

# Chapter 1: The Client

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## Chapter Outline:

- ✓ § 1.1 The Essential Skills
- ✓ § 1.2 Your Very Own Client
  - *Assignment*
- ✓ § 1.3 Maintaining Your Client's File
  - *Assignment*
- ✓ § 1.4 Tracking Billable Hours
  - *Assignment*

## § 1.1 THE ESSENTIAL SKILLS

### Education Is . . .

Education is that which is remembered after those things once studied have long been forgotten. Let's begin your paralegal education.

### The Rosetta Stone

For more than five thousand years, the hieroglyphs of Egypt were indecipherable. Some of the greatest minds of the ages attempted unsuccessfully to unlock the meaning of these strange symbols. Many Egyptians thought that the hieroglyphs were protected by magic and would never be understood. By the late-1700s, most scientists believed the meaning of these ancient works would never be revealed.

In 1799, a block of stone with remarkable etchings was found among a heap of rubble that had once been a building. This unique stone featured hieroglyphs, but it also featured Demotic Egyptian and Greek characters. For every hieroglyphic, there were corresponding words in the other two languages. This block, the Rosetta Stone, was the key that unlocked the ancient hieroglyphs of the Egyptians. The law is like those hieroglyphs. It seems indecipherable and overwhelming. Yet when a student is shown the keys and provided with the correct tools, the law becomes understandable.

Congratulations on your decision to enter the paralegal field. Few careers offer the same challenge, flexibility and rewards. These manuals have evolved through use by thousands of students across the country and focus on the most universally-demanded paralegal skills.

In education, there are generally two basic goals: the attainment of knowledge and the development of skills. This manual adheres to the tenet that by developing certain foundational skills students prepare themselves to attain almost limitless knowledge. Through this course you will develop the skills to research any court rule, use a model to create virtually any legal form, or find any legal decision, given an adequate citation. These skills, and others, are basic keys to the attainment of knowledge.

Although there will always be some memorization in any educational experience, mastering certain skills can lessen the burden of memorization. When a student studies legal terms or phrases, procedures or systems, he or she should try to understand the concept involved instead of the word-for-word definition or description. Memorizing the word-for-word definition of "prima facie case," for instance, will not be nearly as helpful as understanding the concept. Every textbook, instructor or attorney will define the same term using different words and examples. Yet, the concept remains consistent. In accordance with this reality, test questions may not match word-for-word the definitions in the workbook or the textbook. Again, focus on understanding concepts, not on memorizing words.

In order to discuss the many aspects of law, students and teachers must speak the same language. No one likes "legalese," but as a paralegal, you will have to be comfortable conversing in terms that attorneys use. As a paralegal, you will be expected to recognize, understand, and use legal terms and concepts. Legal terms will be introduced throughout this manual, with many of them concentrated in Chapter 4.

Many assignments, especially those related to legal research, have been designed for the student to complete with minimal assistance from the instructor. As a paralegal, you will be expected to work with a minimum of oversight. Attorneys want paralegals who are "self-starters." After you complete a class project, your instructor will review and discuss what you have produced, preparing you for the kinds of reviews an attorney will conduct on your work in a business environment. This manual's approach is designed to instill in you the self-confidence that comes only from learning-by-doing.

Use the examples and forms provided in this manual. They have been provided to make your learning experience more efficient. It is also imperative that students utilize the website corresponding with this manual. While this course is not easy, every effort has been made to make the learning experience as productive, even as enjoyable, as possible, but your education depends in great part on your commitment to the program. How much you learn will, in part, depend on how much effort you are willing to put into your studies. If you do not own a computer, almost every library offers computer terminals, many with free access to the Internet.

Years from now, the time and energy you spent in this course will seem a small price to pay for a new career. This is your career, so give it everything you've got!

**By paralegals, for paralegals**

These manuals have been designed with the real-life experience of the authors in mind. Not only experience as paralegals, but experience as paralegal students.

Our concern has been that most paralegal programs, and the materials used to prepare students, simply do not prepare their graduates in an adequate fashion to enter the profession. Most programs and materials

<b>LEGEND</b> <i>The colored headings, found throughout this manual, generally indicate the following:</i>
<b>Dark Blue Headings   Major Sections</b>
<b>Blue Headings   Examples, Diagrams, &amp; Comments</b>
<b>Green Headings   In-Class Exercises &amp; Discussion Points</b>
<b>Pink Headings   Out-of-Class Assignments</b>

seem to be more concerned with academic theory alone instead of developing working skills. A paralegal education is not complete unless it provides the student with the actual skills to perform the work.

Students will have the opportunity in this program to develop skills that are transferable to any area of legal

practice: civil litigation, criminal law, personal injury, contract law, bankruptcy, or any other specialty. They will be the foundation of your career.

The program you are taking is designed with a single purpose in mind: to provide the best training possible in paralegal skills. These manuals are an extension of that effort. If you study hard and successfully complete this program you can be confident that you possess the skills you need to become a great paralegal.

## § 1.2 YOUR VERY OWN CLIENT

The learning experiences in this manual have been designed to mimic the on-the-job realities of a paralegal position. To that end, each student will be assigned his or her own client. Virtually all assignments, including writing and research tasks, will be based on that client's hypothetical situation.

