

SPRING 2021

RED RIVER REVIEW

Official Publication of the Red River Valley Paralegal Association

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***I'm Getting Pulled Over by Law
Enforcement. Now What?***

An Efficient Estate: Avoiding Probate

Cryptocurrency in Fraud Investigations

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***Why You Should Consider Naming a
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2020/2021 Committees



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Fostering the utilization, networking, development, and education of paralegals throughout Eastern North Dakota and Western Minnesota.

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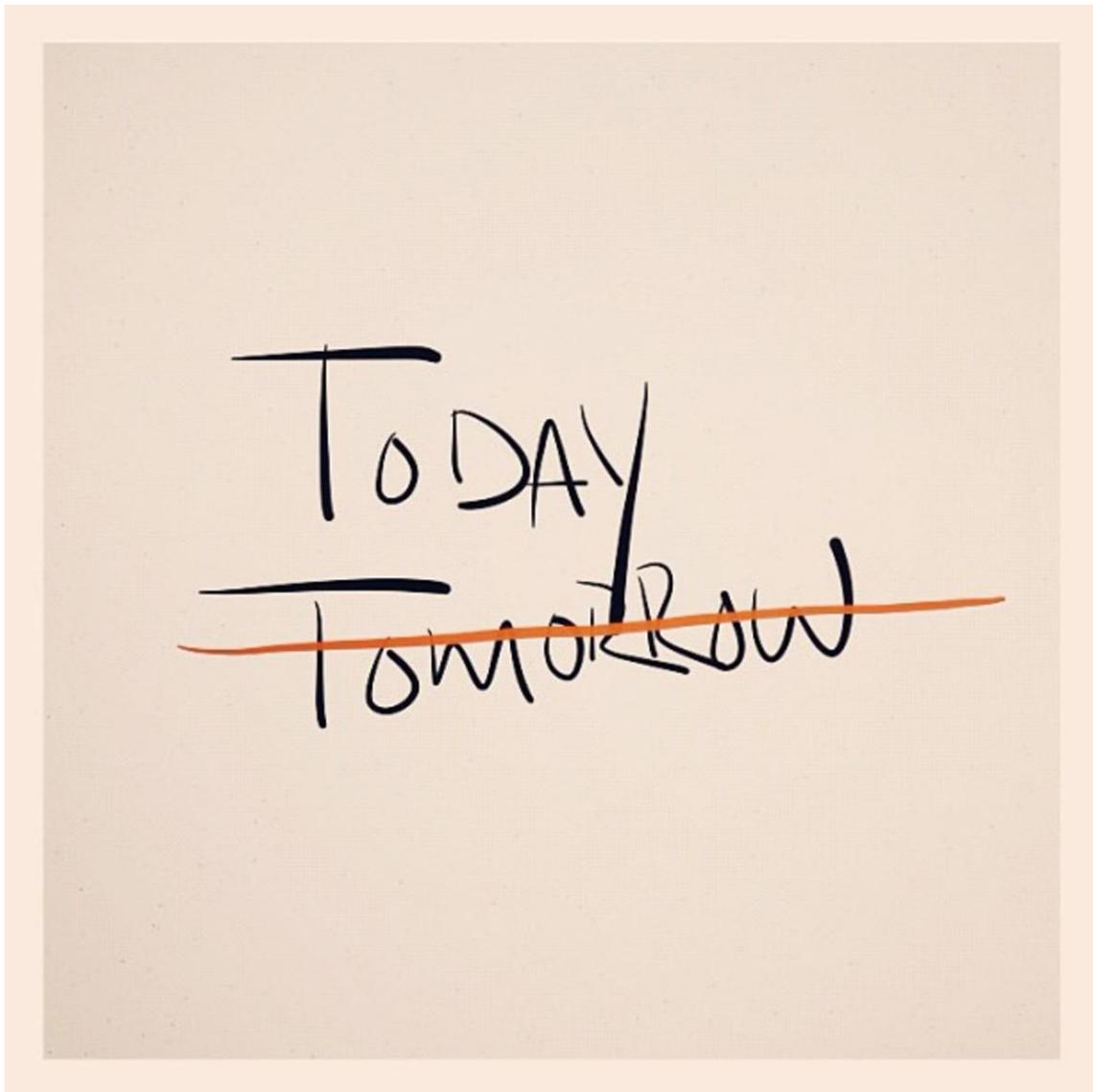
President's Report

I would like to take a moment to thank each and every one of you for your contribution to RRVPA. This is my fifth year as President and I am endlessly grateful for the relationships I have built and the events I have been involved in. Over the past five years we have seen our organization grow, not only in members but also in community support and sponsorship. We've been able to host some amazing educational and networking opportunities, both in person and virtually. This is a group of strong individuals and I am proud to be part of it.

Check out the office reports on the following pages for updates on what we've been up to over the past few months!



Rachel Martin



First Vice Presidents' Report

Hello and Happy Spring! We are looking forward to the warm weather and spending time outdoors! We have had excellent Lunch & Learn speakers so far, and I will do a quick recap of the speakers we have had since the Fall Newsletter. In November, attorney Susan Ellison of Ohnstad Twichell, P.C. spoke about Workplace Bullying/Effects and Prevention in the area of Employment Law. We were very fortunate to have Susan speak for the RRVPA in November as she retired in December and we wish her the very best in her retirement! We did not have a Lunch & Learn in December as everyone was busy with the holidays and preparing for Christmas.



Alisha Carpenter

We resumed Lunch & Learns in January with attorney Ashley Champ of Anderson, Bottrell, Sanden & Thompson Law Firm speaking about Calculating Child Support in the area of Family Law. In February, attorney F. John Williams III of Fredrikson & Byron, P.A. spoke about Estate Planning during the Covid-19 pandemic. We just completed our virtual 2021 Spring Conference March Education Extravaganza with a Lunch & Learn every week during March! All attending members were entered into weekly drawings for prizes and all RRVPA members received a “swag bag.” We hope everyone enjoyed their swag!



