

# Practical Law Office Management

FOURTH EDITION



Cynthia Traina  
**Donnes**

# **Practical Law Office Management**

**Fourth Edition**



### Options.

We understand that affordable options are important. Visit us at [cengage.com](http://cengage.com) to take advantage of our new textbook rental program, which can be bundled with our MindTap products!

Over 300 products in every area of the law: MindTap, textbooks, online courses, reference books, companion websites, and more – Cengage Learning helps you succeed in the classroom and on the job.

### Support.

We offer unparalleled course support and customer service: robust instructor and student supplements to ensure the best learning experience, custom publishing to meet your unique needs, and other benefits such as Cengage Learning's Student Achievement Award. And our sales representatives are always ready to provide you with dependable service.

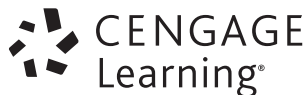
### Feedback.

As always, we want to hear from you! Your feedback is our best resource for improving the quality of our products. Contact your sales representative or write us at the address below if you have any comments about our materials or if you have a product proposal.

---

Accounting and Financials for the Law Office • Administrative Law • Alternative Dispute Resolution • Bankruptcy  
Business Organizations/Corporations • Careers and Employment • Civil Litigation and Procedure • CP Exam  
Preparation • Computer Applications in the Law Office • Constitutional Law • Contract Law • Criminal Law  
and Procedure • Document Preparation • Elder Law • Employment Law • Environmental Law • Ethics • Evidence  
Law • Family Law • Health Care Law • Immigration Law • Intellectual Property • Internships • Interviewing and  
Investigation • Introduction to Law • Introduction to Paralegalism • Juvenile Law • Law Office Management • Law  
Office Procedures • Legal Research, Writing, and Analysis • Legal Terminology • Legal Transcription • Media and  
Entertainment Law • Medical Malpractice Law • Product Liability • Real Estate Law • Reference Materials • Social  
Security • Torts and Personal Injury Law • Wills, Trusts, and Estate Administration • Workers' Compensation Law

---



5 Maxwell Drive  
Clifton Park, New York 12065-2919

For additional information, find us online at: [cengage.com](http://cengage.com)

# Practical Law Office Management

**Fourth Edition**

Cynthia Traina Donnes, M.A.



---

Australia • Brazil • Mexico • Singapore • United Kingdom • United States

This is an electronic version of the print textbook. Due to electronic rights restrictions, some third party content may be suppressed. Editorial review has deemed that any suppressed content does not materially affect the overall learning experience. The publisher reserves the right to remove content from this title at any time if subsequent rights restrictions require it. For valuable information on pricing, previous editions, changes to current editions, and alternate formats, please visit [www.cengage.com/highered](http://www.cengage.com/highered) to search by ISBN#, author, title, or keyword for materials in your areas of interest.

Important Notice: Media content referenced within the product description or the product text may not be available in the eBook version.

**Practical Law Office Management,  
Fourth Edition**

Cynthia Traina Donnes

SVP, GM Skills & Global Product  
Management: Dawn Gerrain

Product Director: Matthew Seeley

Product Manager: Katie McGuire

Senior Director, Development:  
Marah Bellegarde

Senior Product Development Manager: Larry Main

Senior Content Developer: Melissa Riveglia

Senior Product Assistant: Diane Chrysler

Vice President, Marketing Services:  
Jennifer Ann Baker

Marketing Manager: Scott Chrysler

Senior Production Director: Wendy Troeger

Production Director: Andrew Crouth

Senior Content Project Manager:  
Betty L. Dickson

Managing Art Director: Jack Pendleton

Software Development Manager: Joe Pliss

Cover Image: ©GaudiLab/Shutterstock.com

© 2017, 2007, 2002, 1995 Cengage Learning

**WCN: 02-200-208**

ALL RIGHTS RESERVED. No part of this work covered by the copyright herein may be reproduced, transmitted, stored, or used in any form or by any means graphic, electronic, or mechanical, including but not limited to photocopying, recording, scanning, digitizing, taping, Web distribution, information networks, or information storage and retrieval systems, except as permitted under Section 107 or 108 of the 1976 United States Copyright Act, without the prior written permission of the publisher.

For product information and technology assistance, contact us at  
**Cengage Learning Customer & Sales Support, 1-800-354-9706**

For permission to use material from this text or product,  
submit all requests online at **[www.cengage.com/permissions](http://www.cengage.com/permissions)**

Further permissions questions can be e-mailed to  
**[permissionrequest@cengage.com](mailto:permissionrequest@cengage.com)**

Library of Congress Control Number: 2015949200

ISBN: 978-1-305-57792-3

**Cengage Learning**  
20 Channel Center Street  
Boston, MA 02210  
USA

Cengage Learning is a leading provider of customized learning solutions with office locations around the globe, including Singapore, the United Kingdom, Australia, Mexico, Brazil, and Japan. Locate your local office at: **[www.cengage.com/global](http://www.cengage.com/global)**

Cengage Learning products are represented in Canada by  
Nelson Education, Ltd.

To learn more about Cengage Learning, visit **[www.cengage.com](http://www.cengage.com)**  
Purchase any of our products at your local college store or at our preferred online  
store **[www.cengagebrain.com](http://www.cengagebrain.com)**

**Notice to the Reader**

Publisher does not warrant or guarantee any of the products described herein or perform any independent analysis in connection with any of the product information contained herein. Publisher does not assume, and expressly disclaims, any obligation to obtain and include information other than that provided to it by the manufacturer. The reader is expressly warned to consider and adopt all safety precautions that might be indicated by the activities described herein and to avoid all potential hazards. By following the instructions contained herein, the reader willingly assumes all risks in connection with such instructions. The reader is notified that this text is an educational tool, not a practice book. Since the law is in constant change, no rule or statement of law in this book should be relied upon for any service to the client. The reader should always refer to standard legal sources for the current rule or law. If legal advice or other expert assistance is required, the services of the appropriate professional should be sought. The publisher makes no representations or warranties of any kind, including but not limited to, the warranties of fitness for particular purpose or merchantability, nor are any such representations implied with respect to the material set forth herein, and the publisher takes no responsibility with respect to such material. The publisher shall not be liable for any special, consequential, or exemplary damages resulting, in whole or part, from the readers' use of, or reliance upon, this material.

Printed in the United States of America  
Print Number: 01      Print Year: 2016

Unless otherwise noted, all items are © Cengage Learning

*To my supportive family, friends, and colleagues*

# Brief Contents

*Preface* xv

**1** The Legal Team, Law Practices, and Law Firm Governance 1

**2** Legal Administration and Technology 47

**3** Ethics and Malpractice 117

*Hands-On Exercises: Clio—Conflict of Interest Checking* 163

**4** Client Relations and Communication Skills 175

*Hands-On Exercises: Clio—Client Relationship Management* 215

**5** Legal Fees, Timekeeping, and Billing 229

*Hands-On Exercises: Clio—Timekeeping and Billing* 285

*Hands-On Exercises: Microsoft Excel* 302

**6** Client Trust Funds and Law Office  
Accounting 313

*Hands-On Exercises: Clio—Client Trust Funds* 355

*Hands-On Exercises: Microsoft Excel* 369

**7** Calendaring, Docket Control, and Case Management 387

*Hands-On Exercises: Clio—Docket Control* 422

**8** Legal Marketing 435

**9** File and Law Library Management 457

## **Appendices**

*Appendix A: Creating a Clio Account* 487

*Appendix B: Clio Introduction* 491

*Appendix C: Clio Law Firm Profile and Set up* 497

*Appendix D: Succeeding as a Paralegal* 501

*Glossary* 511

*Index* 517



# Contents

*Preface* xvii

## 1 The Legal Team, Law Practices, and Law Firm Governance 1

---

### The Legal Team 3

*Attorney* 3

*Legal Administrators* 5

*Paralegals* 5

*Paralegal Roles, Responsibilities, and Employment* 9

*Paralegal Compensation* 11

*The Judicial System's Recognition of the Paralegal Profession* 15

*Paralegal Profitability for Law Offices* 16

*Office Manager* 16

*Law Clerk* 17

*Law Librarian* 17

*Legal Secretaries* 17

*Clerks* 18

*Other Legal Team Members* 18

### Types of Law Practices 18

*Corporate Law Practice* 19

*Government Practice* 19

*Legal Services Offices* 21

*Private Law Practices* 21

<i>Sole Practitioner</i>	21
<i>Law Firms</i>	22
<i>Plaintiff/Defense Firms</i>	24
<i>Law Firm Mergers and Acquisitions</i>	24
<i>Geographic Service Areas</i>	25
Law Practice Organization Structures	25
<i>Legal Forms of Private Law Firms</i>	25
<i>Private Law Firm Management Structures</i>	26
<i>Corporate, Government, and Legal Aid Organization Structures</i>	29
Summary	30
Key Terms	31
Test Your Knowledge	31
Practical Applications	32
On the Web Exercises	33
Projects	35
Case Review	35
Helpful Web Sites	46
Suggested Reading	46

## 2 Legal Administration and Technology 47

---

Legal Administration Principles	48
<i>Dispelling a Myth</i>	48
<i>The Importance of Legal Administration</i>	49
<i>Practice Management v. Administrative Management</i>	49
Functions of Legal Administration	50
Practice Management	50
<i>Defining the Law Firm's Practice</i>	51
<i>Defining the Law Firm's Services</i>	52
<i>Defining the Law Firm's Practice System Needs</i>	52
<i>Quality and Total Quality Management (TQM)</i>	53
<i>What Is TQM?</i>	53
<i>What Are Specific TQM Philosophies?</i>	55
<i>What Are the Benefits of the TQM Philosophy?</i>	56
<i>How Is TQM Implemented?</i>	56
Leadership	56
Controlling	57
Financial Management	57
Human Resources Management	58
<i>The Hiring Process</i>	58
<i>Performance Evaluations</i>	63
<i>Compensation and Benefits</i>	68
<i>Training and Development</i>	68
<i>Personnel Policies</i>	69

<i>Current Personnel Law Issues</i>	69
<i>Employment-at-Will Doctrine</i>	69
<i>The Family and Medical Leave Act of 1993</i>	71
<i>Fair Labor Standards Act</i>	71
<i>Equal Employment Opportunity</i>	71
<i>Americans with Disabilities Act</i>	72
<i>Sexual Harassment</i>	72
Planning	74
<i>Why Paralegals Need to Learn to Develop Plans</i>	74
<i>The Mission Statement and Strategic Plans</i>	75
<i>Ideas on How to Plan Effectively</i>	76
Marketing Management	78
Organizing, Policies, and Systems	79
<i>Law Practice Policies and Procedures—the Staff Manual</i>	80
<i>What Systems or Subjects Are Included in the Staff Manual?</i>	80
<i>Drafting Policies and Procedures</i>	80
<i>Staff Manuals from an Ethics Perspective</i>	82
<i>Staff Manuals on the Law Office Intranet</i>	83
Facilities Management	83
<i>Property Acquisition</i>	83
<i>Moves/Construction/Remodeling</i>	84
<i>Space Planning/Office Design/Furniture</i>	84
<i>Parking</i>	85
<i>Cleaning/Maintenance/Grounds</i>	85
<i>Common Areas</i>	85
<i>Environmental Considerations</i>	85
<i>Security and Workplace Violence</i>	85
Office Services Management	88
<i>Mail Room</i>	88
<i>Copy Machines</i>	88
<i>File/Records Management</i>	88
<i>Telecommunications</i>	89
<i>Video Conferencing</i>	90
Technology and Information Systems Management	90
<i>Paralegals and Technology</i>	90
<i>Hardware</i>	90
<i>Software</i>	92
<i>E-Mail in the Legal Environment</i>	92
<i>E-Mail Encryption and Digital Signatures</i>	93
<i>E-Mail Errors</i>	94
<i>E-Mail Confidentiality</i>	95
<i>Telecommunications</i>	97
Summary	97
Key Terms	99
Test Your Knowledge	99
On the Web Exercises	100
Projects	100

Practical Applications	102
Case Review	102
Case Review	103
Exercises	115
Helpful Web Sites	115
Suggested Reading	116

## 3 Ethics and Malpractice 117

---

Why Are Ethics and Malpractice Important?	118
Legal Ethics and Professional Responsibility	119
<i>Ethical Standards for Attorneys</i>	119
<i>Attorney Ethical Rules Not Directly Applicable to the Paralegal</i>	121
<i>Voluntary Ethical Codes Established by Paralegal Associations</i>	122
<i>Criminal Statutes Regarding the Unauthorized Practice of Law</i>	122
The Unauthorized Practice of Law	122
<i>Giving Legal Advice</i>	125
<i>Misrepresentation of Status</i>	127
<i>Representing Clients in Court Proceedings</i>	127
<i>Performing Legal Analysis and Preparing Legal Documents</i>	127
<i>Evaluating a Case, Selecting or Rejecting a Case,</i> <i>and Selecting an Appropriate Course of Action</i>	127
<i>Setting a Fee and Sharing a Fee</i>	128
<i>Legal Technicians, Freelance Paralegals, and the</i> <i>Unauthorized Practice of Law</i>	128
<i>How to Avoid the Unauthorized Practice of Law</i>	129
Competence and Diligence	130
<i>Confidentiality and the Attorney–Client Privilege</i>	130
<i>The Attorney–Client Privilege Rule of Evidence</i>	132
<i>Ethical Prohibitions on Revealing Client Communications</i>	132
<i>How to Avoid Confidentiality Problems</i>	133
Conflict of Interest	135
<i>Conflict Checking</i>	136
<i>The Ethical Wall</i>	138
<i>Paralegal Conflict of Interests</i>	139
<i>How Paralegals Can Avoid Conflicts of Interest</i>	139
<i>Resolving Ethical Problems</i>	140
Answers to Common Paralegal Ethical Questions	141
Malpractice and Malpractice Prevention	142
Summary	144
Key Terms	145
Test Your Knowledge	146
Practical Applications	146
On the Web Exercises	148
Projects	148

Case Review	148
Case Review	155
Helpful Web Sites	161
Suggested Reading	162
Hands-On Exercises: Clio Conflict of Interest Checking	163

