 read, and that tells me there is no
8 supervision.

9 THE CHAIR: Thank you, Judge.
10 Committee? Ms. Stringfellow?

11 MS. STRINGFELLOW: In connection with what
12 you are saying about the lack of supervision in

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13 your personal capacity -- sorry. Let me get
14 the microphone.

15 Going to your statement about the lack of
16 supervision, and your comment that you're
17 appearing here in your own personal capacity,
18 not on behalf of any group, could you say that
19 establishing minimum criteria would help
20 resolve some of issues that you as a judge see
21 if those people who are directed to handle it
22 had met minimum competency, ethics and other
23 criteria?

24 JUDGE LORENZEN: I don't know. But what I
25 can say is if you are relying on this

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1 supervision to say we don't need to have this
2 regulation, you have misplaced competence.

3 MS. STRINGFELLOW: So what I'm
4 understanding is the attorney is not
5 necessarily the safety net that they are
6 assumed to be?

7 JUDGE LORENZEN: That's correct. And they
8 are not the safety net that the public can rely
9 on, because -- we were having an internal
10 discussion here, and somebody made the comment,
11 well, it's different from a doctor and a nurse
12 situation where there may not be time for the
13 doctor to correct the situation. I have
14 attorneys in front of me who are in the middle
15 of trying their cases handing me documents

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16 prepared by paralegals that do not support
17 their position, that have privileged and
18 confidential information that should never have
19 come to me. And I've got to tell you, there is
20 no time to correct that problem. You are in
21 trial in front of me and I'm going to be
22 ruling.

23 MS. STRINGFELLOW: Thank you.

24 THE CHAIR: Anyone else?

25 Thank you, Judge.

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1 Toreatha Mitchell? Did I pronounce that
2 right?

3 MS. MITCHELL: Good afternoon. My name is
4 Toreatha Mitchell, and I'm paralegal, and I've
5 been a paralegal for over 12 years. I've
6 worked for Legal Services of Northwest Florida.
7 I've done pro bono work with them. I've also
8 worked with attorneys in -- with administrative
9 cases for social security disability and
10 workers' compensation, and I've worked with the
11 Department of Children and Families.

12 COURT REPORTER: Ma'am, you need to speak
13 into the microphone. Thank you.

14 MS. MITCHELL: Sure. I came today to ask
15 a few questions and to just get a feel of
16 everything that's going on. And most of the
17 questions have basically been answered

18 regarding the certification and differences in
19 the titles like toward the paralegals and legal
20 assistants and law clerks.

21 But one question I had is in reference to
22 since we're going to be starting to be
23 regulated and stuff, I wanted to know if you
24 are a paralegal and you received your
25 certification in another state like in Alabama,

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1 are we going to have to start recertifying in
2 another state like Florida? If you move to
3 Florida, are we going to be done like attorneys
4 are done and recertify each time you relocate?
5 That's one of the questions I have.

6 And the other thing I wanted to know is, I
7 keep hearing about four-year degrees, two-year
8 degree certification. When you put them all in
9 one basket, what's the weight of everything?
10 Because we're all saying, well, it should be
11 equal, but when it really comes down to it, the
12 four-year is more than two-years. Two years is
13 more than certification, so what's equal? I
14 mean, what is it all about, I mean, as we're
15 working? And that's one of the questions I
16 really wanted to ask. Because if I applied for
17 a job with a law firm, and I have
18 certification, and another person is applying
19 and they have a four-year degree, another
20 person is applying with a two-year degree,

21 which ones of those people qualify the most?
22 That's one of my questions that I wanted to
23 ask. Thank you.

24 THE CHAIR: Thank you very much.
25 Committee?

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1 Thank you very much, Ms. Mitchell.
2 Janice Garren?

3 MS. GARREN: Good afternoon. And thank
4 you for the opportunity to speak to you.

5 I'm here to speak to you on my own behalf
6 as an individual legal assistant. Twenty-eight
7 years of experience here in Tampa. I'm only a
8 high school graduate. And I was promoted from
9 a secretary, and I've worked in this field the
10 entire time.

11 I am also a member of the Tampa Bay
12 Paralegal Association. I received my CLA in
13 1993, and my specialty is in civil litigation
14 in 1995.

15 I am kind of at a loss, because I have
16 always been under the understanding that a
17 paralegal officially means a person who is
18 working under the direct supervision of an
19 attorney to perform the tasks otherwise
20 performed by an attorney. I want to tell you
21 that there is some question in Tampa as to the
22 meaning of legal assistant and paralegal.

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23 I serve as the chair of the Tampa Bay
24 Paralegal Association job bank, and in that
25 capacity I receive numerous job offerings for

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1 legal assistants with three to four years of
2 experience. Qualifications and duties to be
3 performed are typing, transcription,
4 scheduling. I will not accept those positions.
5 When I say please reword it to say paralegal,
6 they are no longer an open option.

7 From my own experience when attorneys are
8 faced with what qualifications they would like,
9 they will choose someone who can perform the
10 tasks. The four-year degree may be a
11 requirement in places. A two-year degree may
12 also be a requirement. Experience generally
13 overrides that qualification in my own
14 experience.

15 I do believe that there needs to be some
16 level of competency. But as I said, since you
17 are under the direction of an attorney, the
18 tasks that would otherwise be performed by an
19 attorney, I don't see how awards could be made
20 for scheduling depositions, and how those fees
21 can be charged to clients in the first place
22 much less an award from a court to pay for
23 those things. The client should not pay for
24 those things. That is overhead from the
25 office.

1 In the last five to ten years in Tampa,
2 like I said, legal assistant has been given to
3 secretaries as a title. I don't have a problem
4 with that at all. But there does need to be
5 some distinction.

6 There also -- I live in Tampa and I drive
7 home, and I see at least four to five paralegal
8 agencies. I know that they have no attorney
9 associated with them. They are legal
10 technicians that complete forms. And as I
11 understand it, the information must be provided
12 by the client to put in the blank. So all you
13 are doing is transferring information from the
14 client to the form.

15 We all know the clients have chosen those
16 places because of the fee rate. And I do
17 believe that if there were more public access
18 to reasonable fee attorneys, that would solve a
19 lot of that problem. So whether that can be
20 resolved by more pro bono, I don't know the
21 answer to that.

22 And I would guess, although I don't know,
23 that administrative agencies have some
24 requirement for people who come before them and
25 represent the consumer. So I do not understand

1 the purpose today for protection of the public.
2 If the responsibility lies with the attorney
3 and the firm, they should be held accountable.

4 And that's all I have to say to you today.
5 Thank you.

6 THE CHAIR: Thank you, Ms. Garren.
7 Mary McKay?

8 MS. MCKAY: Good afternoon, and thank you
9 for this opportunity.

10 My name is Mary McKay. I've been in the
11 legal field about 25 plus years. And I studied
12 at the University of Miami where I obtained my
13 paralegal certification. I have been a --
14 well, now it's a certified paralegal, CLA,
15 since 1991. I'm a member of NALA. I'm a
16 member of NFPA, and I'm an officer and member
17 of the Tampa Bay Paralegal Association, which
18 represents seven counties in the Bay Area.

19 I am the paralegal coordinator for the law
20 firm -- the local firm of Glenn, Rasmussen,
21 Fogarty and Hooker. And I do have to say that
22 our firm does require and provide us ethical
23 training. And we have five paralegals. Three
24 of them are certified. And our firm's goal is
25 that they will all be certified, not because

1 there's a regulation, but that's because our
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2 firm is a very reputable firm, and they believe
3 that having our paralegals certified is just
4 another good thing for our name.

5 All of our shareholders, all of whom have
6 been rated, are ABA rated. So our firm does
7 place a lot of importance on education and
8 being well equipped to do the job that you are
9 supposed to be doing.

10 We've heard today people referring to
11 paralegals or legal technicians, people out
12 there that are clearly committing UPL. My
13 question is if we regulate, are we then saying
14 it's okay for those people to do those
15 assignments, and if so, they are actually doing
16 attorney work, and we're giving them the
17 license to do that? If I were an attorney, I
18 would be upset about that after I had gone to
19 school and sat for the Florida Bar, and then
20 someone just by getting regulated can do
21 attorney assignments.

22 Ms. Diamond mentioned that there is no
23 harm to the public. And I would like to say to
24 further that, I believe that there is less harm
25 to the public if the attorneys remain

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1 responsible for the paralegals that are working
2 with them.

3 I don't see this as a public confusion. I

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4 heard someone say the confusion is among
5 attorneys. And I have spoken at many paralegal
6 seminars, and I have found the confusion is
7 also among paralegals; what are we allowed to
8 do?

9 And I'm happy to say to you that I have
10 recently joined and am serving on the American
11 Bar Association business law section to address
12 this problem and to come up with some very
13 clear guidelines as to setting forth better
14 utilization of paralegals. So not only does
15 the paralegal know what he or she is qualified
16 and allowed to do, but the attorney also knows.

17 I believe that paralegals who are well
18 educated and well equipped and prepared to
19 assist their attorneys offer a very good
20 service to the public, because we can do this
21 at a better rate for the public. And I believe
22 the public is interested in that, otherwise
23 they would seek an attorney rather than going
24 to a clinic or a place where paralegals are
25 going to do their work.

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1 Basically it's the same old thing; you get
2 what you pay for. And if you want an attorney
3 to represent you, then you are going to -- if
4 something is done incorrectly and improperly,
5 they should have malpractice insurance, and
6 that should cover -- since they are the

7 responsible party, that will cover if their
8 paralegal also does something wrong. And
9 hopefully they are supervising their
10 paralegals.

