Introduction to Law for Paralegals
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For Nilsa Bevans,
my wife and friend, with all my love
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Introduction

This third edition of *Introduction to Law for Paralegals* has been completely redesigned. The author has included new chapters on the modern role of paralegals in legal practice, evidence law, and law office management. He has also changed the organization of the text, beginning with an overview of the legal system and proceeding through a discussion of various procedures and participants in the legal field to the role of ethics in the day to day practice of law. The second section focuses on substantive areas of law, from personal injury law to intellectual property. The third section, also newly revised, includes a discussion of legal research and writing. The third edition also contains substantial revisions to end of chapter exercises, and introduces a new feature in each chapter that discusses the role of technology in all areas of legal practice.

In addition, this text also emphasizes the richly rewarding life of a legal professional. Practical examples are included in each chapter, as well as profiles of legal professionals from judges to court reporters. Each chapter also profiles practicing paralegals from across the country. Their interview excerpts provide a window on the day-to-day practice of law that is rarely seen in any introductory text.

Features

This book was designed with the reader in mind. The text presents the material in a variety of methods to take advantage of different student learning styles. There is a strong visual element to the text with features such as “Issue at a Glance,” a brief summary of an important issue raised in the chapter. Each chapter also contains a section discussing how to build practical skills.

Features found in the text include:

- **Chapter Objectives**
  Each chapter begins with clearly stated learning objectives to guide readers in their studies.

- **Issue at a Glance**
  Each chapter includes short synopses of issues discussed in the chapter, positioned adjacent to the material under discussion, not only as a way of
helping the reader synthesize important issues, but also as a visual marker for later study.

- **Definitions**
  As each new term is introduced, it is also defined for the student. These on-the-spot definitions provide a handy reference.

- **Skills**
  Each chapter contains not only discussions of the theoretical underpinnings of law, but also practical examples to assist the student in building the skill sets needed to succeed in the legal field.

- **Sample Cases**
  Each chapter contains a case excerpt designed to emphasize some of the points raised in that chapter and to provide material for classroom discussions.

- **Questions About the Case**
  At the end of each case, a list of questions is provided to help students focus on the important aspects of the decision. These questions will facilitate classroom discussions.

- **Chapter Summary**
  Each chapter contains a concise summary of the major issues discussed. This feature helps readers focus on the important points raised in the chapter.

- **Skills You Need in the Real World**
  In keeping with the balance of theoretical discussion and practical examples, in the “Skills” section found at the conclusion of each chapter the author addresses how the student can learn a variety of important practical skills, from searching courthouse records to creating appellate brief banks.

- **Ethical Discussion**
  Ethics is a vital component of any legal text, but never more so than in an introductory text that will help lay the foundation for the reader’s entire paralegal education and later professional life. To emphasize the important role that ethics plays in law, each chapter contains a separate ethical discussion in addition to the entire chapter devoted to this critical issue.

- **Websites**
  The Internet is becoming an increasingly vital link for students. The websites at the end of each chapter will assist students in gathering more information about the chapter topics.
Key Terms and Phrases
A list of key terms and phrases used in each chapter will assist the student in mastering the concepts presented.

Review Questions
Extensive review questions test the student’s comprehension of the issues under discussion. These review questions, coupled with the discussion questions, provide rich material for classroom discussions.

Practical Applications
While the review and discussion questions encourage dialogue about the topics in each chapter, the practical applications allow the student to put this theoretical knowledge to practical use and to make a stronger connection with the material, while building important skills.

Pedagogy
The following features are included in the text to accommodate different student learning styles:

- Learning objectives stated at the beginning of each chapter
- Terms and legal vocabulary set in bold and defined immediately for the student; they are also listed in the glossary for later reference
- Many different visual aids that illustrate crucial points
- Professional profiles to help the student make a personal connection with the material
- Lesson plans in the instructor’s manual that provide alternative presentations: for example, Lesson Plan A, which emphasizes practical applications, as opposed to Lesson Plan B, which emphasizes substantive law
- End-of-chapter questions, activities, and assignments to hone the students’ understanding
- End-of-chapter ethical discussion
- Websites for further research and/or discussion

Instructor’s Manual
The author has developed an extensive instructor’s manual to accompany the text, which provides a wealth of resources for the instructor. Among the features in the instructor’s manual are these:

- Suggested Syllabi
  Suggested syllabi are provided for various versions of an Introduction to Law courses, including alternate syllabi for instructors who emphasize theoretical over practical, or practical over theoretical.
Lesson Plans
The author provides several different lesson plans to help instructors who must present introductory courses in 6-, 8-, 10-, 12-, or 16-week formats.