## 4 Client Relations and Communication Skills 175

---

Why Do Paralegals Need to Foster Good Client Relationships and Communicate Effectively?	176
Ethical Duty to Communicate with Clients	177
Client Relationships	179
<i>Fostering Positive Client Relationships</i>	179
<i>Know Your Client</i>	182
<i>Resolving Client Dissatisfaction</i>	186
<i>Clients and Technology</i>	188
<i>How to Lose Clients</i>	188
<i>Dealing with Difficult Clients</i>	188
Communication Skills	189
<i>General Communication</i>	189
<i>Nonverbal Communication</i>	190
<i>Improving Your Communication Skills</i>	190
<i>Use Proper Telephone Techniques</i>	192
<i>Leadership and Communication</i>	194
<i>Group Communication</i>	195
<i>Communication in Interviewing Clients, Witnesses, and Third Parties</i>	196
Summary	199
Key Terms	200
Test Your Knowledge	200
Practical Applications	200
On the Web Exercises	201
Projects	202
Case Review	202
Helpful Web Sites	214
Suggested Reading	214
Hands-On Exercises: Clio—Client Relationship management	215

## 5 Legal Fees, Timekeeping, and Billing 229

---

The Difference Between Timekeeping and Billing	230
Why Do Paralegals Need to Know Timekeeping and Billing?	230

Kinds of Legal Fee Agreements	231
<i>Hourly Rate Fees</i>	231
<i>Contingency Fees</i>	234
<i>Flat Fee</i>	237
<i>Retainer Fees</i>	237
<i>Court-Awarded Fees</i>	241
<i>Prepaid Legal Services</i>	242
Value Billing	242
The Ethics of Timekeeping and Billing	243
<i>Billing from the Corporate and Government Perspective</i>	243
<i>Ethical Considerations Regarding Legal Fee Agreements</i>	243
<i>Fee Agreements Should Be in Writing</i>	243
<i>Only a "Reasonable" Fee Can Be Collected</i>	245
<i>Many State Bars' Rules Provide for Oversight/Arbitration on Fee Issues</i>	246
<i>Fraud and Criminal Charges</i>	247
<i>Ethical Problems</i>	247
Legal Expenses	249
Timekeeping	250
<i>Manual Timekeeping</i>	250
<i>Computerized Timekeeping</i>	250
<i>Billable v. Nonbillable Time</i>	252
<i>Timekeeping for Paralegals</i>	253
<i>Recording Time</i>	254
<i>Timekeeping Practices</i>	255
Billing	256
<i>Billing for Paralegal Time and Profitability</i>	256
<i>Leveraging and How Hourly Billing Rates Are Determined</i>	257
<i>Functions of a Successful Billing System</i>	257
<i>Manual Billing Systems</i>	258
<i>Computerized Billing Systems</i>	259
<i>The Computerized Timekeeping and Billing Process</i>	259
<i>Bill Formats</i>	261
<i>Management Reports</i>	263
<i>Electronic Billing</i>	264
Summary	265
Key Terms	267
Test Your Knowledge	267
Practical Applications	268
On the Web Exercises	271
Projects	272
Case Review	272
Case Review	282
Helpful Web Sites	283
Timekeeping and Billing Software	284
Suggested Reading	284
Hands-On Exercises: Clio—Timekeeping and Billing	285
Hands-On Exercises: Microsoft Excel	302

## 6 Client Trust Funds and Law Office Accounting 313

---

Why Paralegals Need a Basic Understanding of Law Office  
Accounting 314

Client Funds—Trust/Escrow Accounts 314  
*No Commingling of Client and Law Office Funds 316*  
*Examples of How a Trust Account Is Used 316*

Ethics and Trust Accounts 316  
*Trust Funds and Office Operating Funds Cannot Be  
 Commingled 316*  
*Commingling of Client Funds Is a Common Problem 318*

Budgeting 320  
*Budgeting and Planning 322*  
*Steps in the Budget Process 322*

Collection/Income 324

Internal Controls 325

Lawyers and Nonlawyers Cannot Share Fees 329

Summary 330

Key Terms 330

Test Your Knowledge 330

Practical applications 331

On the Web Exercises 333

Projects 334

Case Review 334

Case Review 348

Helpful Web Sites 353

Financial and Trust Accounting Software 354

Suggested Reading 354

Hands-On Exercises: Clio—Client Trust Funds 355

Hands-On Exercises: Microsoft Excel 369

## 7 Calendaring, Docket Control, and Case Management 387

---

Calendaring, Docket Control, and Case Management  
 Definitions 388

Appointments 389

Deadlines and Reminders 389

Hearings and Court Dates 390

Receiving Documents, Following Court Rules, and Calculating Deadlines	391
<i>Receiving Documents</i>	391
<i>Know the Local Court Rules</i>	392
<i>Calculating Deadlines</i>	392
<i>File Date v. Document Receipt Date</i>	392
<i>Due Date—File Date v. Mail Date</i>	394
Ethical and Malpractice Considerations	394
<i>Ethical Considerations</i>	394
Conflict of Interest	396
<i>Legal Malpractice Considerations</i>	397
Manual Docket Control Systems	398
Types of Computerized Docket Control Systems	399
<i>Generic Calendaring and Personal Information Manager Programs</i>	399
Overview of Computerized Legal Case Management and Docket Control	399
<i>Monthly, Daily, and Weekly Calendar Views</i>	399
<i>Event Entry Screen</i>	399
<i>Perpetual Calendars</i>	400
<i>Recurring Entries</i>	400
<i>Date Calculator</i>	401
<i>Scheduling Conflict Alert</i>	401
<i>Scheduling Multiple Parties</i>	401
<i>Centralized and Decentralized Systems</i>	401
<i>Automatic Reminders</i>	402
<i>Calendaring a Series of Events from a Rule</i>	402
<i>Reporting</i>	402
<i>Searching</i>	403
Advanced Case Management Features	403
<i>Case Contacts</i>	404
<i>Synchronizing with PIMs/PDAs</i>	404
<i>Case Diary/Notes</i>	404
<i>Document Assembly/Generation</i>	404
<i>Other Features</i>	404
The Docket Cycle	407
<i>Centralized Docket Control Cycle</i>	407
<i>Decentralized Docket Control Cycle</i>	407
<i>Combined Docket Control Cycle</i>	408
Summary	408
Key Terms	408
Test Your Knowledge	409
Practical Applications	409
On the Web Exercises	410
Projects	410
Case Review	411
Case Review	417



Helpful Web Sites	421
Suggested Reading	421
Hands-On Exercises: Clio—Docket Control	422

## 8 Legal Marketing 435

---

Legal Marketing	436
<i>Why Is Marketing Important to Paralegals?</i>	436
<i>Marketing Goals</i>	436
<i>Basic Restrictions on Marketing</i>	437
The Legal Marketing Plan	437
<i>Typical Law Practice Marketing Options and Strategies</i>	439
<i>The Role of the Rainmaker</i>	447
<i>Marketing—an Ethics Perspective</i>	447
Summary	448
Key Terms	449
Test Your Knowledge	449
Practical Applications	449
On the Web Exercises	450
Projects	450
Case Review	451
Helpful Web Sites	455
Suggested Reading	456

## 9 File and Law Library Management 457

---

Why Paralegals Need an Understanding of File and Law Library Management	458
Introduction to File Management	458
Filing Methods and Techniques	459
<i>Each Legal Matter Is Maintained Separately</i>	459
<i>Alphabetic Systems</i>	460
<i>Numerical Systems</i>	460
<i>Bar Coding</i>	461
<i>The “Paperless Office”—Electronic Document Management</i>	461
<i>Corporate, Government, and Legal Aid Filing Methods</i>	461
<i>Centralized v. Decentralized</i>	462
<i>Opening Files</i>	462
<i>File Format and Internal File Rules</i>	462
<i>Color Coding</i>	465
<i>Checking Files Out</i>	465
<i>Closing, Storing, and Purging Files</i>	465
<i>Organization of Files—a Major Paralegal Duty</i>	466

File Management and Ethics	466
<i>Client Property</i>	466
<i>Duty to Turn Over File When Client Fires Attorney</i>	467
<i>Destruction of Records of Account</i>	468
<i>Confidentiality</i>	468
Introduction to Law Library Management	468
<i>Developing a Library Collection</i>	469
<i>CD-ROM and Electronic Legal Databases</i>	470
<i>Advantages and Disadvantages of CD-ROM and Electronic Legal Libraries</i>	470
<i>Cataloging and Classifying the Collection</i>	471
Technology and the Law Library	472
<i>Computer-Assisted Legal Research (CALR)</i>	472
<i>Westlaw</i>	473
<i>LexisNexis</i>	473
<i>The Internet</i>	474
Summary	480
Key Terms	481
Test Your Knowledge	481
Practical Applications	481
On the Web Exercises	482
Projects	483
Case Review	483
Helpful Web Sites	484
Suggested Reading	485
 <b>Appendices</b>	
<i>Appendix A: Creating a Clio Account</i>	487
<i>Appendix B: Clio Introduction</i>	491
<i>Appendix C: Clio Law Firm Profile and Set up</i>	497
<i>Appendix D: Succeeding as a Paralegal</i>	501
<i>Glossary</i>	511
<i>Index</i>	517

# Preface

Another class, another boring textbook. Right? Wrong! Law office management is a dynamic subject and a great class. It will make you a better paralegal. You will learn about real-life problems encountered on the job and how to deal with them successfully. You will understand the importance of performing quality work for clients. You will learn methods for improving your communication skills and your ability to work with clients successfully. You will be shown how to track and bill your time correctly, and how to use your time effectively. You will find explanations throughout the book on how to avoid ethical problems that may come up. Law office management is anything but boring.

The goal of *Practical Law Office Management* is to educate paralegal students regarding law office management procedures and systems. Law firms, as well as paralegals themselves, must have good management skills to survive in today's competitive marketplace. This text is written for the student who wants to understand effective law practice management techniques and systems whether or not he or she will go on to become a law office administrator.

This text is not intended to be an “armchair” text on the theories and principles of management, nor is it a text on how to set up a law office. Rather, this text presents a practical discussion of law office management with realistic applications.

The information presented is national in scope and assumes no prior knowledge of management or the legal field. Sociology, theories, and jargon are kept to an absolute minimum. To present a flavor of how a real law office operates, step-by-step explanations, “how-to” tips, practical charts, recent trends in law office management and software, and many practical ideas on law office management from the paralegal's perspective are provided. Information is presented in a manner that encourages students to think independently and to learn by participating.

This book, among other things, will explain what management generally expects of paralegals, and will present good law office systems and practical information about law office management.

Paralegals must learn to manage themselves in addition to performing their normal duties. This book will help the student manage him- or herself in addition to teaching basic law

office systems, such as timekeeping and billing, docket control, financial management, file and library management, technology, and more. If the student takes the time to learn the management systems in this book, he or she will perform tasks more efficiently, with greater accuracy, and with less work. Sound too good to be true? That is what good management is all about.

A book on law office management has inherent limitations because there are many different management styles, techniques, and philosophies, depending on the size and type of firm (e.g., small-, medium-, and large-sized firms, corporate legal departments), location of the firm (urban, rural, east, west), and so forth. In addition, law office management is such a diverse area that most people cannot agree on all the topics that should be covered. In light of these inherent problems, a vast and varied amount of information from many different angles is presented.

## Ethics

The importance of ethics is stressed throughout the text. Assuring a high ethical standard in the law office is a major function of law office management. It is very important to your career that you be educated regarding ethical issues and adopt a high ethical standard as a way of life. Every chapter in the text has an in-depth section on ethics. In “Chapter 3—Ethics and Malpractice,” the codes of ethics for both the National Association of Legal Assistants (NALA) and the National Federation of Paralegal Associations (NFPA) are included. Ethical-related cases also appear at the end of most chapters. The cases discuss major ethical points covered in the chapter from real life, actual settings. As much as possible, the cases involve paralegals and/or legal assistants.

## Organization of Text

The text is organized into nine chapters. Chapter 1 is an introduction to the legal environment, including a discussion about members of the legal team found in most law offices, information about the different sizes and types of law practices as well as law firm governance. Chapter 2 is a broad introduction to law office management and covers 11 major areas regarding the topic, giving students a broad “30,000-foot view” of law office management and an excellent framework for the rest of the book. However, from Chapter 2 onward, the chapters stand on their own and do not depend on the preceding chapter(s). Thus, instructors can assign the chapters in whatever order they believe is appropriate.

## Changes to the Fourth Edition

The fourth edition of *Practical Law Office Management* offers major enhancements over the third edition. The text has been completely updated to reflect current management practices and technological advances. Some of the more significant changes include the following:

- The text has been updated with one of the top recommended software programs utilized by law offices, and provides more kinds and types of practice, hands-on exercises than any other law office management text. The text includes updated lessons for ethics/conflict of interest checks, docket control and client management, time and billing as well as trust accounting and Excel exercises. The text continues to have On the Web Exercises (for every chapter), Projects (for every chapter), thought-provoking Practical Applications (for every chapter), excellent Web Site Links (for every chapter), great

ethical cases included at the end of most chapters (many of which are new), Suggested Reading (for every chapter), and “Test Your Knowledge” (for every chapter). The text really tries to be *practical* and *hands-on* to offer the student many learning opportunities.

- The Boutique Plan of the software product Clio is utilized with the text. Clio is a cloud-based program that provides case management/docket control, financial management, time and billing, and trust accounting, among other things. A common issue between packaging demonstration software with a text is that the author and publisher of the text cannot control the software product or manufacturer. Software manufacturers sometimes put limitations on the demonstration version, or make other changes that are detrimental to our adopters. We are delighted that Clio has provided a resource link for a fully functional version of the program for 12 months. We believe that this will greatly enhance our ability to provide a solid software product with top-of-the-line software support.
- Updated ethical cases have been added to the text. Whenever possible, the cases involve actual paralegals and/or legal assistants in the facts of the cases. Most of the cases involve truly interesting fact patterns and present excellent learning opportunities for students.
- Hands-on exercises for Microsoft Excel continue to be provided with Chapter 5, Legal Timekeeping and Billing; and with Chapter 6, Client Trust Funds and Law Office Accounting. All of the exercises are law-office-management based and give the student experience with building practical spreadsheets regarding these important topics. The exercises are fun and full of learning opportunities.
- Most of the charts and graphs in the text have been updated and are current.
- The text continues to have a strong ethical foundation that is covered in every chapter and with many of the exercises. All of the ethics citations have been updated to include any revisions with states’ rules of professional conduct that follow the current *Model Rules of Professional Conduct* from the American Bar Association.
- Coverage of technological advances has been added to every chapter.