Karen Severson

Our weekly Lunch & Learns in March were a big hit, and our speakers were as follows: March 1, 2021 featured attorney Tatum O'Brien of O'Keeffe O'Brien Lyson & Foss speaking about the Focus of Police Immunity in the area of Criminal Law; March 10, 2021 featured attorney Lynn Moen of Nilson Brand Law speaking about Gestational Carrier Agreements in the area of Family Law; March 17, 2021 featured attorney David C. Piper and Stephen R. Hanson II of Ohnstad Twichell, P.C. speaking about Foreclosure and Eviction during the Covid-19 pandemic; and attorney Trent Barkus of Bredahl Law Firm, P.C. speaking about Organizational Skills/Tips and Time Management in the law office setting. All of our March Education Extravaganza Lunch & Learns were very well attended and we very much appreciate all of your understanding about our need to do this year's conference virtually rather than in-person. A special thanks to all members who attended the March Lunch & Learns!

We will be hosting Lunch & Learns in April and May and then we will take the summer off! Please join us for those Lunch & Learns, and let us know if there are any speakers you would like to hear or specific topics you would like discussed in the future. We hope you all have a wonderful Spring and Summer!

Second Vice President's Report



Candace Gould

2020 was a strange and stressful year for all of us, and I'm proud of how well our members and officers have coped during this time. Despite the difficulties we've all faced, RRVPA has continued to hold (virtual) social events and Lunch and Learns, and has continued to support its members and its community.

For all of you new members who have joined us since last year, welcome! We are very pleased that you've chosen our organization, and are excited to get to know you.

Currently, RRVPA has 58 voting members, 3 associate members, 17 sustaining members, and 5 student members, for a total of 83 members. If you know anyone who might be interested in joining RRVPA, or who might be interested in learning more about us, please let them know that they can contact me at redrivervalley.paralegal@gmail.com.



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Treasurer's Report

Hello, Spring! Our Fall and Winter months have been full of virtual learning and development with some fun and games tossed in. We have become masters of Zoom and continue to network at an acceptable social distance. Thank you to all who attended our March Lunch & Learn event, hope you all enjoyed your swag! We look forward to more opportunities for all of our members throughout the rest of 2021. Soon we will begin preparation for our yearly sponsorship drive. Watch for more information to come on this to make our sponsorship drive a success in 2021!



Chelsey Norberg

The RRVPA bank account balance as of March 31, 2021 was **\$30,837.83**.

Sponsor Spotlight



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NALA Liaison Report



Hello RRVPA members!

The start to 2021 has also been interesting to say the least! I hope this finds everyone safe and healthy. I look forward to continuing to serve as your NALA Liaison.

This 46th year of NALA, the 2021 NALA Conference will be held virtually with the NALA @ Home Conference set for July 22-24, 2021. Early bird registration is now open until May 15th. Head on over to www.nala.org for more information and to get registered!

Stacy Brekke

Welcome to NALA Commons – YOUR Paralegal Collaborative Community!

We are thrilled to bring you this members-only site! This is the perfect platform to learn and engage in informative dialogue with your fellow paralegals. Feel free to explore the various groups, create your own groups, ask questions, post an answer to a question, start a poll, post interesting articles, share best-practices and tips, and talk about whatever is going on in your paralegal world.

To enter NALA Commons:

1. Log into your NALA account here: www.nala.org
2. After logging in, please click on this link: community.nala.org to enter the NALA Commons Site
3. Upon entering the NALA Commons site, please read the guidelines and policies. This information can be found as a pinned post on the site's home page and also within the New Members to NALA Commons group
4. The NALA Commons offers our members many groups to join and participate in. Click on **Groups** (*left hand column*) and choose the groups you would like to join. Click to **“join group”**
5. Problems or questions? Please reach out to the NALA Commons Administrator

2021 NALA CONFERENCE @ HOME

22-24
JULY

EARLY BIRD
REGISTRATION
NOW OPEN!

11 CLE CREDITS
32 SESSIONS
3 DAYS

REGISTER BEFORE MAY 15 TO RECEIVE YOUR **CONFERENCE @ HOME CARE PACKAGE!**

Early bird registration for the **2021 NALA Conference @ Home** is now open! Last year's historic conference was one for the books with over 900 virtual attendees. We are elated to make this year's virtual conference even BETTER! We invite you to join us for the **2021 NALA Conference @ Home** July 22-24, 2021, from the comfort of your home or office.

The **2021 NALA Conference @ Home** featuring our digital exhibitors will showcase dynamic speakers discussing relevant and timely topics for paralegals. Just like past years, we will still have electronic voting for the upcoming Board of Directors election. This year we will have two virtual candidate forums. We will gather virtually for all sessions and meetings, including the NALA Annual Meeting and NALA Affiliated Associations Annual Meeting. Increased networking opportunities will be available this year as well!

- **Virtual conference registration:** \$149 for members, \$199 for non-members, and \$99 for students, which includes education sessions and public meetings. Early birds also receive an exclusive care package packed with useful 2021 NALA Conference @ Home swag!
- **Public meetings:** access to the NALA Annual Meeting, NALA Affiliated Associations Annual Meeting, both NALA Board of Directors meetings, and the NALA panel discussion is free to everyone. *(Please note to attend the public meetings, you must register; however, if you register for the full virtual conference you do not need to register for both.)*

EARLY BIRD REGISTRATION TYPE	MEMBER	NON-MEMBER	STUDENT
VIRTUAL CONFERENCE REGISTRATION <i>(INCLUDES PUBLIC MEETINGS)</i>	\$149	\$199	\$99
PUBLIC MEETINGS ONLY <i>(BOARD MEETINGS, ANNUAL MEETINGS, NALA PANEL)</i>	FREE	FREE	FREE

REGISTRATION RATES INCREASE MAY 16, 2021

Coronavirus, Taxes, and Bears, Oh My!