Chapter Lecture Outline and Discussion
Each chapter is outlined for the instructor, and annotations are added throughout the outline to provide additional discussion and classroom material for the instructor.

Additional Web Resources
The instructor’s manual contains additional websites to provide other resources for classroom discussion and assignments.

Additional Assignments
In addition to the chapter review and discussion questions in the book, extra assignments are provided in the instructor’s manual.

Answers to Review Questions and Discussion Questions
The end-of-chapter review questions are answered in detail. The author also provides suggested answers for the discussion questions.

Test Bank
The test bank includes a variety of test questions:

- Essay questions (five per chapter)
- Short answer (ten per chapter)
- Multiple choice (twenty-five per chapter)
- True-False (ten per chapter)

Additional Features on Instructor’s Manual CD:
PowerPoint Slides
The author has prepared a presentation for each chapter of the text.

Additional Cases
Additional cases are provided for classroom discussion. These can be used in a variety of ways, including as lecture hand-outs and additional assignments.
Acknowledgments

The author would like to thank the following people for their assistance in preparing this book:

The traditional role of paralegals in the United States has been changing in recent years. Under the traditional arrangement, a paralegal worked for a law firm under the direct supervision of an attorney. However, it is becoming more and more common to see freelance paralegals who hire themselves out to attorneys on a case-by-case basis. In some cases, the paralegal and attorney conduct all of their business over the phone and the Internet. Freelance paralegals work in a variety of areas, including title searching, preparing deposition summaries, and conducting legal research, to name just a few tasks. The biggest problem for freelance paralegals is the issue of unauthorized practice of law. When a paralegal does not work for a law firm, but instead there are times when the paralegal may be contacted and asked to complete work that might cross the line of law. Some states, such as California, have attempted to address this problem by regulating paralegals and creating two different classifications: document preparers and legal assistants. Other states certify paralegals. Regardless of the state, a paralegal who engages in the unauthorized practice of law is guilty of a crime.

An important component of any licensure or certification scheme is the implementation of continuing education programs that focus on ethics. Even in states without any programs to recognize paralegals, ethics remains an extremely important topic. Ethical concerns point out the interdependence of attorneys and paralegals. Attorneys need paralegals to assist them with the practice of law, but the attorney is ultimately responsible for any legal malfeasance. Paralegals in nearly all states have no regulatory body that can revoke their license to practice as a legal professional when they violate ethical rules, but their unethical actions can have dire consequences for the attorneys with whom they work. This is only one reason why ethical issues are addressed in every chapter of this text. Not only can an ethical violation result in a legal malpractice action against an attorney, but a paralegal who engages in some activities, such as giving legal advice, can find himself or herself the subject of a criminal prosecution. Unauthorized practice of law is considered a misdemeanor offense in states such as California and as a felony in states such as Texas.

Ethics is a vital component of any legal text, but never more so than in an introductory text that will help lay the foundation for the reader's entire paralegal education and later professional life. To emphasize the important role that ethics plays in law, each chapter contains a separate ethical discussion in addition to the entire chapter devoted to this critical issue.
and then printed in a transcript. If the witness becomes unavailable to testify during the trial, the transcript of the deposition can be read instead. Attorneys have wide latitude in the types of questions that they can ask during a deposition.

**INTERROGATORIES**

**Interrogatories** are written questions sent by one side of a civil action to the other side. The party must respond in writing and thoroughly answer questions used to pin down important points in the case, such as why the defendant is at fault.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

Another discovery device is to serve a request for production of documents on the opposing side. This request asks for copies of all relevant documents, photographs, videotapes, and any other evidence in the case. The party must produce the evidence so that the other side can see it.