## Special Features

- Strong, practical coverage of ethics throughout the text
- Ethical cases regarding law office management topics in most chapters
- Citations to states’ rules of professional conduct including recent updates based on the *Model Rules*.
- Hands-on exercises and Clio office and case management software for five chapters.
- Introductions that “set the stage” for most chapters
- Up-to-date charts, figures, and graphs to illustrate concepts
- Key terms/concepts defined in the margin
- List of Web sites by topic for each chapter
- List of suggested reading for each chapter
- Expanded discussion questions, practical applications, and exercises at the end of each chapter
- Chapter objectives listed for each chapter
- Suggestions on how to succeed as a paralegal and avoid problems
- “On the Web Exercises” for each chapter
- Projects for each chapter
- Microsoft Excel tutorials for two chapters

## Software Tutorials and Hands-On Exercises

The text accommodates legal programs that have access to computers by including software tutorials at the end of many of the chapters. However, these are simply an added feature and computer use is completely optional. This text can be used fully by legal programs that choose not to use computers.

The software tutorials included in the text are completely interactive and allow the student hands-on experience with the software programs. In addition, all of the tutorials are specifically related to law offices and legal applications so that the student learns not only how to operate the software but also how to use it in a law office. An educational version of Clio is provided free of charge for students who purchase the text. Clio runs on any operating system. The demo expires 365 days after it is first installed. Clio is a full-featured legal software program that includes functionality in:

- Legal timekeeping and billing
- Trust accounting
- Docket control
- Conflict of interest
- Client relationship management

Step-by-step hands-on exercises are included in the text for each of these areas, along with exercises for Microsoft Excel regarding client trust funds/budgeting, timekeeping, and billing.

## Supplemental Teaching and Learning Materials

### Premium Web Site

The Premium Web site includes resources for instructors and students. The card in the text includes an access code for this book's Premium Web site. Go to [login.cengagebrain.com](http://login.cengagebrain.com) to access the Clio demo and updates to the text.

### Instructor Companion Site

The online Instructor Companion Site provides the following resources:

#### *Instructor's Manual and Test Bank*

- The Instructor's Manual and Test Bank have been greatly expanded to incorporate changes in the text and to provide comprehensive teaching support. The Instructor's Manual contains instructional tips, suggested class activities, chapter outlines, and answers to the text questions. A comprehensive test bank with a variety of question types and answer key is also provided.

#### *PowerPoint Presentations*

Customizable Microsoft PowerPoint® Presentations focus on key points for each chapter. (Microsoft PowerPoint® is a registered trademark of the Microsoft Corporation.)

#### *Cengage Learning Testing Powered by Cognero is a flexible, online system that allows you to:*

- author, edit, and manage test bank content from multiple Cengage Learning solutions
- create multiple test versions in an instant
- deliver tests from your LMS, your classroom, or wherever you want

***Start right away!***

Cengage Learning Testing Powered by Cognero works on any operating system or browser.

- No special installs or downloads needed
- Create tests from school, home, the coffee shop—anywhere with Internet access

***What will you find?***

- *Simplicity at every step.* A desktop-inspired interface features drop-down menus and familiar intuitive tools that take you through content creation and management with ease.
- *Full-featured test generator.* Create ideal assessments with your choice of 15 question types (including true/false, multiple choice, opinion scale/Likert, and essay). Multilanguage support, an equation editor, and unlimited metadata help ensure your tests are complete and compliant.
- *Cross-compatible capability.* Import and export content into other systems.

To access additional course materials, please go to [login.cengage.com](http://login.cengage.com), then use your SSO (single sign-on) login to access the materials.

**To the Student**

Law office management is exciting and ever changing. It is my hope that you will find this book useful as a reference tool in your professional career and that you will use some ideas of this book to climb the ladder of success. Remember that just because you graduate from a paralegal program, you do not get to start at the top. Everyone has to start at the bottom and work his or her way up. Do not be surprised or disappointed if you start at an entry-level job. The experience you will gain is priceless, and through hard work and determination, you will move up more quickly than you think, being the better for it because you will have earned it. Also remember to help your coworkers. You will not be able to succeed without their help. Treat them like you would like to be treated, put the interests of your law office ahead of your own, and you will go far.

If you have an interesting idea, have solved some problem in law office management, or just have a story to tell and you would not mind me using it as an example in a subsequent edition of this book, please do not hesitate to contact me. I am always interested in learning from you. I wish you the best of luck in your endeavors. Cynthia Traina Donnes, New Orleans, LA.

**Acknowledgments**

A special part of writing a book is acknowledging those invaluable people that worked on this project. Many thanks for all of your help and support.

**Reviewers** Thanks to the reviewers of this fourth edition for their time and suggestions to improve the text.

Sally Bisson  
College of Saint Mary  
Omaha, NE

Anthony DiSomma  
Heald College  
Stockton, CA

Kenneth O'Neil Salyer  
Education Consultant  
Louisville, KY

## Cengage Learning

A special thanks goes to the wonderful people at Cengage Learning, including Katie McGuire, Product Manager, whose encouragement and positive outlook made this undertaking manageable. To Melissa Riveglia, Senior Content Developer, whose patience, help, and support were invaluable and without her this book would not have been possible. They are a wonderful team to work with. Many other people provided help by double-checking the accuracy of the hands-on exercises, including Jeffrey Schwartz at Cengage and Shelby Hejjas at Clio.

## Colleagues and Friends

“Thanks” goes to my lifelong friends for their support and encouragement to pursue this textbook. As well, many colleagues have provided invaluable input and suggestions, especially members of the School of Continuing Studies at Tulane University. I am truly grateful to be affiliated with an organization that is open-minded and promotes creativity. Many thanks to Kathryn Beachy, Sallie Davis, and Robyn Ice for supporting me during this project.

## Family

A special thanks goes to my husband, Bert, and our children, Dominic, Erin, Antonia, David, Louis, and Sara, along with their spouses and significant others for their love and support throughout this process. The long hours and hectic schedules during weddings and family losses required patience and understanding. I could not have done this without all of you.

Cynthia Traina Donnes  
New Orleans, LA

*Please note that the Internet resources are of a time-sensitive nature and URL addresses may often change or be deleted.*

### **Note:**

Demo access to Microsoft Office Applications (Excel) is not included with the text.

### **Technical Support**

If you are having problems accessing the Clio program included with this text, contact Cengage Learning Technical Support at <http://cengage.com/support>. Please keep in mind this is third-party software and there is limited support Cengage can provide.

### **If you are experiencing issues while using the software, contact your instructor.**

Please keep in mind that software is of a changing nature. Please visit the text's accompanying Premium Web site to access the Clio demo, updates to the demo, and updates to the corresponding hands-on exercises.



# 1

## The Legal Team, Law Practices, and Law Firm Governance

### Chapter Objectives

---

*After you read this chapter, you should be able to:*

- Discuss the titles and duties of each member of the legal team.
- Explain the trends in paralegal salaries.
- Discuss the different types of law practices.
- Identify alternative law office organizational structures.

The law firm was more than 40 years old and well established in the legal community. Recently, however, the firm had several senior partners retire and with their retirement, the loss of a major client. Additionally, the firm had just purchased a new building, relocated in a restored downtown area which had proven to be more accessible to clients. The building was completely renovated to include retail space on the bottom floor, residential space on the top two floors, a roof top conference facility, and three floors dedicated to law office space. Losing the resources of a major client created a substantial income deficit for the remaining partners now saddled with an enormous mortgage payment for the new building. The current partners decided they should move in a new direction to generate more business and ensure the firm's survival. They focused on the flood of new attorneys coming out of law school with very little job prospects, integrating a virtual law office layout with the current firm. It offered a space sharing concept designed with sophisticated software and technology along with a mentoring program to help the new attorneys get started, which in turn would provide new business for the firm.

The partners quickly realized they needed help to implement their plan and hired a management consulting firm. The remaining lawyers were not administrators, they spent most of their time in court or meeting with clients. After careful analysis of the firm's goals, the consultants suggested the firm develop a governance structure that was streamlined and decisive. They hired a legal administrator to handle contract lawyers with space sharing, remote use of office resources, and scheduling for attorney mentoring. They hired a marketing specialist with computer experience to develop a Web site and advertising strategies. The technology utilized would require information technology (IT) resources, so the firm decided to outsource the services, with an eye on creating an in-house IT department to maintain its network and computer systems. The firm was well on its way to catching up with practicing law in the age of technology.

Law offices are organizations that provide legal services to clients, but they are fundamentally a business. Like any business, their function is to make money, operate at a profit, and earn money for their owners. This chapter introduces you to the legal team members who provide services to clients and management to a law office; salary trends of paralegals; different types of law practices that operate in the legal field; and various organizational structures used by law firms.

# The Legal Team

## legal team

A group made up of attorneys, administrators, law clerks, librarians, paralegals/legal assistants, secretaries, clerks, and other third parties. Each provides a distinct range of services to clients and has a place on the legal team.

## attorneys

Licensed professionals who counsel clients regarding their legal rights, represent clients in litigation, and negotiate agreements between clients and others.

## partner or shareholder

An owner in a private law practice who shares in its profits and losses.

## managing partner

An attorney in a law firm chosen by the partnership to run the firm, make administrative decisions, and set policies.

## associate attorney

Attorney who is a salaried employee of the law firm, does not have an ownership interest in the firm, does not share in the profits, and has no vote regarding management decisions.

In a law office, many people make up the legal team. The **legal team** consists of attorneys, administrators, law clerks, librarians, paralegals, secretaries, clerks, and other third parties (see Exhibit 1-1). Each person provides a distinct range of services to clients, and each has his or her place on the legal team. The positions and job duties in any law office depend on the type and size of the office. A list of job titles and a general description of common duties and responsibilities are provided in this section. It should be noted that job titles are just that—they are “titles” only. Attorneys and law office administrators are far more impressed with a person’s actual performance than with a job title.

## Attorney

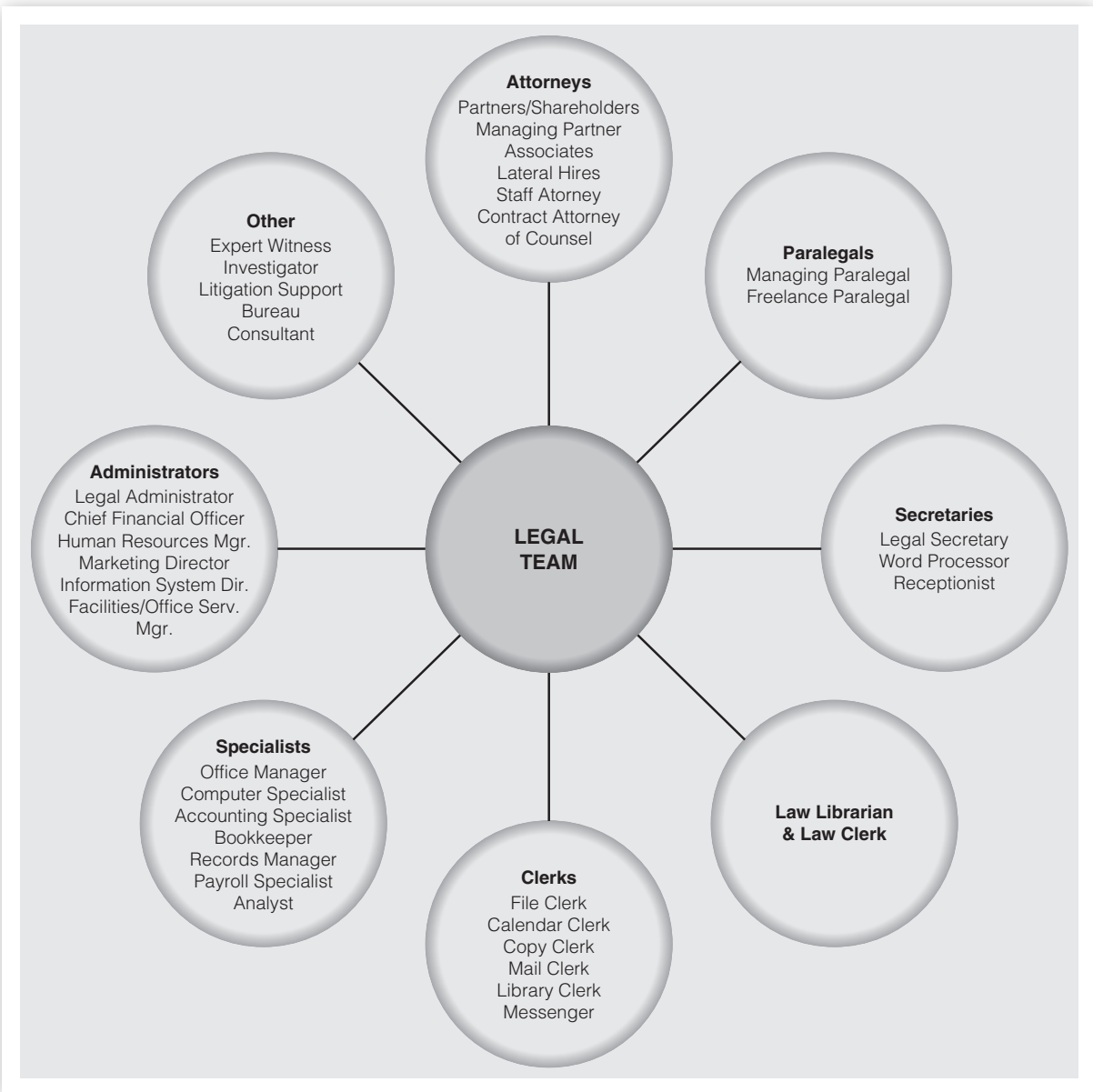
**Attorneys** counsel clients regarding their legal rights, represent clients in litigation, and negotiate agreements between clients and others. Once licensed, they can legally represent clients in court, keeping in mind that every state, through its respective bar association, regulates the practice of law. A licensed attorney is responsible for providing competent representation and ensuring that all members of the legal team are aware of the ethical duties owed to the client. Depending on the size of the law office, attorneys may also have administrative duties. There are several kinds of attorneys.

**PARTNER/SHAREHOLDER** A **partner** or **shareholder** is an attorney-owner in a private law practice who shares in its profits and losses. In the partnership form of business, an owner of the business is called a partner. In the corporate form of business, an owner is called a shareholder. Partners and shareholders serve primarily the same purpose; it is only the legal structure that is different. For simplicity, “partner” will be used to refer collectively to partners and shareholders, but “shareholder” could also have been used.

Partners attend partnership meetings and vote in the management decisions of the firm. Partners must also make monetary contributions to the firm if the need arises. Partners are sometimes called “equity partners,” since they share in the profits or losses of the firm. To become a partner, an attorney must either be an attorney who founded the firm or be voted into the position by the existing partners. Typically, partners do not receive a “salary” but may receive a periodic draw, which is an advance against future profits.

