

FALL 2020

# RED RIVER REVIEW

*Official Publication of the Red River Valley Paralegal Association*

**What Makes My Paralegal Great**

**How Forensic Accounting and Digital Forensics Can Help Your Litigation Case**

**The Post-Divorce Paper Trail**

**Interesting Ways to Get a DUI**

**Can Social Media Be Used as Evidence in a Divorce?**

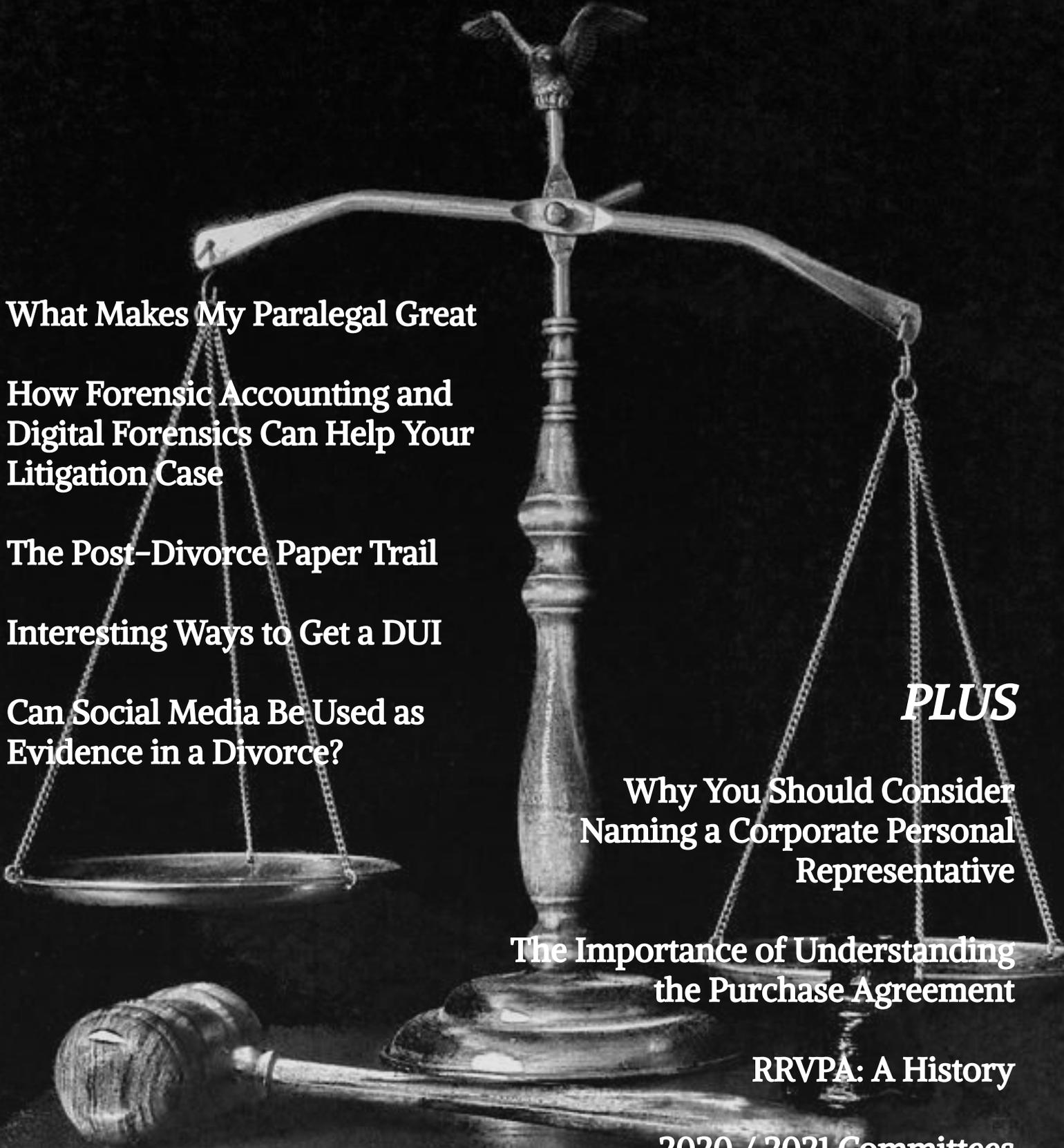
***PLUS***

**Why You Should Consider Naming a Corporate Personal Representative**

**The Importance of Understanding the Purchase Agreement**

**RRVPA: A History**

**2020 / 2021 Committees**



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**RRVPA**

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

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# President's Report

I have started to write my officer report about six times now. I don't know whether to make light of the fact that murder hornets are actually a thing, or touch on the fact that our nation has gone through some of the toughest growing pains in decades.