**COMPLETING THE DISCOVERY PROCESS**

Although most jurisdictions have rules that limit the discovery process to six months, the parties may request judicial permission to extend the limit. The process of discovery can take months or even years. At some point, the discovery phase ends, and the case is scheduled for trial. Civil trials and criminal trials resemble each other very closely, and for that reason we devote an entire chapter to trials later in this book (Chapter 8). We examine only a few aspects of the trial process here.

**THE TRIAL OF A CIVIL CASE**

At the trial, the plaintiff presents his case to the jury first. The plaintiff goes first because the plaintiff is the person who raised the accusations and must therefore prove them. The plaintiff presents witnesses and evidence to prove the allegations in the complaint. When the plaintiff is finished, the defendant has the right to present his or her case.
Recent court decisions have begun to seriously limit the use of peremptory jury strikes.

**CHALLENGES FOR CAUSE**

There is a second method that parties can use to remove panel members. When a party makes a **challenge for cause**, it means that the party is requesting the judge to remove the panel member. A party might make a challenge for cause for several reasons: for example, if a panel member has stated in open court that she will not obey the court’s orders, or will not actively participate in the jury deliberations, or Jury panel members may be challenged for cause and removed when they indicate that they cannot be fair or that they have religious, philosophical, or other reasons that prevent them from sitting on a jury.

<table>
<thead>
<tr>
<th>Jury Selection Sheet</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 John Smith</strong></td>
</tr>
<tr>
<td>bad response to Q2.</td>
</tr>
<tr>
<td>Strike</td>
</tr>
<tr>
<td><strong>2 Mary Doe</strong></td>
</tr>
<tr>
<td>very nice</td>
</tr>
<tr>
<td>Keep her!</td>
</tr>
<tr>
<td><strong>3 John Roe</strong></td>
</tr>
<tr>
<td>?</td>
</tr>
<tr>
<td><strong>4 George Bush</strong></td>
</tr>
<tr>
<td>likes client,</td>
</tr>
<tr>
<td>Smiles engineer,</td>
</tr>
<tr>
<td>keep!</td>
</tr>
<tr>
<td><strong>5 Patricia Burke</strong></td>
</tr>
<tr>
<td>Very conservative</td>
</tr>
<tr>
<td>good juror!</td>
</tr>
<tr>
<td><strong>6 Deborah Bolstridge</strong></td>
</tr>
<tr>
<td>nurse—good juror</td>
</tr>
<tr>
<td>keep</td>
</tr>
<tr>
<td><strong>7 Lisa Burnett</strong></td>
</tr>
<tr>
<td>another nurse</td>
</tr>
<tr>
<td>no problems</td>
</tr>
<tr>
<td><strong>8 Robert Bevans</strong></td>
</tr>
<tr>
<td>good response to Q2!</td>
</tr>
<tr>
<td><strong>9 Mary Robinson</strong></td>
</tr>
<tr>
<td>Strike</td>
</tr>
<tr>
<td><strong>10 Chuck Soe</strong></td>
</tr>
<tr>
<td>doesn’t want to here, Strike if other side doesn’t</td>
</tr>
<tr>
<td><strong>11 Betsy Buster</strong></td>
</tr>
<tr>
<td>says she has ‘moral’ reasons, challenge for cause?</td>
</tr>
<tr>
<td><strong>12 Jack Rocky</strong></td>
</tr>
<tr>
<td>nice guy!</td>
</tr>
<tr>
<td>possible juror for person?</td>
</tr>
<tr>
<td>Keep</td>
</tr>
<tr>
<td><strong>13 Hanna Bow</strong></td>
</tr>
<tr>
<td>Very negative</td>
</tr>
<tr>
<td>Strike</td>
</tr>
<tr>
<td><strong>14 Lucy David</strong></td>
</tr>
<tr>
<td>bad answers to Q2 + 3.</td>
</tr>
<tr>
<td>Strike</td>
</tr>
<tr>
<td><strong>15 Belle Darcy</strong></td>
</tr>
<tr>
<td>doesn’t seem to understand?</td>
</tr>
<tr>
<td><strong>16 Jane Doe</strong></td>
</tr>
<tr>
<td>no opinions—?</td>
</tr>
<tr>
<td><strong>17 Katie Burnett</strong></td>
</tr>
<tr>
<td>smart, but young.</td>
</tr>
<tr>
<td><strong>18 Benjamin Rod</strong></td>
</tr>
<tr>
<td>knows about sports keeper</td>
</tr>
<tr>
<td><strong>19 Tara Christopher</strong></td>
</tr>
<tr>
<td>nice lady.</td>
</tr>
<tr>
<td>Keeper</td>
</tr>
<tr>
<td><strong>20 Debbie Neal</strong></td>
</tr>
<tr>
<td>Says she ‘distrusts’ lawyers?</td>
</tr>
<tr>
<td>Strike</td>
</tr>
<tr>
<td><strong>21 Katherine Bodie</strong></td>
</tr>
<tr>
<td>Sweet old lady, but . . . ?</td>
</tr>
<tr>
<td><strong>22 James Carter</strong></td>
</tr>
<tr>
<td>Too busy, wants to be somewhere else. Strike</td>
</tr>
<tr>
<td><strong>23 William Clinton</strong></td>
</tr>
<tr>
<td>unemployed.</td>
</tr>
<tr>
<td><strong>24 Ron Reagan</strong></td>
</tr>
<tr>
<td>Seems conservative, nice smile. keep?</td>
</tr>
<tr>
<td><strong>25</strong></td>
</tr>
</tbody>
</table>
Conflicts of interest can also arise when an attorney goes into business with a client. An attorney who has a client as a business partner faces a host of potential conflicts of interest. For instance, at what point is the attorney’s duty to himself in conflict with his ethical duty to represent a client to the best of his ability? These potential legal pitfalls have resulted in strict rules about conflicts of interest.