In some firms, a **managing partner** is chosen by the partnership to run the firm, make administrative decisions, and set policies. The managing partner reports to the partnership on the progress of the firm. Managing partners are typically elected to serve for a set amount of time, such as one or two years. Depending on the size of the firm, a managing partner may spend part or all of his or her time on management duties. In smaller law offices, a managing partner will practice law in addition to running the firm, while in large firms, managing the practice is typically a full-time job.

**ASSOCIATE ATTORNEYS** An **associate attorney** does not have an ownership interest in the law firm and does not share in the profits. The associate is only an employee of the firm who receives a salary and has no vote regarding management decisions. Associates can be hired directly out of law school or come from other firms. Associates who are hired from other firms are known as lateral hires or lateral hire associates. Associates who are candidates for a future partnership are said to be on a partnership track. An associate is usually with the firm between



**Exhibit 1-1** The Legal Team

**non-equity partner**

One who does not share in the profits or losses of the firm but may be included in some aspects of management and may be entitled to certain benefits.

5 and 10 years before he or she is a candidate for a partnership position, depending on the size of the firm. In large metropolitan firms, the time may be longer. An associate passed over for partnership may or may not leave the firm to practice elsewhere. Sometimes, to keep good associate attorneys who have nevertheless been passed over for partnership, the firm creates a position known as a non-equity partner. A **non-equity partner** does not share in the profits

**staff attorney**

An attorney hired by a firm with the knowledge and understanding that he or she will never be considered for partnership.

**contract attorney**

An attorney temporarily hired by the law office for a specific job or period. When the job or period is finished, the relationship with the firm is over.

**of counsel**

An attorney affiliated with the firm in some way, such as a retired or semiretired partner.

**legal administrators**

Person responsible for some type of law office administrative system, such as general management, finance and accounting, human resources, marketing, or computer systems.

**paralegals**

A unique group of people who assist attorneys in the delivery of legal services. They have knowledge and expertise regarding the legal system in order to provide substantive and procedural law that qualifies them to do work of a legal nature under the supervision of an attorney.

or losses of the business but may be included in some aspects of the management of the firm and may be entitled to other benefits not given to associates. A **staff attorney** is another type of associate. A staff attorney is an attorney hired by a firm with the knowledge and understanding that he or she will never be considered for partnership. Finally, a **contract attorney** is an associate attorney who is temporarily hired by the law office for a specific job or period. When the job or period is finished, the relationship with the firm is over.

**OF COUNSEL** The “**of counsel**” position is a flexible concept but generally means that the attorney is affiliated with the firm in some way, such as a retired or semiretired partner. “Of counsel” attorneys lend their names to a firm for goodwill and prestige purposes, in order to attract additional clients and business to the firm. An “of counsel” attorney may be paid on a per-job basis or may be an employee of the firm. He or she does not usually share in the profits of the firm. The “of counsel” arrangement is also used when an attorney is considering joining a firm as a partner and wants to work on a trial basis first.

## Legal Administrators

**Legal administrators** are usually found in medium and large firms, although they are beginning to be used in small firms as well. They are responsible for some type of law office administrative system such as general management, finance and accounting, human resources, marketing, and computer technology. Legal administrators are typically non-attorneys who have degrees in business or related fields or who have been promoted through the ranks; most report directly to a committee or a partner.

Legal administrators draft annual budgets, prepare and interpret management reports, supervise the fiscal operations of the business, hire and fire support staff, and are responsible for implementing effective systems. In actuality, managers are hired to relieve partners or managing committees of operational burdens. Experienced paralegals are sometimes promoted to become law office managers, which can be a positive career move. Depending on the size of the law firm, the legal administrator will have a varied range of job duties (see Exhibit 1-2). An excellent source of information regarding law office administration is the Association of Legal Administrators (ALA) [<http://www.alanet.org>].

## Paralegals

**Paralegals**, sometimes referred to as legal assistants, are a unique group of people who assist attorneys in the delivery of legal services. Through formal education, training, and experience, paralegals have knowledge and expertise regarding the legal system to perform substantive legal work under the supervision of a lawyer, either employed or retained by lawyers and/or law firms, corporations, governmental agencies, or other entities. Some parts of the country as well as some legal organizations use the term *paralegal* and *legal assistant* interchangeably, still others consider the two terms clearly distinguishable. The American Bar Association (ABA) provides a definition, which uses both terms interchangeably, as does several other organizations and this text. Exhibit 1-3 shows three separate definitions for a paralegal or legal assistant consistent with the American Bar Association (ABA), National Federation of Paralegal Associations (NFPA), National Association of Legal Assistants (NALA), and American Association for Paralegal Education (AAfPE). However, in some parts of the country, as well as some legal organizations, there are various distinctions between the two terms.

## Exhibit 1-2 Legal Administrator Job Description

Source: Association of Legal Administrators.

### Summary of Responsibilities

Handles the law office's overall business functions and operations including control and financial planning, handling personnel matters, and systems and facilities maintenance along with identifying necessary organizational changes. Legal administrator will report to a management committee, chairman of the board, or managing partner and participates in management meetings as well as sharing strategic planning, marketing, and practice management with the appropriate partners for cost-effective management throughout the organization.

The legal administrator, whether directly or indirectly through a management team, is responsible for all of the following:

### Management of Facilities

Handles design and space planning, reprographics, record storage, telecommunications, mail, messenger, reception/switchboard services, and other facilities management duties.

### Management of Systems

Handles computer system designs for the legal practice and litigation support, telecommunications, information services, records management, library management, document assembly, office automation, information storage and retrieval, system analysis, cost/benefit analysis, and operational audits.

### Management of Finances

Handles everything from banking, cash flow control, general ledger accounting, billing and collections to payroll, pension plans, trust accounting, and tax reporting. Other financial management functions include profit and variance analysis, budgeting, planning, and forecasting.

### Management of Human Resources

Handles the legal, paralegal, and support staff including job design, recruitment, employee selection, training and development, motivational resources, employee performance and evaluation, salary administration, employee relations including counseling, disciplinary actions, and discharge. Additional functions include benefits administration and workers' compensation along with maintaining personnel data systems and resource allocation.

**Legal administrators are the members of the business's management team and will either manage and/or contribute considerably to the following:**

### Practice Management

Handles recruitment of lawyers along with training and development, supervising paralegals, overseeing work product, professional standards, substantive practice systems, and other practice management duties.

### General Management

Handles business and organizational development, tactical and strategic firm planning, quality control, risk management, and other management duties.

### Marketing

Handles legal services marketing to enhance the firm's visibility and image for preferred practice areas which includes client development and management, business opportunity forecasts, client development, and profit analysis.

A 2012 NALA survey found that 84% of participants were referred to as *paralegals* and only 11% were referred to as *legal assistants*, a significant change from the 2004 NALA survey where 30% were called *legal assistant* and 62% used *paralegal*.

The ABA has also recognized the contribution of paralegals and legal assistants to the legal profession by creating an associate membership category for them, which allows them

**Exhibit 1-3** Definitions of a Legal Assistant/Paralegal

Sources: National Federation of Paralegal Associations (NFPA); National Association of Legal Assistants (NALA); National Association for Paralegal Education (AAfPE).

Organization	Definition of Legal Assistant or Paralegal
National Federation of Paralegal Associations (NFPA)	"A Paralegal/Legal Assistant is a person qualified through education, training or work experience to perform substantive legal work that requires knowledge of legal concepts and is customarily, but not exclusively, performed by a lawyer. This person may be retained or employed by a lawyer, law office, governmental agency or other entity or may be authorized by administrative, statutory or court authority to perform this work."
National Association of Legal Assistants (NALA)	Paralegals, also known as legal assistants, per the organization's July 2001 resolution is defined pursuant to the ABA's definition as "a person qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity who performs specifically delegated substantive legal work for which a lawyer is responsible."
American Association for Paralegal Education (AAfPE)	"Paralegals perform substantive and procedural legal work as authorized by law, which work, in the absence of the paralegal, would be performed by an attorney. Paralegals have knowledge of the law gained through education, or education and work experience, which qualifies them to perform legal work. Paralegals adhere to recognized ethical standards and rules of professional responsibility."

to participate in relevant activities and join sections and divisions of the ABA. Many state and county bar associations also allow paralegals and legal assistants to participate as associate members in their organizations. Paralegals and legal assistants have two of their own national professional associations—NFPA and NALA—among others that they may join, which offer paralegals many resources and benefits. Exhibit 1-4 shows NALA's home page and Exhibit 1-5 shows NFPA's home page.

Although paralegals perform many tasks, they are strictly prohibited from giving legal advice to clients, from representing clients in court proceedings, from accepting client cases, and from setting a fee in a matter. This is covered in more detail in Chapter 3.

Traditionally, a paralegal works under the direct supervision of an attorney and is accountable to that attorney. Some paralegals, however, work independently as **freelance** or **contract paralegals**; they are self-employed, marketing their services to the legal community on a per-job basis, enjoying the freedom to set their own hours and be their own bosses. Freelance paralegals often work off-site for a number of attorneys or legal organizations at the same time, while still working under the supervision of attorneys. They control time scheduling that is coordinated with the attorneys and the clients. The most important concern is that the work is done. The paralegal or legal assistant can determine the rate for their services, which is paid to them by the attorney. It's a win-win situation.

**freelance or contract paralegals**

Works as an independent contractor with supervision by and/or accountability to an attorney; is hired for a specific job or period.



Exhibit 1-4 Home Page of the NALA Web Site

Source: National Association of Legal Assistants (NALA).

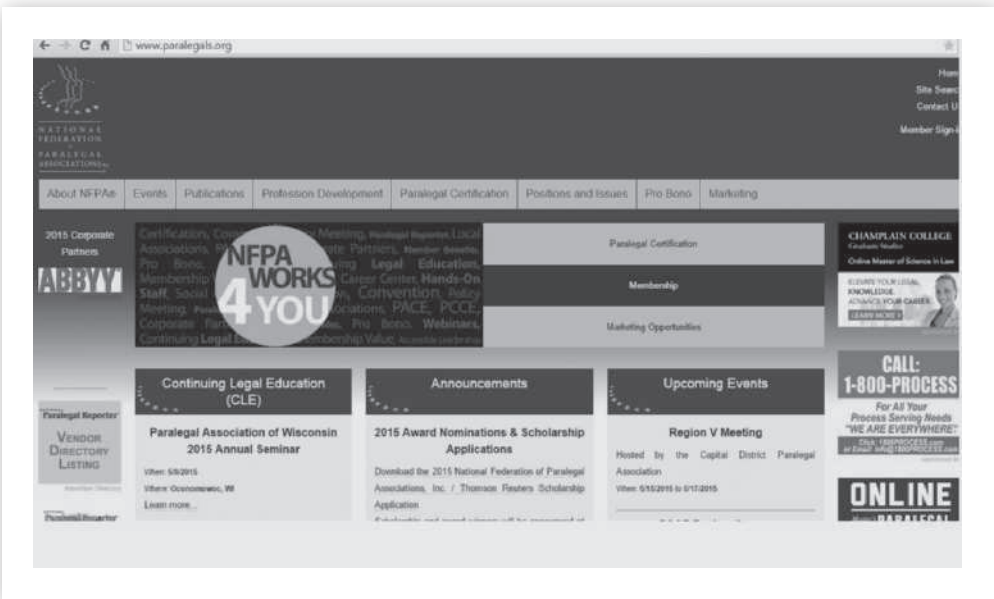


Exhibit 1-5 Home Page of the NFPA Web Site

Source: National Federation of Paralegal Associations (NFPA).



**independent legal assistants**

Services provided to clients in which the law is involved, but individuals providing the services are not accountable to a lawyer.

**limited license legal technician**

In states where legislation has provided, a person qualified by education, training, and work to engage in the limited practice of law in the approved practice area as per the state's rules.

**paralegal managers**

Oversees a paralegal program in a legal organization, including preparing work plans, hiring, training, and evaluating paralegals.

**Independent legal assistants** or **legal technicians** present some complicated issues with paralegals/legal assistants, in particular, ethical issues concerning unauthorized practice of law, discussed further in Chapter 3. Independent legal assistants provide services to clients, which involves the law, generally providing self-help services to the public. However, these individuals are not accountable to a lawyer. A **limited license legal technician**, in states where legislation has been passed, is a person qualified by education, training, and work to engage in the limited practice of law in the approved practice area as per the state's laws. In 2013, Washington passed legislation allowing non-attorneys, under carefully regulated circumstances, with specialized training and certification to practice law in a limited capacity. Washington State Rule 28—Limited Practice Rule for Limited License Legal Technicians. Other states such as California and Oregon have formed task forces to consider the adoption of Limited License Legal Technician. Still other states are considering similar options to address the needs for affordable and quality legal assistance without hiring an attorney, while still protecting the public interest.

Some larger legal organizations have **paralegal managers** who oversee the firm's paralegal program, and are responsible for administering all firm policies pertaining to paralegals. The firm's paralegals report either directly or indirectly to the paralegal manager. Paralegal managers develop work plans and standards, prepare staffing plans and bill rates, recruit and hire, provide training and development, monitor workloads, and conduct evaluations of the paralegals.

A recent survey by the National Association of Legal Assistants (NALA) found that more than 85% of the respondents had earned some kind of college education (see Exhibit 1-6). Both NFPA and NALA have voluntary certification exams, and some states offer certifications as well.

## Paralegal Roles, Responsibilities, and Employment

People unfamiliar with the legal profession might assume that paralegals spend a great deal of time in court; this is a common misconception. A considerable amount of the paralegal's time is spent researching background information, plowing through reams of files, summarizing depositions, drafting pleadings or correspondence, and organizing information. It is not always exciting, but it is essential work with every case; often, the facts gathered, researched, and presented determine a case's outcome. Many of the paralegal's duties do not involve a courtroom, preparation of wills, real estate closing transactions, drafting discovery, or preparation of business corporation papers.

Response	Percent	Responses
High-school diploma	13%	176
Associate degree	31%	421
Bachelor's degree	47%	634
Master's degree	8%	112
Ph.D.	1%	13

### Exhibit 1-6 General Education Degree Attained for Practicing Paralegals

Source: National Association of Legal Assistants, 2013 National Utilization and Compensation Survey Report, Table 1.4, General Education Degree Attained available at <http://www.nala.org/Upload/file/PDFFiles/Certification/ReportFor%20web%20site.pdf>.