Here is what I do know. 2020 has been exponentially more difficult than past years. In my home we have been trying to "find our new normal" and create a balance between fear, love, and positivity. That is hard now and it is hard every single day. We've had to rethink how we do everything from grocery shopping to starting a new school year. We've gotten creative, spent a LOT more time outside, become experts on comfortable masks, spent an embarrassing number of hours putting together puzzles, and become pros at meal planning two weeks at a time!



*Rachel Martin*

Our organization has made some significant changes this year as well. We've had to rethink how we handle social interactions and find a happy medium for our membership. Unfortunately this meant having to postpone our Fall Conference and several fun networking events. Nevertheless, your committees have been hard at work to provide meaningful education opportunities and fun, albeit socially distant, "get togethers." We are resilient. Our organization is resilient and so are every single one of our members.

I look forward to seeing all of your amazing smiles in person again. Until then, keep putting one foot in front of the other, keep learning and adapting, and keep showing grace for those around you.

## INTERESTED IN ATTENDING A NALA CONFERENCE? *START PLANNING NOW!*

2020 - July 9 - 11 (Thur - Sat) at Harrah's Atlantic City

2021 - July 22 - 24 (Thur - Sat) at Louisville Marriott Downtown

2022 - July 14 - 16 (Thur - Sat) at JW Marriott Desert Ridge Resort & Spa - Phoenix

2023 - July 12 - 14 (Wed - Fri) The Westin Copley Place - Boston

# First Vice Presidents' Report

The year 2020 has been a wild one. With the worldwide pandemic taking over, RRVPA has had to adapt. On September 16, 2020 we held our first fully virtual Lunch and Learn. Ashley Heitkamp of Nilson Brand Law spoke regarding non-parent custody laws in North Dakota and we had an excellent turnout via Zoom. Our second virtual Lunch and Learn was held on October 13, 2020 and attorney Alisha Ankers spoke about conducting mediations through the family mediation program in the time of COVID-19. She also discussed how electronic means have made that possible, which is a very interesting topic, especially at this time. We have some great speakers lined up, including Susan Ellison of Ohnstad Twichell, P.C. and Ashley Champ of Anderson & Bottrell Law Firm. We hope you can join us via Zoom and participate in these upcoming learning opportunities!

Unfortunately, we had to cancel our Fall Conference and hope we will be able to have a Spring Conference in 2021. As with everything nowadays, we can't tell what the future will bring. We are all crossing our fingers that we will get back to some sort of "normal" soon. Wishing you all a wonderful fall season!



*Alisha Carpenter*



*Karen Severson*



**"The prosecutor says you have to roll over."**

# Second Vice President's Report



*Candace Gould*

I am pleased to announce that this has been a good year for RRVPA membership-wise, as we have gained eight new members since the spring. Please join me in welcoming our newest members!

Our newest members are:

- |                 |                            |
|-----------------|----------------------------|
| * Allyson Lee   | * Jaiden Cutler            |
| * Casi Lee      | * Lauren Hanson            |
| * Cassie Smith  | * Lindsey Anderson         |
| * Clara Niesche | * Michelle Kalvoda-Baumann |

Currently, RRVPA has 80 members in total, consisting of the following membership types: 57 voting members, 3 associate members, 16 sustaining members, and 4 student 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](mailto:redrivervalley.paralegal@gmail.com).

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# Treasurer's Report

The leaves are changing and the temperatures are gradually dropping, but our 2020–2021 year is heating up. We are so grateful for all of the generous donations given to the Red River Valley Paralegal Association (RRVPA), which were received through our 2020–2021 Sponsorship Drive from businesses and firms throughout North Dakota and Minnesota. Thank you for your donations! The 2020–2021 Sponsorship Drive received nine (9) Platinum Sponsors, six (6) Gold Sponsors, eight (8) Silver Sponsors, five (5) Bronze Sponsors, and one (1) door prize for our Annual Seminar. I would also like to extend our thanks and gratitude to the members who took time and made the effort to make this sponsorship drive possible. We will continue to take on sponsors throughout the year, please contact us if your business or firm is interested in this great opportunity.



*Chelsey Norberg*

The RRVPA bank account balance as of October 12, 2020 was \$31,479.68.

## Are you taking advantage of all of the benefits RRVPA has to offer? Here are just a few...

*Employment Opportunities:* RRVPA promotes paralegal-related job openings of area employers.

*Continuing Education:* RRVPA sponsors an annual seminar, providing general legal education benefits, as well as continuing education credits required to maintain the CLA/CP certification. In addition, we host monthly Lunch and Learn opportunities with dynamic speakers.