Taxes and Coronavirus are two hot topics right now. President Biden's *historic* American Rescue Plan Act of 2021 (the "ARPA") enacted three major tax provisions for families. They are worth knowing about if you have children or work with families. Here are the high points.

Child Tax Credit

ARPA made five significant changes to the Child Tax Credit. They include:

1. **Increased Amount:** ARPA increases the Child Tax Credit from \$2,000 to \$3,000 per child under the age 18, for 2021 only. For children under the age of 6, the credit can be an additional \$600, for a total of \$3,600.
2. **Expanded Scope:** Children normally must be under the age of 17 at year-end to qualify, but for 2021, that age is under 18.
3. **Full Refund:** In past years if a party's income was less than \$2,500, they could not receive the Child Tax Credit refund. For 2021, the credit is refundable for people who have no income.
4. **Lower Income Phase Out:** In 2020, the Child Tax Credit did not phase out until a taxpayer's adjusted gross income reached \$200,000 (and \$400,000 for a joint return). The 2021-only benefits phase out if the party's income is \$75,000 (single), \$112,500 (head of household), and \$150,000 (filing jointly). However, those who do not qualify for the expanded benefits are still eligible for the Child Tax Credit under the 2020 rules; in other words, they can still receive the \$2,000 per child credit.
5. **Advance Payments:** Those eligible for the Child Tax Credit receive a cash benefit this year rather than receiving credit when filing their tax return in the spring of the following year. More specifically, the IRS will make monthly payments from July 2021 through December 2021 equal to one-half of the Child Tax Credit. The remaining half will be received after the taxpayer files the 2021 tax return.

Child and Dependent Care Credit

The Child Care Credit gives a credit against taxes for a percentage of childcare expenses, up to a maximum amount of covered expenses.

1. **Increased Maximum Percentage:** In 2020, the percentage ranged from 20% to 35% depending on income. The maximum percentage is now 50%, for 2021 only.
2. **Higher Expense Level:** In 2021, both the maximum percentage and the maximum expense level increased. The included expense increase to \$8,000 for one child and \$16,000 for two or more children. As a result, in 2021, the maximum credit is \$4,000 for one child and \$8,000 for two or more children. This amounts to \$3,000 and \$6,000 more than earlier years.
3. **Full Credit:** In past years, if you did not owe any tax or the credit reduced your taxes to zero, you did not receive the full benefit. In 2021 only, if you have an \$8,000 credit and you do not owe any tax, you will receive the full \$8,000 payment from the government.

Coronavirus, Taxes, and Bears, Oh My!, *cont.*

4. **Phase-down:** The credit always phased down for higher-income bracket taxpayers, but the phase-down is different in 2021. Previously, phase-down would reduce the percentage to 20% of day care expenses. For 2021, the phase-down can reduce the percentage all the way to zero for those in a high-income bracket (adjusted gross income of \$440,000 or more).

Earned Income Credit

The new law also increases the benefits from the Earned Income Credit. The Earned Income Credit is effectively a government subsidy to people who have some earned income (typically wages and tips), but not a lot. The credit increases as earned income increases, up to a point, and then decreases (to zero) as income increases.

1. **Maximum credit increased:** For people with no children, ARPA increases the maximum credit from \$543 to \$1,502.
2. **Age limit dropped:** Qualifying childless taxpayers may be as young as age 19, if they are not students. In years past, the age limit was 25.
3. **Option to use 2019 income:** Taxpayers now have an option to use 2019 earned income, if that yields a better result than their 2021 income.
4. **Married filing separately:** Until now, if you filed as "married filing separately," you were not eligible for the earned income credit. For 2021 and future years, you may be eligible even if you are married filing separately. To qualify:
 - a. you must have lived with a qualifying child for more than half the year; **and**
 - b. you must either: have separated before July 1; or have signed a divorce or separation agreement and be living separate by December 31.

All three provisions were modified to give less benefit to very high-income taxpayers and dramatically more benefits to moderate-income to low-income earners. Now, only the "Married Filing Separately" provision will last into 2022. These three provisions make an interesting negotiation dynamic for our family law attorneys in 2021.



*Tiffany Plutowski has been a part of Gjesdahl Law, P.C. since 2012. She works as a Certified Divorce Financial Analyst and paralegal for Gjesdahl Law, P.C. She is not an accountant and does not give tax advice. Make tax decisions with your tax professional.



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Refer a friend or colleague to RRVPA. Upon receipt of their membership application, you will receive a \$10 gift card.

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How to Start a Lawsuit

When deciding whether to start a lawsuit, you need to know whether you have the right to sue the person with whom you have a dispute, whether you are starting the lawsuit within the applicable time limits, and whether the court has the power, known as jurisdiction to hear the case.

In many jurisdictions, a lawsuit is started by filing a Complaint with the Court. But in North Dakota and Minnesota, you can start a lawsuit by serving the Complaint and Summons on the defendant, without filing anything with the court initially (though you do have to do this eventually or risk dismissal of your case).

Once the Complaint has been served, the defendants must respond. They can also assert their own claims against the plaintiff and can add additional parties to the lawsuit.

An individual can file a lawsuit without the assistance of an attorney. But beware: there are complicated rules that apply. As a result, if you are considering starting a lawsuit, or have received legal papers and think you were named as a defendant in a lawsuit, it is wise to consult with an experienced civil litigation attorney as soon as possible.

SERVICE OF THE SUMMONS AND COMPLAINT

To start a lawsuit in North Dakota or Minnesota, the plaintiff serves a Summons and Complaint on the Defendant.

The **Complaint** describes, in short, plain statements, the nature and basis of the plaintiff's claim. It states why the plaintiff is entitled to relief, specifies the type of relief the plaintiff is requesting, and if applicable requests a jury trial.

The **Summons** requires that the defendant answer the Complaint within a specified amount of time, and notifies them that if they do not answer a default judgment will be entered against them.

