



The National Federation of Paralegal Associations, Inc.

Position Statement on the Outsourcing of Paralegal Duties to Foreign Countries

The National Federation of Paralegal Associations (NFPA) believes it is in the best interest of the NFPA to proactively position the NFPA in the forefront of this issue. This position statement:

- Allows for the dissemination of NFPA's position in articles and on its web site.
- Provides a forum for increasing understanding of what a paralegal does.
- Takes a position that advocates keeping paralegal jobs in the local community.
- Educates the business community regarding dangers and pitfalls of outsourcing paralegal jobs overseas.

Therefore, the NFPA adopts the following position statement regarding the outsourcing of paralegal duties to foreign countries, to be implemented consistent with the NFPA Resolution 01S-04 which imposes certain limits on advocacy efforts in those states with the NFPA voting member associations:

The attorney client relationship is one of the most important business relationships, and the cornerstone of our judicial system. Paramount to this relationship is the maintenance of client confidentiality and the privacy of client information. Any release of this information to a third-party must be carefully considered and appropriate precautions taken. To release such private and confidential information out of an attorney's control and into the hands of a third-party in another country should be done sparingly and only as a last resort. Further, since paralegals are highly trained and qualified professionals who provide efficient, cost-effective, and timely service to attorneys and clients, they should be utilized first and foremost for all non-attorney legal work. If work is to be outsourced, it should first be outsourced to qualified and competent paralegals within the attorney's local community, then nationally, and finally, internationally. The client at all times should be kept informed as to who is actually performing their legal work and should have the opportunity to request that their legal work not be outsourced.

BACKGROUND and DISCUSSION.

According to a recent study by researchers at the University of California at Berkeley [The New Wave of Outsourcing by Ashok D. Bardham and Cynthia Kroll, Fisher Center Research Reports, Year 2003, Paper 1103, eScholarship Repository, University of California, <http://repositories.cdlib.org/iber/fcreue/reports/1103>], (*hereinafter referred to as "Fisher Study"*) "[t]here is a growing apprehension among business leaders, economists and ordinary Americans that we are witnessing what may well be the largest out-migration of non-manufacturing jobs in the history of the US economy." Additionally, "Legal research and other back-office work carried out at law firms may be among the next set of white-collar jobs to move offshore in big numbers. According to the Fisher Study, legal assistants and paralegals working in India on behalf of U.S. law firms earn, on average, between \$6 and \$8 per hour. That's about one-third of what their counterparts in the United States are paid."

For law firms and clients of law firms considering the outsourcing of legal work internationally, the following questions should be addressed:

Timing and Cost. Is there enough time for the project to be outsourced given time zone differences? What contingencies are in place in the event of a failure to deliver the outsourced project on time? What are the costs associated with rush work? Will cost savings actually be realized once costs of management, review time, revisions and formatting have been factored in?

Quality. Will you get the same quality of product if outsourced versus in-house? Will language differences present any barriers?

Conflicts. Have appropriate conflicts checks been completed.

Communication. How will language barriers and time zone differences affect communication?

Skill Sets and Resources. Do those performing the outsourced work have the appropriate training and understanding of United States, administrative, state or local laws and regulations? Do they possess access to the resources necessary to perform the task including both primary and secondary resources? Do they have the technological resources to perform the task? Is there the appropriate staffing necessary to complete the task?

Finally, the most important consideration with respect to outsourcing of legal work to offshore parties:

Confidentiality. Privacy. Liability. Have you consulted with your client and received client approval for sending legal work offshore? Do you have the appropriate confidentiality agreements in place? Is there a written policy regarding privacy of information? What liabilities does outsourcing expose you to in the United States and in the offshore country—for example, copyright infringement or privacy issues? If there are problems where and how will they be resolved?

At this time, while it may be tempting for some law firms and legal departments to outsource portions of their legal work, there is not enough evidence that there is a true cost savings for the average firm. Further, confidentiality, privacy, liability, and the unauthorized practice of law are all issues that have not been sufficiently tested with regard to sending work offshore. However, this issue has received a significant amount of press and discussion and is slated to become a hot topic in the future as law firm clients seek to lower costs and maximize results for their legal expenditures.

Prepared for the National Federation of Paralegal Associations by Wayne D. Akin, the Special Research Coordinator and 2005-2006 Vice President and Director of Positions and Issues (VPPI). This topic was presented to and passed by the delegation at the 2005 Policy Meeting in Las Vegas, Nevada, as Resolution 05-10. The VPPI presented the position statement to the Board of Directors at the Summer Board Meeting held July 22-23, 2005, in Rochester, New York where it was formally adopted.

Wayne D. Akin

Wayne Akin is a litigation paralegal with the law firm Miller Nash, LLP in Portland, Oregon. His primary practice is in securities litigation, but he also works in civil, construction, and employment litigation, insolvency and reorganization, and creditors' rights. Wayne also handles garnishments, background checks, skip-tracings, online information retrieval, asset evaluations, discovery and judgment searches, and trial preparation. Wayne also manages a number of the firm's document hubs and serves as his firm's Summation expert. Previously Wayne focused on intellectual property with an emphasis on patents.

Wayne has been involved with the Oregon Paralegal Association (OPA) and the National Federation of Paralegal Associations (NFPA). He has served as a chairperson of OPA's Intellectual Property Specialty Group, as a member of OPA's Board of Directors for two years, as OPA's Treasurer for two years, and was recipient of OPA's Outstanding New Member Award for 2000-2001. For the NFPA, Wayne served two and a half years as Special Research Coordinator. Wayne has written a number of articles for OPA's Paragram newsletter and NFPA's The National Paralegal Reporter

Wayne currently serves as NFPA's Vice President and Director of Positions and Issues where he is responsible for the Bar Association, Case Law, Ethics & Professional Responsibility, Legislative, Special Research, Regulation Review, and Unauthorized Practice of Law Research Coordinators, the Ad Hoc Committee on Non-Lawyer Practice and the Ad Hoc Committee on Mandatory Paralegal Regulation, and serves on the Ethics Board.