*Networking:* RRVPA hosts luncheons, socials, and volunteering events, all of which are a great way to get to know other paralegals in the industry.

*Scholarships:* RRVPA offers an annual scholarship for members who are interested in taking the Certified Paralegal or Advanced Certified Paralegal exam. RRVPA also offers CLE based scholarships throughout the year!

*Mentor Program:* Members can participate as a mentor in the program, which connects experienced paralegals with an up and coming paralegal.

# NALA Liaison Report

It has been an exciting year and once again we hope 2020-2021 will be the same! My name is Stacy Brekke and I look forward to serving once again your NALA Liaison.



The year 2020 started off normal but hasn't been the same for the past 6 months as we learn to adjust to the new normal. I attended the 2020 NALA "At Home" edition of the Conference which was supposed to be live from Atlantic City, NJ. But, NALA made it work and all the sessions were available virtually "live" in July and/or by obtaining the conference bundle on demand format.

If you are not a member of NALA (18,000+ members) yet, I highly recommend you look into it – there are so many educational resources available to any paralegal at any level of their education and/or careers. To learn more, head on over to [www.nala.org](http://www.nala.org).

Starting July 15, 2020, association members are eligible to receive 25% off of their NALA active membership fee, which normally costs \$154 per year. As a member of an affiliated association, members will now receive a NALA active membership for only \$115.50! This includes access to all member benefits, AND the \$80 membership gift certificate. Now is a great time to join!

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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.

Contact our team of estate administration experts at 701.451.3000 with any questions you may have. For more information, check out our website at [bell.bank](https://bell.bank).



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

*It's that easy!*

# How Forensic Accounting and Digital Forensics Can Help Your Litigation Case

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Your goal is to bring swift resolution to your litigation cases and act in the best interest of your client. In some cases, especially those dealing with some sort of fraud or hidden asset, you need an expert witness to help you uncover the facts and provide evidence for your case.

The credibility of an expert witness is vital to the success of your case and the well-being of your client. There are several complexities when it comes to finding an independent, objective and responsive expert for your litigation needs.

Whether you need help examining records, financial statements or digital evidence, professionals with forensic accounting and digital forensic backgrounds can help uncover the truth about your case and ensure you have data that is admissible in a court of law.

**Here are six ways forensic accounting and digital forensics can help your litigation case:**

## **1. Investigating Trusted Sources**

Forensic accounting and digital forensics professionals often come into play when hard conversations are needed and trust issues arise. Their job as a “trusted advisor” is to tell clients what they need to know, even when they don’t want to hear it, whether it involves employees or a spouse or family member.

## **2. Recovery of Deleted Data**

Data collection needs to be performed by an independent third party to ensure it’s collected properly and there’s no conflict of interest. A trained and vetted computer forensic expert can explain how or if documents were securely preserved and can properly collect, preserve and examine the data.

## **3. Corporate & Individual Liability**

In certain circumstances, courts will disregard the separate legal existence of a corporation and pierce the corporate veil to hold individual shareholders liable for the conduct and debts of the entity. Courts consider numerous factors when determining if the corporate entity should be disregarded. Being able to fully understand and properly assess relevant factors of alter ego is imperative. Forensic accountants analyze, interpret, summarize and present complex financial and business-related issues in a manner which is both understandable and properly supported.

## **4. Independent Collection of Electronic Data**

With the increasing volume of data present today, information needs to be better managed for preservation, ease of review and distribution. Proper data collection is crucial for evidence authentication and preservation. Organizations will often attempt to collect their data internally, which can cause numerous issues such as over/under collection, loss of metadata integrity, or loss of impartiality.

## **5. Forensic Imaging for Legal Holds**

If your client has received a legal hold, it’s important to make sure that they are following the federal rules of civil procedure. One option to accomplish this is to preserve all the data by making forensic images of the devices.

# How Forensic Accounting and Digital Forensics Can Help Your Litigation Case *cont.*

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A preserved collection means work doesn't need to stop for your clients. Utilizing both forensic and eDiscovery tools to assist with information governance can streamline the process and save time and money.

## 6. Intellectual Property Theft

According to the World Customs Organization, theft of intellectual property accounts for \$500-600 billion in lost sales globally each year. On average, hackers can spend over 200 days on a system before a cybersecurity threat is detected. By that time, there's no accounting for the sensitive—and valuable—data they may have stolen. Incident response is a critical aspect of forensic investigation concerning cybersecurity threats or breaches. The forensic team provides expertise, tools and resources, while also conducting an impartial party review or report for insurance reasons.

### Why Forensic Accounting and Digital Forensics Matter in Your Court Case

When your clients have faced fraudulent activity, they need help to review the aftermath, recover what was lost and move forward. It's your role to help them seek resolution, which often means uncovering the facts, analyzing the mountains of data and presenting them in an admissible way.

