

# Preface

## NEW TO THIS EDITION

This fourth edition keeps pace with many new developments in the law and the paralegal profession. We have added new topics, reorganized some sections, expanded others, incorporated discussions of many recent court decisions, and added more paralegal profiles.

In Chapter 2, we have added a new paralegal profile and updated information on paralegal organizations and regulation. In Chapter 3 we have added excerpts from *Bob Jones University v. U.S.* to illustrate the relationship of different types of law. In Chapter 4 we expanded the discussion on federal powers and preemption, while in Chapter 5 we have reorganized and expanded our coverage of judicial selection. In addition to significantly reorganizing the order in which the topics were presented, Chapter 6 includes new information on arbitration of domain names and electronic discovery. Reference to the newest affirmative action case, *Parents Involved in Community Schools v. Seattle School Dist.*, was incorporated into Chapter 8's discussion on overruling and distinguishing precedent cases.

In Chapter 11, we reorganized the section on confidentiality and attorney-client privilege, and added new material on contingency fees and using email. In Chapter 12 we included an expanded discussion of intentional interference with a contractual relationship and caps on damages (referencing *Phillip Morris v. Williams*), in Chapter 13 we added a section on interpreting contracts, and in Chapter 14 we expanded the discussion of intellectual property and provided updates regarding the impact of *Kelo v. New London*. We added a discussion of *Ledbetter v. Goodyear Tire* and the Congressional response in Chapter 15.

In Chapter 16 we added coverage of collaborative divorces and of sperm and egg donations, and included the most recent developments regarding same-sex unions. We included recent developments on sentencing guidelines and discussions of *Scott v. Harris* and *Hudson v. Michigan* in Chapter 17. We added new information to Appendix C on citing unpublished opinions and updated our NetNotes (references to Internet web resources). Finally, we incorporated new Discussion, Legal Reasoning, and Review Questions throughout the text.

## APPROACH

As the title indicates, this book uses a critical thinking approach to introduce its readers to the study of law. Although it was specifically designed to be used as a text in introductory paralegal courses, general prelaw students, criminal justice

majors, government majors, prebusiness students, and anyone wishing to know more about the law will also find it useful.

Rather than taking an approach that emphasizes the memorization of definitions and rules, *Introduction to Law for Paralegals: A Critical Thinking Approach* focuses on the basic foundations of the law and of the legal reasoning process. In addition to presenting an overview of the legal system, this book teaches the basic skills necessary to read and understand statutes and court cases.

We use this critical thinking approach because we believe it is the best way for students to learn the fundamental principles of law. By learning how to read and interpret statutes, cases, regulations, and court documents, students will be better able to learn how to perform paralegal duties in a variety of specialty areas. Therefore this book emphasizes careful reading for detail, analytical thinking, and the written presentation of arguments.

Another key element of this critical thinking approach is the interactive nature of the book. We have included Hypothetical Cases, Discussion Questions, Legal Reasoning Exercises, Practice Tips, and Ethics Alerts to stimulate students to think about and discuss the underlying assumptions behind various aspects of the law and the ramifications of different approaches to legal problems. We purposely dispersed these items throughout the chapters so that the students would be encouraged to think about them while the material is fresh from recent reading and so as to be readily available for instructors to use as springboards for classroom discussion. While we did relegate the review questions to the end of each chapter, we have labeled them with the pages they cover so that you can easily assign just part of a chapter with its accompanying review questions.

## ORGANIZATION OF THE BOOK

**Part 1, Paralegals and the American Legal System**, introduces students to the study of law, the organization of the legal system, and the role of paralegals in that system. It covers such topics as sources of the law, the different ways in which law is classified, and various stages involved in litigation. Chapter 2, **Paralegals in the Legal Systems**, includes classification of different types of paralegals and what they do, as well as coverage of the issues of paralegal education, registration, certification, and licensure.

**Part 2, Finding and Analyzing the Law**, presents the basic tools used to find and analyze the law. These chapters are the basis on which we build the critical thinking skills students need for reading and analyzing the law. Chapters 7 and 8 cover finding and interpreting statutory law and court opinions. Chapter 9 discusses basic legal research tools, and Chapter 10 shows students how to apply what they have found to specific legal problems. Chapter 10 also discusses how to use the IRAC approach to legal analysis and how to report research findings in a legal memorandum.