In Minnesota and North Dakota, the Summons and Complaint must be delivered to the defendant, thereby notifying the defendant of the plaintiff's claims and giving the defendant time to respond. The defendant must show Proof of Service so the court knows when, how, and where the defendant was served. Proof of Service also starts the clock regarding the amount of time the defendant has to respond.

The Summons and Complaint do not need to be personally served on (*i.e.*, handed directly to) the defendant, although this is a common and legally acceptable method of service. Instead, the Summons and Complaint can be served by leaving a copy of the Summons and Complaint at the defendant's home with a person of suitable age, by certified mail with return receipt requested, or by publication of the summons in a newspaper.

How to Start a Lawsuit, *cont.*

Because North Dakota and Minnesota do not require that the Complaint be filed to start a lawsuit, a person may receive legal papers but not fully appreciate the importance of the documents. This can lead to a default judgment if the defendant fails to timely answer the Complaint.

STANDING AND JURISDICTION

Before serving the Summons and Complaint, a plaintiff must make sure that the court has jurisdiction to hear the case, that the court is the proper venue to bring the case, and that the statute of limitations has not expired.

The plaintiff must show that the court has both subject matter and personal jurisdiction over the defendant. To have subject matter jurisdiction, the court must have the power to hear the type of claim that the plaintiff is bringing. For example, bankruptcies must be heard in federal bankruptcy court. Most other cases are heard in the local state or federal District Court. To bring a case in federal court generally requires that there is a federal question or that there is at least \$75,000 in dispute and the parties are from different states.

The court must also have personal jurisdiction over the defendant. Generally, this means that the defendant lives or has a business in an area that is under the court's jurisdiction, or has sufficient contacts with the jurisdiction that the court can exercise power over the defendant.

The plaintiff must also select the appropriate venue to bring the case. In most cases, this is the court that has jurisdiction where the defendant lives or has its principal place of business, or the court where the activities that give rise to the Complaint occurred.

A statute of limitations sets the amount of time a plaintiff has in which to bring a complaint. If the plaintiff brings the case outside of the statute of limitations, the defendant may seek to have the case dismissed.

Finally, a plaintiff must ensure that the case is not barred by the statute of limitations. A statute of limitations sets the amount of time a plaintiff has in which to bring a complaint. If the plaintiff brings the case outside of the statute of limitations, the defendant may seek to have the case dismissed. Different statutes of limitations apply to different types of cases. Some statutes of limitations, such as for cases of medical malpractice, are as short as two years, while others can be as long as 15 years. To verify whether a case is barred by the statute of limitations, it is wise to consult with an attorney as soon as you believe you have a possible case.

ANSWERING A COMPLAINT

Once the defendant has been served with the Summons and Complaint, the defendant must formally respond. This is called an Answer. The Answer addresses each paragraph of the Complaint, and usually takes the form of an admission, a denial, or a statement that the defendant does not have sufficient information to admit or deny a particular allegation in the Complaint.

How to Start a Lawsuit, *cont.*

In addition to responding to the Complaint, the Answer may also set forth affirmative defenses, which are legal reasons that the defendant should not be held liable for the plaintiff's allegations.

In the Answer, a defendant can also raise any claims he has against the plaintiff. These are called Counterclaims. They are written in a manner similar to the Complaint and are usually included in the Answer.

A defendant can also include a Cross-claim. A Cross-claim arises when there are multiple parties to a lawsuit, and the other parties may have their own dispute that arises out of the same transaction or occurrence. An example of a Cross-claim is if a plaintiff was hurt in a car accident involving two potential defendants. The plaintiff files a Complaint against both defendants, but the defendants can file Cross-a claim against one another. They can also include Counterclaims against the plaintiff.

ANSWERING A COUNTERCLAIM OR CROSS-CLAIM

If a defendant files a Counterclaim or Cross-claim, the other party must file an Answer in response to those claims. This is done in the same way as the Answer that was filed in response to the original Complaint.

THIRD-PARTY COMPLAINTS BY DEFENDANTS

Sometimes a defendant will claim that an entirely new party is actually responsible for the plaintiff's claims. A defendant can include this third-party by filing a Third-party Complaint. A Third-party Complaint is similar to the original Complaint and sets forth the defendant's claims for relief as to the third party.

GET HELP STARTING OR RESPONDING TO A LAWSUIT

Starting a lawsuit is just the beginning. There are complex rules about how to start a lawsuit, and how to respond if you have been named as a defendant.

Once the lawsuit has been started, there are numerous substantive and procedural issues that must be addressed. If you fail to address these issues or do not address them correctly, the lawsuit could be thrown out. If you are a defendant and fail to properly respond to the issues raised in a lawsuit, the court might enter a judgment against you or your business.

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If you have a legal issue that you suspect may result in a lawsuit, or if you have been served with a Summons and Complaint, you should contact and hire an attorney as quickly as possible.



Joel Fremstad founded Fremstad Law in 2008 with the vision of creating a practice that is capable of doing more than simply finding legal solutions, but also having the wisdom and care to develop relationship with clients to provide a more thoughtful, meaningful experience. His practice areas today include real estate, mergers and acquisitions, business formation, business/partnership disputes, contract, collections, and personal injury.



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IT'S OUR WHY
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deposition
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Why You Should Consider Naming a Corporate Personal Representative

People often give a lot of thought to how they want their assets distributed after their death, but it's just as important to carefully consider who you'll name in your will as personal representative – the person who will carry out your final wishes and administer your estate.

Serving as a personal representative is often a complex and time-consuming responsibility. It can be overwhelming for anyone who lacks the experience or knowledge to do the job correctly. People often don't realize how much is involved with estate administration. It can be a bit like putting a puzzle together – a puzzle our team is used to figuring out.

A personal representative is typically responsible for:

- Arranging for the probate of the will
- Assembling and inventorying estate assets (including land, homes, vehicles and collectibles)
- Protecting and managing the assets
- Notifying creditors and handling claims
- Filing tax returns and paying taxes
- Settling disputes among beneficiaries
- Preparing and maintaining accounting records
- Distributing assets among beneficiaries

Many people name a family member or close friend to handle these responsibilities; however, an individual who lacks the experience, or cannot devote the time needed, could inadvertently jeopardize a family's financial security. To ease this burden off of family or friends, you might want to consider naming a professional to serve as your personal representative.