Technology has made this process even more complex. The duty of technological competence does not mean an attorney or paralegal needs to become a technology expert, but it does require basic understanding of the technology they use to practice law and the technology employed by their clients in legal matters. They also need to understand the electronic risks and benefits afforded by those pieces of technology.

Partnering with a trained forensic expert can help ensure the worries of your client are met, your questions are answered, and the facts are uncovered.

*For a more in-depth review of how forensic accounting and digital forensics can help your litigation case, visit [EideBailly.com](https://EideBailly.com)*

### **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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# Brain Break

## Legal Terminology

T Q X M L Q I N B Y S W C H M B Y E G C V C J G  
C P J Y O I N Y D G X W X I N D I C T M E N T C  
Y K H S O F F E I S Q L T N E M N G I A R R A V  
D Z S H A U O A T Y M X Z C S O L C U C G Q P L  
D Y J R Q V R C G I S A W Y N O I T C E J B O G  
I F V M U T M H O H I A P O R N E S Y S B C Z J  
R P Q Y R K A J O N J X L O R Z J X K P G D H G  
E V F M P G T C N N V V T W T S J U V J M H D Y  
C L V A S C I H L K O I Q Q R K I J L N A W D I  
T S Q A B R O Y A U T R C T C I D R E V A K H N  
E S O Z K O N M T L A I R T S I M P Y T E C Q K  
X D I T T S S D T H Q C I Q I I W N J C R A I P  
A D K B H S U E I A Y V V S K O O I N W D V B D  
M E L M U E Q L U I P F I Z C Q N E V W B I Z R  
I N B M T X G U Q S H P G C T B T N C Z P E V L  
N I D I N A C R C O O P E U R N Y O L T R R Q I  
A A R K J M B R A T I J E A E K B I Y M K E Q M  
T T I H V I N E R K R H F S L I E T A U B X F J  
I S Q S K N P V M Q D R L L K N S O R S W W V N  
O U M B X A F O V Z N E J W K S K M J L Q D K T  
N S Y O B T Y K C L C K M R T Q X B L E T C G B  
D G X T C I A G M S Z C N K Q D P F F T P T O T  
H Z O T L O E M E X J F T O C I V K P N C X U F  
E D L N O N W W B V C F V G T C A F D W P G P T

your honor

verdict

sustained

sentence

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# Can Social Media Be Used As Evidence in a Divorce?

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If you asked a hundred divorce attorneys their best piece of advice about social media and divorce, the majority would probably say something like this: stay off social media for the duration of your divorce or family law matter. If asked to elaborate, many of them would probably counsel to cease posting to your own accounts, or even to deactivate them altogether. Can social media be used as evidence in a divorce?

The answer, unsurprisingly, is yes. Yet many people continue to hand their spouses ammunition to use against them in a divorce trial. Why? And how can you protect your interests if you do decide to use Twitter, Facebook, Instagram, or other social media while your divorce is pending?

## **RISKS OF SOCIAL MEDIA USE DURING YOUR DIVORCE**

During a divorce, you may be emotionally exhausted, and you will need the support of family and friends. In some ways, social media is the perfect solution. Social media does not require the emotional energy that face-to-face social activity does, yet it allows you to easily share how you are feeling, and within minutes to get positive messages from those in your circle.

Of course, there are risks inherent in socializing on the internet, and they can jeopardize your divorce case in a few different ways. Your social media postings (or someone's posts that involve you) can cast doubts as to your fitness as a parent; they can make it seem as if you have more money than you're claiming in court documents; and they can, in general, make you look untrustworthy if they conflict with your statements in court or under oath. And if you're trashing your spouse on social media, that may call into question your judgment, maturity, and ability to coparent.

One common misstep on social media during divorce is to post pictures involving drinking or partying. If you are over 21, you are certainly allowed to have a drink when you want to. But if pictures of you drinking or partying surface on social media, and those are introduced in court, they might create the wrong impression. If you're doing something illegal, or getting cozy with someone other than your spouse on camera, the impression could be even worse.

Part of the problem is that you are not the only one who can post pictures of you on social media. If someone else does, whether or not they tag you, your spouse may still be able to access the picture and use it against you. If you are tagged, you may be able to get the tag removed, but that won't necessarily solve your problem. And because other people can post pictures of you on social media, even keeping your privacy settings locked down tight may not protect you. Your spouse may not be able to see your page, but he or she may still be "friends" with the coworker, cousin, or neighbor who posted the image.