11 I have to tell you, my attorney does not
12 come in every day and say, "Okay. Let me see
13 everything that you've done today. Let me look
14 at every letter you've typed." But I've been
15 with the firm a while. I also have pretty good
16 credentials, and they have confidence in my
17 capabilities and in my history. So they know
18 that I am going to perform to the level that
19 they would expect me to perform.

20 Our managing partner, his concern when I
21 mentioned regulation, he's all for
22 certification. And our firm is very supportive
23 in educating and equipping our paralegals in
24 whatever we need to help us do a better job for
25 them. His concern about the government getting

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1 involved is all the red tape. I mean, we all
2 know about that.

3 But I would just like to ask the question
4 which I've already mentioned. If we regulate
5 paralegals, are we then regulating them to do
6 attorney work without the supervision of an
7 attorney? Thank you.

8 THE CHAIR: Thank you very much.

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Mary Hart?

MS. HART: Good afternoon. I'm glad to have everybody here in Tampa. I'm a native of Florida. I won't say for how long. And have been in the paralegal profession for 19 years. All of that has been with the law firm of Hill, Ward and Henderson here in Tampa, Florida.

I'm here today on behalf, not of Hill, Ward or not any of the organizations with which I belong -- with whom I affiliate, but as a paralegal and citizen of the state of Florida. So those of you who know Mr. Hill, please don't tell him I was speaking for him today.

I sat on the Bar committee, this Bar committee, when he was president, and I got the nickname "The Mole" at that time. So we've gone back a long way.

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I'm a graduate of Cornell College in history and political science. I came in, as many of you heard some of the people in education today, I came into the field as a change of profession later in my life. So it's been a very rewarding profession for me.

I am also the paralegal coordinator. The law firm with which I'm affiliated has 60 to 70 attorneys and 30 paralegals. We have a very high investment in our paralegals in all areas of estate planning, transactional, land use,

12 bankruptcy, litigation, health care and real
13 estate transactions. So we have almost a
14 two-to-one ratio on an ongoing basis.

15 We have everything from those who have
16 come through the ranks, like you've heard
17 today, to those with master's degrees. We
18 don't have any Ph.D.s. I heard some people
19 have those -- have some Ph.D.s in their
20 program.

21 As a paralegal coordinator, I do have to
22 say that when I look in today's market in the
23 21st Century, I am not usually looking for
24 people with AA degrees or minimum experience.
25 My minimum -- my basic criteria is normally a

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1 minimum of a bachelor's degree. I know Susan's
2 program is done on an articulation program, I
3 think, with St. Pete College. It doesn't mean
4 that the people that have the AA degrees or the
5 two-year degrees aren't going to get hired.

6 We are looking just for the
7 hit-the-deck-running person who has a good
8 solid reputable university or college
9 background. And believe me, they are fabulous,
10 and they do hit the deck running, and they can
11 walk circles around some of us that have been
12 around there for 15 to 20 years, just because
13 they are fresh, young, eager and very bright.

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14 They have the capability of making good
15 judgment calls. They know when to ask
16 questions, when they need help and when they
17 don't. So that's really been some of my
18 experience over the last 19 years.

19 I also belong to the International
20 Paralegal Managers Association, which was last
21 year known as LAMA, Legal Assistant Managers
22 Association, and they also joined the national
23 trend to drop the legal assistant. So that's
24 something that is common across the country
25 also.

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1 I came here pretty much neutral today. I
2 think I probably aligned myself with
3 Ms. Simon's camp. I don't see the real
4 problem. In the law firm in which I've been
5 involved, we have annually through the Florida
6 Bar recommendation, I think the rule, and you
7 probably know it better than I do, we have
8 our -- all our staff has ethical training and
9 questions are available to them.

10 Our administrator is very pro CLE,
11 continuing legal education, and is available.
12 Maybe if you want to go to a seminar in Hawaii,
13 you might get turned down. But we do send --
14 we are available to go to DC, Chicago, wherever
15 we need to go for the kind of training that we
16 need.

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17 I'm also affiliated with the local
18 organizations for NALA and NFPA. So I have had
19 exposure to all the groups.

20 I think it's a great profession, and I
21 think it's a great career change for a lot of
22 people. I think that -- I don't see the public
23 issue -- the public protection issue here. And
24 when somebody asked me, you know, that this
25 issue had been rejected by the Florida Bar, and

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1 they wanted to take it to the legislature, I
2 said, well, who do you think is in the
3 legislature? You know.

4 So anyway, good luck with this issue. And
5 again, I'm just speaking for myself as a legal
6 citizen.

7 THE CHAIR: Thank you, Ms. Hart. I have
8 one question. I did not know there was an
9 International Association for Paralegals?

10 MS. HART: For paralegal managers.

11 THE CHAIR: Paralegal managers. Okay.

12 MS. HART: And they are at different
13 levels. Sometimes they act as a hybrid within
14 a law firm. They have a caseload in addition,
15 depending on the size of the law firm. If you
16 get to New York, LA, Chicago, litigation has a
17 paralegal manager, transactional, blue-sky,
18 that type of thing.

19 In our firm we have 30 paralegals, not 400
20 like some of the metropolitan areas. So I try
21 to coordinate the work flow and hiring, and HR
22 also does -- is actually the bottom line on
23 hiring.

24 But the field has certainly transitioned
25 over the years.

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1 THE CHAIR: Are you aware of any
2 international -- or excuse me -- any nations
3 other than the United States that have
4 regulation of paralegals?

5 MS. HART: Canada is very active in that
6 area, yes. We have a few members in IPMA,
7 which are from Europe, maybe one or two members
8 is all. The bulk of the foreign members of
9 IPMA are -- I shouldn't call them foreign,
10 because we're foreign to them -- but that are
11 not USA, are in Canada. They have a very large
12 and active population in Canada. And their
13 rules and laws are completely different than
14 ours, of course.

15 THE CHAIR: Thank you very much.

16 MS. HART: You're welcome. Thank you.

17 THE CHAIR: John Starks, Junior?

18 MR. STARKS: Thank you for the opportunity
19 to be here. My name is John Starks. I am the
20 current president of the Central Florida
21 Paralegal Association, and currently employed

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22 by the Senna (phonetic) Corporation in their
23 corporate offices as a paralegal. I'm here on
24 behalf of myself and our organization.

25 I moved to Florida five years ago from the

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1 state of Texas where I graduated from the
2 University of Texas paralegal program through
3 the law school at the University of Texas in
4 Austin, and also in the legal division of the
5 Texas state Bar. And I've seen the benefits of
6 growing up in that atmosphere, benefits to the
7 legal community as well as to the consumer.

8 I'm here today to join in the consensus in
9 presenting -- presented by a majority of our
10 fellow paralegals through the Florida Alliance
11 of Paralegal Associations, and fully support
12 the legislation effort that are underway.

13 Our association's statements today are
14 going to focus on the particular components of
15 the efforts that were outlined in the agenda
16 October 1 of the Florida Bar News Journal.

17 The first being education. Education
18 should be standardized to regulate and abolish
19 the uncertainty of the education and
20 qualification of the paralegal perceived by
21 both the legal community and by the general
22 public. This would help create uniform levels
23 of competency and ethics that the consumer, a

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law firm or corporation would feel comfortable
25 in knowing their paralegal has reached.

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1 Additionally, this would also allow the
2 expectation that these individuals have
3 continued their legal education and in a manner
4 expected of a representative of the legal
5 profession. We feel this is the most important
6 element and in the forefront of our efforts of
7 standardizing the educational expectation of
8 the consumer in the legal community.

9 However, it is -- in our efforts it is
10 important to recognize and accept those
11 individuals who have worked hard through the
12 years and achieved certain grandfathering
13 criteria as determined by regulatory efforts.

14 The second issue, professional
15 definition. A standardized title should be
16 created and/or further defined in the Florida
17 Bar Rules and Regulations of 10-2.1(B). This
18 would abolish the uncertainty of individuals
19 who present themselves with the title of
20 paralegal or legal assistant, a document
21 preparation technician. And maybe even today I
22 could call myself a debt relief agent.

23 But through a more formal professional
24 definition, this would distinguish the
25 differences between titles and decrease the

1 confusion the general public has of the
2 definition of this professional title. I think
3 it was referred to in a survey, the general
4 public does have a perception that if I can sit
5 here calling myself a paralegal, I have met
6 certain criteria. And right now I can sit here
7 and tell you I'm a paralegal and I may not
8 have.

9 The regulatory design, in order to reduce
10 the public confusion and the number of
11 unauthorized practice of law cases in the state
12 of Florida, design of a regulatory structure
13 would greatly benefit and protect the public
14 interest to ensure that educational and ethical
15 standards for anyone with a title designated by
16 the professional definition.

17 The standards should be mandatory as this
18 would provide more clarity and comfort and
19 peace of mind to individuals dealing with
20 individuals defining themselves professionally
21 just like a doctor. If somebody comes up and
22 tells me they're a doctor, I expect they went
23 to medical school and have passed certain
24 tests. And I think that's what the public
25 expects of me.

1 Regulatory implementation. An established
2 organizational and management structure to
3 support this regulation and simple principles
4 established by the regulation is needed to
5 protect the consumer, the legal profession and
6 the general public. And I believe it could be
7 easily established at perhaps a fraction of the
8 cost of one case of an unlicensed practice of
9 law.

10 On bearing the cost of -- which I know is
11 important on the issues -- bearing the costs in
12 favoring a regulatory scheme could be
13 apportioned evenly through the consumer and
14 legal profession and qualifying individuals
15 through registration fees, legal fees,
16 et cetera, that lawyers pay anyway too.

17 The assurance that regulation would
18 provide. The fact that even among the
19 professionals here in this room, that there are
20 so many ambiguities and questions serves to
21 further illustrate what the general public
22 probably sees and as seen in surveys provided
23 through the Florida Bar and through our own
24 associations.

