

# **Protecting Your Lawyer A Guide Every Paralegal Should Not Be Without**

by

**Jeffrey Owen Anderson  
Abby Michelle Schroeder  
John Thomas Wilson  
Lesley C. McCally**

## **Introduction**

The legal field is a high stakes, highly competitive and highly stressful profession. It is extremely important for one to know the correct techniques to empower you to help make your law office one of the best it can be. Sure, it takes a great attorney with a good reputation who appeals to clients, but it is often the “behind the scenes” hard working paralegals who function to maintain the reputation an attorney has worked to create. The paralegal is the unsung hero of many, many well fought legal cases. When preparing this guide, we enlisted the help of experienced and highly regarded paralegals who work in fast paced and high profile firms. With their help, we have compiled a series of “got to know” checklists which have served them well throughout the years. These checklists follow at the end of this paper.

## **Honesty, Honesty, Honesty**

Honesty and integrity are of utmost importance in the ever growing legal profession. Clients have many different options when choosing a firm to represent them. As a paralegal, it is up to you to uphold the integrity of the firm. You must

be up-front and honest with the clients and do not make promises you or your lawyer can not keep. Though it may not seem like it at first, client’s do truly appreciate honesty in the long run. Be forthright with everyone; strive to reduce any ambiguity in your words as some clients are prone to misconstrue even the simplest of phrases in order to color their case in a more favorable light.

If you make a mistake, like a forgotten or unscheduled appointment or hearing, while performing your duties as a paralegal, simply admit to it and discuss with your attorney about how to solve the problem. We all know that accidents happen, but don’t let yourself or the attorney get involved in the blame game. Simply solve the problem and move forward. Regardless of who’s at fault, the final blame always rests with the attorney in the long run. Furthermore, if your attorney asks you to do something which is not ethical, hold him to same the standard as he demands of you.

Don’t be intimidated into making a bad decision simply to protect your lawyer. Everyone is human and your attorney will understand when you make a mistake. What the attorney and the clients will not understand is why you did

---

JEFFREY O. ANDERSON

Anderson, Anderson & Anderson, P.C.

Page 1-1

not promptly tell her. Many errors can be corrected if promptly discovered and/or disclosed.

It is also important to remember that you are not able to give out legal advice. Only attorneys can give out legal advice to clients. This may be frustrating at times because of your knowledge of a specific case or the law, but it is so important in the long run to allow the attorney do all the talking.

### **Managing the Docket**

If your attorney does not have a docketing system or keeps his calendar in his head, you may want to send us your resume. An attorney that does not have an adequate calendaring system for court deadlines and other deliverables is destined to be client less, suspended or, worse case, disbarred from the practice of law. Make sure that your attorney has and maintains a docket calendar, and that everything is kept current.

When using a calendar be consistent and clear. A calendar is of no use to other members of the firm if the docketing is too cryptic for each and every firm member to follow. If your firm does not have standards for keeping a calendar, you may want to consider creating some. A typical calendar entry for a docket would be “[*Type of Hearing*] [*Client*] [*Court#*] [*Cause*] [*Time*] [*County*]” For instance a good calendar reference for a Motion to Enter or a Motion to Enforce would be the following: “MTEnt: Jolea; 255-8119427-S: 2 PM Dallas” and “MTEnf: Pitt; 158;2005-20814-158: 9 AM Denton.” For appointments which do not occur in court, make sure to docket

the physical address of the meeting or mediation, etc. A good practice is to review the calendar with your attorney no less than weekly, particularly to make sure the attorney is not scheduling appointments by himself either on or off the calendar. As we all know, that can be dangerous as time management was not a class in law school.

Make sure that you keep up with all discovery deadlines. We all know that discovery can be long, tiring, and even painful at times, but it is much worse (and sometimes downright fatal to a case) if you miss a production deadline. You should be vigilant for all types of deadlines: those imposed by the Rules of Evidence; those imposed by the Court; and those agreed to by the parties and their respective counsels. You should also set up periodic meetings with the members of your office who are working on the case including the attorney and any other paralegals. Work with your attorney to assign parts of the case to colleagues which can complete any additional work needed by the designated deadlines.

In our firm we have found it extremely helpful to color code calendars. This can be helpful if you have numerous attorneys practicing in the same office. It is also helpful to have different color codes for different types of appointments, i.e. new clients, pre-trial hearings, etc. Although not a professional legal docketing package, Microsoft Outlook is great for this.