CHAPTER REVIEW QUESTIONS

1. What are the elements of a legally enforceable contract?
2. What specific details must be found in a valid offer?
3. What is the power of acceptance?
4. Explain the effect of a counteroffer on the original offer.
5. Explain the mailbox rule.
6. What is the difference between a unilateral and a bilateral contract?
7. Give examples of unilateral and bilateral contracts.
8. What is consideration and why is it a requirement in a contract?
9. Explain the requirement of legality in the contract.
10. What are some types of contracts that are considered to have an illegal purpose?
11. What are some circumstances that would justify a ruling that one party to a contract lacks legal capacity?
12. When was the Statute of Frauds originally created and why?
13. List and explain the various types of contracts that are covered by the Statute of Frauds.
14. According to the Statute of Frauds, what types of contracts must be in writing to be enforceable?
15. What is the significance of the Uniform Commercial Code?
16. Why is it important for a paralegal to understand conflicts of interest?

DISCUSSION QUESTIONS

1. Why is there a strong link between business and law?
2. In drafting the Uniform Commercial Code, the framers were concerned about creating a system that would govern the entire United States. Does a uniform system improve the quality of commerce? Explain your answer.
3. The Statute of Frauds was created at a time when most people could not read. Requiring certain types of contracts to be in writing was a safeguard against fraud and deceit, primarily because someone who could read and write would draft the contract. Is the Statute of Frauds still necessary in the twenty-first century when nearly everyone is literate? Explain.
**PROJECT**

Based on what you have learned in this chapter, draft a contract between yourself and a law firm where you will provide paralegal services including researching law, answering phones, meeting with clients, and other services discussed in previous chapters. Your contract must meet all of the basic elements of a legally valid contract set out in this chapter.

**PRACTICAL APPLICATIONS**

1. Examine a loan agreement, credit card agreement, or a lease and identify the various contract requirements set out in this chapter. Are there provisions for consideration, capacity, or legality?
2. Locate your state’s version of the Statute of Frauds. Is it substantially similar or dissimilar to the sample provided in the text?