25 I believe that the unique aspect of our

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1 American legal system provides the avenue for
2 us to protect the consumer by regulating

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3 different professions, and the paralegal
4 profession is definitely one of those.

5 So again, I support all the efforts that
6 have gone underway with the Florida Paralegal
7 Association and the regulatory efforts that are
8 the joint efforts of this committee and the
9 Florida Alliance of Paralegals.

10 THE CHAIR: Thank you, Mr. Starks.

11 Questions? Yes, sir.

12 MR. BAUMANN: Mr. Starks, how is it that
13 regulating minimum standards for education, for
14 example, regulating paralegals is going to
15 reduce the unauthorized practice of law?

16 MR. STARKS: I would be much more careful
17 about what I did if there were actually rules
18 regulating what I did than if I could just walk
19 through that door today, call myself a
20 paralegal, set myself up as a debt relief agent
21 and go to work. There's nothing stopping me
22 from doing that today.

23 MR. BAUMANN: You're saying that you feel
24 more free to break the law and practice
25 unauthorized law now than you would be if you

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1 were certified?

2 MR. STARKS: Correct.

3 MR. BAUMANN: Thank you.

4 THE CHAIR: Thank you, Mr. Starks.

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5 MR. STARKS: You're welcome.
6 Jim Dickson?
7 MR. DICKSON: I appreciate it. I assumed
8 you were going to take a break for lunch, but
9 obviously you are working extremely hard.
10 My name is Jim Dickson. I'm an attorney
11 and I've practiced in St. Petersburg for 25
12 years. I am currently a partner in a very
13 large, statewide firm, Ruden, McClosky, 200
14 lawyers. In the past I have practiced as a
15 partner in a six-lawyer firm, three partners
16 and three associates. So I practice at both a
17 large firm and practiced at the small firm
18 level.
19 I also teach at Stetson as an adjunct
20 professor, so I have a little bit of a
21 perspective from the teaching of law, at least
22 from the teaching of law students at Stetson.
23 This morning the fundamental question I
24 heard this committee asking almost every
25 speaker who has spoken is, what's broken? Why

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1 can't we simply rely upon lawyers to supervise
2 their paralegals and make sure there are no
3 problems? And the short answer is that while
4 lawyer supervision is extremely important and
5 can never be replaced, it really is not enough.
6 The Florida Bar has always prided itself on
7 professionalism of its attorneys and prided

8 itself on the professionalism of legal services
9 provided to clients. I share that pride, but I
10 think we can do better.

11 The Florida Bar does not accept a lawyer
12 that graduates from an accredited law school to
13 practice law. They require them to take a bar
14 exam. We don't even accept lawyers that have
15 practiced for many years in another state. We
16 require them to take a bar exam.

17 Does passage of that bar exam mean they
18 are ready to practice law? In my opinion no.
19 Those of us who have taken young lawyers out of
20 law school that passed the bar exam, and we now
21 have to teach them to practice law know, no,
22 they don't know the first thing about
23 practicing law. What they do know, however,
24 are the legal issues that need to be raised,
25 what the legal questions are, what the

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1 framework of the law is and where to go and
2 find the answer.

3 In today's marketplace paralegals provide
4 a tremendous amount of service in the provision
5 of legal services. It is a fact of life. In
6 many cases clients see primarily the paralegal
7 or talk to the paralegal. Now, while that
8 paralegal may not be giving legal advice,
9 although candidly I thought the line might be

10 crossed on more than a few occasions, they
11 clearly are providing a variety of legal
12 services.

13 And what I have seen over the years is a
14 tremendous difference between those paralegals
15 who are certified and those that have simply
16 been promoted as a secretary. Now, someone who
17 has been promoted as a secretary or
18 receptionist may be very, very capable. They
19 live day in and day out and see the issues and
20 understand the issues that they are dealing
21 with. What I've observed is they often don't
22 understand the interaction with other areas of
23 law.

24 Recently I had an opportunity to observe a
25 very bright woman who had been promoted from

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1 secretary to paralegal who is involved in a
2 large eviction-type practice. And this
3 particular case dealt with evictions of mobile
4 homes. And the particular case at issue
5 happened to deal with the owner of that mobile
6 home who had died. Well, needless to say it's
7 a little difficult to personally serve someone
8 who is dead. The paralegal did not understand,
9 well, wait a minute, there may be some probate
10 issues we need to deal with, and I need to be
11 talking with our probate lawyers to figure out
12 how to deal with it. Just went out, posted on

13 the front door service, so we can evict and
14 haul the mobile home away.

15 Now, I could give dozens and dozens of
16 examples like that. Very qualified people, but
17 the trouble was, without going through a
18 process of understanding the legal premise with
19 which they are dealing, they didn't know to ask
20 the question. And should a lawyer catch that?
21 Yes. Do lawyers catch everything that's put in
22 front of them that they sign? If you are
23 honest, the answer is no.

24 I've relied heavily on my paralegals over
25 the years to do it right. Now, to a large

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1 extent it's because I'm comfortable and
2 observed that they have done it right. But
3 there are times, particularly in the stress of
4 the moment when you've got lots of issues, you
5 need to make sure that they know the right
6 questions to ask.

7 Certification does not assure that a
8 paralegal is going to be fully competent. What
9 certification does do is set a minimal standard
10 to assure that they know the question to ask
11 and when to go and make sure that they are
12 properly supervised. Thank you.

13 THE CHAIR: Thank you very much.

14 Questions from the committee?

15 Mr. Baumann?

16 MR. BAUMANN: Thank you. Is it your
17 position that if an employee of a law -- of a
18 law firm does not have that certification, it
19 should be illegal to charge a fee for any
20 services provided by that employee?

21 MR. DICKSON: My position would be yes.
22 My firm's position would be no.

23 THE CHAIR: Mr. Munoz?

24 MR. MUNOZ: Mr. Dickson, I think your
25 comments are well taken. I'm curious what your

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1 thoughts are on one of the questions that I
2 talked about before. And the possibility that
3 if we established some minimum certification
4 requirements for paralegals, but then a law
5 firm or lawyer would tend to rely on a
6 paralegal and bill for a paralegal's time even
7 though that person met only those minimum
8 requirements, and thereby provide less service
9 to their clients and maybe overbill for the
10 services as compared to, in my example, using a
11 paralegal who's got 10 or 15 or 20 years of
12 experience in labor and employment law, but
13 knows nothing at all about probate because they
14 didn't go through a certification program.

15 MR. DICKSON: I think that process is
16 current right now. I think lawyers are billing
17 for paralegal assistance, for specialists in a

18 variety of settings without any real
19 differentiation of the quality of services that
20 are provided. And I think inherently there is
21 a problem. And I think sooner or later this
22 Bar needs to address what exactly should be
23 charged.

24 The purpose, in my view, of being a
25 professional is to provide the highest service

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1 to the client. And by doing that, make a good
2 living. The goal is not to maximize income.
3 Sometimes we as a profession seem to have
4 forgotten that.

5 MR. MUNOZ: Thank you.

6 THE CHAIR: Mr. Dickson, do I take it that
7 you would be in favor of a mandatory regulation
8 process as opposed to a voluntary regulation
9 process?

10 MR. DICKSON: Yes. I think mandatory is
11 the only process that you can work, because a
12 voluntary process for those who need it the
13 most, won't utilize it. And mandatory provides
14 at least the minimum -- we're not talking about
15 maximum levels.

16 And I think it's more than reasonable to
17 create a grandfather process and also a process
18 of time to phase in, so that people who are
19 fully qualified may not need to get the

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education requirements. They can supplement it
21 with years of experience and then take the
22 exam, take the CLA review course, take the exam
23 to show by virtue of the review and taking the
24 course they have mastered the fundamental
25 issues.

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1 I think there are some alternative ways to
2 get from point A to point B.

3 THE CHAIR: Thank you very much.
4 Barbara Entwistle?

5 I'm sorry. Let's take a break first for
6 15 minutes, so until 10 minutes or so after
7 2:00.

8 (Recess taken.)

9 THE CHAIR: If we could reconvene, please.

10 One thing -- Ms. Entwistle, you can come
11 to the podium. One thing I wanted to point out
12 is in the packet of materials that you got from
13 Ms. Crew, there is a Pasco/Hernando Community
14 College sheet that shows that the in-state
15 tuition for an associate's degree in legal
16 assisting is \$3,995. Out-of-state tuition is
17 15,407. And textbooks are 2,260, which
18 represents that that's pretty standard across
19 the board.

20 MS. DEMERS: Now, that is the setting fee
21 total curriculum, not a semester. I just want
22 to make that clear, that's the total

23 curriculum.

24 MR. BAUMANN: Is that for two years?

25 THE CHAIR: That's a two-year program.

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1 MR. BAUMANN: I was thinking it was a
2 year, so I was in the middle.

3 THE CHAIR: Ms. Entwistle, thank you for
4 your patience.

5 MS. ENTWISTLE: Good afternoon. My name
6 is Barbara Entwistle, and I am the legal
7 studies program manager at Seminole Community
8 College. I'm also the department chair there.
9 I'm also an attorney who is barred in two
10 different jurisdictions.

11 So I come this afternoon to go on record
12 in favor of mandatory regulation for
13 paralegals. I want you to know that we are an
14 ABA-approved program at our college. And I
15 believe the information you were just sharing
16 about Pasco/Hernando, we are about \$65 per
17 credit hours. So if you multiply that times
18 64, you would get the approximate cost of the
19 entire AS degree program. And since there are
20 21 courses involved, books will usually run
21 about a hundred dollars per course. It could
22 vary from 85 to 125, so that probably verifies
23 the information that you just received.

24 We only have three courses where we have

25 lab fees. And those lab fees are 25 and \$30.