It's better to stay out of pictures altogether, or better yet, to stay out of situations in public that you wouldn't want to be photographed in. Everyone has a cell phone these days, which means everyone has a camera and ready access to the internet.

# Can Social Media Be Used As Evidence in a Divorce? *cont.*

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## WATCHING YOUR WORDS ONLINE

It can be difficult to control what other people post that involves you. It is much easier to control what you put on social media, and you should. During a divorce, especially a contentious one, the temptation to say negative things about your estranged spouse can be very strong. This is especially true if your spouse's misdeeds led to the demise of your marriage.

As hard as it is, resist this temptation, especially if you have kids. That is because custody is decided based on the best interests of the children. One of the factors is "the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child." If you're trashing the other parent online in a public or semi-public way, a judge might reasonably conclude that you say negative things to your child about their other parent—or at a minimum, that you have poor judgment and poor impulse control. If you must vent, do it to a therapist or trusted friend, in a way no one can take a screenshot of.

## SOCIAL MEDIA DO'S AND DON'TS DURING DIVORCE

In a nutshell, there are a few things you can do to keep social media from causing a problem during your divorce. First, avoid social media use if you can, and avoid being in situations you wouldn't want depicted or reported on social media. Don't depict your financial situation one way in court documents and another way online (like by claiming you can't afford to pay child support, then posting pictures of a lavish vacation). Don't count on your privacy settings to protect you, and don't say or do anything on social media that you wouldn't want your divorce judge to see.



***Lesley Foss, Attorney at Fremstad Law***

Lesley focuses her legal practice almost exclusively in family law, and represents clients through all stages, aspects, and phases of family law proceedings, including divorce, custody, post-judgment modification or enforcement proceedings, parenting time disputes, prenuptial agreements, child support, guardianships, and name changes. Lesley is also a trained guardian ad litem, is a parenting investigator in North Dakota, and is a qualified neutral mediator in family law proceedings and offers family law mediation services as part of her practice.



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# Thinking about joining NALA? NOW is the time!

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# What Makes My Paralegal Great?

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Paralegals are the backbone of every successful law firm. C'mon. Think about it. Are those lawyers even really necessary at all? After all, it's the paralegals who hold a practice, and a case, together. Right? You don't have to look very hard to find lawyers who agree. Paralegals are indispensable, invaluable, and make their lawyers look good at every turn.

How they do so likely looks different from one firm to another and even from one lawyer within a firm to another. For now, though, here are five general ways paralegals serve their lawyers, their clients, and their profession:

**They are organized:** Okay, it's obvious. But it's crucial to the success of any case or matter, isn't it? Paralegals are great organizers. They are involved from a client's first contact with a firm, learning facts, writing memos, administratively opening matters.

Then there's calendaring, followed by calendaring, followed by more calendaring. Meetings need to be scheduled. So do deadlines. For discovery, for appraisals, for trial disclosures, and more. Has your attorney returned that phone call? Responded to that email? It's a good thing you're there to remind her. Without the aid and assistance of the paralegal, too many important dates would be overlooked or forgotten. A lawyer who can keep track of it all on his or her own? Nope, he or she doesn't exist. They need a paralegal.

**They Solve Problems:** Every day, attorneys are dealing with multiple emails and calls from clients and opposing parties. Presenting every minor issue to your attorney will only add to their hectic and busy schedule. Experienced paralegals learn their zones of authority and autonomy. They develop the experience needed to know right answers. Accordingly, they figure out how to answer many client questions, manage tasks, and put out fires, without having to bring every last matter to their attorney. Every little piece of time a paralegal can save for her attorneys is precious and gives the attorney more time to focus on bigger matters.

**They Are Reliable:** Good paralegals complete assigned tasks on a timely basis. Do the lawyers you work for have to hover and inquire, "did you do this? Did you do that?" Or do they "set it and forget it," giving you a task, then trusting it'll be done and done timely and right? Your attorney doesn't have time to baby you. She needs you to be 100% reliable! It's a good thing she can trust you. And part of that trusting relationship, of course, is being honest with your attorney when your load has gotten too heavy. If you'll have trouble fulfilling a responsibility, or being timely, your attorney needs to know. Tell him.

**They Share Opinions:** Lawyers don't want you to be a fly on the wall. A good attorney likes a paralegal who shares opinions, who voices thoughts, who expresses concerns. Good lawyers value their paralegals as good teammates, engaged in the common enterprise of taking care of their clients. According, paralegals are a second set of eyes; someone to brainstorm and case plan with; someone with a trusted and experienced perspective. If you see an issue or think an argument should be stressed, say it. You often know the file better than your attorney so, go ahead, offer your perspectives. Stating your opinion makes the case stronger and prepares your attorney to confront issues and arguments.