The decisions a personal representative has to make are not always easy. Diverse family dynamics coupled with stress and the complex emotions that surface after a loved one's death can be challenging. A corporate personal representative serves as an impartial third party to help avoid potential conflicts and promote and preserve family unity. Our goal is to work closely with beneficiaries or family members to honor the decedent's wishes while making the process as easy and stress-free for the family as possible.

Our Bell Bank Wealth & Fiduciary Services team of professionals has a fiduciary obligation to act objectively and quickly on your behalf. We have extensive experience and understand the ins and outs of estate administration to avoid mistakes and delays that can happen with an inexperienced personal representative. No estate is too intricate for our team of experts.

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Cryptocurrency in Fraud Investigations

“Cash is king.” Remember that phrase? It helped define how powerful cash could be in any given transaction. It simplifies things. Cash could give you preference over someone paying by check or by credit card.

Cash is also hard to trace, making it easier to hide and difficult to quantify losses in theft, embezzlement and hidden asset cases. However, like all kings, they can be defeated, and the reign of cash could be coming to an end.

The Rise of Cryptocurrency

Cryptocurrency [is here](#). Thanks to blockchain technology, cryptocurrency is a foregone conclusion. There are more than 4,000 cryptocurrencies available and while most hold little to no value, some like Bitcoin and Ethereum are gaining traction as a means to diversify one’s investments. As the U.S. dollar continues to lose value, more and more people are turning to cryptocurrency to fight the effects of inflation.

Blockchain technology [uses a decentralized system](#) where information is stored over an encrypted peer-to-peer network. This allows cryptocurrency transactions to occur in a secure environment and in a pseudo-anonymous fashion.

Why Cryptocurrency Could Be Susceptible to Fraud

Although all transactions on a public blockchain are recorded and openly shared, there is no real personally identifiable information. Combine this with the fact that cryptocurrency is still relatively new and not generally accepted, it can be an attractive option for fraudsters.

Let’s remember why cash has always been so popular with fraudsters, organized crime, and money laundering. Other methods such as check payments, credit cards, electronic transfers, and even money orders all leave a paper trail for investigators to follow.

Enter cryptocurrency. An intangible asset given its value by the people rather than the government. In a decentralized blockchain, there is no bank, no opening of bank accounts, no signature cards, or Federal banking laws and regulations. There is no “know your customer” with cryptocurrency. Since blockchain is not a bank, anyone can make transactions with cryptocurrency on an open blockchain for free, 24 hours a day, seven days a week, all over the world.

Cryptocurrency is not without its faults. If the blockchain is decentralized and not regulated, this means no one is ensuring your digital assets will not be lost. Cryptocurrency is owned by whomever owns the private key (think: super annoyingly difficult password) associated with it. If you lose the private key, you lose the asset. There are plenty of horror stories online of people losing millions of dollars in Bitcoin or Ethereum because they lost their private key. Keeping cryptocurrency in an online wallet can help but can also make it vulnerable to cyber-attacks.

Although cash can still be hard to trace, it is also regulated and tangible. Would a person believe it harder to hide \$50,000 in cash or a single Bitcoin? They both carry the same general value, but vastly different methods of storage and maintenance.

Cryptocurrency in Fraud Investigations, *cont.*

Consider the following scenarios:

- A warehouse employee sells inventory for personal gain in exchange for cryptocurrency payments.
- A spouse decides to hide assets from divorce proceeding by purchasing cryptocurrency and making numerous transactions using the blockchain.
- An individual maintains cryptocurrency using an online wallet. The wallet is hacked, and they lose their assets.

Each of these scenarios require a different investigative approach than the traditional theft of cash. Evidence such as deposit records, large duffle bags of cash, and transfers to offshore bank accounts may not exist. Since a large value of cryptocurrency can be stored on something as small as a flash drive, digital assets may soon become most fraudsters' preferred method of doing business.

Fraudsters may also find it convenient to convert cryptocurrency back to cash as it is a relatively simple process. Online exchanges, such as Binance and Coinbase, allow users to sell their cryptocurrency for cash (and a fee, of course).

The downside is that pesky paper trail that fraudsters are trying to avoid. Since the government considers cryptocurrency a security, and any online exchange that is legal to use within the United States is regulated by the Securities and Exchange Commission. However, nothing is stopping someone from selling their crypto assets to other individuals for cash.

How to Protect Yourself Against Fraud When it Comes to Cryptocurrency

There is a silver lining to all of this. Although it sounds complicated, the general methodology is the same. Follow the money.

[Forensic accountants](#) and fraud examiners can apply their current knowledge and experience with blockchain and forensic accounting knowledge to continue finding the answers in these examinations.

Cash may still be king, but one cannot ignore the potential impact cryptocurrency has for the future. It's best to be prepared.

Brett Johnson, CPA, Forensic Accounting Senior Manager

Brett provides clients with peace of mind by offering fraud detection, investigation and prevention consulting services. He has extensive experience tracing illicit funds through multiple accounts and entities, and identifying employee fraud schemes. Brett conducts internal control examinations to help strengthen controls over assets, and he's provided testimony in state, federal and tribal court systems.



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An Efficient Estate: Avoiding Probate

Every person who passes away dies with an “estate,” consisting of their worldly goods and possessions. However, not every person needs to have a probate. Probate comes from the Latin *probare*, meaning “to test” or “to prove.”^[1] In most cases, probate involves “proving” what is a person’s valid and controlling Last Will and Testament. However, probate can be avoided through the use of several non-probate transfers. The most common transfers are Pay on Death Beneficiaries, Joint Tenancy, and Transfer on Death Deeds. By using these alternatives, the sometimes long, costly, and public process of probate can be avoided altogether.