## **Organization Your File**

It is extremely important to keep all filing current and not stashed in an in-box on your desk. Make a copy of what comes in the door and place it on your attorney's desk for review. Unless she's asked for them, do not give originals to your attorney. The originals should be promptly placed in the file, along with all fax confirmation sheets, certified mail receipts, hand delivery receipts or any other confirmation document denoting how and when the document was sent or received. A copy should be promptly sent to the client.

Nobody needs to tell you that discovery is the heart of every case. Clearly organize and separate production, disclosures and admissions into two separated binders: One for Petitioner, One for Respondent. Keep all discovery accessible and in a manner capable of easily being updated as deadlines require.

Setup your expert files, and remember that your experts designated at least ninety (120) days before trial. Remember, there are different supplementation deadlines for experts versus lay witnesses. Don't get caught thinking you can supplement an expert thirty (30) days before trial. Your expert files should include the experts notes, CV's, correspondence and other research associated with that expert. If your expert has been deposed, and for depositions in general, keep the original deposition transcript together with any correction pages. You should prepare a summary of the deposition to aid in later review.

Setup your other witness files in a similar manner.

Its easy to become overwhelmed by the amount documentation which flows through a law office. If you keep up with it, your life will be easier and your attorney will do anything to keep you happy!

## **Pre-Trial Organization**

Along with mastering your docket and organizing the file, one needs to master the case. A good trial for the most part is directly related to the level of organization and preparation of the case. If you've managed your docket correctly, all of your deadlines for entering witnesses, exhibits, etc. are in compliance with the Texas Rule of Civil Procedure. The only thing to do is to create trial notebooks consisting of the following:

1. Witness Testimony;
2. Live Pleadings, Subpoenas and Other Issues before the Court;
3. Exhibits Lists (which may be behind the Witness Testimony if not too voluminous);
4. Discovery Notebook (although this should have already been redacted as a part of the Exhibits to be used with Witness Testimony); and
5. Charts & PowerPoint or other forms of presentations.

All of the above should be filed in reverse date order so you can access the most recent information. If you have not been keeping a pleadings index during the case, you should also prepare a pleading index and exhibit index to be kept in the front of trial notebooks. This is simply a short index of what is already in the notebooks.

It is a good trial tactic to compile a witness list, not only for your side but for the opposing side as well. Within this list for each witness you should include whether or not the witness is an expert, their full name, their address, phone number, the date they were added as a witness to this case, how they were added, and a brief description as to what they will testify.

Throughout this entire process of organizing the client file, you should be in search of the “killer” opening and closing statements, full of facts and catchy phrases. Because you’ve diligently organized the case you and you alone are now in the best position to help your attorney form a complete theory of the case right down to his opening and closing statements. So, if a catchy phrase strikes you that is exceptionally relevant to the case, jot it down and make a note of it. Your attorney will appreciate the value you bring to a case.

### **Trial Preparation**

Trial preparation can be absolutely overwhelming. We’ve provided a check list that while not exhaustive is representative of this daunting task. If you’ve prepared and organized your case

well, trial prep should be less daunting and, just perhaps, a little fun.

While a complete analysis of trial organization is beyond the scope of this paper, If you’ve organized your material along the way, you and your attorney can prepare a good trial script and readily index your discovery into a manageable list of items to be integrated for use at trial.

Good Organization will leave more time for your attorney to create the “killer” opening and closing sufficient to sway any jury.

### **Proof, Proof, Proof**

Whether it is billings, pleadings, discovery or simple letters you should thoroughly proof such materials. Strive to use correct grammar and minimize typographical errors in your documents. No one is perfect, but you must read what you have created. Not only does proofing avoid embarrassment, but it can avoid mistakes which can be fatal to a case if they are false, misleading or just plain wrong. Always present your documents to your attorney and have him look them over before forwarding beyond the four walls of the office.

Furthermore, don’t take your attorney’s word on his billing entries; each paralegal should double check time and entrees. This will avoid inadvertently double billing clients. Good techniques here can avoid the embarrassment of explaining to a client why he was overcharged or charged for work that was not done. Fair and accurate billing is the cornerstone of every successful firm.

## **Conflicts of Interest and Ethical Walls**

From time to time, as new paralegals are hired it is possible for the firm to run into potential conflicts of interest. If a paralegal has reason to suspect a conflict may exist between her prior employment and a case she is being asked to handle, she should report it to her attorney immediately. These conflicts especially arise in cases where the paralegal is hired on a contract by contract basis.