# What Makes My Paralegal Great? *cont.*

---

**They Seek Out Training:** Good paralegals look for every chance to skill-build. They seek out training opportunities, then help their lawyers and firms see the value in making them available. Do you want to attend a seminar or specialized training? If it makes sense to you, it'll make sense to your lawyers and firm, too. In our firm, we encourage our paralegals to become Certified Divorce Financial Analysts. If they achieve that certification, our clients will be better served. Never be afraid to ask for training. Learning and skill-building is good for you, good for your firm, good for your lawyer, good for your clients.

Before drafting this article, I prowled our halls and asked my colleagues, "what does a great paralegal do for you?" Each and every one reacted the similarly. "Where do I begin?" "The list is too long!" "She makes me look smarter or better or more professional." But these five traits showed up repeatedly. A great paralegal is organized, solves problems independently, is trustworthy and reliable, shares thoughts and opinions, and strives to improve.

And we attorneys are grateful!



***Alexa Lecomte, Attorney at Gjesdahl Law***

Alexa joined Gjesdahl Law, P.C. in 2020, after clerking with the Clay County District Court. Alexa is originally from Winnipeg, Manitoba where she completed her undergraduate degree at the University of Manitoba. She is dedicated to helping families resolve their issues and address their changing needs.

Alexa lives in Moorhead. In her free time she enjoys spending time with her friends and family.



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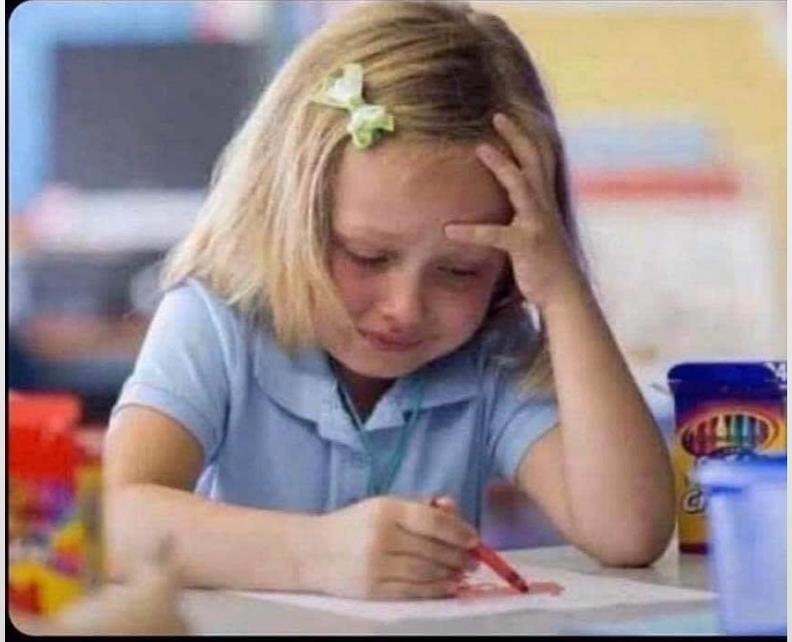
# Brain Break

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Somedays I just want to reply emails with "ok" and this picture:



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the really nice paralegal at the  
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# Interesting Ways to Get a DUI

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When people think of someone getting a DUI, they often think about someone in a car getting pulled over on the side of the road. But there are so many more interesting ways someone can get charged with a DUI.

Let's start with what the actual law in North Dakota says. The simplest reading of the law is as follows "A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if ... under the influence of intoxicating liquor." (1)

Of course, driving while being under the influence of drugs (legal or illegal) to the point of making you "incapable of safely driving" will also land you a DUI (2) , but this particular blog is more focused on the "vehicle" portion of the law.

Below are some interesting tidbits regarding what can be considered a vehicle when facing a DUI charge.

- In North Dakota and Minnesota, we are blessed to have plenty of water for boating activities. But just because you are on the lake does not mean you are immune from DUI laws. North Dakota has specific laws just for boaters that outlaw their operation while under the influence. (3)
- Minnesota even includes boats in its definition of a motor vehicle. (4)
- Driving a combine while under the influence can also get you a DUI. (5)
- How about a lawn mower? Yes, that will get you a DUI too. (6)
- Even driving a zamboni while under the influence can lead to a DUI. (7)
- In Ohio, a man was charged with a DUI in his wheelchair. (8)
- A bicycle, even though it is not motorized, is still technically subject to DUI laws in North Dakota. (9)
- Getting on a horse will not save you from a DUI in North Dakota, either. In fact, "any ridden animal must be deemed a vehicle" for the purpose of evaluating a DUI. (10) The North Dakota Legislature recently debated whether riding a bicycle or a horse should be eliminated from DUI law, but ultimately rejected the idea. (11)
- Although a woman in South Carolina driving a Power Wheels truck (top speed of 5 miles an hour) was not charged with a DUI, she did get charged for public intoxication. (12) I believe if the case was in North Dakota a prosecutor could charge her with a DUI based on all of the examples listed above.
- Getting on a horse will not save you from a DUI in North Dakota.