Pay on Death Beneficiaries

Certain items in your estate do not always follow the directions provided in your Last Will and Testament (or via the state’s intestacy laws, if you do not have a Last Will and Testament). The most common are Pay on Death Beneficiaries, as commonly found on your checking and savings accounts, retirement accounts, and life insurance policies. By naming beneficiaries, you are able to avoid the probate process by instructing the financial institutions holding these accounts during your lifetime. The easiest way to complete this is to contact the financial institution and ask to review your beneficiaries. Each financial institution will have their own separate forms that must be completed. These items must be completed before your death: timely action and planning is required. Generally, most institutions allow you to name primary beneficiaries as well as secondary beneficiaries in the event the primary beneficiaries predecease you. After your death, your beneficiaries generally only must submit a death certificate and complete the transfer paperwork provided by the financial institution. As noted, any Pay on Death Beneficiaries you name may supersede what is listed in your Last Will and Testament or other estate planning documents. It is recommended to speak to an estate planning attorney to ensure your beneficiaries are correctly named and your wishes are fulfilled upon your passing.

Joint Tenancy

Joint Tenancy is one of the most common forms of ownership of real estate, and it is also sometimes used for stocks, bank accounts, and other ownership interests. Joint Tenancy’s main benefit is derived from the “right of survivorship.”^[2] When a joint tenant dies, the remaining joint tenant(s) become the owners of the deceased joint tenant’s share. This process is completed automatically, but for real estate, it is generally evidenced in the recorded deed history of the property by an affidavit and death certificate. Whether you own your property as joint tenants depends on how the property was deeded or transferred to you initially.^[3] Spouses generally purchase and own their home and other real estate in joint tenancy. However, it is recommended that an experienced attorney review your ownership interests, and determine if any transfer deeds or other documents are required to change your ownership into joint tenancy.

Transfer on Death Deeds

An alternative to joint tenancy is the Transfer on Death Deed, commonly called a “TODD”. Unlike Joint Tenancy, the TODD is not a present day ownership interest and it only applies to real estate in most states, including North Dakota and Minnesota. As a Pay on Death Beneficiary works for your financial accounts, a TODD works to name a beneficiary on your real estate. Chapter 30.1-32.1 of the North Dakota Century Code, and Section 507.071 of the Minnesota Statutes note the states’ respective requirements to complete a TODD.

An Efficient Estate: Avoiding Probate, *cont.*

Generally, the TODD must be executed by the transferor, and the TODD must name to whom the real estate should be transferred upon the transferor's death. The TODD must be recorded during the transferor's lifetime to be valid, but the actual transfer of the real estate will not be effective until the death of the transferor. As with Joint Tenancy, the death of the transferor is usually evidenced by the recording of an affidavit and death certificate to complete the transfer. By using a TODD, you are able to name a beneficiary for your real estate. And much like Pay on Death Beneficiaries for your accounts, you can freely change the TODD as your estate plan or wishes change. There are other legal requirements concerning TODDs, and it is recommended to consult an estate planning professional to ensure the TODD is valid and effective.

Through the use of Pay on Death Beneficiaries, Joint Tenancy, and Transfer on Death Deeds, you may be able to save the cost of probate and enable your heirs to receive your property sooner than through the probate process. There are times where these methods may also be used to save on part of the probate process, such as where the majority of your assets are in North Dakota, but you own a lake cabin in Minnesota. By executing and recording a TODD, you may be able to skip the separate Minnesota probate proceeding that otherwise would be required.

[1] <https://www.lexico.com/en/definition/probate>

[2] Right of Survivorship Definition, *Black's Law Dictionary* (11th ed. 2019), available at Westlaw ("A joint tenant's right to succeed to the whole estate upon the death of the other joint tenant.")

[3] *N.D. CENT. CODE § 47-02-06 (2019)*

Jeffrey Strom has been an associate attorney at Ohnstad Twichell since August 2016. He attended the University of North Dakota and graduated summa cum laude with a Bachelor of Science in Psychology in May 2013. In May 2016, he graduated magna cum laude from the University of North Dakota School of Law. In addition to estate planning and probate, he also practices real estate, business, and corporate law.



