



Indispensable PARTY

Paralegals in condemnation



“Paralegal” means a person who holds himself or herself out to be a paralegal, who is qualified by education, training, or work experience, who either contracts with or is employed by an attorney, law firm, corporation, governmental agency, or other entity, and who performs substantial legal work under the direction and supervision of an active member of the State Bar of California... California Business and Professions Code (BPC) § 6450, et seq.

BY MICHAEL F. YOSHIBA, ESQ.

Paralegals are an integral part of the modern practice of eminent domain law and condemnation matters. They play a key role in condemnation litigation working with attorneys to prepare cases before, during and after trials.

History

The paralegal profession evolved through necessity and the need for efficiency and access to the law. In 1968, the American Bar Association (ABA), a national organization of lawyers and law professionals, created a committee to explore ways on how non-lawyers could be trained to help persons needing legal assistance but without the means or formal access to legal advice from lawyers. In the few years following, these persons became known as “legal assistants,” a term that the ABA formally adopted. The National Federation of Paralegal Associations was founded in 1974, and the ABA established guidelines for the paralegal training and curriculum. Law firms soon thereafter started to train administrative staff to do routine operations under the guidance of licensed attorneys.



In 2004, the term “paralegal” was officially defined in BPC Code § 6450, et seq., describing permissible and impermissible paralegal duties. It also created the mandatory continuing legal education requirements that were once only designated for attorneys. Today, paralegals ably assist with condemnation litigation under the direct supervision of a licensed lawyer.

Pre-trial

While there is no set job description, paralegals routinely perform legal research, locate and interview potential witnesses, conduct witness interviews and maintain contact with clients. They prepare initial drafts of legal documents, pleadings and routine correspondence. Conducting and organizing investigations, documenting searches and summarizing discovery are also regular parts of the paralegal job responsibilities.

In condemnation matters, paralegals assist with specialized tasks such as ordering preliminary title reports and litigation guarantees that identify the most current ownership information for proper service of the appropriate parties. They coordinate and track service of the court documents for the parties to the condemnation lawsuit, an essential job especially in large multi-parcel projects. Paralegals help prepare the discovery requests to opposing parties, organizing the requests and then monitoring the replies for later use at hearing or trial. This saves time and expenses that might otherwise be charged to the clients at much higher rates.

Traditionally, documentary evidence was identified, selected, assembled and then copied and placed into exhibit binders and left with the trial court clerk. At least five sets of documents were needed for use by the trial court and parties. Recently, courts have all but eliminated the use of hard copies in the courtroom and require the parties to submit all evidence on electronic medium. Familiarity with computers, different operating systems and the various storage mediums to gather, identify and present evidence through documents and deposition testimony is essential. Courts have increasingly insisted that any party to a lawsuit justify the prospective use of actual documents and exhibits at trial or hearing instead of displaying them electronically. Paralegals assist attorneys in preparing exhibits in the court required presentation format, most typically an all-inclusive PDF file. PDF files can be extremely large and are not readily transmissible through the internet portals. In these instances, paralegals work directly with the court clerks for submission of information via flash drives or hard drives.

Trial

Presentation of trial testimony from remote locations is a labor- intensive and time-consuming task that fall within the purview of a paralegal assignment. They work with the attorneys and court reporter services to verify that both sides of the transmission can be heard and seen. Paralegals are tasked to assure that witnesses in remote locations have access to and can view the same electronic exhibits that are being displayed to the parties and in the courtroom.

Often during the midst of a trial one party cites to an appellate court legal authority, raising questions concerning the applicability of the case to the matter at hand. Through the direction of the attorney, paralegals will locate relevant legal authorities and contrary appellate opinions. On occasion, the paralegal will provide a summary of legal authorities helping the attorney to narrow the focus to the most relevant information.

Most trials involve multiple witnesses being asked to be ready and available to testify without knowing exactly when they may be needed. Trial judges demand that there always be a witness ready to testify to minimize the imposition on the court and jury. Trial attorneys are solely focused on the events taking place directly in the courtroom. In our most recent court trial, the paralegal kept tabs on the scheduled witnesses and their availability with a day’s notice. Otherwise, all witnesses, e.g., in a five-day jury trial, would be required to be in the courthouse for the entire five days to satisfy the court’s requirement of witness availability.

At our recent trial, the paralegal was asked to assist the attorneys with presentation of the exhibits in the courtroom for each witness and from seven different remote locations. He also worked in conjunction with our technology consultant to create demonstrative exhibits that highlighted areas of the documents and photographs for special emphasis.

Final Thoughts

By law, paralegal work must be under the direction of attorneys, but their work in condemnation matters is no less important than that of the lawyers’ and cannot be understated. I’ve highlighted only a fraction of the assignments perform by paralegals. They perform substantial legal work under the direction and supervision of attorneys and are truly indispensable part of the legal team in eminent domain and condemnation cases. 🌟



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