

# The California Family Law Paralegal



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FOURTH EDITION

Dianna L. Noyes

Judge Jacob Blea III

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This book is dedicated to Cheryl Suzanne, my wonderful wife of nearly 40 years, whose wise encouragement led me back to law school those many years ago, and whose love and support throughout my life have made my legal career and this book possible.

Judge Jacob Blea III

This book is dedicated to my fellow family law paralegals and the many students I have had the privilege of teaching over the years. You have continued to help me refine this text and to learn as the laws evolve and change. It is also an honor to have worked with many wonderful attorneys for the past 28 years and to now work with Judge Blea to complete this project.

Dianna L. Noyes, M.S., RP®



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# Preface

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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 fourth edition has been modified to incorporate changes in statute, case law, and the Judicial Council forms used in family law. Family law will continue to change and evolve as the state incorporates same-sex marriages and there are increases in domestic violence, children born of unwed parents, and non-traditional families. A family law paralegal should constantly check for updates and review resources in order to stay current with the statutes, cases, and in particular Judicial Council forms that are constantly being modified to fit the needs of the public as well as be consistent with statutory and court rule changes.

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, premarital and postmarital agreements and cohabitation agreements, and domestic partnerships, and can cross into the areas of guardianships and conservatorships, which are typically overseen in probate courts in California. Family law statutes also address 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. The original purpose of this book was to give California paralegals a true sense of their value and place in the family law firm. We believe this textbook thoroughly prepares students for what they will encounter in the “real world” as a family law paralegal. Each client and firm is different; thus 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 “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. You will need to keep in mind that the Judicial Council forms were created for ease of use and to attempt to facilitate “fill-in-the-blank” and “check-the-box” situations. A paralegal working in a law firm will often find it necessary to supplement information and orders through the use of attachments.

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 discusses 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, their 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, premarital and postmarital agreements, and cohabitation agreements. This newest edition devotes more time to the area of domestic violence, of which there has been an unfortunate increase in our families and the courts.

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. Also, students must remember that although they may have been involved in a personal family law matter, that matter was *their personal case* and may not reflect the other cases in which they may be involved within the law office environment.

It is our 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.

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