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**E-95-3 Paralegal attending real estate closing**

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**Question**

Is it permissible for a paralegal employed by a law firm to attend a real estate closing on behalf of a client if: 1) a lawyer with the firm previously has reviewed the closing documents; 2) the paralegal will not provide any legal advice or legal opinion at the closing; 3) the client will not otherwise be represented at the closing; and 4) the client consents to the arrangement?

**Opinion**

It is a common and accepted practice at real estate closings for parties to appear without counsel and to be represented at the closing by nonlawyer employees or real estate brokers. Thus, it is clear that participation in a representative capacity at a real estate closing is not, per se, the unauthorized practice of law. Unauthorized practice issues arise when a nonlawyer provides legal advice or legal opinions during a closing, and these activities should be scrupulously avoided by nonlawyer representatives. With this important caution in mind, it is permissible under the circumstances posed in the question for a properly trained paralegal employed by a law firm to attend a real estate closing on behalf of a client.

The basis for this opinion is found in SCR 20:1.2(a) and SCR 20:1.4(b), which governs decision-making in the lawyer-client relationship. The rule provides that the objectives of the representation are to be determined by the client, and the lawyer shall consult with the client as to the means by which those objectives are to be pursued. The comment to SCR 20:1.2 elaborates on these points by noting that the lawyer should defer to the client with respect to the expenses to be incurred in the representation. The assignment of paralegals rather than lawyers to particular tasks can be cost effective in holding down the fees that must be charged while still providing high quality services to the client. After proper consultation with and consent of the client and in appropriate circumstances, it is permissible for a paralegal in the firm to appear on behalf of the client at a real estate closing, just as it is permissible for a properly trained and supervised paralegal to perform other tasks for the benefit of clients.

Assuming client consent, whether the use of a paralegal at a real estate closing is appropriate under the circumstances largely depends upon whether the lawyer's duty of competence under SCR 20:1.1 can be discharged by use of a paralegal and whether the lawyer has met the responsibilities regarding nonlawyer assistants imposed by SCR 20:5.3. *See also* SCR 20:5.5(b). This means that the paralegal must be properly trained, instructed and supervised, and that the particular closing is unlikely to involve issues requiring the presence of a lawyer. Of course, not all real estate closings will satisfy the latter requirement, and care and diligence must be exercised before a determination is made that the assignment of a paralegal to the closing is appropriate.