**Part 3, Legal Ethics and Substantive Law**, leads off with a chapter on legal ethics that covers confidentiality, conflicts of interest, and the unauthorized practice of law. In our experience, if an ethics chapter is at the end of a book and hence covered near the end of the semester when time is necessarily tight, the topic of ethics does not receive the full attention it deserves. Therefore, we have

placed it at the beginning of the substantive law chapters. Other chapters in Part 3 introduce students to the basic terms and concepts in the areas of torts, contracts, property and estate, business, family, and criminal law and procedure. In each chapter we blend traditional case law with a discussion of cutting-edge developments to give students a solid foundation in traditional concepts and an appreciation of the dynamic nature of law. Some instructors may wish to alter the sequence in which they cover the chapters. For example, some may wish to hold coverage of the role of paralegals (Chapter 2) either until the end of Part 1 or until the end of the course. Similarly, others may wish to cover the materials on legal ethics (Chapter 11) immediately following Chapter 2 rather than waiting until after the students have completed Part 2 on legal analysis. However, students need to develop the skills taught in Part 2 to be able to fully benefit from the discussion questions and legal reasoning exercises included in Part 3.

## KEY FEATURES

Among the many features that set this book apart are

- Discussion Questions integrated into each chapter
- Legal Reasoning Exercises
- Marginal definitions of key terms
- Practice Tips
- Ethics Alerts
- NetNotes
- Review Questions
- Appendixes on good writing and legal citation

Because this book stresses the critical thinking approach, we illustrate our points with hypothetical situations and with real case decisions that students will understand and to which they can relate. The cases cover such topics as AIDS-infected blood transfusions, flag burning, the insanity defense, search and seizure of automobiles, same-sex marriages, and spousal immunity. We have also included such “classics” as *McBoyle v. United States*, *Palsgraf v. Long Island Railroad*, and *Mapp v. Ohio*. Our philosophy in editing these and other cases was to retain enough of the court’s wording to give students a realistic feel for how judges actually write and to allow students to develop their critical thinking skills. We deleted nonessential information in order to keep each case a reasonable length.

Furthermore, the cases are fully integrated into the text. Many times, these cases are cross-referenced in other cases and used to show how the courts build on precedent and modify it in response to changing societal conditions. Discussion Questions and Legal Reasoning Exercises call on students to carefully analyze these cases and apply them to hypothetical situations.

Ethics Alert boxes are placed throughout the text to draw attention to the ethical issues involved in various aspects of the law. These boxes warn students of actions that would be considered unethical; they also give advice on how to act appropriately. Practice Tip boxes provide checklists and other “words of wisdom” regarding practical paralegal tasks. They are placed

appropriately throughout the text. NetNotes provide students with handy links to key Internet resources.

Also of special note are the appendixes. Appendix B provides students with a convenient and easy-to-understand primer on the basics of grammar, including verb tense, pronoun agreement, placement of modifiers, punctuation, and style. Appendix C is a quick reference for proper legal citation form. And Appendix D includes the major codes of ethics with which paralegals need to be familiar.

An instructor's manual that includes suggested answers for all the Discussion Questions, Review Questions, and Legal Reasoning Exercises, as well as teaching tips, is available to help teachers make the most effective use of this book. Also available is a PowerPoint presentation to assist with classroom lectures and a computerized test bank.

## RELATIONSHIP TO THE AUTHORS' OTHER TEXTS

Those familiar with *Introduction to Paralegal Studies: A Critical Thinking Approach* and *The Study of Law: A Critical Thinking Approach* will recognize many similarities to this text. All three books emphasize the “critical thinking approach” to understanding the law. All three include excerpts from court cases, discussion questions, NetNotes, practice tips, and references to ethical questions. Topics such as sources of law, classification of the law, structure of the court system, overviews of civil and criminal litigation, overviews of torts, contracts, property, and criminal law, and analysis of statutes and cases are covered in all three books.

The major differences are that this book and *Introduction to Paralegal Studies* are specifically directed at paralegals, while *The Study of Law* is directed at a more general audience. *Introduction to Law for Paralegals* goes into more detail in its coverage of substantive areas of the law, while *Introduction to Paralegal Studies* includes chapters on interviewing, investigations, and computerized case management.

## ACKNOWLEDGMENTS

Naturally, we owe a great deal of thanks to the many students, educators, paralegals, and attorneys who contributed ideas for this book. We would also like to recognize Victoria Joseph for her contribution to the criminal law chapter.

We would also like to thank the staff at Aspen Publishers for the excellent support we have received on the books we have done with them. We especially want to thank Betsy Kenny for the key role that she played in handling this fourth edition.

Finally, a special thanks goes to our spouses and children for their continued support and understanding of our professional activities.

*Katherine A. Currier*  
*Thomas E. Eimmermann*  
May 2008