Law offices keep important documents in client files. As soon as possible, students should purchase a classification folder and begin maintaining a client file. Keep track of hours spent working for the client, just as you will likely keep track of billable hours when working in a law firm.

Each student will have unique client facts, eliminating the temptation to "share" documents and information. Using their individual client scenarios, students will create the following:

1. *an interoffice memorandum*
2. *client correspondence*
3. *initial client interview questions*
4. *a summons and complaint*
5. *discovery documents*
6. *a trial memorandum*
7. *other possible documents at your instructor's discretion*

These assignments focus on helping students develop high-end paralegal skills. Most of the following are derived from real cases involving real issues. In fact, you may in some cases struggle to find even one or two relevant cases to support your client's position. This book does not focus on teaching you to simply pass tests. Expect to be challenged.

In an actual law office environment, a paralegal would be able to contact the client, as well as witnesses, to learn more about the matter being represented. Therefore, students have some license to expand on the facts provided, but only to a reasonable extent. Be creative, but not too creative!

1. Your client, Wilma Setter, went to see her doctor this past April 1 for a general checkup. She mentioned a small lump in her breast to the doctor. He said not to worry unless it became larger. Two months later, she went to another physician, who diagnosed the lump as cancerous and recommended a modified mastectomy. Her new doctor claims that if the cancer had been diagnosed when the client first mentioned it to her initial doctor, the breast might have been saved. Your client wants to sue for the emotional distress caused by the "loss of chance" and misdiagnosis.
2. Our client, Hanna Graves, informed her husband, John, two weeks ago that she wanted a divorce. Her husband asked her to reconsider, so she said she would think about it for two weeks. After the two weeks had expired (yesterday), our client told her husband that she had, in fact, filed for divorce that day and that she was moving out that very evening. Her husband became enraged, assaulting our client and demanding sex. She refused and begged him to stop. Despite her pleas, the husband forced himself sexually upon our client.

Although the authorities refused to file charges, our client wants to sue her estranged husband for the emotional distress caused by the attack. He claims that there is no such thing as "spousal rape." Your complaint will allege liability for the emotional distress, but your research and trial brief will deal with the limited issue of whether spousal rape is an actionable claim.

3. Your client, Clara Benton, owns a house on the side of a hill. Last month, she noticed that a smell, which could best be described as gasoline-like, seemed to be present throughout the house, especially in the basement. Upon asking around the neighborhood, she learned that the gas station about 100 yards up the hill from her property had suffered a ruptured pipe about five and a half years ago. This is beyond the normal statutory time allowed to file a court action. She is now concerned that, even if she proves that the ground contamination was a direct result of the gasoline spill, she will not be able to sue. Your client wants to sue for the damages caused by the negligence of the ABC Gas Station in allowing the leak. Your complaint will deal with the damages caused by the gas leak, but your research and trial brief will concentrate on the limited issue of whether the statute of limitations bars the lawsuit.

4. Henry Green was driving alone down Pearl Street on the evening of the tenth of last month. The speed limit at the vicinity of Pearl and Evans streets is 45 mph. At that point of Pearl Street, there is a slight curve to the right as you go down a hill. As Henry negotiated this curve, he apparently hit a depression in the pavement (not quite a hole) that is almost impossible to detect without close examination. A witness at the scene, Melba Torrez, claims that when Henry's car hit the defect in the road, it bounced wildly and Henry lost control. Unfortunately, Henry hit a tree 30 yards down the road before he could regain control of his vehicle. Henry died an hour after arriving at the hospital. Another woman, Kate Morris, came running out after hearing the crash. She stated, over and over, "I told them this would happen. I told 'em so." When asked what she meant, Kate said she had been complaining about that very depression in the pavement to the city department responsible for road repairs. The official response, according to Kate, was, "We'll get to it when we get to it." We represent Henry's estate. You are suing the state for failure to make repairs to the road in spite of having received notice of the defect.
  
5. Our client, Mary Smythe, purchased a TV two weeks ago from Ace TV Sales. When it arrived two days later, a dispute arose with the delivery man, Bryan Zorn, due to damage to the TV. After having words with Mr. Zorn in the living room, our client left to use the phone in her bedroom. Mr. Zorn followed and physically assaulted our client. The delivery man was arrested two hours later and charged with assault and battery, but you are researching the civil implications. It turns out that Mr. Zorn had two previous convictions for assault and battery. You are suing Ace Television, claiming they were negligent in hiring Mr. Zorn.
  
6. Our client, Susan Peterson, is suing Carl Fayette for breach of contract. Susan bought a baseball card on E-Bay from Carl. The item was a Mickey Mantle rookie card signed by the Hall of Famer, which included a letter of authenticity. Susan paid \$4500 for the card. Susan was buying it for her 13-year-old son's birthday gift. When it arrived, Susan immediately noticed a problem. The card was signed, but the name was spelled incorrectly as "Micky Mantle." When Susan contacted Carl by email, he responded that "Mr. Mantle must have been intoxicated when he signed it." The letter of authenticity was also of concern. Carl was the person authenticating the item, and it was notarized at a Kinko's. Susan is now suing for the purchase amount and the costs of litigation.

7. Our client, Mila Forrest, applied for a job at Himple's Department Store. She signed a consent form and release, permitting the store to question her doctor regarding her physical ability to perform certain tasks. During a phone conversation, the doctor, William Snuffles, mentioned that our client could not have children. Our client was hired, but soon after she began working, she was told that one reason she was hired was that the store was happy she wouldn't be "burdened" with children. Our client is upset that this information has become common knowledge at work and is suing the doctor, claiming emotional distress caused by the unauthorized disclosure and breach of the doctor-patient privilege.
  