**WEBSITES**

Federal Citizen Information Center (Consumer Law)
http://www.pueblo.gsa.gov/

GSA Board of Contract Appeals
http://www.gsbca.gsa.gov/

U.S. Department of Commerce
http://www.commerce.gov/

**TERMS AND PHRASES**

Bilateral contract  
Capacity  
Consideration  
Contract  
Power of acceptance  
Unilateral contract
is unconstitutional as a deprivation of the liberty of the person protected by the Fifth Amendment of the Constitution.

The liberty protected by the Fifth Amendment’s Due Process Clause contains within it the prohibition against denying to any person the equal protection of the laws. While the Fifth Amendment itself withdraws from Government the power to degrade or demean in the way this law does, the equal protection guarantee of the Fourteenth Amendment makes that Fifth Amendment right all the more specific and all the better understood and preserved.

The class to which DOMA directs its restrictions and restraints are those persons who are joined in same-sex marriages made lawful by the State. DOMA singles out a class of persons deemed by a State entitled to recognition and protection to enhance their own liberty. It imposes a disability on the class by refusing to acknowledge a status the State finds to be dignified and proper. DOMA instructs all federal officials, and indeed all persons with whom same-sex couples interact, including their own children, that their marriage is less worthy than the marriages of others. The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity. By seeking to displace this protection and treating those persons as living in marriages less respected than others, the federal statute is in violation of the Fifth Amendment. This opinion and its holding are confined to those lawful marriages.

The judgment of the Court of Appeals for the Second Circuit is affirmed.

It is so ordered.

QUESTIONS ABOUT THE CASE

1. Why was the Defense of Marriage Act (DOMA) created?
2. How did DOMA affect Edith Windsor?
3. What is the traditional role of the states when it comes to defining marriage?
4. What injustices does Justice Kennedy ascribe to DOMA?
5. Why should a federal law that defines marriage be considered unconstitutional for a state law that allows same sex marriage?

SKILLS YOU NEED IN THE REAL WORLD

INTERNET INVESTIGATIONS

One skill that any modern paralegal should possess is the ability to use the Internet as an investigative tool. There is a wealth of information available on the Internet if you know where to look. You can use your Internet skills to locate absent witnesses, track down defendants, and search for assets, but you need to develop a basic skill...
set before you can call yourself a master of Internet investigations. Here are some basic steps to building your investigative skills.

1. **Learn to decipher Internet addresses.** Not all Internet sites are created equal. Some offer extremely accurate and valuable information, while others are completely unreliable. One way of separating the wheat from the chaff is to examine the pedigree of the Internet address. Commonly referred to as a URL (Uniform Resource Locator), an Internet address can give you many clues about its reliability. Consider the following fictitious Web addresses:

   www.federalbureauofinvestigation.gov

   www.ihatethegovernment.org

What can you tell about these websites just from working through the URL? The first web site is a government website and is probably reliable. Most “.gov” sites are very reliable and are updated regularly. They are also checked and approved to make sure that they don’t post inaccurate information. This doesn’t mean that they are always right, but the first website is a much safer bet than the second. The second website has some suspicious indicators. For one thing, “I hate the government” sounds like someone with a political agenda, not someone whose primary concern is accurate information. Another indication is the .org extension. Although many quality sites are organizations, there are also more than a few crazy sites with this extension. Learning to decode web addresses is one important skill to master in becoming an Internet investigator, but it isn’t the only one.

2. **Finding people.** It is a straightforward proposition to locate someone’s address on the Internet. Most general search engines, such as Yahoo.com or Alta-vista.com, offer people locator services for free. There are also plenty of pay sites that will provide this information.

3. **Finding criminal histories.** There are some pay sites that offer access to online criminal records checks, including http://www.nc123.com/, which has a broad database and competitive pricing. However, much of this information is also available for free at your local courthouse. Many have terminals tied in to state and federal criminal records. All you need to do is type in a person’s name.

These are just some of the Internet investigative techniques you should learn to improve your overall effectiveness at your job — and make yourself that much more indispensable to your employer.

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**USING TECHNOLOGY**

**LINKEDIN**

LinkedIn is a social media platform similar to Facebook but geared toward professional rather than personal or social use. The goal of LinkedIn is professional business development. Not maintaining a presence on LinkedIn can be seen by some as a liability, indicating that the law firm is not in step with current trends.