

The California Family Law Paralegal

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SECOND EDITION

Dianna L. Noyes

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This book is dedicated to my parents
without whom my education and quest for knowledge
would not have been possible. The desire to teach
and share the knowledge and skills that I have developed
would still be filed away without them.

I also want to thank my fellow paralegals
for their help and encouragement as well as the many students
I have taught over the years who have served as my Petri dish.
There are many others, attorney, educators, friends, and mentors—
too numerous to mention—who have helped and encouraged me
throughout the years as a paralegal, educator, and now author.

And last, but far from least, I am blessed to have two best friends
who have seen me through good and hard times.
Their strength, wisdom, generosity and encouragement are ...
on the ledger.

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Preface

Family law is probably the most diverse of all practice areas. It is also one of the most emotional, personal and volatile areas of law. Family law also requires a basic knowledge of other areas of law such as real estate, bankruptcy, personal injury, taxes, business and probate. This second edition, although different in appearance, has been modified to incorporate changes in statute, case law, and the Judicial Council forms used in family law. **Note that there has been an extensive reorganization of the California Rules of Court.** These *revised* rules should be carefully reviewed when working in the area of family law and particularly in relation to this book. Another significant change in 2007 was the creation of the *Collaborative Family Law Act*, which was codified under Family Code § 2013.

Most people think of divorce when they hear the term family law. The field of family law includes: dissolution of marriage, legal separation, annulment, paternity, adoption, domestic violence, pre and post-marital agreements and cohabitation agreements, domestic partnerships, and can cross into the areas of guardianships and conservatorships, which are typically overseen in probate courts in California. As of 2005 family law statutes also address the custody, support and the division of property in non-marital relationships. All of these areas will be covered, to some extent, in this textbook.

As a family law paralegal, one must draw on many skills, knowledge, and plain life experience. I decided to write this book to give California paralegals a true sense of their value and place in the family law firm. I also wanted a textbook that thoroughly prepares students for what they will encounter in the “real world” as a family law paralegal. Each client and firm is different, and family law paralegals need to be adept in balancing the many clients and facts of each case. Paralegals are an invaluable asset and provide quality and affordable legal services to the firm’s clients.

California courts require the utilization of Judicial Council forms by practitioners and those litigants representing themselves in dissolutions of marriage, and other family law related matters. The California Judicial Council has certainly made these forms more “user-friendly.” As a family law paralegal, one needs to learn the many nuances in the utilization of these forms, based on each client’s unique needs.

This textbook assumes that the reader has little or no prior knowledge of the subject matter, as a student or a new paralegal in a law firm. It provides an introduction to the field of family law by utilizing a combination of theory, procedure and practical application. This book will provide the student with an overview of the family law codes and

case law — past and present, as well as provide the basic terminology, procedure and process of a dissolution of marriage.

This book will become a handy reference for the paralegal in the family law firm. The text will discuss the utilization of a paralegal in the law firm, as well as the qualities and personalities which are well-suited to this area of practice. The student will be provided with a history of family law, trends and changes in the law, and basic information on how to complete forms, research, and obtain information from the client, his or her spouse and other sources. It is essential that the paralegal understand the forms, types of documents and information which must be disclosed during the course of the dissolution and other family law matters in order to effectively do their job and be an asset to the firm. It is also critical that the family law paralegal understands the other areas of law which may have an effect on the ultimate division and settlement of the marital property. Thus the areas of real estate, business, probate, bankruptcy, taxes, and personal injury will also be covered as they relate to family law.

The paralegal student will be provided a case study, basic guidelines, legal theory, and the tools to apply their knowledge and skills to each unique client. The text is organized in a manner which will take the student through a dissolution start-to-finish. Potential ethical hazards which seem to be inherent with family law are also included. The student will become familiar with many of the ethical considerations that are unique to family law so that they can avoid the unauthorized practice of law and particularly potential malpractice on the part of the attorney for whom the paralegal will work.

The California Family Law Paralegal also covers modification and enforcement of family law orders. Students will utilize Judicial Council forms and apply theory and practice in petitioning the court for orders of enforcement and/or modification, as well as learn the various enforcement mechanisms. Sample declarations and information are included for reference. The final chapter will discuss *other* family law issues which are often dealt with by paralegals in a family law practice: emancipation, adoption, pre and post-marital agreements, and cohabitation agreements. California's relatively new domestic partnership laws will be covered and precedent-setting case law applying these newest family law statutes will be discussed.

Many students will find this text interesting from a personal perspective. Perhaps they have previously been through a divorce, or are considering one. Almost everyone knows someone who has been divorced, and perhaps they couldn't understand why certain rulings were made, why property was divided in a certain manner or why support was ordered at a specific amount. This course is also helpful to students who haven't yet married, as it gives them a different perspective on the subjects of cohabitation, having children, commingling property, and domestic partnerships. One of the most important things to remember in family law is that regardless of our experience on a personal level with family law issues, we must put aside our personal perspectives and relate professionally to the client, as this is a very personal issue with them.

It is my goal that each student will be able to apply the legal theory learned in this text to practical application at the completion of the course. The knowledge and hands-on experience will make the student more comfortable and confident as he or she transitions from student to practicing paralegal. At the conclusion, the student should have a portfolio that can be utilized for interviews and reference in the family law environment.

Dianna L. Noyes, RP