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1 And I think we have two at 25 and one at 30, so
2 those would be the only additional lab fees
3 that would be at our college, and that's
4 probably standard as well. So that gives you
5 some idea that we are probably pretty uniform
6 in our AS degree programs. It might vary a
7 little bit per credit hour in costs.

8 As an ABA-approved program, I would like
9 to say something that maybe hasn't been said
10 before. The attorneys who teach in our
11 program, each of our legal specialty courses,
12 not only have experience in the course in which
13 they teach, but because we are ABA approved,
14 they also must have experience managing
15 paralegals. So they have experience in knowing
16 what paralegals are to do in the office, can do
17 and are not allowed to do.

18 As a community college as well we have an
19 advisory committee. I think that was spoken to
20 earlier by the representative from DOE. We
21 have advisory committees. Our advisory
22 committee is composed of judges, public and
23 private sector attorneys, public and private
24 sector paralegals. We have members of the
25 community at large, and we also have at least a

1 manager of paralegals as well. And those are
2 required -- are the requirements of ABA. We
3 had those people on board before we were ABA
4 approved as well. So to let you know that we
5 have input as we are putting together our
6 curriculum and the kind of competencies that we
7 believe are important.

8 I don't want to discuss a lot of the other
9 things. I would just like to say "ditto" to a
10 lot of the things that have already been said,
11 and you don't need to hear repeats of those
12 kinds of things about confusions and the
13 reasons for the paralegal profession to be
14 regulated.

15 One other thing I would like to say to
16 you, in a perfect world I believe that
17 attorneys would all be supervising and doing
18 everything that we are supposed to be doing. I
19 don't believe we live in a perfect world.

20 I have in my program a three-hour
21 professional responsibility ethics course.
22 Now, we have ethics interspersed in our others,
23 but we have a three-hour course in ethics. And
24 we have paralegals who are currently hired as
25 paralegals, some have -- I mean, some are legal

1 assistants or legal secretaries or other
2 designations, but some who are designated as
3 paralegals who come in to take that course and
4 take some of our other courses to brush up in a
5 particular field or area. And you would be
6 amazed. They say, "Oh, we can't do that," you
7 know, when we talk about the ECs or the DRs or
8 whatever, we are talking about, "Oh, I can't do
9 that, but my attorney asked me to."

10 Now, I know -- and I don't want to put
11 attorneys down because I'm putting myself down
12 if I do that, so please understand that. But I
13 know there are people who adhere strictly to
14 the things that they should do and others that
15 sometimes let things slip. So I don't think it
16 hurts to have another check at the paralegal
17 level that says, okay, is this really an okay
18 thing for me to do kind of thing. Sometimes
19 it's just a second check as I see it.

20 The only other thing that I would like to
21 say is one of the members of our advisory
22 committee who actually manages probably about
23 45 lawyers, and he is part of a very large law
24 firm. Let me say that, first of all. And one
25 of the things that he expressed at our advisory

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1 committee was this. When his firm is, how
2 shall I say it, is competing for clients in the
3 world that we have today, not only do the

4 clients want to see the vitae of the attorneys
5 who are going to be dealing with his case, but
6 they are also asking for the vitae of the
7 paralegal who will be on that litigation team.

8 So the paralegal profession is important.
9 It is gaining in respect, and clients are
10 realizing how important the credentials of a
11 paralegal would be. So I think that is
12 something that we need to recognize as we are
13 looking at regulation.

14 And those are the only other things that I
15 would like to add. If you have any questions,
16 I would be glad to attempt to respond.

17 THE CHAIR: Thank you.

18 Any questions?

19 MS. ENTWISTLE: Thank you for the
20 opportunity.

21 THE CHAIR: Thank you very much.

22 Dr. George Salis?

23 DR. SALIS: Good afternoon my colleagues,
24 Mr. Chairman, members of the panel. I am here
25 on behalf of Keiser College, a privately-owned,

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1 fully accredited, SAC-accredited university, by
2 the way, currently seeking ABA accreditation.
3 We are here in support of oversight and
4 regulation for the paralegal profession.

5 I am a US and UK-trained lawyer. I have

6 managed paralegals in the US, UK, New Zealand
7 and Australia. Yes, there are paralegals in
8 those jurisdictions as well, as I was saying to
9 Mr. Goodman. However, the profession of the
10 paralegal abroad is known as legal executives,
11 and you can go to a Web site and see that.

12 The Institute of Legal Executives is
13 actually regulated in turn by the Bar Council
14 and by the Law Society, particularly because in
15 those jurisdictions, we are not just attorneys
16 but sometimes we are also solicitors.

17 I have been head of this department for
18 nearly 10 years. I have taught law school in
19 the US and UK for many years. And as I was
20 saying earlier, there are and there is
21 tremendous confusion about what is a paralegal,
22 what is a legal assistant, not just by lawyers,
23 but also by law students themselves. They are
24 also confused as to what paralegals do, how do
25 they function, what is their supervision level,

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1 and what are their capacities.

2 We believe like many of my colleagues and,
3 of course, I am superfluous to the statement of
4 Mr. Dickson, that the certified paralegal is
5 not the same as a licensed paralegal, which has
6 been intermingled and confused a lot today
7 here. A certified paralegal, as I was
8 originally taught, is one that went through an

9 educational program and is an academic matter.
10 Whereas, the licensed paralegal, as many
11 jurisdictions license paralegals on their own
12 rather than affiliate themselves to an
13 association such as NALA or the AAFPE, et
14 cetera.

15 The question that really is coming and is
16 forthcoming is the fact that regulation is
17 coming in some form or another. There is both
18 a systemic interest, and when I say systemic, I
19 mean the legal system itself and the services
20 it provides to all the public, but there's also
21 an academic interest here. There are, as you
22 heard earlier by some counsel, economic
23 interest by the legal profession itself, and
24 there's also the interests of the Bar of
25 several jurisdictions.

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1 The question is are we going to be
2 regulated by our own legal profession, as I was
3 saying to Mr. Goodman earlier, or are we going
4 to be regulated by the legislation, which turns
5 it into a licensing should they be the one to
6 draft a bill and go forward.

7 All these questions are in a proposed bill
8 that we saw on a staff of 22 lawyers. And like
9 my colleagues before me, we do not have any
10 paralegals teaching in our department. We are

11 all lawyers, qualified, licensed, most of us
12 with LMNs and some of us with even higher
13 degrees.

14 That does not matter inasmuch as the kind
15 of quality education that we are seeking to
16 (unintelligible) qualification at the end, and
17 particularly the one that one day will lead
18 them to some sort of licensing. The question
19 is where is that licensing coming from. If
20 it's going to be compulsory by the legislature,
21 it will turn the profession pretty much onto
22 another side where it is not regulated by the
23 legal profession itself.

24 Again, in other jurisdictions from my
25 comparative perspective, they are regulated

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1 through the legal services tied to some other
2 type of legislation or through the bar counsel
3 and the law societies for the bar association.

4 We are very much in favor, although not in
5 favor of the legislation proposed earlier,
6 because it does have, as some of my colleagues
7 said, confusing items. Twenty-two attorneys in
8 our program disagreed on that one, but agreed
9 on some sort of guideline or some sort of
10 compulsory licensing at the end of the day.

11 And I thank you very much for the
12 opportunity.

13 THE CHAIR: Thank you, Dr. Salis.
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14 Members?

15 One question, where is Keiser College?

16 DR. SALIS: Keiser College -- thank you,
17 sir, for asking that.

18 I should start by saying quickly that our
19 chancellor, Dr. Keiser, was so concerned with
20 this meeting that I was in an international
21 arbitration in Toronto when he says, "Dr.
22 Salis, you need to be there." So he literally
23 sent a plane for me and took me to Melbourne,
24 where I live, and then I drove here. I didn't
25 drive here on 275.

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1 Keiser College has 23 campuses throughout
2 the state of Florida, fully SAC accredited,
3 soon accredited by the ABA, just put in our
4 papers, in fact, and two campuses
5 internationally, one in Bella-Russia and one in
6 Moldova, four-year business-accredited
7 programs.

8 THE CHAIR: Thank you.

9 Oh, Ms. Stringfellow?

10 MS. STRINGFELLOW: Just a quick question
11 about ABA certification. What approximately is
12 the cost of that? I've been in the past a
13 member of the ABA-accreditation team, and just
14 like everything else, it goes up. And I'm just
15 curious, what is the cost?

16 DR. SALIS: Well, actually, that depends
17 on the assessment process. The internal
18 assessment process of the ABA will dictate
19 actually the fees, and particularly the number
20 of candidates you hold.

21 One of the obstacles and barriers that we
22 had prior is that we had too many campuses, and
23 they were in near vicinity to one another as
24 proprietary schools often are. What happened
25 thereafter is that when they removed -- when

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1 the house delegates of the ABA removed those
2 obstacles, now we're free to actually move
3 forward with accreditation.

4 I may also add, as I was saying to
5 Mr. Goodman, the International Bar Association,
6 which I'm fairly active in, is also very
7 interested in paralegal education not only in
8 the United States but throughout all of these
9 member countries.

10 So again, in answer to your question,
11 Mr. Goodman, yes, there are many varying issues
12 having to do with paralegals in this new global
13 arena. Thank you very much.

14 THE CHAIR: Thank you very much.
15 Leslie Matthews?

16 MS. MATTHEWS: Good afternoon. I wasn't
17 prepared to speak today, but since I'm here, I
18 might as well. I do have a written statement

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19 that I would like to submit when I'm done.

20 Just to briefly highlight, I'm Leslie
21 Matthews. I'm a certified paralegal, and I
22 have been a paralegal for about 10 years. I am
23 a member of NALA, of NFPA and other
24 organizations, Tampa Bay Paralegal Association.