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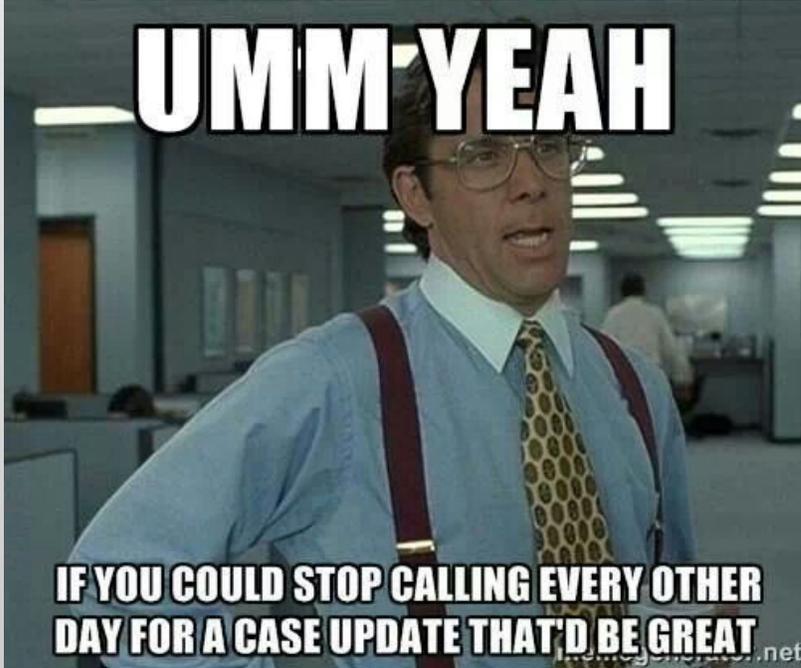
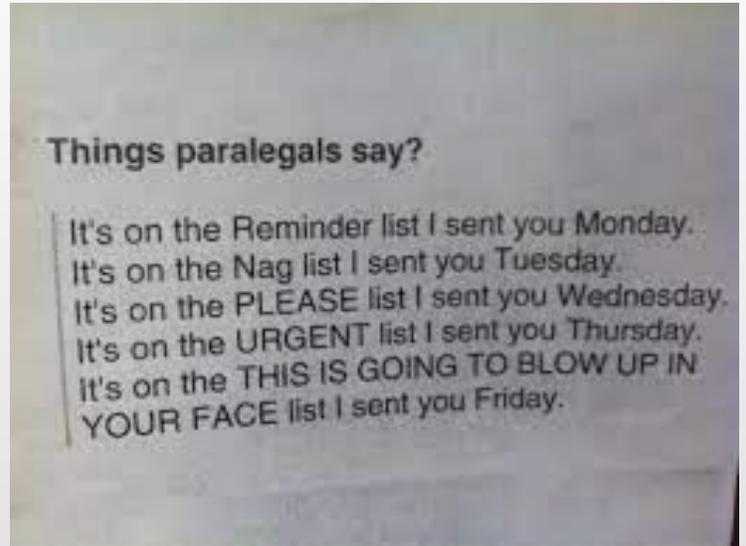
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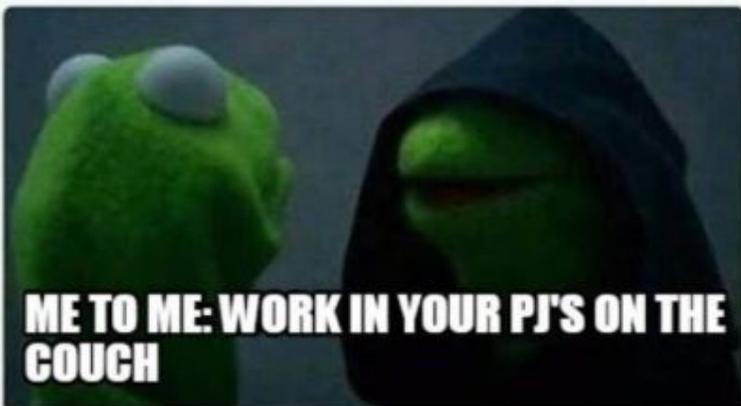
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2020 – 2021 Committees

Education – Alisha Carpenter & Karen Severson

The membership committee is responsible for planning and implementing all educational opportunities for RRVPA members, including Lunch & Learns, our annual Fall Seminar, and other accredited programming. This committee works hard to make sure all content is kept in pace with current technology and the education standards of our ever changing market.

Finance and Audit – Chelsey Norberg

The finance and audit committee is responsible for maintaining the finances of the organization through transparency and communication. This committee also leads our annual sponsor drive each fall and heads up the scholarship opportunities available through the organization.

Membership – Candace Gould

The membership committee is responsible for marketing our organization to new membership within the region, as well as maintaining documentation of current membership, welcoming new members, and acting as a liaison for our organization within the community.

Public Relations – Rachel Martin & Kelsey McFarlane

The public relations committee is responsible for maintaining and distributing all RRVPA materials, as well as making sure the organization's social media presence is current and relevant. Additionally, this committee designs and publishes the Red River Review, a semi-annual organization publication.

Outreach – Regional Directors

The outreach committee is responsible for researching, planning, and implementing a variety of impactful volunteer opportunities for membership.

Mentor Program – OPEN

The mentor program committee is responsible for facilitating the mentor/mentee program to encourage education through knowledge and experience. This program is especially helpful for area students and those seeking a career in the paralegal profession.

Reach out today if you are interested in becoming more involved in a committee!

I'm Getting Pulled Over by Law Enforcement. Now What?

It has happened to almost all of us. You are cruising down the road, maybe listening to music, enjoying the scenery, or (in my case) likely telling the kids to quiet down in the back. Then you see red and blue lights in the rear-view mirror. You are being pulled over. Whether you know why you are stopped or not, hopefully this article will explain some reasons why you may have been pulled over and what happens next, depending on the circumstances.

First, let's start with why you are being pulled over. Law enforcement cannot simply stop a vehicle because they are bored or feel like bullying a citizen. In order to initiate a traffic stop of a moving motor vehicle, law enforcement must have a reasonable and articulable suspicion that a law has been or is being violated. The list of things law enforcement can use to form a reasonable and articulable suspicion is too long for one article, but some common examples are as follows: speeding, swerving, obstructed license plates, obstructed windshields, expired tabs, headlights being out, a defective tail light, reckless driving, etc. Most simply put, "traffic violations, even if considered common or minor, constitute prohibited conduct and, therefore, provide officers with requisite suspicion for conducting investigatory stops."

That being said, law enforcement cannot act on a mere hunch or belief that a law has been or is being violated to initiate a traffic stop. For example, the United States Supreme Court stated that it was illegal for law enforcement to stop a vehicle, when it did not commit any traffic violations, just to check and see if the driver has a valid license and registration. The meat and potatoes of the Court's ruling and the jurisprudence we see today is as follows:

When there is not probable cause to believe that a driver is violating any one of the multitude of applicable traffic and equipment regulations—or other articulable basis amounting to reasonable suspicion that the driver is [breaking the law]—we cannot conceive of any legitimate basis upon which [law enforcement] could decide that stopping a particular driver for a spot check would be more productive than stopping any other driver. This kind of standardless and unconstrained discretion is the evil the Court has discerned when in previous cases it has insisted that the discretion of the official in the field be circumscribed, at least to some extent.

If law enforcement lacks a reasonable and articulable suspicion to pull you over, they are going to have a very difficult time convincing a judge that their investigation should have been allowed to continue. It also would make for a very short article. So, let's assume there is a valid reason to pull you over. Now what happens?