8. Our client, Michelle Trump, is 35 years old. Last year, Michelle and her husband, Peter, took a drastic step to impregnate Michelle. After years of unsuccessfully attempting to procreate, Michelle and Peter approached a mutual friend, Robert King, explained they could not afford to go through the expensive process of artificial insemination and asked Robert to donate sperm. Robert agreed. After a rather awkward process (which will not be discussed here), Michelle was "injected" with Robert's sperm, without having sexual intercourse. Michelle and Peter did not have sexual relations that night, but did have them the following two nights. Michelle soon announced that she was pregnant and nine months later gave birth to a little girl, Hannah. This should have been the end to a happy story. However, when Hannah was born, Robert showed up at the hospital, telling everyone that he was the father and passing out cigars. Robert is threatening legal action to be named father of the child and to enjoy full parental rights. Your client is taking the offensive, suing to have the paternal rights of Robert declared nonenforceable. Your complaint will ask for an injunction to prevent Robert from holding himself out as the father.
  
9. Our client is Ross Foster. About three years ago, his 17-year-old daughter, Rebecca, came down with a very high fever and infection at a two-month summer camp. Ross was called, and he drove up the next day to pick up his daughter. When Ross arrived, however, he was told that Rebecca had been taken to the hospital the previous evening. When Ross arrived at the hospital, a 45-minute drive, he was told that Rebecca had gone into a coma the previous evening and had died that morning. The cause of death was an infection of unknown origin. It was hard, but Ross picked up the pieces and moved on with his life as a single adult. Last week, however, Ross received a phone call from Phyllis Bosley, the mother of one of the girls at the camp Rebecca had attended. Phyllis told Ross that she and her daughter

Monica, now 20, had been talking about Rebecca's unfortunate death and that Monica had said, "You know, one of the counselors said Rebecca's was the second case of toxic-shock syndrome that year." Ross would like us to represent him. Before we begin investigating the facts of Rebecca's death, we need to find out whether the statute of limitations will prevent us from winning anything for Ross. Your client is suing and your complaint will be based on negligence. For your research and trial brief, however, the question will be: When does the clock start ticking as to liability for injury from toxic-shock syndrome?

10. Your client, Fred Northrop, is employed by the Acme Insurance Company. He had worked there for about ten years when he was transferred to the Risk Management Division. His supervisor, Helen Redmond, took a special interest in Fred. She often asked Fred to lunch, and even invited him to attend several out-of-town seminars with her. Fred always refused because he was happily married to his wife, Wilma, and did not want any misunderstandings.

Last July 5, at about 3:00 p.m., Helen called Fred into her office and proceeded to "lay her cards on the table." She told Fred that he was a good worker and was currently being considered for a position as assistant risk control manager. She also made it clear that he would have a much better chance at the promotion if he would accompany her to Las Vegas for the annual Risk Management Symposium. Helen said, "Since I'm the person who will make the final recommendation, I think it would be in your best interest to come to Vegas with me." Fred refused. He explained his marital situation and told Helen that he was only interested in a business relationship. Helen said that was fine with her, but her attitude toward Fred changed. She criticized his work in front of others and referred to him as a lazy worker. For the first time since he had begun working for Acme, Fred received a poor performance review. The assistant position went to an individual who had only been working at Acme for seven months and who had no experience in risk management. Your attorney wants to file suit in trial court on grounds of sexual harassment and loss of economic opportunity.

11. Your client, William Jackson, is being sued in civil court for negligence. This past January 4, at approximately 4 p.m., William was on his way to the shopping mall. At the intersection of Trinity Avenue and Presley Boulevard, William watched a red Acura Legend, driven by George Hemple, run a red light and crash into a blue Oldsmobile Cutlass Supreme, driven by Paula Eureka. The Legend struck the Oldsmobile



on the rear-end, passenger side. As William got out of his car and ran toward the accident, he could see the woman getting out of the blue Oldsmobile. He also observed smoke coming from the rear of the Oldsmobile and was afraid there would soon be an explosion. As he got closer, he noticed the driver of the Legend, George Hemple, lying across the front seat, moaning in agony. William made an instantaneous decision to pull the injured man from the car. His intent was to save the man from what William thought would be an imminent explosion. As it turned out, there was no fire and the man whom William "saved" was paralyzed from the waist down. Doctors have stated that there is no way to determine what caused the paralysis, the accident or being pulled from the car. Mr. Hemple has sent harassing letters to William, given newspaper interviews, and appeared on the "Jerry Stinger" television show, claiming he was paralyzed by William. William is suing Mr. Hemple for libel and slander. The eventual research question will be whether William can be held accountable for any injuries suffered by Mr. Hemple.