25 I've also served on the Florida Bar's

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1 unlicensed practice of law committee for the
2 13th Judicial Circuit. And I can tell you that
3 nothing infuriates me more than to see someone
4 practicing law without a license.

5 Having said that, I feel that
6 regulation -- I am not opposed to educational
7 and/or ethical requirements. I feel, however,
8 that regulation may be cutting our nose to
9 spite our face, and we may be regulating
10 ourselves right out of a job. I highly agree
11 that a lot of the attorneys will proceed to
12 hire whomever they wish. And as long as they
13 don't call them a paralegal, who's to say that
14 they are just going to give them the work that
15 they want them to do, and if they don't call
16 them paralegal, they are not breaking any laws.
17 So that's my main concern with regulation as I
18 stand here today. I'm not speaking on behalf
19 of any association, only on my own behalf. And
20 that is my concern.

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21 THE CHAIR: Thank you very much,
22 Ms. Matthews.
23 MS. MATTHEWS: Thank you.
24 THE CHAIR: Jennifer Wallace.
25 (No response.)

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1 THE CHAIR: Not present. Moving right
2 along.
3 Is it Nora or Mora Graziano?
4 (No response.)
5 THE CHAIR: Michael Satz?
6 MR. SATZ: Good afternoon everyone.
7 THE CHAIR: Good afternoon.
8 MR. SATZ: Contrary to many of our
9 speakers here, I'm one of the thousands of
10 paralegal students that's currently registered
11 at an online college. I'm also the president
12 of Kaplan's Kappa Lambda Paralegal Honor
13 Society of Kaplan University. I'm not speaking
14 on behalf of Kaplan University. I'm speaking
15 on behalf of online students.
16 If you are unfamiliar with Kaplan
17 University, they have over 22,000 students
18 nationwide. The college is owned by the
19 Washington Post. Perhaps some of you are
20 familiar with the Kaplan LSAT's test prep sets.
21 And additionally Kaplan owns its own law school
22 out in California, and they are able to
23 graduate attorneys.

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24 The reason we're actually here today,
25 which apparently nobody is really mentioning,

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1 is that last year legislation was introduced
2 pushed by a particular organization who hired
3 lobbyists. And today we're here because we
4 were told if the Bar wouldn't do something, the
5 legislature would.

6 If you look at last year's bill, it was
7 fatally flawed in a number of different areas.
8 What I had done was I had become a member, a
9 moderator, co-moderator for numerous listservs
10 on the Internet concerning different
11 paralegals. Thousands of paralegals were
12 involved in these communications.

13 I came prepared today to bring 750 e-mails
14 of different paralegals from around the country
15 concerning this legislation. However, I live
16 in Broward County and everybody knows what
17 happened, so much for my printer. I did run
18 off something on my laptop very quickly. I
19 apologize I wasn't able to bring that, because
20 it would have been quite interesting to see
21 what hundreds of paralegals have said.

22 The organization that's pushing it, as I
23 understand today, represents six different
24 organizations in the state of Florida. And we
25 heard it mentioned, 4,000 members are CLAs,

1 certified legal assistants, through NALA.
2 These are interesting numbers. But in reality
3 there are 70,000 plus attorneys in the country.
4 We know there's an average of one to five
5 paralegals for each attorney. So we're talking
6 about hundreds or thousands of paralegals who
7 are not represented in the legislation that may
8 be going on. And that's simply wrong.

9 For example, last year's legislation said
10 that all felons should be disallowed, the
11 complete blanket removal of this particular
12 body of people. I thought that was interesting
13 because even the Florida Bar allows convicted
14 felons if they have their civil rights
15 restored. But apparently you cannot be a
16 paralegal under last year's legislation. I
17 don't understand that.

18 It also said in the bill that it required
19 classroom instruction. Well, again, Kaplan has
20 thousands of paralegal students, recognized,
21 regionally accredited, the highest
22 accreditation that exists. But apparently if
23 you receive an online education, that's
24 impermissible.

25 Now, personally I just graduated from

1 Kaplan and earned my BS degree. I also just
2 took my LSATs, 3.97 GPA. I'm also a senior
3 civil litigation paralegal and have been doing
4 it for nine years. But according to this, my
5 education wouldn't suffice. I don't understand
6 that.

7 And please understand, I'm not speaking on
8 behalf of Kaplan. I'm speaking on behalf of
9 online students.

10 For us to be grandfathered in, we've heard
11 mention of this repetitively, it requires five
12 years' worth of training. That's a long time.
13 It only takes three years for law school.
14 Where does this arbitrary number come from,
15 five years?

16 It's also suggested to use the term itself
17 paralegal, just the term should be a third
18 degree felony. Now, being a hairdresser you
19 have to be licensed. Nobody says it's a third
20 degree felony if I call myself a hairdresser.
21 I don't understand that. I'm sorry.

22 Attorney experience is also in the bill.
23 You have to be in training for five years
24 before you hire a paralegal. This is the Bar.
25 The Bar says if you're an attorney, you can

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1 hire people to work for you. But apparently

2 under the legislation from last year --
3 hopefully it won't reach that stage and
4 hopefully this committee will address these
5 issues to make sure that if some type of
6 legislation does go into play, that it's
7 tempered to make it realistic so that
8 paralegals can do the jobs which they are
9 trained for, which we excelled at, and we
10 provide the service to the public.

11 Now, one of the things which I'm curious
12 about, and I don't know, you're attorneys, I'm
13 merely a paralegal, is that the practice of law
14 is legislated by the Bar, not our legislature.
15 It's part of our Constitution under Article 5,
16 Section 15 of our Florida Constitution.

17 Under State of Florida versus Blumberg it
18 says that the Florida Supreme Court has the
19 sole and exclusive right to regulate the
20 practice of law. We work for you. We work for
21 attorneys. And why the legislature would think
22 that they should be doing this, I disagree.
23 Thank you.

24 THE CHAIR: Thank you. Thank you very
25 much, Mr. Satz. And thank you for coming in

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1 light of the hurricane.

2 And thank you-all who have stayed thus
3 far. We appreciate your attention and time
4 today.

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5 Andre Bruenik?

6 (No response.)

7 THE CHAIR: Andre Bruenik from Jones

8 College? Okay.

9 Paula Nunnery?

10 MS. NUNNERY: Good afternoon. Thank you
11 for allowing me to speak on this issue. Thank
12 you for your time, ladies and gentlemen, for
13 your service to the community and for your
14 service to the state of Florida.

15 I'm a six generation Floridian, and, so,
16 yeah, I live here and you can hear it in my
17 voice. I'm also president of the Hillsborough
18 County chapter Paralegal Association of
19 Florida. And my chapter and my organization
20 officially supports regulation.

21 I'm certified nationally. I have passed
22 the two-day exams sponsored by NALA. I'm
23 certified in Florida law, having passed an exam
24 by the Paralegal Association of Florida. Both
25 of those certifying bodies require that I meet

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1 continuing educational requirements and that I
2 maintain the highest ethical standards.

3 Additionally I have a bachelor's degree in
4 political science. I have an AA too, but once
5 you get a bachelor's, you just kind of toss
6 that part. I have a master's from Cornell, and

7 I attended Stetson University College of Law
8 and withdrew as a senior.

9 I've been a paralegal for almost 30 years,
10 and most of my paralegal practice has occurred
11 right here in Hillsborough County. Although I
12 have represented a corporation in small claims
13 cases in Florida, Georgia, Alabama and South
14 Carolina.

15 When I was first interviewing for jobs and
16 responding to legal secretary ads, yes, in the
17 Tampa Tribune, I would explain that I could
18 assist with the drafting of pleadings,
19 discovery, exhibits, assist at trials. But you
20 know what lawyers would ask me, "Honey, can you
21 type?" I'm serious, you laugh, but I'm
22 serious.

23 I worked for Hill, Hill and Dickinson
24 years and years ago, so I worked with some of
25 you. I've been accused of the unauthorized

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1 practice of law, so I've worked with some of
2 you in that way.

3 Paralegals have come a long way since the
4 1970s. Women have come a long way since the
5 1970s. And paralegals are now nationally
6 certified and certified in Florida law. We've
7 pushed ourselves to great success. We've
8 pushed ahead with our own funds. We've
9 succeeded with inclusion of paralegal fee

10 awards, in attorney fee awards under Florida
11 statute 57.10415.

12 I was one of the first paralegals in this
13 state to have a paralegal fee award in a case
14 with no lawyer involvement. It was a small
15 claims case in Miami, and I worked for Publix
16 Supermarkets. I was their full-time paralegal.
17 And under the small claims rules, you can do
18 that. You can represent a corporation if the
19 corporation hires you, if you are there full
20 time.

21 Several months later a judge in Palm Beach
22 County refused to enter a similar award saying
23 that he would not enter an award for paralegal
24 fees in a case with no lawyer involvement. And
25 yet recently a circuit court judge in Sarasota

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1 County indicated that he would not enter an
2 attorney's fee award which included paralegal
3 fees unless that person was a certified
4 paralegal. The times are changing.

5 There are lawyers in this state, members
6 of the Bar, who require their secretaries to
7 bill a minimum number of hours. And when those
8 minimum number of hours are billed to the
9 client and put forward on motions for
10 attorney's fees, those secretarial hours should
11 be counted as overhead, but they're not. They

12 are called paralegal fees. bar.txt
13 You know who it cheats? It cheats the
14 public. It cheats those clients. It cheats
15 paralegals. And it only serves to line
16 lawyers' pockets. The motivation there is
17 avarice. It cheats the citizens of Florida.

18 It's in the public interest that
19 paralegals be regulated. It's important for
20 people living and working in Florida. Just as
21 the Bar regulates lawyers, it should regulate
22 paralegals.