Defining a paralegal's job duties is not an easy task, given the wide variety and versatility of the profession. Exhibit 1-7 shows some of the more frequent duties paralegals perform. Notice that assisting at trial is the lowest on the chart. A majority of the paralegal/legal assistants responding to the survey in Exhibit 1-7 draft letters and case correspondence, work with and manage files and cases, calendar and keep track of case deadlines, work with computer systems, draft pleadings and formal court documents, work on miscellaneous office matters, and work with clients on a daily basis.

Most paralegals practice in a particular area of the law. Exhibit 1-8 shows the areas in which paralegals/legal assistants most frequently practice. Notice in Exhibit 1-8 that 37% of the participants surveyed indicated that they specialized in civil litigation. Litigation provides many employment opportunities for paralegals.

In addition to practicing in many different areas of the law, paralegals are employed in different kinds of legal organizations (see Exhibit 1-9). Approximately three-fourths of all the paralegals work in private law offices. Exhibit 1-9 also shows that about 62% of the paralegals/legal assistants surveyed worked in relatively small firms with 10 or fewer attorneys. The size of the law office has an effect on the job duties and salaries of paralegals. In small law offices, paralegals usually compose and draft their own documents on a computer and do their own

### Exhibit 1-7

#### Paralegal Duties

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.16, Functions and Duties/Frequencies.

Duty	Daily	Weekly	Monthly	Rarely	Total Responses*
Case management	72%	18%	6%	4%	1036
Draft correspondence	68%	21%	7%	4%	1274
Calendar deadlines	60%	21%	8%	11%	1129
Other	56%	10%	12%	22%	281
Automation systems/ computers	54%	20%	11%	15%	910
Draft pleadings	46%	29%	15%	10%	999
Assist with client contact	39%	27%	17%	17%	1109
Office matters	45%	19%	15%	21%	955
General, factual research	34%	33%	21%	12%	1198
Fact checking	39%	31%	15%	14%	997
Document analysis/ summary	36%	30%	19%	15%	1072
Court filings	33%	32%	15%	20%	984
Investigation	23%	31%	22%	23%	885
Personnel management	25%	14%	9%	52%	569
Client/witness interviews	10%	23%	26%	40%	831
Train employees	11%	13%	24%	53%	681
Cite checking	8%	17%	26%	49%	788
Prepare/attend closings	6%	9%	20%	66%	482
Law library maintenance	6%	4%	11%	78%	501
Deposition summaries	4%	10%	25%	61%	714
Prepare/attend depositions	3%	16%	36%	45%	644
Assist/attend mediations	0%	7%	32%	59%	549
Assist at trial	76%	20%	2%	2%	719

\*Respondents were asked to skip the item if their work does not require the duty.

**Exhibit 1-8****Paralegal Specialty  
Areas of Practice**

Source: National Association of Legal Assistants, 2015, National Utilization and Compensation Survey Report, Table 2.20, Specialty Areas of Practice by Number of Responses.

<b>Specialty Areas</b>	<b>Percent of Respondents Selecting the Specialty</b>	<b>Number of Respondents</b>
Civil litigation	37%	520
Family law	24%	179
Personal injury law	23%	277
Administrative/government/ public including compliance	22%	282
Insurance law	22%	233
Corporate law	18%	337
Social security	17%	88
Trusts and estates	16%	225
Criminal	16%	158
Real estate	15%	287
Intellectual property	15%	183
Contract	14%	337
Banking/finance	14%	168
Probate	13%	227
Commercial	12%	226
Health care	11%	118
Immigration	10%	78
Tax	9%	114
Workers compensation	8%	152
Oil and gas	8%	106
Bankruptcy	7%	178
Office management	6%	196
Construction	5%	135
Nonprofit	5%	92
Multistate litigation	4%	95
Collections	3%	190
Mergers/acquisitions	3%	124
Securities/antitrust	2%	84
Legislation/lobbying	1%	84

secretarial tasks. In larger firms, paralegals may supervise secretarial personnel or share secretary staff with other legal professionals. Exhibit 1-9 shows that about 45% of all paralegal/legal assistants are supervised by an attorney and about 43% are supervised by an administrator, manager, or the head of the department. Another interesting fact shown in Exhibit 1-9 is that as the number of attorneys in firms increase, the ratio of attorneys to paralegals goes down dramatically. In a sole practitioner's office, the ratio of attorneys to paralegal is 0.8:1, but in a firm with more than 100 attorneys, the ratio is 4.6:1.

**Paralegal Compensation**

Exhibit 1-10 contains a national survey of paralegal/legal assistant compensation. This survey found that the average compensation for all paralegal/legal assistants was \$56,648 per year. The survey found that paralegal/legal assistants in tax intellectual property, securities/antitrust, and corporate law departments receive higher compensation on average

**Exhibit 1-9**  
Paralegal Employment  
Statistics

Employer	Percent	Respondents
Private law firm	61%	660
Corporation	16%	178
Public sector/government	11%	124
Insurance company	3%	31
Self-employed	2%	20
Nonprofit organization	1%	23
Bank	1%	15
Court system	1%	9
Health/medical	1%	11

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.1, Type of Employer.

Number of Attorneys	Percent	Respondents
1 (sole practitioner)	12%	112
2–5	32%	294
6–10	18%	166
11–20	7%	124
21–50	13%	137
50–100	7%	62
More than 100	3%	31

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.10, Number of Attorneys in Firm.

Supervised by	Percent	Respondents
One or more attorneys	45%	478
Office administrator/manager	29%	305
Paralegal manager	7%	74
Department head	6%	66
No supervision (or other)	3%	34
General counsel	5%	56
Management committee	1%	11

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.8, Overall Supervision of Support Staff.

Number of Attorneys	Ratio of Attorneys to Legal Assistants
1	0.8
2–5	1.5
6–10	2.1
11–15	2.3
16–20	2.6
21–40	3.6
41–60	4.6
61–100	5.3
More than 100	4.6

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.11, Ratio of Attorneys to Legal Assistants.

**Exhibit 1-10** Paralegal  
Compensation Survey

<b>By Years of Legal Experience</b>	<b>Average Total Compensation</b>	<b>Respondents</b>
1–5 years	\$41,150	127
6–10 years	\$52,061	155
11–15 years	\$57,051	129
16–20 years	\$61,622	185
21–25 years	\$62,608	128
Over 25 years	\$65,393	309
All years	\$62,148	

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 4.7, Annual Salary and Compensation by Total Years of Legal Experience.

<b>By Region</b>	<b>Average Total Compensation</b>	<b>Respondents</b>
Region 7: Far West	\$63,744	114
Region 1: New England/East	\$63,396	40
Region 5: Southwest	\$61,097	235
Region 6: Rocky Mountains	\$60,621	49
Region 3: Plains States	\$56,211	142
Region 4: Southeast	\$56,123	381
Region 2: Great Lakes	\$55,223	82

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 4.11, Annual Salary and Compensation by Region.

<b>By Practice Area</b>	<b>Average Total Compensation (Greater than 40% of time in practice area)</b>	<b>Respondents</b>
Antitrust/securities	\$115,780	7
Tax law	\$71,858	19
Corporate law	\$70,225	112
Contract law	\$67,715	112
Intellectual property law	\$67,215	45
Employment/labor law	\$60,780	65
Real estate law	\$58,005	89
Insurance law	\$56,436	91
Administrative/government/public	\$56,154	111
Civil litigation	\$55,856	337
Personal injury	\$53,857	121
Bankruptcy	\$50,454	29
Criminal	\$48,314	38
Family law/domestic relations	\$42,117	69
Antitrust/securities	\$115,780	7

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 4.14, Total Compensation by Specialty Area Greater than 40% of Time.

(continued)

**Exhibit 1-10** Paralegal  
Compensation Survey  
(continued)

Number of Attorneys	Average Total Compensation	Respondents
1	\$55,916	123
2-5	\$56,809	334
6-10	\$59,209	183
11-15	\$55,463	87
16-20	\$61,765	54
21-25	\$63,197	47
26-30	\$57,462	39
31-40	\$60,204	58
41-50	\$56,811	36
51-75	\$58,340	67
76-100	\$70,447	21
More than 100	\$64,777	34

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 4.13, Annual Salary and Compensation by Number of Attorneys.

**Fair Labor Standards Act**

Federal law that sets minimum wage and overtime pay requirements for employees.

**exempt**

The employee is not required to be paid overtime wages over 40 hours per week.

**nonexempt**

The employee is required to be paid overtime wages (time and a half) over 40 hours per week.

than do legal assistants in other areas of practice. The survey also found that: (1) paralegals with more experience earned higher pay than those with less experience, (2) paralegals working in the far west and New England/eastern areas earned higher compensation than those working in other areas of the United States, and (3) paralegals working in smaller firms tended to make less money than paralegals working in large law firms (see Exhibit 1-10).

**EXEMPT V. NONEXEMPT** The **Fair Labor Standards Act (FLSA)** is a federal law that sets minimum wage and overtime pay requirements for employees. It requires that overtime pay (one-and-one-half times their normal rate) be paid to employees who work in excess of 40 hours per week. Employees do not need to be paid overtime if they fall into one of the four “white-collar” exemptions: executive, administrative, professional, or outside sales. If an employee is **exempt**, he or she is not required to be paid overtime wages. If an employee is **nonexempt**, he or she is required to be paid overtime wages. According to a recent survey of paralegals/legal assistants, 52.2% of respondents indicated that they were classified as “exempt” by their employers and were not paid overtime wages.

Employment of paralegals and legal assistants is projected to grow 17% from 2012 to 2022, faster than the average for all occupations.

*As law firms try to increase the efficiency of legal services and lower their expenses, they are expected to hire more paralegals and legal assistants. This occupation attracts many applicants, and competition for jobs will be strong. Experienced, formally trained paralegals with strong computer and database management skills should have the best job prospects. In addition, many firms will prefer paralegals with experience and specialization in high-demand practice areas.* Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2014-15 Edition, Paralegals and Legal Assistants, *on the Internet at* <http://www.bls.gov/ooh/legal/paralegals-and-legal-assistants.htm>

The issue of whether paralegals should be exempt or nonexempt is hotly debated. The United States Department of Labor, which administers the FLSA, has long taken the position that paralegals are nonexempt and are thus entitled to overtime pay for hours worked in excess of 40 per week because their “duties do not involve the exercise of discretion and independent judgment required by the regulations” (see Wage & Hour Opinion Letters [available at <http://www.dol.gov/esa/whd/opinion/opinion.htm>] dated March 20, 1998; February 19, 1998; April 13, 1995; February 10, 1978). As recently as 2005 (see Wage & Hour Opinion Letter dated January 7, 2005, FLSA2005-9), the Department of Labor stated that a paralegal was not exempt from the FLSA even if the paralegal possessed a four-year degree, had a paralegal certificate, had taken continuing legal education classes, and had been practicing as a paralegal for 22 years. The Department relied on section 541.301(3)(7), which states that “[p]aralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution.”

The advantage of this long-held position by the Department of Labor is that if a paralegal is deemed nonexempt, then he or she is entitled to overtime pay, which can be an attractive benefit. Unfortunately, the ruling arguably diminishes the profession by holding that it is not of a prestigious enough nature to warrant exempt status. The ruling from the Department of Labor was criticized by many that felt it failed to consider the advanced education and continuing legal education of paralegals and legal assistants, the profession’s status as well as the substantive duties performed by paralegals and legal assistants for which independent judgment is routinely exercised. In 1994, a jury in the case of *Riech v. Page & Addison, P.C.* (Case No. 3-91-CV-2655-P in the United States District Court, Northern District of Texas, Dallas Division) found that the legal assistants at the Page & Addison law firm were exempt from overtime requirements. Nevertheless, the Department of Labor did not change its general position on the matter. Interestingly, many law firms still do not pay overtime compensation to paralegals/legal assistants, even after the rulings by the Department of Labor on the subject; according to Exhibit 1-11, only 52% of firms always pay overtime compensation for paralegals.

## The Judicial System’s Recognition of the Paralegal Profession

The United States Supreme Court case of *Missouri v. Jenkins*, 491 U.S. 274, 109 S.Ct. 2463, 105 L.Ed. 2d 229 (1989), established that the paralegal profession had come of age. In that case, the plaintiff was successful on several counts under a federal statute in a civil rights lawsuit

Do You Receive Overtime Compensation?	Percent	Respondents
Always paid	52%	497
Sometimes paid	7%	64
Never paid	22%	206
Compensatory time off	19%	180

### Exhibit 1-11 Paralegal Overtime Compensation

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.4, Overtime Compensation.

that was attempting to recover attorney's fees from the defendant. The federal statutory language allowed the prevailing party to recover "reasonable attorney's fees" from the adverse party. The plaintiff argued for the right to recover the time that both attorneys and paralegal had spent working on the case. The defendant argued that paralegal time was not "attorney's fees." Alternatively, the defendant argued that if required to pay for paralegal time, the amount should be about \$15 an hour, a representation of the overhead costs to the firm of a paralegal.

The Court found that paralegals carry out many useful tasks, and that "reasonable attorney's fees" refers to a reasonable fee for the work produced, whether by attorneys or paralegals, and could be compensable as long as the work was not of a clerical nature. The Court also found that under the federal statute, paralegal time should be compensable at the prevailing market rates. The Court noted that the prevailing rate at that time for paralegal in that part of the United States was about \$40 an hour and held that the plaintiff was entitled to receive that amount for paralegal hours expended on the case. This important case defined a paralegal position not as a secretarial or clerical position but as a professional, fee-generating profession.

Former Chief Justice Warren Burger stated that the "expanded use of well-trained assistants, sometimes called 'paralegals,' has been an important development. The advent of the paralegal enables law offices to perform high quality legal services at a lower cost. Possibly we have only scratched the surface of this development."

While *Missouri v. Jenkins* was a landmark decision for paralegals, the case involved a federal court interpreting a specific federal statute, the Civil Rights Act. Because fee questions occur in many different situations, it is possible for a court under a different statute to reach a different conclusion. Since *Missouri v. Jenkins*, many federal and state courts have allowed for recovery of paralegal billable hours [see *Baldwin v. Burton*, 850 P.2d 1188, 1200-01 (Utah 1993), *Cooper v. Secretary of Dept. of Health and Human Services*, No. 90-608V, 1992 WL 63271 at 3 (Cl. Ct. March 11, 1992), *Consolo v. George*, 58 F.3d 791 (1st Cir. 1995), *Department of Transp., State of Fla. v. Robbins & Robbins, Inc.* 700 So. 2d 782, Fla. App. 5 Dist. (1997), *Guinn v. Dotson* (1994) 23 Cal. App. 4th 262, *In re Mullins*, 84 F.3d 459 (D.C. Cir. 1996), and *Taylor v. Chubb Group of Insurance Companies*, 874 P.2d 806 (Ok. 1994). *Role Models American, Inc. v. Brownlee*, 353 F.3d 962 (C.A.D.C., 2004)].