12. Lilly Carr worked nights as a waitress, usually getting off at about 11 p.m. This past December 1, Lilly got off work a bit late, at about 11:30 p.m. As usual, she caught the bus. It usually took her about half an hour to get home since she lived at the last stop on the route. On this particular evening, the driver, Jake Ewing, struck up a conversation with Lilly. At Lilly's normal stop, the bus kept going. Jake drove to a rural area, where he sexually assaulted Lilly. Jake was convicted of rape. Now Lilly is suing the Haul 'Em Bus Company for negligently hiring Jake. She claims that the bus company should have had knowledge of the fact that Jake had a previous conviction for sexual assault. You are suing the bus company for negligence.
13. Gary Phelps has been charged with murder. Last November 12, his girlfriend, Jennifer Harmon, was seven months pregnant. Gary and Jennifer got into an argument. They struggled and Jenny fell down a flight of stairs. After an examination at St. Bernard's Hospital, it was determined that the fetus was no longer alive. You work for Jennifer's civil attorney who wants to file a separate lawsuit for the emotional trauma caused by the assault and the loss of the fetus. Your complaint will claim emotional distress, but your research and trial brief will deal with the limited issue of whether the murder charge, in relation to the fetus, is valid.

14. Penny Katz is suing Home State University. Her son, Jason, was a freshman at the school last fall. On September 13 of last year, Jason went to a "rush" party at Mooga Alpha Mooga fraternity house. Part of the evening's activities included hazing new recruits, forcing them to drink a large quantity of alcohol. After finishing his last beer, Jason stumbled outside and collapsed in the bushes. He was found there the next morning and taken to the hospital. He was in a coma and never regained consciousness, dying two weeks later, on September 25. Your client wants to sue the university for negligently allowing the practice of hazing.
  
15. Your client is Yvonne Jacobson. She is 19 years old, two months pregnant, and has decided to have an abortion. Before she learned that she was pregnant, Yvonne had broken up with her boyfriend, Keith Vickers. Keith has filed suit in the federal trial court to prevent Yvonne from having an abortion. Yvonne has never lived with Keith and the pregnancy was not planned. Yvonne is filing a complaint in the state civil court, arguing that she does not need the consent of the father to obtain an abortion. She claims that this is a state matter and that the cause of action is the violation of her constitutional right to an abortion. The complaint you will eventually create on Yvonne's behalf will seek a court injunction preventing Keith from obstructing with her constitutional right.
  
16. Your client, Clyde Wilson, worked as a file clerk at Dice & Jacobs Law Firm for 20 years. He was highly respected at the firm and always received sparkling reviews. When Charles Jacobs called Clyde into his office on Clyde's twentieth anniversary last October 22, Clyde expected a raise. Instead, he heard that the firm appreciated his work over the years, but that he was being let go and someone younger was going to be hired. Since being fired, Clyde has sought employment elsewhere, without success. It is important to argue that Clyde could still perform the duties required of his position. You will argue that Clyde's civil rights have been violated. Your attorney is filing a suit based on the violation of those civil rights.
  
17. Your client, Mary Rain, is divorced from Ned Rain. During the final stages of their marriage, the Rains sought marital counseling from Dolly Sharpe. During one of the sessions, Ned admitted to having been abusive to both Mary and the children. The couple was awarded joint custody of the children. Ned has continued the abuse since the divorce, and Mary now wants to sue for full custody. She wants to bring the admission by Ned, made during counseling, to the court's

attention in considering support and child custody. Ned's attorney argues that the testimony of both Mary Rain and Dolly Sharpe are prohibited by the doctrine of doctor-patient privilege. Your trial brief and research will deal with the limited question of whether the psychiatrist is prohibited from testifying because of the privilege, or whether the privilege does not prevent the spouse, Mary, from testifying. But first, a complaint claiming emotional distress and assault must be filed.

18. Your clients are Kathy and William Bates. They are suing the Regional School District for the death of their son, Timmy. Timmy was in the tenth grade. For months, Timmy had complained to his teacher, Martha Rice, about another student, Don Gallon. Timmy complained that Don bullied him, threatening him on a regular basis. The teacher told Timmy that he must learn to stand up for himself. On November 16 of last year, Don confronted Timmy on school grounds. Timmy tried to stand up to him. Don grabbed a lead pipe from his backpack and hit Timmy over the head. Timmy died two days later. The school claims there was no negligence and that the teacher could not have foreseen what occurred. You argue that since the teacher had notice of the threats and took no action, the school district is liable. Your complaint against the school district is based on negligence and failure to protect.
  
19. Your client, Wilma Maples, is a 65-year-old woman who was in the hospital to have surgery. The surgery, a knee replacement, went well. During inpatient rehabilitation, she needed assistance in many seemingly simple tasks, such as getting out of bed. This past February 11, Wilma went to take a morning shower, helped to the shower by an attendant. Wilma removed her glasses and got in the shower. When Wilma was finished, she tried to get into the wheelchair. Unfortunately, the attendant had forgotten to lock the wheels on the wheelchair, a common practice under such circumstances. Wilma fell to the hard floor and suffered fractured vertebrae. Your attorney is suing for negligence. The hospital claims there was no negligence on its part, but that there was negligence on Wilma's part since she might have noticed the unlocked wheels had she had her glasses on. They also claim that the pain Wilma suffers is the result of other deterioration of the spinal column, not from the fractured vertebrae, and that the fall simply triggered the pain. Your complaint will allege negligence on the part of the hospital, and your research will concentrate on whether the hospital provided adequate care.