23 None of you lawyers are old enough to
24 remember, but there was a time when lawyers
25 didn't have four-year degrees either. Boys

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1 came back from World War II and they went into
2 law school. Three years later they came out,
3 and they didn't sit for a bar exam. They
4 signed up and they were lawyers, man. They are
5 going to practice law. Prior to that they just
6 went and read the law. Times are changing.

7 We need to regulate paralegals in the
8 state of Florida. Regulation will serve to end
9 some of these definitional problems.

10 Paralegals should be regulated by the Bar,
11 not by the legislature. Everyone should pay
12 for this transition including nonlawyers who
13 want to be regulated as paralegals.

14 Those of us who are worthy have met the
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15 educational requirements. We've passed the
16 tests. We uphold the ethical standards of the
17 Bar. Sometimes we make agreements with them
18 not to practice law without a license. I'm
19 here to tell you, we voluntarily participate in
20 continuing education credentialing.

21 Please vote in favor of paralegal
22 regulation.

23 Thank you for the opportunity to be heard
24 today.

25 THE CHAIR: Thank you. Questions?

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1 Mr. Baumann?

2 MR. BAUMANN: Your comment about lawyers
3 who are essentially billing for secretarial
4 work and calling it paralegal work, if we
5 define -- I mean, can't that be resolved by
6 just prohibiting billing anybody, no matter
7 what you call it, for clerical work?

8 MS. NUNNERY: It should be considered
9 overhead now. Where I discovered that, where I
10 was first exposed to that, at Publix
11 Supermarkets I reviewed all the outside lawyer
12 billings that came in. And when I saw
13 something that looked like secretarial work, I
14 marked it off and I wouldn't pay it. And if it
15 didn't have PDN on it, which are my initials,
16 that bill didn't get paid by Publix. They

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17 would drop the matter because they knew that it
18 was not paralegal work.

19 MR. BAUMANN: It sounds like your comments
20 are on some of the other folks, and I'm not
21 asking you to speak for them, but it sounds
22 like that they're addressing the work that's
23 being billed as opposed to the person doing the
24 work. You know what I mean? I mean, if a
25 paralegal was typing up a 50-page document, it

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1 wouldn't be appropriate to bill for that
2 either, would it?

3 MS. NUNNERY: No. But I really -- I am in
4 interview situations, and I'm quite up front.
5 It's often why I'm not hired for a paralegal
6 position. I'll tell them right away, thanks so
7 much. Yes, I type like a bat out of hell, but
8 I'm not doing your transcription. I'll do my
9 own typing, frankly. I'd rather do my own
10 typing than send it out to some pool and wait
11 10 days to get it back. It's cheaper for the
12 client. And then I put down my time for
13 exactly how long did it take me to think about
14 it, to review the pleading that came in, to
15 think about it, to look through the file, and
16 to actually prepare the work.

17 Did I answer your question, sir?

18 MR. BAUMANN: Yes, ma'am. Thank you.

19 MS. NUNNERY: Are there any other

20 questions?

21 THE CHAIR: I don't see any. Thank you,
22 Ms. Nunnery.

23 MS. NUNNERY: Thank you very much.

24 Elaine Puri? Thank you.

25 MS. PURI: Good afternoon. My name is

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1 Elaine Puri. I'm the director of legal studies
2 at Florida Community College in Jacksonville.
3 It's an ABA-approved school and a member -- an
4 institutional member of the American
5 Association for Paralegal Education.

6 We have 22 schools, 22 community colleges
7 in the state of Florida. Out of the
8 (unintelligible) are here that have
9 paralegal/legal assisting programs. And the
10 educational level is an AS degree in legal
11 assisting or paralegal studies.

12 The education that the students are
13 receiving includes 18 hours at least of general
14 education, social science, humanities, algebra,
15 math. Sometimes we have business law included
16 in our curriculum. And then we have our legal
17 research and writing classes, our technical
18 education and our professional electives.

19 All of this education is providing someone
20 with the skills necessary to perform paralegal
21 duties, and I'll give you an example. I was

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22 represented by an attorney, and the attorney I
23 had known for years. She clerked for one of
24 the judges, a law clerk, and had her own
25 practice. And I had a dispute with a company

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1 in Jacksonville. The attorney there was a
2 friend of mine, but it was still a little bit
3 of an argument.

4 So I went to her and had her write a
5 letter for me. And I listened to her verbatim
6 write notes down. And exactly as it came out
7 of her mouth, she wrote the notes down in the
8 notes she was talking. And I guess the next
9 day the letter went out.

10 Well, I got my copy of the letter, and I
11 was in tears. It was so embarrassing, because
12 the person who was her paralegal prepared the
13 document verbatim, which didn't even make
14 sense. There were no legal ramifications in
15 the letter or anything. The letter was
16 grammatically incorrect. Some of them were
17 three-word sentences.

18 And so I called the attorney and I told
19 her, I said, this is a terrible letter. It's
20 very embarrassing. And she said, well, my
21 paralegal just sent it out exactly the way my
22 notes were. Well, I called the company, and
23 the attorney that was a friend of mine said,
24 I'm so sorry. I'm horribly embarrassed.

25 Forget the whole thing.

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1 In the meantime I got a bill for \$450 for
2 paralegal services and for attorney's fees that
3 I paid, because as a person standing in the
4 legal community and my reputation in the legal
5 community, and I didn't want to damage either.
6 It wasn't worth the \$450 to me. But still the
7 argument went unsolved, didn't get resolved.

8 And when I asked questions later about the
9 paralegal's background, she was a claims
10 adjuster. She had no formal legal education at
11 all, and apparently could not draft a letter.
12 So she had no writing skills, which we do that
13 in the college system. We concentrate on
14 English Comp I, Comp II, legal writing. And in
15 every general education course there's a 2,500
16 word minimum writing requirement. And those
17 are all extremely important to the legal
18 profession.

19 There are some people that rise above and
20 can educate themselves, but, unfortunately,
21 that's in a perfect world, and this is not a
22 perfect world.

23 Paralegal education is a preventive to
24 having things like that happen. So I rest my
25 case.

1 THE CHAIR: Thank you.

2 James Hodge?

3 MR. HODGE: Good afternoon. I'm Jim
4 Hodge. I'm a paralegal program chair at
5 International College in Naples, Florida where
6 Wilma gave us a licking but we keep on ticking.

7 I'm also the president of Collier Legal
8 Support Professionals. And I went to the NALA
9 convention including Kansas City this past
10 July. I'm a member of AAPE. And I've been
11 program chair for 14 years. Before that I
12 practiced law for 12 years. I've hired
13 paralegals. I've supervised paralegals. And
14 think I am pretty familiar with what's going on
15 in the paralegal profession.

16 I had a chance to review Senate Bill 2054
17 including the two definitions that they
18 included in there. I know that's not at issue
19 today. And I read a report in a newspaper that
20 pretty much limited to what's going on right
21 now and we need to fix what's going on right
22 now rather than to address the legislation as
23 proposed. So I will restrict my comments as to
24 what is currently in existence and the problems
25 that I see with it today and what we think

1 should be done.

2 Again, the Senate bill had two
3 definitions. One was for supervised legal
4 assistants or paralegals, and the other was for
5 unsupervised, which was addressing the UPL. I
6 will not address the UPL unless called upon to
7 do so. I will keep my comments to supervise.

8 There has been a lot of confusion
9 regarding the terms paralegal and legal
10 assistants as you've got a national
11 organization for paralegals, and you've got a
12 national association for legal assistants. And
13 the term is completely misused, if I could
14 throw in my two cents.

15 I run a paralegal program, and I have to
16 inform my students that they cannot practice
17 without the supervision, and they are often
18 surprised. They equate the term paralegal with
19 the unauthorized practice; that is, when I
20 graduate, I can open up my own law practice.
21 They are somewhat surprised.

22 Every UPL that I have seen, all of the
23 clinics that are out, never use the term we are
24 a legal assistant firm. They always use the
25 term legal or paralegal firm. And it is my

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1 opinion the majority of the people in all
2 professions equate paralegal with the

3 unauthorized practice that is somehow
4 authorized because you are a paralegal.

5 I'm going to go through -- I have a list
6 here of issues, and I'm going to go through and
7 more or less cast my vote. And you can ask me
8 for explanations about how we voted.

9 Is the present definition okay? Yes. I
10 think it is okay at the present.

11 The design issue, should it be the state
12 bar to regulate? Yes. I think it should be,
13 not the legislature. There should be a
14 grievance committee. It should be operated by
15 a division of the Florida Bar just as the
16 attorneys are regulated by the Florida Bar and
17 the Supreme Court. It should stay in the
18 judicial branch.

19 The legal assistant should be always under
20 the supervision? At this point, and I use the
21 term legal assistant, and you can flip a coin
22 and pick whichever one you want, I suppose,
23 because it's currently interchangeable.

24 How would you implement such a thing? I
25 would implement it through the Florida Bar

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1 initially. Have the Florida Bar fund it
2 initially, and then have fees or dues that are
3 self-sustaining for the grievance committee and
4 everything going through the Florida Bar and
5 the state supreme court.

6 Some other issues that you asked about.
7 The fees should be local fees, state fees.
8 Should it be standardized fees for what
9 paralegals can charge throughout the state?
10 And I would say yes and no, mostly no. Because
11 the fees that we would charge in Dade County or
12 Broward County are going to be substantially
13 higher than what you would charge in Ocala or
14 other areas of the state. So I think it has to
15 be localized rather than standardized
16 throughout the entire state. What may be
17 normal in Ocala may be very substandard in
18 Dade where the cost of living -- or in Miami --
19 where the cost of living is so much higher.
20 Should there be Bar affiliation? I
21 believe that there should be. I've been to the
22 meetings. I go there every month, and I pick
23 up a lot of very useful information. So I
24 think paralegals should be put in as
25 affiliates.

