CONTENTS

Preface xi
Acknowledgements xiii
About the Author xv

INTRODUCTION 1
CLA/CP® Certification 1
The Certified Legal Assistant Examination: Summary Outline 3
Communications 3
Ethics 4
Judgment and Analytical Ability 5
Legal Research 5
Substantive Law 6
Grading and Retake Policy 6
Eligibility Requirements 7
Category 1 7
Category 2 8
Category 3 8
Maintaining the CLA/CP® Designation 9
Preparation for the Examination 9
Individual Study 10
Self-Assessment Checklist 11
When to Study 11
How to Study 12
Group Study 18
How to Organize a Study Group 19
Taking the Examination 20
Prepare Yourself 21
After the Examination 28

1 COMMUNICATIONS 31
Word Usage 32
Slang 32
Colloquialisms 33
Words Confused and Misused 35
Punctuation 45
The Apostrophe 45
The Hyphen 46
The Dash 49
The Comma 50
The Semicolon 55
The Colon 56
The Period 58
The Question Mark 60
The Exclamation Point 61
The Quotation Mark 61
The Ellipsis 62
Parentheses 63
The Bracket 64
Capitalization 64
The First Word 64
Personal Names 65
Geographic (Place) Names 67
Government 67
Other Names 70
Grammar 71
Parts of Speech Defined 72
A General Approach 74
The Verb 77
The Pronoun 82
The Gerund 89
The Infinitive 90
Modifiers 91
Conjunctions 94
Rules of Composition 96
A General Approach 98
The Paragraph 98
Forceful Writing 99
Concise Writing 105
Vocabulary 106
Correspondence 110
Business Letter Styles 110
Business Letter Punctuation 111
Parts of a Business Letter 111
Nonverbal Communication 113
Communications Self-Test 115

2 HUMAN RELATIONS AND INTERVIEWING TECHNIQUES 123
Human Relations 124
Contacts Outside the Office 125
Office Politics 125
Personal Recognition 126
Interviewing 128
Types of Interviews 128
The Interviewer's Role 132
The Interview Environment 135
Preparing for the Interview 138
Conducting the Interview 142

Document the Interview 158
Special Interview Challenges 161
Human Relations and Interviewing Techniques Self-Test 163

3 ETHICS..... 171
Ethics Defined 171
Sources of Ethics Rules 172
Topical Summaries of Selected ABA Model Rules..... 173
Code of Ethics and Professional Responsibility 187
Model Standards and Guidelines for Utilization of Legal Assistants and Paralegals 189
Application of Ethics Rules..... 201
Ethics Self-Test..... 211

4 JUDGMENT AND ANALYTICAL ABILITY 221
Practical Judgment and Analysis by Paralegals 223
Interpretation of Procedural Matters..... 232
Approach to Essay Questions 237
Judgment and Analytical Ability Self-Test 238

5 LEGAL RESEARCH 253
The Objective of Legal Research..... 253
Sources of Primary Law 254
How Primary Law Is Recorded..... 258
Sources of Secondary Law..... 266
The Technical Skills of Legal Research..... 269
Citing the Law 276
The Substantive Skills of Legal Research 285
Legal Research Self-Test..... 300

6 LEGAL TERMINOLOGY 309
Preparation..... 309
Latin Terms..... 310
Legal Terms..... 322
Legal Terminology Self-Test..... 339

7 GENERAL LAW..... 345
Law Defined..... 346
Historical Background 346
Classifications of Law 350
Institutional Sources of Law..... 354
Constitutional Law..... 358
Due Process..... 362
The Judicial System..... 365
Subject Matter Jurisdiction 365
Personal Jurisdiction..... 367
Federal Courts 369
State Court Systems..... 373
Judicial Decision Making..... 373
Limitations in Judicial Decision Making 378
Judicial Remedies..... 381
General Law Self-Test..... 390

8 ADMINISTRATIVE LAW ... 397
Background..... 398
Organization and Classification 398
Source of Agency Powers..... 401
Overview of Agency Powers 402
Political Oversight of Agency Actions..... 404
Investigation..... 406
Formulation of Administrative Law 414
Terminology 414
The Administrative Process..... 415
General Requirements of Policy FormulationUnder the APA 418
Rulemaking..... 420
Adjudication..... 425
Judicial Review..... 430
Enabling Act Addendum 435
Administrative Law Self-Test 437

9 BANKRUPTCY LAW 445
Background and Goals of Bankruptcy Law 446
Organization of Bankruptcy Code..... 446
Participants and Terminology..... 448
Bankruptcy Jurisdiction 451
Officers of the Estate..... 454
Commencement of the Case..... 459
The Bankruptcy Estate 463
Trustee's Avoiding Powers 469
Administration 475
Debtor's Duties 484
Conversion 485
Dismissal..... 488
Claims of Creditors..... 489