20. Your client, Sue Hazely, took care of her father, James Roy, for the last two years of his life. This past April 3, Mr. Roy, was admitted to the hospital for reactions to chemotherapy treatment. James had a rare lung disease and had been given five to ten years to live. During James's three-week stay, several things went wrong. A cardiologist, Helen Hale, failed to read his chart properly before prescribing a course of treatment. Dr. Hale's treatment plan assumed that the disease was in the final stages instead of the beginning stages, and therefore did not follow protocol and failed to aggressively treat the symptoms. In addition, James was allowed to fall three times during his stay, each time being left alone in precarious positions. The last fall occurred in the middle of the night, while on "double oxygen." James was escorted to the bathroom, then left alone. The attendant not only failed to follow hospital procedures by leaving James in the bathroom, but he also forgot about him. James was found on the floor 45 minutes later, barely alive. He was placed on a respirator for a few hours and eventually regained consciousness. He was, however, severely weakened by the fall, and died two days later. Your complaint is against the hospital, Inhumana Hospital, with the claims of negligence and intentional infliction of emotional distress.
21. Your attorney is representing a 15-year-old minor, Klaus Kendrick. Klaus was accused by the school's principal of setting fire to his school. Klaus had been treated by the school's psychologist. During one of the sessions, Klaus admitted he liked to play with matches, to set fires to trash cans, and participate in other fire-related activities. At no time did Klaus admit to setting fire to any structure. The psychologist reported Klaus's statements to the principal after the fire, and the principal made the accusations in front of several teachers, Klaus, and his parents. It has since been determined that the fire was started by an electrical short, not by any form of arson. Klaus is suing the school for defamation, libel, and slander.
22. You work for an attorney who has been hired by the County Corrections Department. The department is being sued by a prisoner, Joseph Astor, who was jumped in the cafeteria of the county jail by a gang member named Harold Pevis and severely beaten. A week before the attack, Mr. Astor told jail director Michael Hollis that Mr. Pevis had threatened him, but the director took no action. You will need to argue that the government is not liable for damages from the assault. (Note: For the complaint assignment, you will need to switch sides temporarily.)

23. Your client, Mimi Hosgill, purchased a house six months ago, obtaining homeowner's insurance from the Take Your Money and Run Insurance Company. Two months ago, the house burned down. Mimi filed a claim, but the insurance company denied coverage, claiming to have mailed out a notice via regular mail canceling the homeowner's policy four days before the fire. Your client says she never received the notice of cancellation. She is suing the insurance company for failing to cover her losses.
24. Your client, Harold Bennett, was visiting his wife, Janice, at Southwestern Hospital. As he walked down the hall to use the restroom, Harold slipped on a puddle of clear fluid. The fluid had been spilled by a hospital attendant, Kevin Porter, who had gone to get a mop, leaving the spill unattended with no posted notice. Harold broke his hip and is suing the hospital for negligence.
25. Your client, Sandra Branch, is suing her former attorney, Jake Fallon, who represented her in a sex discrimination case. Sandra paid Jake a \$25,000 retainer. Six months passed and nothing was done on the case. When Sandra asked for her retainer back, Jake told her he did not have it. After much argument, he admitted that he had invested funds received from many of his clients in a business venture and that the funds would not be available for several more months. He promised she would get the funds plus interest. Sandra was not satisfied and has hired your attorney to sue Jake for attorney malpractice.
26. Your clients, Helena Hays and her parents, Blake and Delia, are suing her school district. Helena is a student at Kirk Middle School. Helena boarded a school bus after school for a ride home. She sat at the back of the bus to avoid two students in the front who Helena describes as bullies, Carol and Sonya. The bus driver, Patricia Hens, for no apparent reason ordered Helena to move to the front. Helena refused, stating she was scared of the bullies. Patricia, the bus driver, then told Carol and Sonya to "go get her and teach her a lesson." The girls immediately attacked Helena at the back of the bus, a beating that was caught on tape. You are suing the school district on behalf of Helena and her parents.
27. Your clients, Sue and Frank Evans, are suing a neighbor, Melinda Forester, who accused Frank of sexually assaulting her 15-year-old daughter, Amy. Frank absolutely denies the allegation. Melinda filed a complaint with the authorities, but because Amy's statements were inconsistent and a medical evaluation was inconclusive, no charges

were filed against Frank. Melinda decided to take matters into her own hands, telling her neighbors that Frank was a child molester. She also wrote notes to at least two couples and posted notices in the neighborhood. You are suing Melinda on behalf of Sue and Frank for defamation, libel, and slander.

28. Your client, Penelope Stork, was involved in a serious car accident. The impact, the result of a head-on collision with Jamie Frickman, left Penelope stuck between the steering column and the driver's seat. A witness to the aftermath of the collision, Bob Corely, stated that there was virtually no space in front or in back of Penelope, and that the steering wheel had actually been dented by her impact with it. Upon assisting the paramedics with Penelope's removal from the vehicle, Bob stated that Penelope could not walk and complained a great deal of pain below her waist. On the way to the hospital, the ambulance in which Penelope was being transported was struck by a vehicle that had run a red light. Both the ambulance driver and paramedic state that this second collision was hard but caused no injuries. Penelope was thrown from the gurney as it tipped over, landing almost upside down. When Penelope was finally treated at a hospital, it was determined that she had extensive internal injuries and two broken legs. She eventually recovered and is suing Jamie Frickman for the initial accident. Jamie, however, claims that Penelope's injuries were primarily sustained in the second accident. You are suing for damages for Jamie's negligence.
29. Your client is Mortimer Gorky. Mortimer's wife, Agnes, passed away five years ago. Mortimer had Agnes's coffin placed in a stand-alone crypt designed specifically for Mortimer and Agnes. Four years later, Wilbur Gorky, the couple's only child, was killed in a car accident. Mortimer decided to have Wilbur placed next to Agnes in the crypt. When the crypt was opened in preparation for the funeral, Mortimer was horrified to see that the coffin had apparently been opened and sloppily resealed. He demanded that the coffin be opened in his presence. Again to his horror, Mortimer discovered that most of his wife's remains had been removed. It has since been discovered that Agnes's remains deteriorated in an unusual fashion, which you may expand upon but will not be discussed here. They were removed due to complaints from visitors in the vicinity of the crypt and were reburied in another part of the cemetery. Mortimer is suing the cemetery, Graves-R-Us, for emotional distress.