If an actual conflict is deemed to exist by an attorney who is in charge of the case, it is important that the firm erect an "ethical wall" (also called a "Chinese wall") to insulate the legal assistant, attorney and client from potential ethical complaints. This is not a physical wall, just an informational barrier. The ethical wall should at a minimum consist of the following internal procedures:

1. Never discuss the case in the presence of the paralegal;
2. Never allow the conflicted paralegal access to any documents (one should consider securing the files under lock and key to prevent accidental breach of the wall);
3. Notify the client of the potential conflict and what has been done to prevent an ethics breach;
4. Notify opposing counsel; and
5. Instruct the paralegal and the

client not to talk with each other regarding the case.

Too often it is the client who is eager to break down the ethics wall hoping to perform some discovery on his ex-wife's former paralegal. Be careful. Be careful. Be careful.

## **You've Got The Skill, But Do You Have The Presence?**

Unless you are already famous or a member of the Supreme Court with life tenure, let's face reality on this next issue: you are a reflection of the attorney you work for (and vice versa, your attorney is a reflection of you.) You can be skilled, talented, creative, but if your dress is inappropriate then your attorney, the client, opposing counsel and the judge may, and often will, form a negative opinion of you from the start. Furthermore, you never know at what time of the day someone important may come strolling into your office. It is always safer to be prepared and dressed professionally than to explain why you are not. Don't let your guard down on your presence as it could affect your career!

Like physical presence, your emotional presence can effect your work. Due to the fact we are all involved in a fast pace legal career, one that takes other peoples lives and well being into our hands daily, it is not only important to look good but to also privately manage your personal life outside the client's view. Leave your personal life at home. The gravity of this technique may not be fully appreciated at first, but if you accept the fact we are all emotional creatures,

subject to the same life stressors as everyone else, then it will. We are neither perfect nor infallible people; however, we are hired by people who want us to be (and to some extent think we are) perfect and infallible. Even though they may ask, our clients really don't want to hear about our personal lives or any particular crisis we may be having at the moment. For better or for worse, we lose credibility with the client when our personal lives "appear" to impact our performance. This credibility is lost the moment your personal problem raises the client's fears of case failure and/or legal abandonment. The client is not your friend, he is your ward.

Lastly, along with keeping personal issues to yourself, you should never, never, never discuss a case in the presence of third parties without the approval of your attorney – even if that third party is a retained expert in support of the case. If at all possible, discuss cases behind close doors and not at local watering holes after a few drinks. We are bound by a code of ethics; such code includes client confidentiality and there is no exception for lack of sobriety.

### **Jerry McGuire Your Case (A/K/A Show Me The Money!)**

Some of you may remember the movie *Jerry McGuire* where Tom Cruise played a Sports Attorney. One of the most memorable scenes was of Tom screaming "Show Me The Money" into a telephone in order to retain his one and only remaining semi-washed up aging client-player Rod Tidwell, played by Cuba Gooding, Jr. While we don't advocate screaming to clients, unless requested to

do so like Rod did to Jerry, we do advocate actively helping your attorney know the status of the client's billing and payment history. Paralegals who have access to the firm billing records, should keep themselves reasonably informed as to how the client is or is not paying their account. When the client is more than thirty days behind in payment, bring it promptly to the attention of the attorney in charge.

While no attorney should ask you to become a bill collector on a day to day basis, simple knowledge of the bills can help you prevent your attorney from getting to trial day with a zero retainer balance. The attorney who can timely withdraw from a non-paying client's case will eternally thank you for your vigilance; so, remember the simple motto: "Show [Insert Your Attorney's Name Here] the Money!"

### **Closing**

A law office can often seem like a whirlwind of e-mails, appointments, conference calls, and minor emergencies. As we stated in the beginning, it is often the "behind the scenes" hard working Paralegals who are the backbone of a great firm. Whether it be receiving mail, reviewing bills, organizing pleadings, or preparing for the all out war of a jury trial, attorneys need you to create order from seeming chaos. A firm cannot function without you.

The checklists provided at the end of this paper were created by very knowledgeable and well seasoned Paralegals who know how to protect their attorneys. If you follow the checklists,

and add to it from time to time as your skills develop, you will remain invaluable to your firm.

\*\*\*\*\*

---

**JEFFREY O. ANDERSON**

Anderson, Anderson & Anderson, P.C.