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1 I wanted at this point to address some of
2 the other concerns that I've got. I know that
3 NALA has been pushing for this regulation. I'm
4 fully aware of it. I talk to NALA people all
5 the time. Beware what you wish for. Being a
6 CLA is not necessarily what we're going to
7 accept here. There should be a state

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8 examination the same as we don't accept an Ohio
9 Bar or a Minnesota Bar in Florida. We have to
10 have our own examination.

11 We need, if we're going to license or
12 regulate, we need our own regulations, not let
13 somebody in Omaha, Nebraska, dictate what the
14 terms of certification or regulation are going
15 to be.

16 I'm familiar with NALA. I'm familiar with
17 Ms. Corsecoff (phonetic) who runs the committee
18 that sets the bar. And I can tell you that
19 that certification of CLA is about 20 years
20 old. It hasn't been updated in about 10 years.
21 There's nothing on there about the ability to
22 run a computer or any computer applications or
23 anything online.

24 And I know in Naples and Collier County
25 and Lee County, attorneys are now looking for

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1 the skills tested by the CLA. They are looking
2 for a substantially different set of skills
3 that we try to provide at our college. And
4 while I used to push the CLA 10 years ago, I am
5 not nearly as strong on it because it does not
6 test the skills that we are looking for.

7 If you have any questions, I'll be glad to
8 answer them. Thank you.

9 THE CHAIR: Thank you very much.

10 Meredith Brasca?

11 And this is the last person I have who has
12 signed up. If there's someone else who is
13 going to sign up and hasn't, we are obviously
14 going to have some time left over, amazingly
15 enough.

16 But thank you-all for your patience.
17 Ms. Brasca will be the last one. And thank you
18 so very much for your patience. We'll give you
19 six minutes.

20 MS. BRASCA: To distinguished committee
21 members, fellow attorneys, paralegals, legal
22 assistants, court providers, we would like to
23 thank you for offering us the opportunity to
24 speak here today.

25 My name is Meredith Brasca. I'm the

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1 department chair of paralegal studies at Jones
2 College. With me today is also Dean Graver,
3 the associate academic dean of Jones College.
4 We are both professors of the paralegal studies
5 department there at the college. I'm also
6 general counsel of the college. And Dean
7 Graver and I are both practicing attorneys in
8 our own right in addition to being professional
9 educators.

10 Toward that end, other persons today have
11 come here to offer testimony on the need or
12 lack of a need for paralegal regulation. Jones

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13 College would like to affirm their support for
14 those who are opposing the need for regulation.

15 And Dean Graver and myself as practicing
16 attorneys and educators would like to speak on
17 the design issue of whether a distinction
18 should be made between the terms paralegal and
19 legal assistant, the status level and how those
20 distinctions should be made.

21 Well, the question today that seems to
22 have been raised repeatedly here is whether or
23 not job titles make a difference. Do they, do
24 they not. In considering this issue, we sought
25 input from several sources; the faculty at our

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1 college, the local legal community at our
2 advisory committee meetings, our current
3 students and some of our graduates.

4 We asked, does, in fact, the title make a
5 difference? Well, consider the following
6 analogy. If you were involved in an accident
7 and needed medical attention, who would you
8 rather have show up at the accident site, a
9 medical assistant, an EMT or a paramedic? All
10 work under a doctor's supervision, but the
11 medical assistant generally performs clerical
12 functions in a medical office. And while they
13 can perform certain medical tasks such as
14 taking vital signs, et cetera, those tasks are
15 extremely limited.

16 Now, an EMT can perform CPR and transport
17 you to the hospital, but only the paramedic has
18 the education, the skill and training to
19 perform emergency medical services such as
20 defibrillation or the administration of life
21 saving or pain alleviating drugs. The latter
22 in that term clearly conveys the person with
23 greater skill. The folks we spoke with
24 concurred.

25 Both lawyers and paralegals voiced concern

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1 regarding the trend of legal secretaries and
2 even receptionists being styled as legal
3 assistants in both the law firm and the
4 corporate environment. The perception is that
5 legal secretaries are increasingly encroaching
6 on the legal assistant title. Additionally,
7 the theory that the word "assistant" denotes
8 the clerical and/or administrative work and the
9 current trend in many law offices to promote
10 legal support staff members to the position of
11 legal assistant.

12 These are some of the explanations for the
13 practice of the paralegal title. The opinion
14 was that paralegal is perceived by the general
15 public to have greater skills and training than
16 a legal assistant. And the overwhelming
17 preference was that only the more skilled

18 should have the right to be designated as a
19 paralegal .

20 We have come here today to propose that
21 the Florida Bar consider recommending
22 regulation of persons who provide assistance
23 within the legal industry. And we believe that
24 both the terms paralegal and legal assistant
25 have their place in the legal profession.

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1 We have proposed that Florida become the
2 first state to actually define the distinction
3 between those two terms, and that that
4 distinction should be one of education.

5 Now, currently there are no standards or
6 requirements for those who choose to call
7 themselves either paralegals or legal
8 assistants. This is somewhat disturbing in
9 light of the expanding roll of paralegals and
10 the delivery of legal services, some of which
11 in Florida may lawfully be performed without
12 the supervision of a licensed attorney such as
13 the documents in connection with uncontested
14 divorces.

15 Now, a paralegal in our opinion should be
16 a person who possesses a sufficient knowledge
17 of legal concepts so as to render the paralegal
18 capable of performing substantive legal work,
19 indeed the work that a lawyer would perform.
20 As legal matters delegated to paralegals

21 increase in complexity, it will become
22 increasingly important to ensure that the
23 persons who purport to perform those services
24 have the training to competently do so.

25 We envision the distinction between

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1 paralegal and legal assistant as follows:
2 Legal assistants as being those persons who
3 handle clerical function; office management,
4 filing, document and case management,
5 transcription and document preparation. While
6 paralegals would be those who, in addition to
7 performing the above, also have the skills to
8 handle intake, client contact, the skills to
9 perform legal research, draft motions and
10 pleadings, skills attained only through
11 advanced education.

12 One of the questions addressed here today
13 has been who should establish these standards?
14 Well, regarding accreditation there are
15 currently two organizations, the ABA and the
16 American Association for Paralegal Education,
17 that has standards regarding the regulation of
18 paralegal curriculums.

19 Approximately 800 schools throughout the
20 United States currently offer paralegal studies
21 programs. Of those, approximately 237 are ABA
22 accredited. The reality is that many schools,

23 especially smaller schools, are unable to
24 comply with the budgetary requirements or the
25 interior corporate structure required to

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1 receive ABA accreditation.

2 The AAFP offers an alternative. That
3 organization, which also standardizes paralegal
4 programs, has criteria for becoming a member
5 school that includes either being ABA
6 accredited or a school that complies
7 substantially with the ABA requirements but for
8 whatever reason is not an ABA member.

9 In addition, Florida itself already has a
10 mechanism in place for determining whether or
11 not a school meets appropriate academic
12 requirements. As attorneys you may or may not
13 be aware of a Florida statewide course
14 numbering system. This particular body has
15 established educational standards for member
16 schools, of whom the state schools implored are
17 all members, as indeed is Jones College. And
18 this particular organization, SDSN, is
19 responsible for ensuring consistency of
20 education as well as the transferrability of
21 credits by regulating course content, program
22 requirements, instruction and instructor
23 credentials.

24 Therefore, we propose that with respect to
25 education, that a paralegal be distinguished

1 from a legal assistant as follows.

2 I'm sorry. I'm aware my time is up. If I
3 could have one more minute?

4 THE CHAIR: Sure.

5 MS. BRASCA: Thank you. We believe that
6 effective as of the date of the enactment of
7 the regulation that a paralegal be designated
8 as one who possesses either a baccalaureate or
9 advanced degree from a postsecondary education
10 or from a proposed secondary institution that
11 requires a successful completion of a minimum
12 of 54 semester or equivalent units in paralegal
13 or law related studies. And it has been
14 accredited by a national or regional
15 accrediting organization approved by the
16 Department of Education, and whose program
17 requirements are equivalent to the standards
18 set forth by Florida statewide course numbering
19 system for a baccalaureate program, and whose
20 standards encompass both online and on-ground
21 degree programs.

22 Whereas as a legal assistant should be one
23 who possesses either an associate degree or a
24 certificate of completion of legal studies
25 program approved by either the ABA or AAPE.

1 And, of course, with the grandfathering clause
2 for those already in the workforce such as some
3 of the ones suggested here today.

4 And we thank you for your kind attention.

5 THE COURT: Thank you, Ms. Brasca.

6 Any questions from the committee?

7 Mr. BAUMANN: I have one.

8 THE CHAIR: Mr. Baumann?

9 MS. BRASCA: Yes, sir.

10 MR. BAUMANN: We heard a little bit about
11 billing for time from people. Under this
12 concept, which seems very kind of succinctly
13 organized --

14 MS. BRASCA: Thank you.

15 MR. BAUMANN: -- but would the lawyer be
16 prohibited from billing for one kind of person
17 or another?

18 MS. BRASCA: The current job proposal
19 underway envisions paralegals being able to
20 have their time billed as, shall we say,
21 distinguished from people that perform clerical
22 and support functions. And as many people
23 testified here today, that distinction is
24 consistently abused. We believe by making the
25 distinction between paralegals and legal

1 assistants that that could also clarify which
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2 time might be appropriately billed by an
3 attorney to recover legal fees. The work
4 performed by a paralegal clearly should be.
5 The work performed by a legal assistant,
6 probably not as much.