30. Your client, Cory Battle, claims that he was sexually abused by his priest and is suing an archdiocese in another state. That archdiocese had placed the priest in Cory's parish (St. Augustine) after similar accusations had come to light in the out-of-state parish. There was apparently a long-standing agreement between the out-of-state archdiocese and the local church to help in such matters. The archdiocese claims that the court in your county has no jurisdiction. Your complaint will allege liability on the part of the archdiocese, but your memorandum and brief will relate to whether the court has jurisdiction in such a case. (You will need to fabricate the name and location of the archdiocese you are suing.)
31. Your client, Herman Selzberg, is being sued for slander resulting from a dispute regarding a yogurt company, Yogurt of a Different Culture, in which he and Jenny Abbott were co-owners. The dispute began about a year ago when Herman reviewed the company receipts and discovered discrepancies. About six months ago, he sent a letter to Jenny's attorney, claiming that Jenny was committing fraud. Jenny has now filed suit, claiming that the letter Herman sent amounted to defamation. The question: Is your client protected from a lawsuit, since in the letter he was communicating about a matter involving a potential judicial proceeding? (In your case, you will create a counterclaim instead of a complaint based on the fraud charge.)
32. Your client, Foster Jones, is suing his former employer, Big Time Development Company, for gender discrimination. At the time of his termination, Jones had been an employee of the BTDC for four years, working as their director of construction. During his employment, Jones received excellent reviews from his supervisors. Eight months ago, BTDC hired a new area president, Charline Palmer, to oversee the operations of the division. At the time of Palmer's hire, the area leadership was only 17 percent women, a common statistic in the construction industry, which men dominate. Within a year, Palmer systematically eliminated all men from area leadership, either through demotions, termination, or "other, unspecified means." Jones was one of the men eliminated. Most of the other men who Palmer eliminated had accepted severance packages that included an agreement not to sue. Four months before his own termination, Jones's female supervisor told Jones to "act more like a girl because girls are famous for their ability to form consensus." One piece of evidence in the case will be an email Jones received telling him he needed to "think more like a woman." Subsequently, Jones's supervisor became openly hostile toward him. When your client met Palmer in a private meeting, he informed her that his work environment was becoming

increasingly unfriendly to men and that his own supervisor had become openly hostile to him. Jones was terminated against his will from the company two days later. He was replaced by a female project manager with much less experience. Jones was offered a severance package similar to those received by the other dismissed managers. Your firm has been retained to file suit based on sex discrimination.

33. Your attorney is representing Carl and Rebecca Sandstone, who are suing the Lincoln County School Board for sexual harassment. A teacher in the school district, Elena Vixen, seduced Harry, your clients' son. The board had moved Elena to the school after receiving complaints about her conduct at a previous school. Those complaints included charges of flirtation and after-hours contact with students. Your research will involve whether the school board is liable for the sexual harassment by the teacher.
34. Your client, Sally Corbett, is suing the city in your jurisdiction. Corbett received severe injuries when a city police officer lost control of his vehicle while involved in a high-speed chase and crashed into Sally's car. Sally has learned that a standard blood analysis of Officer Relton, the driver, showed that he was impaired by prescription medication at the time of the crash. The suit states that the city and officer are liable for damages, since the impairment of the officer voids any immunity.
35. Your client, Janet Fogerty, is suing Bilton Hotels. While drying her hair, she received a severe electrical shock, causing burns and permanent loss of feeling in her left hand. She is suing for negligence, claiming that, by placing the dryer too close to the sink, Bilton Hotels created a hazardous condition.
36. Your client is suing the Choo Choo Railroad Company. In a small town outside the city, the railroad track crosses the road. At that point, the land is on private property, with Choo Choo responsible for the crossing gate. The gate hadn't worked for two weeks when your client, Sidney Shore, got stuck between trucks with his car partly on the track. Sidney was able to get out of the car, but the automobile was destroyed. His suit faults the company for failure to properly maintain the gate.
37. Your clients, Cheryl and Benny Knight, are suing David Banford, M.D., an urological surgeon. Two years ago, the surgeon performed a vasectomy on Benny. Seven months later, Benny's wife, Cheryl,



became pregnant. She eventually gave birth to a baby girl, Jeannette, who suffers from cerebral palsy. Benny and Cheryl are suing the surgeon for the wrongful birth of Jeannette, asking for the costs of raising the child to the age of 22. The couple is particularly concerned about recovering the costs they will incur for Jeannette's medical expenses, including long-term care.