Page 7-7

16610 Dallas Parkway, Suite 1600  
Dallas, Texas 75248

TexasDivorceLaw.com

(Phone) 972-248-8383; (Fax) 972-248-0492

[Jeff@TexasDivorceLaw.com](mailto:Jeff@TexasDivorceLaw.com)

---

## **CHECK LIST** **MANAGING THE DOCKET**

---

A law office can often seem like a whirlwind of e-mail, appointments, conference calls, and minor emergencies - one of your main responsibilities is setting up appointments, meetings, and events. The following information can assist you in maintaining and coordinating schedules for court appointments, client meetings, personal appointments and other events more efficiently.

### **CALENDAR:**

#### **1. MAKE SURE THAT EVERYTHING IS ON THE CALENDAR.**

- a. Trials
  - i. Specify the case name
  - ii. Court number and county
  - iii. Jury or non jury
  - iv. Length of trial
  
- b. Mediations
  - i. Specify the case name
  - ii. Location
  - iii. Phone number
  
- c. Hearings
  - i. Specify the case name
  - ii. Court number and county
  - iii. Type of hearing
  - iv. Time of hearing
  
- d. Appointments
  - i. Specify the name of client
  - ii. Address
  - iii. Phone number
  - iv. Type of case - i.e. divorce, modification, enforcement etc
  
- e. Phone calls
  
- f. Continuing Legal Education
  - i. Specify location of CLE

- ii. Duration of CLE
  - g. Seminars
    - i. Specify location of Seminar
    - ii. Duration of Seminar
  - h. Vacations, etc
  - i. Deadlines
    - i. Be certain to calendar all deadlines
    - ii. Depending upon the complexity of the deadline or task, schedule a reminder(s) for the deadline prior to the actual due date
    - iii. Specify if there are other tasks to be completed prior to the completion of the deadline date
    - iv. Remind your attorney or team member of the upcoming deadline date
2. When using a calendar be consistent. Whether it is the location of the calendar or the organizational method that you chose that works for both you and your attorney.
  3. If your attorney keeps a computer calendar and a physical hard calendar, blackberry, trio, or any other means of scheduling appointments without your knowledge, be certain that you update each calendar on a daily basis to prevent any conflicting appointments and/or hearings.
  4. Be certain that you review the calendar with your attorney on at least a weekly basis to make sure the attorney is not scheduling appointments by himself.
  5. Depending upon your Firm's needs, it may be a good idea to keep separate calendars such as the entire Firm's trial settings; attorneys' vacations etc.

It helps your attorney avoid time crunches if you assist in the preparation of appropriate responses to pleadings in a timely fashion. Always ask your attorney to set deadlines for your projects.

It saves you both time and sanity if, when your attorney is unavailable, you organize your lawyer's missed phone calls from the clients with detailed information. Your attorney will appreciate this on his return to the office.

I know we have touched upon the docket system but I can not stress enough the importance of docketing ALL cases.

---

**CHECK LIST - KNOW YOUR CASE**  
**PRE-TRIAL ORGANIZATION**

---

**1. WITNESSES:**

- a. Make a comprehensive witness list including:
- i. Name of witness
  - ii. Address of witness
  - iii. Phone number of witness
  - iv. Type of witness
    - (1) Fact
    - (2) Expert
    - (3) Rebuttal
  - v. Description of the witness testimony
    - (1) client's interpretation of what their testimony will be
    - (2) Topic areas for cross examination
  - vi. Relationship of witness
    - (1) Petitioner's parent
    - (2) Respondent's friend, etc.
  - vii. How the witness was listed
  - viii. Who listed the witness
  - ix. Where the witness was listed, i.e.
    - (1) Petitioner's 1<sup>st</sup> Response to Request for Disclosure
    - (2) Respondent's 2<sup>nd</sup> Supplemental Response to Request for Disclosure
  - x. Date the witness was listed
  - xi. Date of witness interview
  - xii. Witness summary completed
  - xiii. If applicable, the deposition date of the witness

- xiv. How the witness will testify at trial
  - (1) Direct
  - (2) Cross
- xv. Has the witness been subpoenaed
- xvi. List of documents you will be entering into evidence for that witness
- xvii. Order of witness (if possible)
- xviii. Time allocated for witness testimony at trial

---

## **CHECK LIST - KNOW YOUR DOCUMENTS** **PRE-TRIAL ORGANIZATION**

---

### **1. DOCUMENTS/PRODUCTION:**

- a. Organize all production
  - i. Your client's production
  - ii. Opposing party's production
  
- b. Bates stamp number all documents
  - i. Identify your documents by first using the initials of each client, i.e.:
    - (1) John Smith JS-001
    - (2) Susan Smith SS-001
  