"During a traffic stop, 'an officer can temporarily detain the traffic violator at the scene of the violation.'" "The duration of the investigatory detention may continue 'as long as reasonably necessary to conduct [the officer's duties resulting from the traffic stop] and to issue a warning or citation.'" If you are wondering what some of these duties are, the

I'm Getting Pulled Over by Law Enforcement. Now What? cont.

the North Dakota Supreme Court has articulated some general guidelines, which are:

[R]equest[ing] the driver's license and registration, request[ing] that the driver step out of the vehicle, request[ing] that the driver wait in the patrol car, conduct[ing] computer inquiries to determine the validity of the license and registration, conduct[ing] computer searches to investigate the driver's criminal history and to determine if the driver has outstanding warrants, and mak[ing] inquiries as to the motorist's destination and purpose.

Law enforcement has some latitude to pursue an investigation. However, when the original purpose of the stop is complete, law enforcement must have a reasonable suspicion that criminal activity is occurring to continue detaining the motorist. "Any further detention, without reasonable suspicion, violates the traffic offender's Fourth Amendment rights against unreasonable searches and seizures."

If law enforcement does have a reasonable articulable suspicion to pull you over and finds additional legitimate information that criminal activity is also afoot (like a DUI, possession of illegal contraband, etc.), they will be allowed to investigate further. If their investigation provides them with probable cause that you have committed a crime, they are likely going to be allowed to arrest you, depending on the circumstances, and ask the prosecutor to charge you with a crime.

The odds as to whether a jury will find you guilty, beyond a reasonable doubt, of a charge alleged by the prosecutor will be left open for discussion in another article. While this paints the topic with a broad brush, there are fact-specific inquiries that need to occur with each case involving a traffic stop.

²[Sturm v. N.D. Dep't of Transp.](#), 2009 ND 39, ¶ 9, 763 N.W.2d 515.

³[State v. Adan](#), 2016 ND 215, ¶ 10, 662 N.W.2d 242.

⁴[Delaware v. Prouse](#), 440 U.S. 648 (1979).

⁵[Id.](#) at 661.

⁶[Adan](#), at ¶ 11 (citing [State v. Fields](#), 2003 ND 81, ¶ 8, 662 N.W.2d 242).

⁷[Id.](#) (citing [United States v. Jones](#), 269 F.3d 919, 925 (8th Cir. 2001)).

⁸ [Fields](#), at ¶ 8 (citing [Jones](#), at 924).

⁹ [Adan](#), at ¶ 11.

¹⁰ [Id.](#)

¹¹ [Rodriguez v. United States](#), 135 S. Ct. 1609, 1612 (2015).

¹² Even if you are a convicted felon but are not suspected of committing a crime beyond the reason for you being pulled over, law enforcement's performing an "ex-felon registration check" and a "dog sniff" can be grounds for a valid suppression motion. [See United States v. Evans](#), 786 F.3d 779 (9th Cir. 2015).

Scott Brand, Attorney and Owner at Nilson Brand Law

Growing up on a farm gave Scott the work ethic to know when the extra effort is needed on a case. As a veteran of Operation Iraqi Freedom, Scott has developed a knack for being able to engage in straight talk about what is going on with each case he handles. He is not afraid to have a candid conversation about what is happening in the case with his clients, the prosecutors, judges and juries. Scott Brand is an attorney and owner at Nilson Brand Law and works out of their Fargo office.



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- *Gain real life exposure*
- *Learn about the local legal community*
- *Networking*

Want more information? Visit the mentor page at www.rrvpa.org.

RRVPA: How We Got Started

Legal assistants at the Gunhus, Grinnell, Jeffries, Klinger, Vinje & Swanson Law Firm in Moorhead, Minnesota, approached other working legal assistants in the Fargo-Moorhead area in the fall of 1981 to determine if there was an interest in establishing a professional organization for legal assistants in the Red River Valley area. They received an overwhelmingly enthusiastic response from those contacted.

An organizational brain-storming session was held at Moorhead State University on October 15, 1981. They discussed many things, including how to organize such a group. Those present recognized that there were already two national organizations, as well as a Minnesota organization, that locals could participate in. Many voiced that their location was a stumbling block for in-person participate in those organizations. They felt that a local organization would provide the opportunity to get to know other people working in the same profession through networking opportunities, as well as provide educational seminars for membership.

Objectives included meeting the professional and continuing education needs of legal assistants in the area, promoting ethical standards for legal assistants, and broadening the public understanding of the function of the legal assistant. As a result, Red River Valley Legal Assistants was begun in 1982.

The first few meeting were held primarily to determine what the "needs" were and did not have speakers or educational programs. By the Spring of 1982, they were ready to discuss affiliation and on May 25, 1982, they had representatives from National Association of Legal Assistants (NALA), National Federation of Paralegal Association (NFPA), and Minnesota Association of Legal Assistants (MALA) at the meeting.

At the next meeting on July 27, 1982, they voted to affiliate with NALA and have continued affiliation with NALA since that time. NALA offered its affiliates their resources and experiences, and assisted them in their efforts to enhance the professional development of individual members.

An amendment was adopted on March 20, 2003 by the majority of the directors and voting members to change the name from 'Red River Valley Legal Assistants' to 'Red River Valley Paralegal Association' (RRVPA).



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RRVPA: Who We Are Now

The Red River Valley Paralegal Association is comprised of members from Eastern North Dakota and Western Minnesota. We actively participate in our communities, serving as representatives of the ever growing paralegal job market.

Our organization is led by a board of directors, which meets on a quarterly basis. Member participation is encouraged through a committee of choice in alignment with personal interests.

RRVPA hosts several CLE opportunities throughout the year, culminating in an annual seminar which is generally held in Fargo, North Dakota. In addition, RRVPA members enjoy a large network of other paralegal in which to ask questions, share knowledge, and build relationships.

Our organization is truly unique!



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The Red River Review is the official publication of RRVPA. It is designed to serve the needs and interest of paralegals in the Red River Valley.

The Red River Review is edited for the members of RRVPA. Publishing and editorial decisions are based on the editors' judgment, the timeliness of the article, and the potential interest of the readers.

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