38. Your client, Carlos Beele, is suing the Magnolia Flower Company. Henrietta Jansen, a delivery driver for the florist, ran a red light and crashed into Carlos, causing severe injuries and totaling the car. The flower company admits that Henrietta was performing a job-related task, but claims that "running a red light" did not fall under the scope of Henrietta's employment. You are suing the florist for the negligence of the driver.
39. Your client, Janet Smith, took her car to a local dealership to have the brakes replaced. Janet left her car to be serviced by the dealership, intending to pick it up the next morning. When she arrived the next morning, the dealership could not find her car. After 30 minutes, the dealership found the car, but it had been wrecked by a subcontractor of the dealer. The auto dealer refused to help Janet, telling her to make a claim against her insurance company. Janet did not want to file a claim on her insurance because within two weeks of the accident, she would have been entitled to receive a good-driver rebate of \$1,500. In addition, she did not feel that she should be responsible for the \$250 deductible due under the terms of her insurance, or any increases in her premiums due to the accident. However, because the dealer was uncooperative, Janet did file a claim with her insurance company because she needed to replace her car. However, she would like to file a complaint against the dealership to recover her out-of-pocket losses (the good-driver discount, the deductible, premium increases, etc.). In researching this issue, Janet has asked our office to determine whether she would be entitled to damages for emotional distress and/or punitive damages against the dealer.
40. Your client, Georgia Templar, is suing Super Store Super Market. Georgia was shopping on a Monday afternoon about four months ago when she slipped on a wet spot on the floor caused by a vegetable water-spraying system. The store did place a sign warning of the danger about 30 minutes before the accident, but by the time Georgia slipped, the water had spread beyond the sign. Georgia claims that from where she slipped, the warning sign could not be seen. You are suing the store on your client's behalf for negligence.

### § 1.3 MAINTAINING YOUR CLIENT'S FILE

As mentioned previously, it is highly recommended that students purchase a classification file (if not provided by your program) to create and maintain a file for their clients. Keep all materials, including notes, prepared documents, and copies of relevant cases and statutes in the appropriate panels of the file. Consider purchasing the following:

- *a legal-size classification file with two inserts and six panels; they usually come in packets of five so one packet will serve several students*
- *expandable files, which may be found at most office supply stores (not required)*
- *a two-hole punch (very helpful)*
- *if purchasing your own folder, also purchase small labels for naming each*



While every law firm has its own system of file maintenance, there are some general guidelines.

Most law firms use either standard legal files with panels for the various documents, or expandable files in which individual folders contain the various documents. Some firms even use a combination of traditional legal files and expandable files. The most common file is the classification file or folder. Some have only one insert, which results in four panels.

The more common classification file used by law firms has two inserts, resulting in six panels, each with a two-pronged bracket at the top. While the form and organizational order may vary, most arrange the material within the files into the same elements. Each element is organized in its own panel of the file.



The following panels typically make up the client file:

**Panel 1. Correspondence**

Letters, copies of faxes, and copies of emails should be collected as a group under correspondence. Attempt to organize it by date, with the older correspondence on the bottom so new material can simply be added on top. Most firms do not use indexes for correspondence, but it is a good idea to do so, since an index allows for instant access to materials and acts as a document inventory.

**Panel 2. Instruments**

This panel is for contracts, wills, leases, titles, and other such material. Never punch holes or staple original documents. Consider using a hanging pocket to hold the documents. Create a hanging pocket with a 9 x 12 inch envelope. Leaving the top flap open, create a two-hole punch, then insert the envelope in the Instruments panel of the file.

**Panel 3. Work Product**

This panel is for material created as part of the litigation process, such as handwritten and typed notes, messages, internal office memoranda, etc.

**Panel 4. Exhibits**

Exhibits are materials that will be presented to the court. Never punch holes in exhibits. Use a hanging pocket, as described in the discussion of the Instruments panel above. Exhibits that are too large to be kept in the client file should be maintained in a separate expandable folder or other appropriate location, with a reference to that location in the client file.

**Panel 5. Pleadings**

Collect all pleadings, motions, orders, proposed orders, and anything else filed with the court in this panel of the file. Keep a comprehensive pleading index.

**Panel 6. Discovery**

Collect all discovery requests and responses in this section. An index is critical. You may also want to include sign-in and sign-out sheets for documents taken from the file. This can be helpful for both the pleadings and discovery sections when several attorneys and paralegals are working on a file.

**Sample Client Numbers**

Client Number 08-011.034

*In the above example:*

**08-** is the year.

**011** is the client number assigned by the firm.

**.034** is the matter number. For instance, this would appear to be the 34th matter the firm has handled for Client 011.

**Assignment § 1.3(a) | Client Number**

Choose one of the following client numbers, or select your own.

*Client Number 11-134.001*

*Client Number 99-285.001*

*Client Number 07-179.001*

Write your client number below:

\_\_\_\_\_

**Organizational Hints for Files**

*Use an index as often as possible.*

Write the document index number on the bottom corner of each document (in pencil), use numbered separators, or attach numbered tags to the documents.

*Keep the file up-to-date.*

File and index all materials as soon as they are created or received to avoid loss, removing them only when you are ready to turn them in for grading.

*Use pencils, not ink*

If writing on a document, do so only in pencil.