# Interesting Ways to Get a DUI *cont.*

The big takeaway from all these examples is to get sober transportation when you have been drinking. Not only is it incredibly dangerous to drive while under the influence, in North Dakota nearly anything you operate can be considered a vehicle.

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1 N.D. CENT. CODE § 39-08-01(1)(b).

2 N.D. CENT. CODE § 39-08-01(1)(c).

3 N.D. CENT. CODE § 20.1-13-07(2).

4 MINN. STAT. ANN. § 169A.03 Subd. 15.

5 <https://kfgo.com/2020/09/01/163303/>

6 [https://bismarcktribune.com/news/state-and-regional/n-d-man-arrested-while-driving-lawn-mower/article\\_180bcb52-4921-11e4-a990-63921979f24e.html](https://bismarcktribune.com/news/state-and-regional/n-d-man-arrested-while-driving-lawn-mower/article_180bcb52-4921-11e4-a990-63921979f24e.html) 7

<https://www.cbssports.com/nhl/news/fargo-zamboni-driver-arrested-on-suspicion-of-dui/>

8 <https://www.nydailynews.com/news/national/ohio-man-wheelchair-cited-drunkenly-operating-motor-article-1.1744912>

9 City of Lincoln v. Johnston, 2012 ND 139, 818 N.W.2d 778

10 N.D. CENT. CODE § 39-07-01.

11 <https://www.kxnet.com/news/dui-law-still-apply-to-horse-and-bicycler-riders/>.

12 <https://www.usatoday.com/story/news/nation/2019/06/20/megan-holman-driving-toy-truck-drunk-arrested-south-carolina/1519018001/>

## ***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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# 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!**

# The Importance of Understanding the Purchase Agreement

---

Congratulations! You've decided to make an offer on that four bedroom home on the corner lot just a few blocks down the street that is being sold By Owner. As you and Seller are negotiating, you find out that he's a Bison fan, too! What are the odds? You quickly agree on a purchase price you are both comfortable with. You are feeling good about the fact you have avoided the expense of a realtor and feel even better when Seller tells you he has sold properties before and has a purchase agreement form you are able to use, saving you the expense of having an attorney draft the purchase agreement. Seller emails you the purchase agreement a few days later, tells you to email him a signed copy within the next week after your attorney has reviewed it. You read through the purchase agreement and see that the purchase price, earnest money amount, and closing date are all correct and decide to forego having an attorney review the agreement in order to save a few bucks. You figure the agreement is fair since (a) the terms you agreed upon are correctly set forth in the agreement and (b) the Seller encouraged you to have an attorney review it and he would not have done so if he did not think it was a fair agreement.

A few weeks later the appraisal is completed: the home appraises for \$30,000.00 less than the purchase price and your loan is denied due to the low valuation of the home. After informing Seller that you are unable to purchase the home you ask him to return the earnest money. Seller informs you he is keeping the earnest money because the purchase agreement does not contain a clause making the purchase contingent on the property appraising for an amount equal or greater than the purchase price. To make matters worse, Seller sells the property for the next best offer, which is \$30,000.00 less than the price for which you were going to purchase the property. Seller is now suing you for \$30,000.00 (the difference between your purchase price and the next highest offer) since the purchase agreement contains a clause allowing the non-breaching party (Seller) to collect damages from the breaching party (you). You're thinking, "how could this get any worse?" Well, the purchase agreement also contains a clause that allows the non-breaching party (Seller) to recover his attorney's fees from the breaching party. Not only did you lose your earnest money, but you are now being sued for \$30,000.00 and, if you lose, you will have to pay both your and Seller's attorney's fees.

Because real estate purchases are so common and occur with such high frequency some people believe a stock purchase agreement form will suit their needs, which, as set forth above, can and does become an expensive mistake. A purchase agreement should be tailored to your specific needs and situation. Purchasing a home is the largest investment most people will make; protect yourself and your investment by having a real estate attorney assist you with the transaction.



***David Piper, Attorney at Ohnstad Twichell***

David C. Piper joined Ohnstad Twichell in January of 2020. He concentrates his practice in the areas of real estate, corporate transactions, and probate. Prior to joining Ohnstad Twichell, David spent the first 10 years of his legal career in Dickinson, ND, where he focused on real estate, creditor's rights, and probate.