Discharge 492
Chapter 7 Liquidation 497
Chapter 11 Reorganization 498
Chapter 13 Individual Reorganization 502
Chapter 12 Family Farmer Reorganization 505
Bankruptcy Law Self-Test 506

10 BUSINESS ORGANIZATIONS 513
Sole Proprietorship 514
General Partnership 515
Limited Partnership 520
Limited Liability Company 523
Joint Venture 524
Joint Stock Company 524
Corporation 525
Recognition or Disregard of Corporate Entity 529
Corporate Financial Structure 532
Dividends and Redemption 537
Corporate Taxation 541
Corporate Management 544
Special Problems of Closely Held Corporations 558
Special Problems of Publicly Held Corporations 560
Corporate Litigation 562
Corporate Dissolution 564
Business Organizations Self-Test 566

11 CONTRACT LAW 575
Unilateral or Bilateral 575
Express, Implied, or Quasi-Contract ... 576
Void, Voidable, or Unenforceable 577
Executory or Executed 577
Formation of a Valid, Enforceable Contract 577
Mutual Assent 578
Consideration 587
Contract Defenses 595
Rights and Duties of Nonparties 603
Construction and Interpretation of Contracts 608
Parol Evidence 608
Enforcement of Contracts 610
Discharge of Contract Duties 615
Breach of Contract 619
Contract Remedies 620
Contract Law Self-Test 627

12 CRIMINAL LAW 637
Jurisdiction 637
Sources of Criminal Law 639
Theories of Punishment 640
Classification of Crimes 641
Constitutional Limitations 642
Interpretation of Criminal Laws 643
Merger 643
Essential Elements of a Crime 644
Liability for the Acts of Others 648
Inchoate Offenses 649
Criminal Capacity 654
Exculpation 658
Offenses Against the Person 662
Offenses Against Property 666
Offenses Against a Dwelling 672
Crimes Involving Judicial Procedure 673
Criminal Procedure 675
Constitutional Restraints 675
Exclusionary Rule 676
The Fourth Amendment 678
Pretrial Identification 686
Pretrial Procedures 687
Trial 690
Sentencing 694
Appeal 695
Habeas Corpus Proceedings 696
Punishment 696
Double Jeopardy 697
Forfeiture Actions 698
Juvenile Court Proceedings 699
Criminal Law Self-Test 700

13 ESTATE PLANNING AND PROBATE 707
Estate Planning 707
Tax Legislation Overview 708
Property Ownership 711
Trusts 718
Wills 728
Validity of Wills 729
Testamentary Capacity 731
Intestacy 735
Distribution of Intestate Estate 737
Probate 739
Jurisdiction and Venue 739

Admitting Will to Probate/ Appointment of Personal Representative 741
Estate Administration 744
Settlement of the Estate 750
Taxes 755
Estate Planning and Probate Self-Test 762

14 FAMILY LAW 769
Historical Background 770
Marriage 771
Legal Requirements 771
Types of Marriage 774
Breach of Promise to Marry 776
Contracts Related to Marriage 777
Family Relationships 780
Spousal Rights and Duties 780
Parental Rights and Duties 784
Intra-Family Immunities 787
Annulment 788
Grounds for Annulment 789
Effects of Annulment 792
Divorce 793
Jurisdiction 793
Grounds for Divorce 794
Divorce Procedure 795
Property Division 797
Alimony 799
Child Custody and Support 801
Tax Considerations 809
Parentage Issues 810
Adoption 810
Paternity Proceedings 814
Reproduction Technology 815
Guardians and Conservators 818
Guardians 818
Conservators 819
Family Law Self-Test 820

15 LITIGATION 827
Selecting the Proper Court 830
Parties 838
Pleading 843
Discovery 850
Termination Without Trial 862
Pretrial Conference 864
Trial Procedure 865
Appellate Review 873
Res Judicata 876
Enforcement of Judgments 878
Litigation Self-Test 880

16 REAL ESTATE LAW 889
Freehold Possessory Estates 890
Concurrent Ownership 896
Duties and Rights of Cotenants 899
Nonfreehold Estates 902
Rights in the Land of Another 907
Limitations Upon the Use of Land 913
Public Land Use Controls 916
Sale of Land 920
Methods of Title Assurance 925
Land Financing 931
Real Estate Closing 938
Adverse Possession 941
Real Estate Law Self-Test 944

SELF-TEST ANSWER KEY 951

BIBLIOGRAPHY 965

INDEX 973