*Do not alter or mutilate*

Never write on an exhibit or instrument, either in pen or pencil. If a notation is needed, use a sticky note attached to the exhibit.

*Where is that document?*

The goal of the client file is to make materials easy to access.

**Assignment § 1.3(b) | Maintaining Your Client's File**

Using the above guidelines create and maintain a client file. Students are expected to insert returned written assignments into the file and to keep up each index where appropriate. Students will turn in their client file at the end of the program for review.

When applying for jobs, students should take the file with them to interviews. (It is recommended that students reprint assignments with suggested corrections and no grades.) The file will act as a "portfolio" demonstrating acquired skills. *This is an ongoing assignment for the remainder of the program.*

## § 1.4 TRACKING BILLABLE HOURS

One of the keys to a successful paralegal career is being able to account for a large number of billable hours each month. One of the authors of this manual had a special desk plaque made. The side facing visitors gave the author's name and title. The reverse side read, "Is what you're doing now billable?"

### **Why are Billable Hours Important to the Attorney?**

Attorneys want their paralegals to bill as many hours as ethically possible. The more hours the paralegal bills, the more money the attorney brings in for the firm. After considering salary, office space and benefits, the average attorney may make a higher profit from a paralegal's billable hours than from his or her own billable hours.

### **Why are Billable Hours Important to the Paralegal?**

Paralegals who average many billable hours have control over their own careers. Attorneys make significant profit on such paralegals and are willing to pay to keep them.

### **What are an Average Number of Billable Hours per month?**

Some paralegals (those who work for government agencies or courts, for example) don't bill at all. Some are expected to bill many hours. The average paralegal bills between 120 to 140 hours per month with 20 of those hours being administrative hours, meaning the client cannot be charged for them. Never "pad" (which means to falsely increase) your billable hours. Doing so is unethical.

### **Assignment § 1.4 | Using Time Sheets**

Students are expected to keep track of the hours they spend outside of class on research and writing assignments related to their assigned "clients." For instance, in a forthcoming chapter, students will prepare an interoffice memorandum. Every time you work on the assignment be sure to keep track of your time and log that time on a time sheet. Students may copy the following example of a Time Sheet or download a form from the Web site associated with this manual.

Students will turn in their client file toward the end of the program for review.

*This is an ongoing assignment for the remainder of the program.*

**Essential Skills for Paralegals: Volume I**

**Diagram § 1.4(a)** | Example of a completed time sheet

<b>Date</b>	<b>Client Name</b>	<b>Client No.</b>	<b>Description of Matter</b>	<b>Hours</b>
1/17/11	<i>Admin.</i>	11-111.111	<i>Updated Time Matters database. Reviewed files</i>	0 . 6
1/17/11	<i>Smith, Abe</i>	04-623.001	<i>Met with attorney about client. Set up client file.</i>	0 . 5
1/17/11	<i>Toller, S.</i>	99-164.004	<i>Left client message to set up settlement conference.</i>	0 . 1
1/17/11	<i>Akins, P</i>	01-418.021	<i>Started work on summary of Phil Wilson's deposition, witness to alleged incident.</i>	1 . 3
1/17/11	<i>Toller, S.</i>	99-164.0	<i>Client returned call. Discussed settlement conf.</i>	0 . 2
1/17/11	<i>Smith, Abe</i>	04-623.001	<i>Phoned client to introduce myself. Client informed me of case facts. Set meeting date.</i>	0 . 4
1/17/11	<i>Foyer, Scott</i>	02-328.001	<i>Client called re: status of settlement payment.</i>	0 . 2
1/17/11	<i>Smith, Abe</i>	04-623.001	<i>At attorney's instruction, conducted initial legal research in law library.</i>	1 . 6
1/17/11	<i>Powers, E.</i>	03-269.002	<i>Revised complaint after attorney's revisions. Arranged for service with Process Server.</i>	1 . 3
1/17/11	<i>Foyer, Scott</i>	02-328.001	<i>Conferred with attorney re: settlement. Called client back to update as to status.</i>	0 . 3
1/17/11	<i>Saunders, B.</i>	04-191.001	<i>Drafted letter to Client regarding status of case and requesting additional retainer funds.</i>	0 . 4
1/17/11	<i>Hansen, Roy</i>	03-047.001	<i>Reviewed documents previously researched. Prepared interrogatories for opposing party</i>	1 . 8
1/17/11	<i>Admin.</i>	11-111-111	<i>Organized time sheets. Updated JTA's calendar.</i>	0 . 3

Diagram § 1.4(b) | Example of a blank time sheet

Date	Client Name	Client No.	Description of Matter	Hours
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## CHAPTER 1 WRAP-UP

### WHAT YOU SHOULD KNOW...

After reading this chapter you should know the following:

- Your client
- The basic structure of a client file
- The panels that make up a client file
- The definition and purpose of billable hours
- How to keep track of billable hours

### ASSIGNMENTS

For this chapter you will be required to complete the following (unless otherwise instructed):

**Assignment § 1.2** Due Date:   /   /  
*Choose or be assigned a client upon whom your research assignments and written assignments will be based*

**Assignment § 1.3** Due Date:   /   /  
*You should maintain your client's file throughout the program keeping all written assignments in appropriate panels*

**Assignment § 1.4** Due Date:   /   /  
*Keep track of your billable hours when working on research or writing assignments related to your client*