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# The Post-Divorce Paper Trail

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Getting through the process of divorce can be daunting. Sometimes, there's a lot of paperwork, and sometimes a lot of dollars and emotional turmoil involved, too. Parties may get to the end, breathe a sigh of relief, and never want to think about any of that again. But it's important to remember there are many post-divorce items that simply can't be forgotten. It's all too easy to let things slip through the cracks, and it can lead to unintentional, and potentially catastrophic, consequences.

One prime example is changing your beneficiary designations on retirement and life insurance accounts. Many people "set them and forget them" early in a marriage (or even before)...and that can lead to trouble.

Minnesota currently has a law, enacted in 2002, that automatically nullifies any designation of a former spouse as a beneficiary of a life insurance policy at the time of divorce. North Dakota has a similar law. The theory is that the policyholder, in all likelihood, wouldn't want the policy proceeds going to a former spouse. And if that's not the case, the policyholder is certainly able to re-name the former spouse as a beneficiary, following the divorce.

This particular issue made headlines in 2018 with a case involving former spouses, Mark Sveen and Kaye Melin. Right after the parties married, Mark purchased a life insurance policy, naming Kaye as the beneficiary. Mark had two children from a previous marriage, who were named contingent beneficiaries. When Mark died, years after the parties' divorce, the beneficiary designations had never been changed. Thus, litigation ensued between Kaye and Mark's adult children, specifically over the constitutionality of Minnesota's "automatic revocation" law. Ultimately, the United States Supreme Court upheld the law, and the insurance proceeds did not go to Kaye, but rather to Mark's children.

Most people agree the correct result was ultimately reached in Sveen, but the protracted litigation could have been easily avoided by a simple change of beneficiary form, following the parties' divorce. Such a document takes less than five minutes to complete, and it's important to remember what just might happen if you don't. Here are a few other post-divorce follow-up documents you don't want to forget:

- **Checking and savings accounts.** If you hold any joint accounts with your spouse, be sure to separate them immediately, or any remaining funds will become your ex-spouse's property.
- **Vehicle titles.** Vehicles should be transferred to the person who will own them and insure them post-divorce. Albeit unlikely, failing to do so runs the risk of you being held civilly liable for an accident/crash that occurs in a vehicle you weren't driving, but still own. It's simply not worth the headache when titles are so easily transferred.
- **Name changes.** If you opt to change your name as part of a divorce, a certified copy of your decree will be necessary to process that change with various institutions, like the Social Security Administration and Department of State. While you're at it, don't forget to send a copy of the decree to change your name with any other entities in your life, such as credit card companies, student loan servicers, your children's schools, and your medical providers.
- **Certified copies.** It's a good idea to have a certified copy of your divorce decree on hand, even if you don't change your name. You may need it later for a mortgage company or other entity, simply to verify your marital status. Certified copies are easily obtained from the county courthouse where your divorce took place.

# The Post-Divorce Paper Trail *cont.*

- **Y** Health insurance. More often than not, parties are immediately absolved of any obligation to continue providing insurance coverage for their ex-spouses. Be sure to let your insurance provider know of your change in status right away.
- **Y** Deeds. If a marital home is being transferred, you should work with your lawyer to complete a quit claim deed or similar document required in your jurisdiction to transfer that asset. Generally, such a document should be signed only after the divorce is final, to cleanly comply with various state laws regarding marital property and homestead rights.

In the grand scheme of life, the post-divorce paperwork burden is minimal! But don't let it be forgotten.



## ***Shannon Parvey Attorney and Owner at Parvey, Larson, and McLean***

Shannon is licensed to practice law in North Dakota and Minnesota. She is a member of the North Dakota and Minnesota State Bar Associations, Cass and Clay County Bar Associations, the Ronald N. Davies Inn of Court, and the North Dakota Collaborative Divorce Group. Shannon is a trained Mediator, Parenting Investigator, and Guardian ad Litem. She is also a Certified Divorce Financial Analyst, helping clients analyze financial data and understand the long-term consequences of divorce settlements.

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Parvey, Larson, and McLean is a three-attorney family law firm located in Fargo that was founded in 2018. Shannon Parvey, Kimberlie Larson, and Jason McLean bring more than 35 years of experience to each case they handle. Our paralegals, Christine and Lisa, have over 20 years of experience dealing with family law cases. For whatever change you are facing in your family, the team at Parvey, Larson, and McLean is here to help.

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# 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.

The views expressed in The Red River Review are those of the individual authors and do not necessarily reflect the official views of RRVPA. No endorsement of those views should be inferred unless specifically identified as the official policy of RRVPA.

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The Red River Review is published twice a year, once during the spring and fall, by the Red River Valley Paralegal Association.