- c. Create two indexes
  - i. One for your client
  - ii. One for the opposing party
  
- d. Index your documents
  - i. Spreadsheet
  - ii. Summation or other scanning indexing software
  
- e. Some examples of columns to include when creating your own spreadsheet
  - i. Bates stamp number
  - ii. Description of Document
  - iii. Date of document
  - iv. Account number, if applicable
  - v. Date the document was produced
  - vi. How the document was produced; i.e.
    - (1) Respondent's 1<sup>st</sup> Response to Request for Production - abbreviate for example - R1<sup>st</sup>RRFP, etc
      - (a) Hand delivered to Joe Smith
      - (b) Certified Mail
      - (c) Facsimile (214) 123-4567
  - vii. Category of document, i.e.
    - (1) Financial
      - (a) Bank Accounts, etc.
    - (2) Legal Documents
      - (a) Articles of Incorporation, etc.
    - (3) Taxes
      - (a) 1040, etc. and so on...

## 2. **ORGANIZE YOUR FILE - REGARDLESS OF THE SIZE OF YOUR CASE...**

- a. Keep all filing current, for example...
  - i. Index your pleadings
    - (1) Be certain that you have complete, file-marked copies of pleadings
    - (2) Proof of service
  - ii. File correspondence in date order
    - (1) Be certain to include proof of service
      - (a) Fax confirmation sheet
      - (b) Certified Mail
      - (c) Hand delivery Slips
      - (d) Federal Express confirmation
  - iii. Set-up expert files
    - (1) Including any expert reports
    - (2) CV's
    - (3) Correspondence
    - (4) Research, etc.
  - iv. Be certain that you have the original deposition transcripts together with any correction pages
    - (1) Deposition summary
  - v. Be certain all business records affidavits are in your possession and all notice of filing of business records have been timely filed.
  - vi. Discovery
    - (1) Petitioner
      - (a) Interrogatories
      - (b) Production
      - (c) Disclosure
      - (d) Admissions
    - (2) Respondent
      - (a) Interrogatories
      - (b) Production
      - (c) Disclosure
      - (d) Admissions
  - vii. Inventories
    - (1) Petitioner
    - (2) Respondent
    - (3) Comparison of inventories

- viii. Witness Files
  - (1) Witness Information
  - (2) Witness Summary
  - (3) Q&A
  - (4) Exhibits
    - (a) Property
    - (b) Custody
  - (5) Subpoenas
  
- ix. Attorney Fees
  - (1) Employment contract
  - (2) Redacted billing statements
  - (3) CV
  - (4) Summary of fees and costs

---

## **CHECK LIST** **TRIAL ORGANIZATION**

---

1. **TRIAL:**
  - a. Jury:
    - i. Pre-trial motions:
      - (1) Motion in Limine
      - (2) Motion to Equalize Strikes
    - ii. Voir Dire
      - (1) Case description
      - (2) Jury Questionnaire Summary
      - (3) Juror information cards
      - (4) Seating chart
    - iii. Opening Statement
      - (1) If presenting a Power Point presentation, check with the Court to see what type of equipment is available
    - iv. Exhibit Lists - pre-label all exhibits
      - (1) Petitioner
        - (a) Name of witness
        - (b) Exhibit Number
        - (c) Description of exhibit
        - (d) Offered
        - (e) Admitted
      - (2) Respondent
        - (a) Name of witness
        - (b) Exhibit Number
        - (c) Description of exhibit
        - (d) Offered
        - (e) Admitted
    - v. Witness Lists
      - (1) Petitioner
        - (a) Direct examination questions
      - (2) Respondent
        - (a) Cross examination questions
    - vi. Closing Argument

- vii. Charge
  - (1) Petitioner's proposed charge
  - (2) Respondent's proposed charge
  - (3) Charge of the Court
  - (4) Objections

2. Other important tidbits:

- a. Rule books
- b. Research
- c. Supporting briefs
- d. Take supplies:
  - i. Legal Pad
  - ii. Pens and pencils
  - iii. Highlighter
  - iv. Stapler
  - v. Staple puller
  - vi. Exhibits Labels, etc
  - vii. Aspirin
  - viii. Energy bars
  - ix. Cash, etc
- e. Telephone (turned off)
- f. Computer equipment, if applicable
- g. Extension cords
- h. Projector etc
- i. Easel
- j. Overhead exhibits including time-lines
- k. List of witnesses you have subpoenaed
  - i. Name
  - ii. Addresses
  - iii. Phone number
- l. The entire file