7 Mr. BAUMANN: Well, I mean, probably.
8 It's difficult to craft a law that says it's a
9 felony to charge maybe, you know, probably not
10 so much. Are we so -- under this concept, as
11 you really well articulated, I thought, if the
12 person -- you know, has an associate degree and
13 a certain amount of paralegal studies and some
14 experience and all that, and so now they are a
15 certified legal assistant, or whatever you call
16 it, legal assistant, is a lawyer going to be
17 permitted to bill that person's time or not?
18 Clearly the paralegal, yes.

19 MS. BRASCA: I think that's something that
20 definitely should be addressed by the
21 committee. And under the proposal that we are
22 currently submitting, we think that would make
23 a very bright-line distinction. Paralegal,
24 yes, legal assistant, no. That might be
25 something to consider -- something that the

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1 committee might want to consider.

2 MR. BAUMANN: Thank you.

3 MS. HOLCOMB: May I ask a follow-up

4 question?

5 THE CHAIR: Sure.

6 MS. HOLCOMB: Okay. Thank you. Under
7 that proposal what troubles me is the way the
8 bar rules are set up now and the way the ethics
9 opinions are set up now is you look at the
10 activity, you look at what the person is doing.
11 If I type a letter, I cannot bill for it. But
12 under your proposal, I'm a paralegal, and I
13 typed a letter, it took me 10 minutes, I'm a
14 slow typist, I do filing for an hour and a
15 half, and I also did a deposition summary. I
16 can now bill for that filing for an hour
17 and half and --

18 MS. BRASCA: Not necessarily because that
19 would still be denoted as a clerical function.

20 MS. HOLCOMB: So you are looking at the
21 activity, not necessarily the person who is
22 doing the activity?

23 MS. BRASCA: That would be one of the
24 considerations that we would suggest be
25 considered, yes.

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1 MS. DEMERS: Am I to understand that you
2 would not include an AS degree as a legal -- I
3 mean, for a paralegal?

4 MS. BRASCA: No, we would not for one very
5 simple reason. The person who attains an AS
6 degree, while admittedly they do get some

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7 substantive education, introduction to law,
8 usually legal research and probably torts and
9 contracts, they lack that distinction to be
10 able, as one of my predecessors has testified
11 to, of being able to correlate the interactions
12 between the very substantive areas of law.
13 Whereas a person that graduates with a
14 bachelor's degree not only has that
15 introductory information, in addition to that,
16 they have substantive coursework. We're
17 talking 15-week semester long courses in
18 constitutional law, ethics, wills, trust and
19 estates, real estate, bankruptcy,
20 administrative law, criminal law, criminal
21 procedure. These are all courses that our
22 bachelor degree candidates take that our
23 associate degree candidates do not.

24 MS. DEMERS: There isn't one of those
25 courses that my program doesn't have as an AS

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1 degree at St. Pete Community College. And are
2 you also aware that there are people who have
3 bachelor's degrees that go on to get an AS
4 degree that capstones that bachelor's degree
5 and can use the community college system in
6 that way?

7 MS. BRASCA: Yes. But again, as we have
8 distinguished in our particular program, the AS

9 degree does not begin to encompass the
10 substantive legal work that a bachelor's degree
11 has.

12 MS. DEMERS: I disagree. Are you also
13 aware that the state community college system
14 has -- their AS degree has the state course
15 numbering system requirements as well?

16 MS. BRASCA: Yes, absolutely. Both
17 associate and bachelor's degree programs do.
18 And as a matter of fact, the statewide course
19 numbering system at the moment has not made a
20 distinction between legal assistant and
21 paralegal programs as being two distinct
22 programs per se. But they have, in fact, made
23 that distinction in other programs, for
24 example, the medical assistant degree as
25 opposed to the medical front office

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1 practitioner degree.

2 We proposed that the legal assistant and
3 paralegal degree so be distinguished also.
4 That there is a different level of skill, and
5 there should be a different status level
6 recognizing that level of skill.

7 MS. DEMERS: And are you aware that in
8 your analogy that you used with the paramedic
9 and the EMT and whatever, well, whatever, that
10 both of those degrees, EMT and paramedic, are
11 at the community college level as well?

12 MS. BRASCA: Oh, yes, very much so. And
13 again, there is a very clear distinction. EMTs
14 cannot deliver intravenous drugs. That
15 requires an additional level of skill and
16 training.

17 MS. DEMERS: But paramedics can.

18 MS. BRASCA: Exactly.

19 MS. DEMERS: And they are trained at the
20 community college level.

21 MS. BRASCA: Exactly. But that is the
22 additional level of skill and training that
23 distinguishes them from an EMT.

24 THE CHAIR: Mr. Hume?

25 MR. HUME: Do you feel that there should

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1 be a statewide exam? And should a statewide
2 exam be in all areas of law or in a designated
3 area?

4 MS. BRASCA: Actually, we would envision
5 that as being the highest status level of all.
6 That if a person graduates from an approved
7 college with a four-year degree, at that point
8 they are entitled to call themselves a
9 paralegal. But if they wish to undertake the
10 additional certification step such as the CLA
11 or another exam created by the state of
12 Florida, they could then call themselves
13 certified paralegal. And that should perhaps

14 be the capstone of the status levels in the
15 legal profession -- the legal assisting
16 profession.

17 MS. STRINGFELLOW: Are you aware that the
18 state of Florida currently has a certification
19 test in place?

20 MS. BRASCA: Oh, yes. That's why I said
21 either the one administered by NALA or the one
22 administered by the state of Florida, something
23 that the Florida Bar proposes. As a matter of
24 fact, my understanding is that the certified
25 legal assistant test is practically the

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1 equivalent of a mini bar exam. I know that the
2 course that we offer CLA certification in,
3 which we prepare our students to sit for, that
4 particular exam covers approximately 15
5 substantive areas of law in addition to the
6 classic English writing document composition
7 skills.

8 MS. STRINGFELLOW: You've tailored your
9 program, then, to meet the requirements and
10 credentials that are required for people to
11 apply for the CLA?

12 MS. BRASCA: Yes. We provide the
13 substantive courses that would enable a student
14 to meet the requirements of that particular
15 exam. And we actually do have a course that is
16 not required of all of our students, but we do

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17 offer it as an elective. It's called CLA
18 review. And it is a 15-week long, full,
19 three-credit semester hour course that students
20 may take as an elective in preparing themselves
21 to sit for that particular exam.

22 THE CHAIR: Mr. Baumann?

23 Mr. BAUMANN: The numbering system, the
24 course numbering system that you referred to,
25 is that -- can that be used to determine

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1 whether the person has the 54 hours in
2 paralegal studies?

3 MS. BRASCA: Yes. That's absolutely set
4 forth by the State of Florida. In fact, they
5 go a step further. For example, if you are
6 proposing a new course, as we recently did in
7 law office management, we have to construct a
8 complete syllabus, select the textbooks,
9 provide the credentials of the instructor.

10 And let me just add that, in order to
11 teach in a PLA-designated course under the
12 statewide course numbering systems rule, the
13 person must possess a juris doctor degree.

14 They review all those items. They look at
15 the proposed course description, course
16 objectives and components of the course that
17 you're proposing. They identify which, if any,
18 course is currently being taught by another

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19 member school within the state of Florida, and
20 they assign a number rendering that course the
21 equivalent of the other courses that are
22 offered likewise by other member schools.

23 Now, Jones College was actually
24 responsible for creating a new course. When we
25 proposed our CLA review course to the Florida

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1 statewide course numbering system, there was
2 not another school in the state of Florida that
3 was offering that as a substantive course. So
4 if you go to the statewide course numbering
5 system and look up CLA review, you'll note that
6 Jones College is the college that is the
7 standard for that particular course.

8 MR. BAUMANN: Thank you.

9 THE COURT: Thank you, Ms. Brasca.
10 Anyone else?

11 MS. BRASCA: Thank you.

12 THE CHAIR: Thank you very much.

13 I'm sorry. Ma'am, did you want to make a
14 comment?

15 MS. ROGERS: Please. I'm a paralegal
16 student. And a lot of things I'm seeing -- I
17 just sat down for my civil procedure yesterday,
18 and I came out of the course with a hundred.
19 Okay. I take it very seriously, because I am
20 one of those in the middle-of-life-change jobs.
21 And regulations are good as far as I'm

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22 concerned, but you are always going to have
23 somebody that's going to push it to the line.

24 Okay.

25 I had a paralegal discharge me from a job

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1 I did for eight and a half years while my boss
2 was on vacation. She was an out-of-state CLA,
3 certified paralegal. On the discharge papers
4 she did not identify herself as a paralegal.

5 Okay. So these are some of the things that I'm
6 looking at. She worked for a corporation.

7 Okay. That's what pushed me to get my
8 education and take the ethics and do what I've
9 got to do to help this profession. And the
10 county I'm from is Polk. We are very small.

11 And you're going to put a lot of people in
12 a really, really tight spot if this legislation
13 goes through.

14 THE CHAIR: Could you state your name for
15 the record?

16 MS. ROGERS: My name is Brenda Rogers.

17 THE CHAIR: Thank you, Ms. Rogers. Thank
18 you very much.

19 Madam Court Reporter, thank you very much.
20 You've had the toughest job today.

21 Members of the audience, thank you very
22 much for coming. We very much appreciate your
23 input, and we hope we can live up to the trust

REPORTER'S CERTIFICATE

STATE OF FLORIDA)
) ss.
COUNTY OF HILLSBOROUGH)

I, CHRISTINE L. OERTLING, Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing public hearing, that a review of the transcript was not requested; and that the transcript is a true and complete record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties to this cause, nor am I a relative or employee of any of the parties' attorney or counsel connected with this action, nor am I financially interested in the outcome of this action.

Dated this _____ day of November 2005, at Tampa, Hillsborough County, Florida.

CHRISTINE L. OERTLING, RPR