## Paralegal Profitability for Law Offices

The use of paralegals is a financially profitable proposition and represents a win-win situation for both the law office and client. Law offices charge clients for paralegal time. Paralegal billing rates are substantially more than the salaries law offices pay them, so law offices make a profit by billing paralegal time. In addition, clients are typically very willing to pay for paralegal time because the billable rate is substantially less than what an attorney would charge to do the same work.

### office managers

Manager who handles day-to-day operations of the law office, such as accounting, supervision of the clerical support staff, and assisting the managing partner.

## Office Manager

**Office managers** are typically found in smaller firms. They handle day-to-day operations of the law office, including activities such as timekeeping and billing, supervision of the clerical support staff, assisting the managing partner in preparing a budget, and making recommendations with regard to changes in systems and purchases. Office managers typically do



not have degrees in business. They are usually not given as much decision-making power as administrators and, unlike administrators, usually assist a managing partner in managing the law office. Nonetheless, good office managers are important for the survival of smaller firms. Experienced paralegals are sometimes promoted to office manager positions.

Law Clerk

law clerk

A law student working for a law firm on a part-time basis while he or she is finishing a law degree. Law clerk duties revolve almost exclusively around legal research and writing.

A **law clerk** is usually a student who works for a law firm on a part-time basis while he or she is finishing a law degree. Law clerk duties revolve almost exclusively around legal research and writing. Law clerks perform research, write briefs and motions, and prepare memorandums of law.

Law Librarian

law librarian

A librarian is responsible for maintaining a law library, conducting legal research, and managing library resources.

A **law librarian** conducts legal research using both computerized and manual methods; acquires and preserves library materials; is an expert in legal and nonlegal research methods/tools; advises attorneys and legal professionals on legal research methods; maintains, classifies, indexes, and stores library materials; manages the library/legal research budget, and may coordinate the use of electronic resources, such as Westlaw, LexisNexis, and other services.

Legal Secretaries

legal secretaries

Employees who provide assistance and support to other law office staff by preparing documents, composing correspondence, scheduling appointments, and performing other tasks.

**Legal secretaries** provide a variety of services to attorneys and paralegals. Typical duties include preparing documents, composing routine correspondence, proofreading, reading and routing mail, scheduling appointments, organizing material, filing, answering the phone and screening calls, faxing, copying, responding to e-mails, responding to clients, and other tasks. Exhibit 1-12 shows that about 52% of paralegals have limited or full access to secretarial support. Secretaries include legal secretaries, receptionists, and word processing secretaries. Competent legal secretaries have highly specialized skills and perform many services for law firms. Legal secretaries, like paralegals, have their own local, regional, state, and national associations. It is not uncommon for a person to start employment with a law office as a legal secretary and work his or her way up to paralegal, office manager, or another position.

Secretarial Assistance	Percent	Respondents
Have personal secretary	2%	19
Share secretary with one or more attorneys	24%	251
Share secretary with one or more paralegals	5%	48
Have limited access to a secretary (perform some of own secretarial duties)	17%	183
Have access to word processing staff or secretarial pool	4%	45
No secretarial service	48%	511

Exhibit 1-12 Secretarial Support Provided to Legal Assistants

Source: National Association of Legal Assistants, 2015 National Utilization and Compensation Survey Report, Table 2.2, Kinds of Secretarial Assistance Provided.

Receptionists are commonly found in all law offices, and their duties include answering the phone, greeting clients, opening the mail, and making photocopies. Word processing secretaries are commonly found in larger law offices. They type, format, and produce documents using word processing software.

It is not uncommon for friction to exist between paralegals and secretaries. Problems may occur in law offices where there are no clear descriptions of job duties, where paralegals are required to do some clerical or administrative work, and where secretaries perform higher level research or case management from time to time. This blurring of the lines sometimes causes confusion about who is supposed to do what; when this happens, pressure is added to the working relationship. Some secretaries also resent paralegals performing higher-level work than they themselves are allowed to perform. In addition, some secretaries refuse or resist performing clerical work for paralegals because they view paralegals as peers. In any case, paralegals and secretaries must work together as members of the same team. They must put the needs of the team first and always support their coworkers, because eventually they will need their help.

### Clerks

**Clerks** provide support to other staff positions in a variety of functions. Law offices may have a wide variety of clerks, including mail clerks, copy clerks, file clerks, process servers, messengers, calendar clerks, and billing clerks. Much of their work involves data entry and physically handling files and documents.

### Other Legal Team Members

A variety of other people and organizations make up the legal team. Other team members may include expert witnesses, investigators, litigation support bureaus, and consultants. An **expert witness** is a person who has technical or scientific expertise in a specific field and agrees to give testimony for a client at trial. Professional investigators are sometimes hired to gather facts and evidence regarding a case. Litigation support service bureaus may be used in cases that have hundreds or thousands of documents to organize and records to computerize for trial. Specialists may also be hired, such as computer specialists, accountants, bookkeepers, records managers, payroll specialists, and analysts. Some large firms employ analysts who are experts in their fields, such as biologists, chemists, and others. These analysts advise the firm and their clients on extremely complex cases. Law offices use business, marketing, and other types of consultants to give them advice on how to run their operation efficiently. Law offices may also use temporary or permanent staffing firms and may outsource jobs, projects, or services as needed, including copying, mail services, and records management.

#### clerks

Employees who provide support to other staff positions in a variety of miscellaneous functions.

#### expert witness

A person who has technical expertise in a specific field and agrees to give testimony for a client at trial.

## Types of Law Practices

To a certain extent, how law office management operates depends on the type of law office. Therefore, it is necessary to review the different types of law practices and their functional effect on management. Usually, people think of the private law firm as the only type of law practice, but there are others, including corporate law, government, and legal service practices.

## Corporate Law Practice

Some businesses, including large corporations, banks, retailers, manufacturers, transportation companies, publishers, insurance companies, and hospitals, have their own in-house legal departments. Attorneys employed by a corporate law department are often referred to as “in-house counsel.” In a corporate legal department, attorneys and paralegals have just one client: the business itself. However, some corporate legal departments see each division or department in the corporation as an individual client for whom they must provide quality legal services.

Corporations with their own legal departments are generally large, with millions of dollars in assets. Unlike private law firms, a corporate legal department is not involved in many administrative functions, such as accounting, since the corporation itself provides these services. Corporate legal departments do not record billable hours, since all costs are covered by the corporation. However, corporate legal departments must still budget, track, and plan activities, and they are responsible for the overall efficiency of their department. Corporate law departments handle a variety of legal concerns in such areas as contracts, labor relations, employee benefits, federal tax laws, intellectual property, environmental law issues, Security Exchange Commission (SEC) filings, general litigation, real estate law, and workers’ compensation claims, among others.

Most corporate legal departments are too small to handle all the legal needs of the corporation, so the law departments hire private law firms that specialize in the additional areas they need. This is sometimes referred to as having “outside counsel.” The chief attorney for a corporate legal department is called the **general counsel**. The general counsel, in addition to having legal duties, may also be the corporate secretary. The general counsel typically reports to the chief executive officer and interacts closely with the board of directors of the corporation. Many corporate law departments have practice groups that specialize in certain areas, such as litigation, regulatory work, taxes, contracts and intellectual property work, and more.

Staffing in corporate legal departments includes secretaries, paralegals, law clerks, administrators, and attorneys (see Exhibit 1-13). Most corporate legal departments employ one or more paralegals. The job duties a paralegal performs in a corporate legal department are similar to those performed in other types of practices and may include preparing deposition summaries, performing legal research, and drafting documents. Like paralegals in private law firms, paralegals in corporate legal departments might also specialize in specific areas, such as litigation, real estate, or business law.

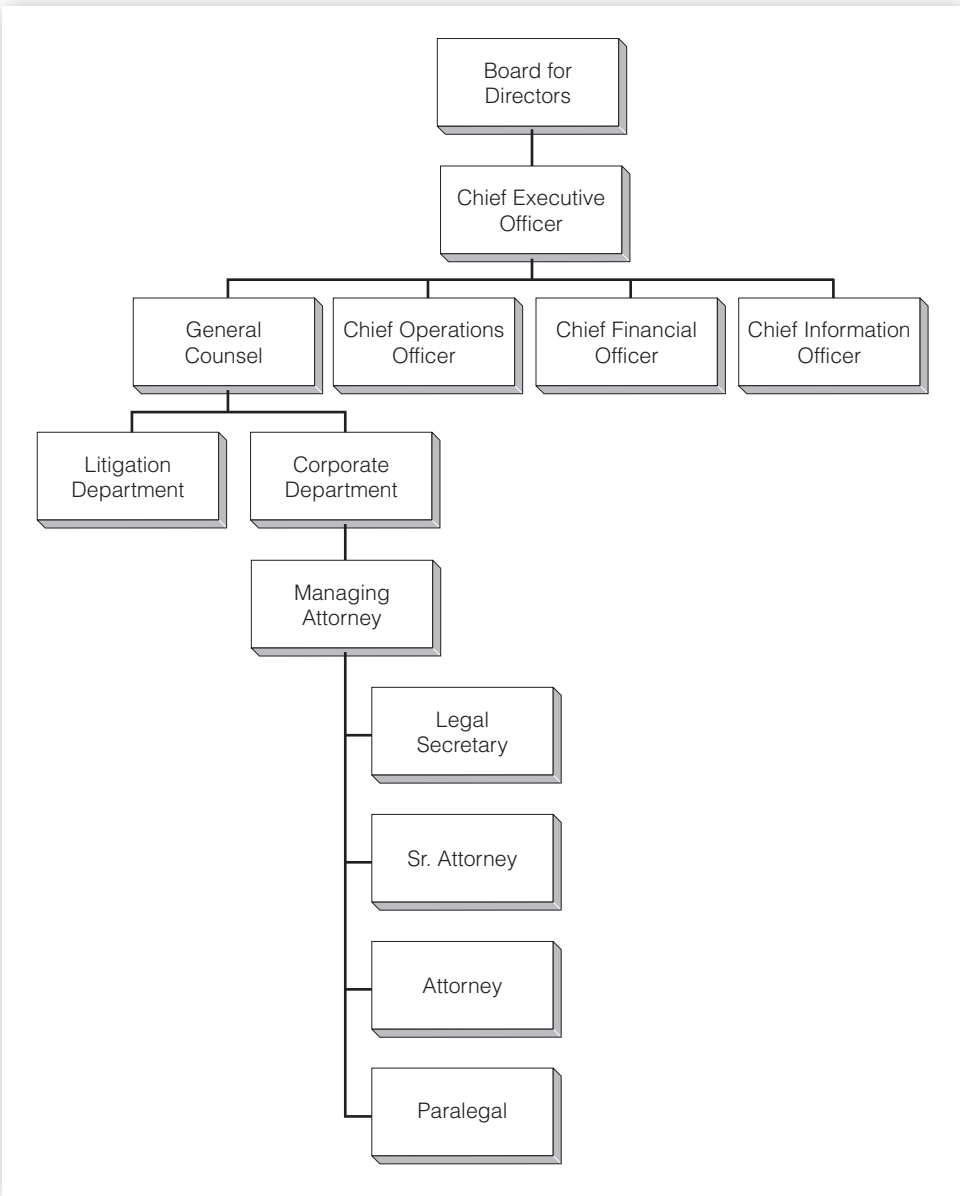
### general counsel

The chief for a corporate legal department.

## Government Practice

Government attorneys, like corporate attorneys, have just one client. In most local, state, and federal agencies, a legal department represents the interests of *each* particular agency. Government attorneys representing agencies or governmental bodies may be involved in contract law, bankruptcy law, tax law, employment law, property law, and environmental law, to name a few. Each state also has an attorney general’s office; the attorney general operates as the state’s chief law enforcement officer and attorney. In many instances, when a state or state agency is sued, the attorney general’s office represents the state. In addition, many other types of government attorneys exist, including local district and city attorneys, state attorney generals, and U.S. attorneys.

**Exhibit 1-13**  
Corporate Law  
Department  
Organizational Chart



In many ways, practicing for the government is similar to practicing for a large corporation. Government attorneys, like corporate attorneys, do not record billable hours and are not responsible for as many management duties as are their counterparts in private law firms. Government practices differ from corporate legal department practices in that politics plays a role; government attorneys and paralegals are also paid according to their civil service classification. Staffing for government legal departments consists of secretaries, investigators,

paralegals, law clerks, and attorneys. The job duties of paralegals in government practices vary depending on the area of practice, and these duties may be tested in various civil service exams that are a prerequisite to hiring.

## Legal Services Offices

### legal services office

A not-for-profit law office that receives grants from the government and private donations to pay for representation of disadvantaged persons who otherwise could not afford legal services.

A **legal services office**, sometimes called a legal clinic or legal aid office, is a not-for-profit law office that receives grants from the government and private donations to pay for representation of disadvantaged persons who otherwise could not afford legal services. In some cases, legal services offices or clinics are operated by law schools, bar associations, or other nonprofit entities as a public service to the community. Clients pay little or no fees for legal services. Legal services offices typically represent the disadvantaged in areas relating to child support, child custody, disability claims, bankruptcies, landlord-tenant disputes, and mental health problems. Staffing for legal services offices includes secretaries, paralegals, law clerks, and attorneys. In legal services practices, paralegals may be used fairly extensively and are usually given a wide variety of tasks because their use is cost effective. Legal services offices typically handle civil matters, while government public defenders' offices handle criminal matters for low-income clients.

## Private Law Practices

The most common way that attorneys practice law is in a private law firm (see Exhibit 1-14). A private law practice is a firm that generates its own income by representing clients. Private law firms, like any business, are operated to make a profit for their owners. Private law firms represent a variety of clients and come in all shapes and sizes, from a sole practitioner to international megafirms.

The terminology is somewhat arbitrary, and may depend on the relative size of your community, but, for this text, a small firm is a law office that has fewer than 20 attorneys; a medium-size firm usually has from 20 to 75 attorneys; and a large firm can employ from 75 to hundreds of attorneys. There are also megafirms that employ between 500 and 1000 attorneys or more. Private practices, no matter the size, have their own unique styles, methods, clients, cultures, and ways of doing things. As of 2012, there were nearly 1.3 million attorneys in the United States, according to the American Bar Association's Market Research Department, Exhibit 1-14 shows the types and sizes of practices they join.

## Sole Practitioner

A sole practitioner is an attorney who individually owns and manages the practice. Anyone who works for the attorney is considered an employee. Sole practitioners sometimes hire another attorney as an employee, who is not entitled to any share of the practice's profits. Although the sole practitioner has the advantage of freedom and independence, he or she is also ultimately responsible for all, or nearly all, of the legal work and management duties of the law office. It is important that overhead costs stay as small as possible, if the sole practitioner is to succeed. Overhead costs are the expenses incurred month after month and include such things as rent (thus the term "overhead"), utilities, the lease of equipment (such as copiers and computers), and support staff salaries. These are costs incurred whether the attorney is serving one client or 100. Sole practitioners typically have small offices with a very small law library.

**Exhibit 1-14** Percent of Attorneys by Practice Type/Size

Practice Type	Percent
Private practice	75%
Government	8%
Corporate/private industry	8%
Retired/inactive	4%
Judiciary	3%
Education	1%
Legal aid/public defender	1%
Private association	1%

Source: *The Lawyer Statistical Report*, American Bar Foundation, 2004 Edition.

**Private Practitioners**

Practice Type	Percent
1	49%
2–5	14%
6–10	6%
11–20	6%
21–50	6%
51–100	4%
More than 100	16%

Sources: *The Lawyer Statistical Report*, American Bar Foundation, 1985, 1994, 2004, 2012 Editions.

Sole practitioners are typically generalists, meaning they handle a wide variety of cases, such as probate, family law, criminal law, and personal injury. The sole practitioner typically refers a case outside of his or her area of expertise to another attorney who is skilled in that matter. Sole practitioners need good management skills for their practice to survive. This may pose a problem, because management duties take the sole practitioner away from the actual practice of law, which is the activity that brings in the money. Exhibit 1-14 shows that nearly half of all attorneys in the United States are sole practitioners.

Staffing can include a secretary, paralegal, law clerk, and possibly an associate attorney; these positions may even be part time. Paralegals working in a sole practitioner's office enjoy a great deal of responsibility and diversity in their jobs. Duties include conducting legal research, drafting pleadings and discovery materials, word processing, and interviewing witnesses. Because sole practitioners are generalists, their paralegals work in many areas of the law. In a solo practice, the paralegal has the opportunity to learn firsthand about law office management and to perform management functions.

## Law Firms

Law firms have two or more attorneys in practice together. There are 47,563 law firms in the United States (not counting sole practitioners), according to the American Bar Association. While there is not as much freedom as in sole practice, law firms do not incur as much risk. If a sole practitioner becomes ill, loses a large client, or faces other such catastrophes, the sole practitioner's income may be endangered. These problems may be alleviated in law firms, because more than one attorney is available. Law firms are usually categorized as small, medium, or large.

**boutique firm**

A small law office that specializes in only one or two areas of the law.

**THE SMALL LAW FIRM** The small firm usually has fewer than 20 attorneys. Notice in Exhibit 1-14 that nearly 76% of all attorneys in the United States practice as either a sole practitioner or in a small firm. Most small firms have a staff member—such as an office manager or an administrator—who helps with the day-to-day operations of the business. However, a partner or managing partner is usually responsible for major management decisions such as hiring, firing, distributing profits, and setting salaries. Small firms usually concentrate in a few areas of the law but may also have attorneys who are general practitioners.

A small law office that specializes in only one or two areas of the law is sometimes called a **boutique firm**. The boutique firm normally has several attorneys who practice in the same specialty. Paralegals who work for boutique firms also usually become specialists in that particular area of the law.

Disadvantages that hinder small firms include cash-flow problems, lack of time to recruit, hire, and train new staff, little time for management, and long hours. Staffing positions include clerks, secretaries, paralegals, office managers, law clerks, and attorneys. Small firms offer paralegals a relatively large variety of tasks to perform.

**THE MEDIUM-SIZE FIRM** The medium-size firm usually has from 20 to 75 attorneys. Typically, medium-size firms are organized into subject-area departments. Medium-size firms differ from small firms in that most medium-size firms have professional administrators who manage many aspects of the business. Administrators usually report to a managing partner or a committee that has overall management responsibilities. Medium-size firms typically have multiple offices, and it is not uncommon for them to have sophisticated computer systems. Staffing often consists of administrators, law librarians, receptionists, secretaries, paralegals, law clerks, and attorneys. Paralegals in medium-size firms have a more structured existence than in smaller firms; the diversity of duties and areas of practice are not as broad. However, the legal assistant may learn a particular area of law in greater depth. In addition, the internal structure and lines of communication are more intense and more important than in small firms, where colleagues tend to be more familiar with one another.

**THE LARGE FIRM** The large firm has between 75 and several hundred attorneys. A few large firms, sometimes called “megafirms,” have 500–1000 or more attorneys. Most large firms have practice groups or departments. A large firm might have 15 or more different practice groups, including antitrust, bankruptcy, environmental, estate planning, intellectual property, international, labor/employment law, litigation, patents, trademarks, copyright, property, and tax. The internal structure of these firms is more similar to the structure of business corporations than to other types of law firms. Staffing in large firms typically includes various classes of paralegals, law clerks, and attorneys, in addition to the positions shown in Exhibit 1-15. Large firms often have large corporations as clients. Many have offices throughout the United States, and some have international offices. Large firms also tend to have resources such as large law libraries, a word processing department, and extensive, technologically advanced computer systems connecting all their offices for information exchange.

Disadvantages encountered by large firms include recruiting and retaining good employees in the vital areas of the practice, getting departments to communicate and work together, and controlling the bureaucracy itself. Large law firms usually employ a large number of

**Exhibit 1-15** Large  
Law Firm Administrative  
Staff Positions

Accounts payable clerk	Legal secretary/administrative assistant
Accounts receivable clerk	Library specialist
Analyst	Litigation support specialist
Bookkeeper	Mail clerk
Chief financial officer	Messenger/driver
Controller	Paralegal manager
Computer specialist	Payroll specialist
Copy room clerk	Proofreader
Credit/collections manager	Purchasing manager
Data processing operator	Purchasing clerk
Director of marketing	Receptionist
Docket clerk	Records/file manager
Employee benefits manager	Recruiter
Equipment manager	Risk manager
Facilities manager	Trainer
File room clerk	Time and billing assistant
Human resource manager	Word processor
Legal administrator	Word processing supervisor
Law librarian	

paralegals and treat them formally and professionally, requiring them to attend department meetings, assist attorneys in depositions, and travel as needed. The physical space occupied by a large firm is more lavish than in small- and medium-size firms, usually occupying several floors in a large office building.

**Plaintiff/Defense Firms**

Private law practices may categorize themselves as either more or less plaintiff or defense oriented, no matter what the size of the law office. Plaintiff-oriented firms, as the name implies, represent clients who bring claims against others. Plaintiff-oriented firms tend to be smaller, not as well funded, and have fewer employees than defense-oriented firms. Cash flow in plaintiff firms may not be as stable as in defense-oriented firms because, in many cases, they take clients on a contingency fee basis; that is, the law office recovers fees for the case only if it wins.

Defense-oriented firms, on the other hand, have the luxury of billing defendants—who are typically businesses—according to the time spent on the case. This gives defense-oriented firms a more stable cash flow, enabling them to hire more personnel, purchase advanced equipment, and spend more on litigation services, such as hiring expert witnesses and taking as many depositions as needed. Nonetheless, effective management is needed in both plaintiff- and defense-oriented firms.

No matter the type of legal organization, good management, including sound financial management, cost-efficient hiring and training of personnel, efficient use of equipment, and overall leadership, is important.

**Law Firm Mergers and Acquisitions**

Law firm mergers are commonplace in the U.S. legal market. Law firms merge for different reasons. A law firm might merge as a growth strategy, in order to quickly expand their personnel and client base. A law firm might merge in order to create a presence in a new geographic



area or to move into a new practice specialty. A law firm might merge in order to create a national or international practice. A law firm might also merge if it is financially weak or if key partners have left or are retiring, as a way to save what's left of the practice. Law firm mergers can be complicated for a number of reasons, including conflict of interest problems (if the firms are representing different parties in a legal action), law office culture differences, staffing issues, financial resources, client satisfaction, computer compatibility, political power struggles, and other issues. Nonetheless, they occur regularly among private law practices throughout the United States.

### Geographic Service Areas

In years past, a law firm operated in a single location, and the office typically attracted clients within a limited geographic area around that location. That model no longer works in the current legal marketplace. The Internet, sophisticated computer networks that can tie offices together from across the country or around the world, and large, multi-office law firms have changed that paradigm. Many law firms have developed a geographic strategy regarding business expansion and how they define where and what their marketplace and client base will be. Geographic service strategies include: local, statewide, regional/multistate, national, international, and industry specific. When considering law practices, size is just one factor; it is also important to take geographic and business strategy into account, along with where they see themselves going in the short and long terms. Geographic and business strategies are also important in that they play a significant part in how firms are managed and operated, and these issues can cause a great deal of disagreement and problems between the owners of a firm who may not see eye to eye on these issues.

## Law Practice Organization Structures

---

Law practices have different organization or management structures. Private law practices are managed by a powerful managing partner, by all partners, or by committees. Corporate and government law practices have either a centralized or decentralized management structure.

### Legal Forms of Private Law Firms

Management structures of law firms are affected by the firm's legal status. A law firm can be formed as a sole proprietorship, partnership, corporation, or, in some states, a limited liability company. Before the management structure of law offices can be considered, the legal status of those law offices must be explained.

**SOLE PROPRIETORSHIP** In a sole proprietorship, the proprietor, in this case an attorney, runs the business, receives all profits, and is personally responsible for all losses and liabilities of the law office. However, a sole proprietorship is a distinct type of legal structure, and a sole practitioner does not have to use the sole proprietorship form; many sole practitioners are incorporated.

**PARTNERSHIP** The partnership's legal structure allows two or more attorneys to associate themselves together and to share in the profits or losses of the business. Many group practices use this structure. When a law office is established as a partnership, the founding attorneys are usually named as partners. As growth takes place, the partnership may hire additional associate attorneys.

All the partners are jointly and severally liable for the actions of the firm. This means if one partner commits malpractice and injures a client, each partner may be held individually or jointly responsible. Partners are also personally liable for the debts of the partnership. Partnerships typically use committees to make policy decisions, and partners meet regularly to discuss partnership business.

**PROFESSIONAL CORPORATION** The professional corporation allows a single shareholder or a group of shareholders from the same profession, such as attorneys, to join together to share in the outcomes of a business. When a law office is established as a professional corporation, the founding attorney or attorneys receive shares in the business. As in a partnership, associates are not owners and are only paid a salary. Shareholders can vote to offer additional shares of the business to associates and expand the ownership of the law firm. All attorneys are employees of the corporation and are paid a salary. Besides a salary, shareholders are also paid a dividend. The amount of the dividend depends on the profitability of the corporation and on the number of shares owned. Shareholders are not personally responsible for the debts of the professional corporation. The corporate form requires the election of officers and a board of directors.

**LIMITED LIABILITY COMPANY** The limited liability company (LLC) is a hybrid form of legal structure; it is a combination of the corporate and partnership forms. The LLC form of structure is valid in many states. The main advantage of an LLC is that it allows for limited personal liability of company debts for its owners (like a corporation), but is treated like a partnership for income tax purposes.

## Private Law Firm Management Structures

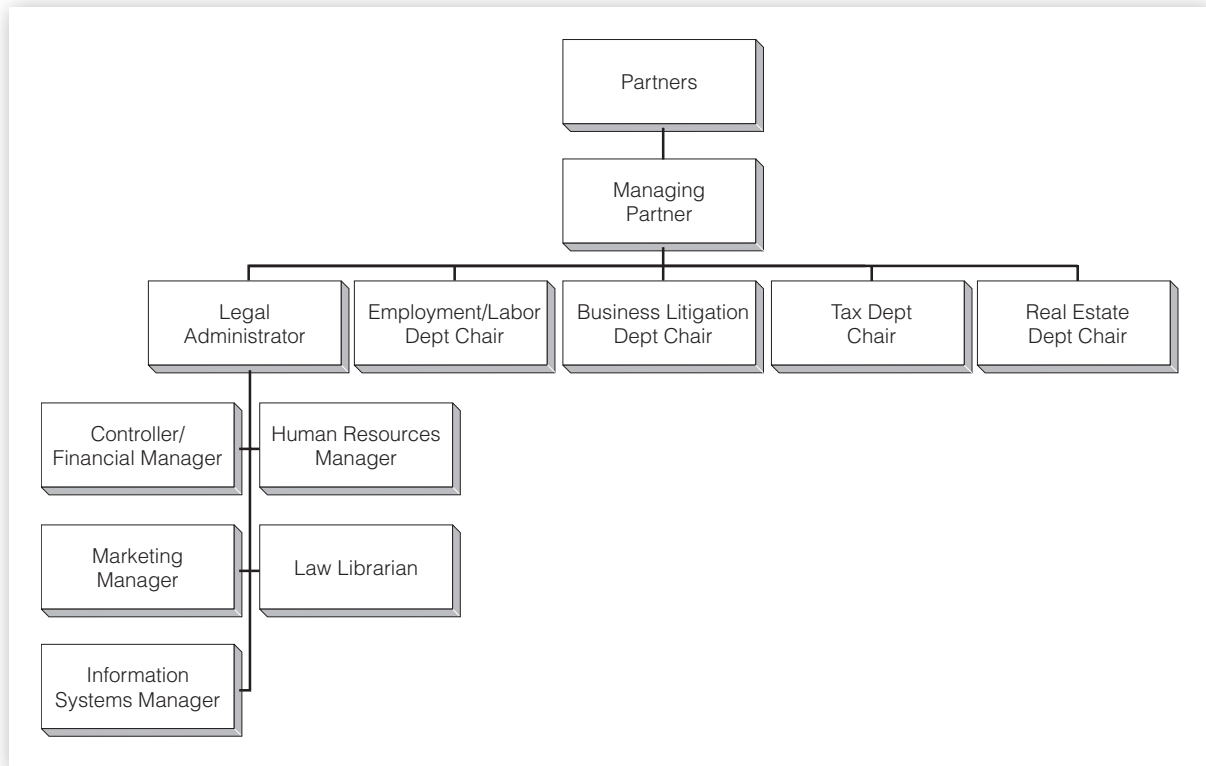
The type of management or governing structure used to manage the business aspect of the firm is the choice of the firm itself, but the legal structure of the business may dictate some of that management structure. For example, a corporation—by law—must have a board of directors. Many law practices struggle with the problem of determining who runs the firm and who has the final say on firm decisions. Possible management structures include one powerful managing partner, rule by all partners/shareholders, and rule by management committee or board.

### powerful managing partner

A management structure in which a single partner is responsible for managing the firm.

**THE POWERFUL MANAGING PARTNER** In a **powerful managing partner** management structure, a single partner manages the firm. The managing partner is responsible for day-to-day operations of the partnership, while partners vote on major firm decisions (see Exhibit 1-16). The managing partner may have a specific term of office. In some firms, the position is rotated among the practicing partners. In many firms, the managing partner spends anywhere from 60% to 100% of his or her time on management responsibilities. This form allows other partners to spend more time practicing law, but it places the managerial duties on one partner and reduces the managing partner's time to practice law. The powerful managing partner structure is autocratic: power rests with only one person. In some cases, the other partners may feel that they are without a voice in the management of the firm.

The strong managing partner structure works well in small- to medium-sized law practices where the managing partner is well-regarded and well-liked; makes sound business decisions so that the firm is profitable and stable; is an effective delegator, leader, and manager; and where the practice is not expanding rapidly. One benefit of this structure is that decisions



**Exhibit 1-16** Powerful Managing Partner Structure

are made relatively quickly and decisively because the power principally lies with one person. The managing partner structure tends to break down, however, when the managing partner makes an unpopular decision, when there is not enough partner oversight to satisfy the other partners, when the firm is not profitable, or where there is substantial conflict or questions about the direction of the firm.

#### rule by all partners/ shareholders

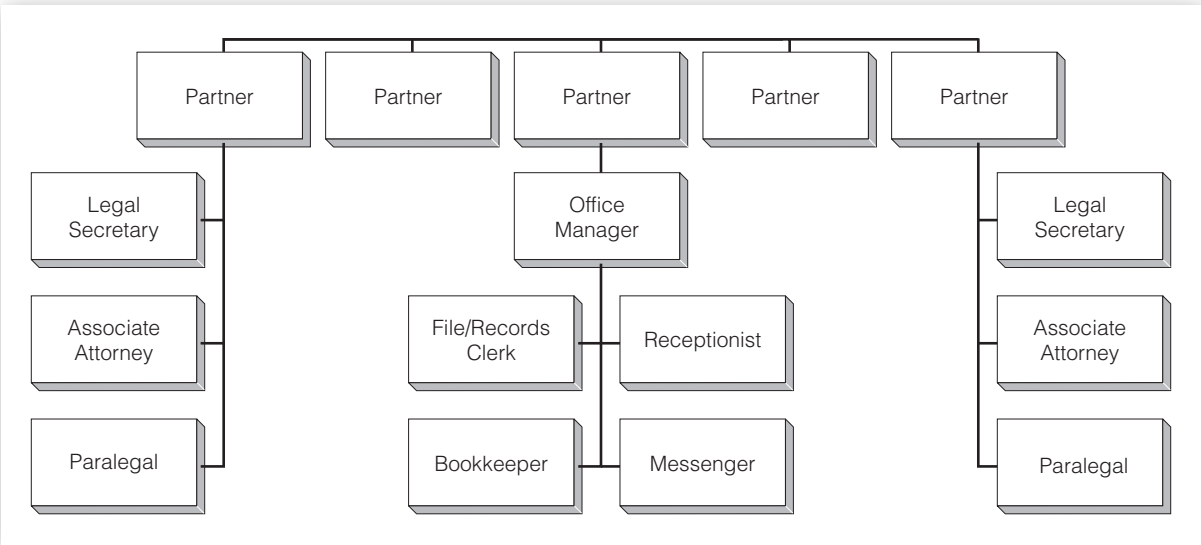
A management structure in which all partners/shareholders are included in decisions that affect the firm.

**RULE BY ALL PARTNERS/SHAREHOLDERS** Rule by all partners/shareholders is a management structure in which all partners/shareholders make decisions that affect the firm (see Exhibit 1-17). All the partners or shareholders meet whenever management policies or decisions need to be made. This is a democratic structure, since all the partners have a say in firm decisions and policies. Although this structure allows partners'/shareholders' involvement in all decisions of the firm, as the number of partners/shareholders increases, the effectiveness of the group may decrease; a larger group may foster indecision and a lack of direction.

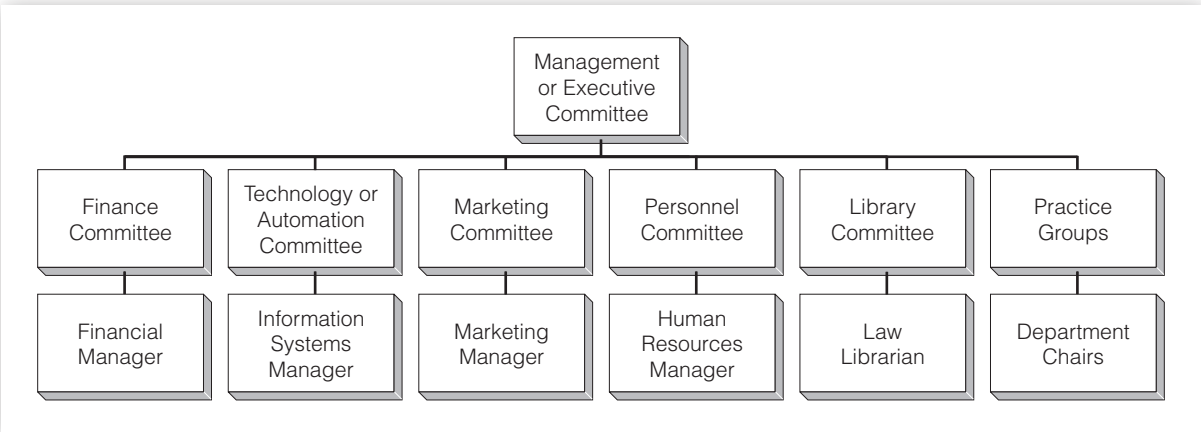
#### rule by management committee/board

Management structure that uses a committee structure to make management decisions for the firm.

**RULE BY MANAGEMENT COMMITTEE/BOARD** The rule by management committee/board management structure uses a committee structure to make management decisions for the firm (see Exhibit 1-18). Committees are made up of 5–10 members depending on the size of the firm, and are typically composed of partners or shareholders. Common committees include the library committee, automation or technology committee, finance committee, and personnel committee. These committees usually report to a management or executive committee.



**Exhibit 1-17** Rule by All Partners/Shareholders



**Exhibit 1-18** Rule by Management Committee Structure

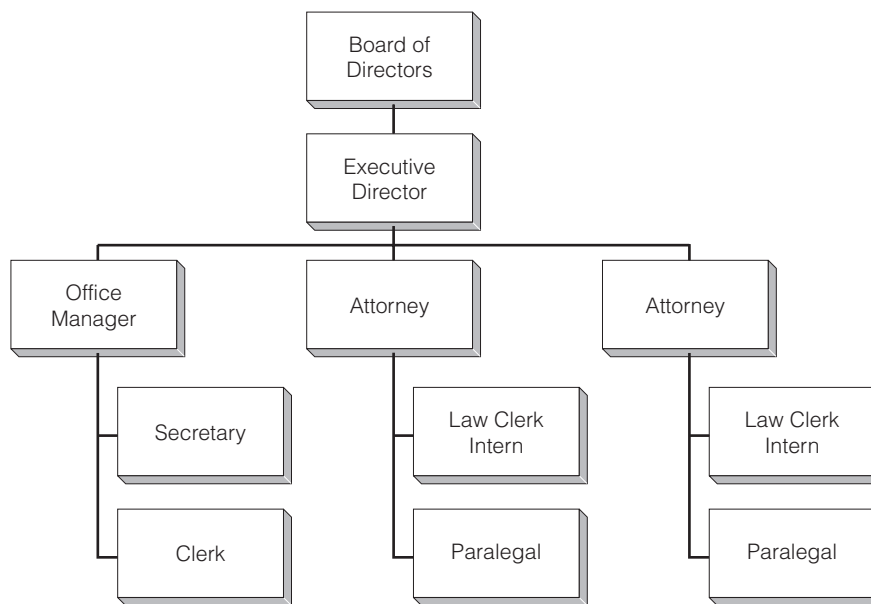
If the committee gets too large, the actions of the committee slow down greatly and can hamper the effectiveness of the firm. Participation in a committee can be simply based on the interest of a partner or shareholder, a seniority system, or an election or a representation system, depending on how the firm wants to organize the committee selection process. A representation system, for example, is where a practice group (such as an employment and labor law practice group) elects or selects a chair, and that chair then represents the whole group on the executive or management committee. Committee systems are typically used in medium to large law firms.

## Corporate, Government, and Legal Aid Organization Structures

Corporate and government law practices have different organizational and management structures than private law firms. Corporate law departments can be centralized or decentralized. In the past, many—but not all—were centralized, meaning they were usually located in the firm's corporate headquarters but provided legal services to the whole company. Many government practices take a decentralized approach; most state and federal agencies have their own legal departments that provide legal services only to that particular agency. Like most private law firms, corporate and government practices can have different divisions within the practice, such as litigation or labor law. Although many corporate departments are centralized and many government practices are decentralized, the choice depends on the type, size, and dynamics of the organization.

The management structure of corporate and government practices is dependent upon the corporation's or agency's own organizational structure as well. Many corporate and government departments have a general counsel responsible for the overall management of the department (see Exhibit 1-18). The power of the general counsel is similar to that of the powerful managing partner in private law firms. However, the power is diluted, since the general counsel must still act under the auspices of the overall corporate structure or of the legislative or other public body in the government practice.

Legal services practices, because they are usually nonprofit corporations, are overseen by a board of directors (see Exhibit 1-19). The board of directors might be made up of law professors, attorneys in private practice, judges, and other interested persons. The board usually hires an executive director who is responsible for the day-to-day operations of the practice. The executive director has attorneys, paralegals, clerical staff, and administrators who report to him or her.



**Exhibit 1-19** Legal Services/Aid Structure

## Summary

---

Many people make up the legal team in a law office, including attorneys, administrators, paralegals/legal assistants, law librarians, legal secretaries, and clerks, among others. An attorney is a licensed professional who counsels clients regarding their legal rights. A partner or shareholder is an attorney-owner in a private law practice. A managing partner is an attorney who runs the firm in some law practices. An associate attorney is a paid employee of the law firm who does not, however, share in the profits of the business. An “of counsel” attorney is a lawyer who is affiliated with a law practice in some way, such as being semiretired, or who is paid by the firm on a per-job basis.

A legal administrator is responsible for a certain type of law office administrative system, such as general management, human resources, finance and accounting, marketing, or computer systems. Legal administrators typically have degrees in business or related fields.

Paralegals/legal assistants are a unique group of persons who assist attorneys in the delivery of legal services. They have knowledge and expertise regarding the legal system and substantive and procedural law that qualifies them to do work of a legal nature under the supervision of an attorney. The Department of Labor has consistently found that paralegals/legal assistants are nonexempt under the Fair Labor Standards Act and are thus entitled to overtime pay (one-and-one-half times their normal rate) for work in excess of 40 hours per week.

Law librarians conduct legal research, acquire and preserve library materials, advise attorneys and legal assistants on research strategies, classify and index materials, and maintain the law firm library.

Law practices include corporate law departments, government practices, legal service/aid practices, and private law firms. Corporate legal departments are found in large corporations and are usually headed up by a general counsel, the attorney responsible for the in-house legal services provided to the company.

Government law practices include attorneys who work in local, state, and federal agencies, as well as in state attorney general offices, and criminal prosecutors who work in all levels of government, among others.

Legal services/aid offices provide legal services to disadvantaged persons who otherwise could not afford it. Legal services/aid offices are nonprofit organizations and are funded by government and private donations.

Most attorneys practice in private law offices; approximately 48% of all attorneys are sole practitioners who own and manage their own law practices. Law firms come in all sizes, including small firms with fewer than 20 attorneys, medium-sized firms with 20–75 attorneys, and large firms with 75 to as many as 1000 attorneys. Many practices distinguish themselves either as plaintiff or defense firms, and law firm mergers are commonplace in the U.S. legal market. Through business strategy and technology, law firms can have different geographic service areas, including clients who are local, statewide, regional/multistate, national, international, or industry specific.

Law firms can take different legal forms, including a sole proprietorship, partnership, professional corporation, or limited liability company. Law firms can also use different governance structures, including a powerful managing partner structure, ruled by all partners/shareholders, or ruled by management committee.

## Key Terms

associate attorney	legal assistants
attorneys	legal secretaries
boutique firm	legal services office
clerks	legal team
contract attorney	managing partner
expert witness	non-equity partner
Fair Labor Standards Act (FLSA)	“of counsel”
exempt	office manager
nonexempt	paralegal manager
freelance/contract paralegals	partner or shareholder
general counsel	powerful managing partner
independent paralegal	rule by all partners/shareholders
law clerk	rule by management committee/board
law librarian	staff attorney
legal administrators	

## Test Your Knowledge

Test your knowledge of the chapter by answering these questions.

1. What is the difference between a partner or shareholder and an associate attorney?
2. Partners are sometimes called \_\_\_\_\_ partners because they share in the profits and losses of the firm.
3. What are the duties of a managing partner?
4. What is a lawyer called who is a salaried employee and does not have an ownership interest or share profits in the law firm?
5. An associate is usually with a firm between 5 and \_\_\_\_\_ years before being a candidate for a partnership position.
6. A \_\_\_\_\_ partner does not share in the profits or losses of the firm but may be included in some aspects of management of the firm and be entitled to certain benefits.
7. What is a temporary associate attorney who is hired for a specific job or period called?
8. An attorney affiliated with a firm in some way, such as being retired or semiretired from the firm, may have the designation “of \_\_\_\_\_.”
9. Legal administrators are usually found in \_\_\_\_\_ and \_\_\_\_\_-sized law firms.
10. Name three areas of responsibility for a legal administrator.
11. True or false: a paralegal or legal assistant can become an associate member of the American Bar Association.
12. A unique group of persons who assist attorneys in the delivery of legal services are called \_\_\_\_\_.
13. Paralegals who work as independent contractors but are still supervised and report to an attorney are called \_\_\_\_\_.
14. True or false: drafting correspondence is the number one duty of most legal paralegals.
15. True or false: most paralegals attend depositions and trials.