

# Contra Costa Lawyer Online

June 2019

The screenshot shows the homepage of the Contra Costa Lawyer Online website. At the top, there is a header with the title "CONTRA COSTA LAWYER" and a navigation menu with links for "Current Issue", "Features", "Spotlight", "Pro Bono", "Self-Study MCLE", "About", and "MarketPlace". Below this is a secondary navigation bar with links for "Inside", "President's Message", "News & Updates", "Bar Soap", "Lifestyle", "LRIS", "Ethics Corner", "Coffee Talk", and "Magazine Archive". The main content area features a large green graphic with a gavel and binary code, titled "The Law Firm of the Future - A Personal View". Below this are several small icons representing various legal and business concepts. The page is divided into two columns of content. The left column has a "Spotlight" section with three articles: "The Budget for California Courts: A Step In the Right Direction", "Inside: To Boldly Go Where No Lawyer Has Gone Before", and "Get to Know Judge Wendy Coate". The right column has a "News & Updates" section with two articles: "Mock Trial 2019 Volunteers" and "Women's Wine Tasting & Silent Auction". At the bottom, there are sections for "Inside" and "More..." with additional article teasers.

**CONTRA COSTA LAWYER**

Current Issue Features Spotlight Pro Bono Self-Study MCLE About MarketPlace

Inside President's Message News & Updates Bar Soap Lifestyle LRIS Ethics Corner Coffee Talk Magazine Archive

### The Law Firm of the Future - A Personal View

Throughout my career as a tax lawyer, I've attended (and occasionally spoken at) seminars on a variety of technical subjects related to tax and other legal subjects, and of course delivered talks about more pragmatic

#### Spotlight

**[The Budget for California Courts: A Step In the Right Direction](#)**  
I have written before for the Contra Costa Lawyer about the Conference of California Bar

**[Inside: To Boldly Go Where No Lawyer Has Gone Before](#)**  
No, this issue is not about time travel or space travel, but that might make

**[Get to Know Judge Wendy Coate](#)**  
On December 7, 2019, former Governor Jerry Brown announced 13 new judges appointed to the

[More From This Category](#)

#### News & Updates

**[Mock Trial 2019 Volunteers](#)**  
Congratulations to the student team from California High in San Ramon for winning the 2019

**[Women's Wine Tasting & Silent Auction](#)**  
On April 17, the CCCBA Women's Section hosted its annual fundraiser that benefited the Assembly

**[Call for Board Nominations](#)**  
You can be a leader within our legal community as a Director on the Contra

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#### Inside

**[Inside: To Boldly Go Where No Lawyer Has Gone Before](#)**  
No, this issue is not about time travel or space travel, but that might make

#### More...

**[Happy Hour in Antioch](#)**  
The second of CCCBA's 2019 informal Happy Hour Gatherings took place at the beautiful Smith's

The Contra Costa Lawyer magazine is the official publication of the Contra Costa County Bar Association (CCCBA) published 12 times per year in six print and 12 online issues.



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# Upsolve is Automating Bankruptcy for Debtors But Does it Work?

Monday, June 03, 2019



Upsolve is a technology-based 501(c)(3) legal aid nonprofit organization founded in 2016. The company was formed to help low-income people with burdensome debt get a “fresh start” at no cost by creating a software platform that allows them to file for Chapter 7 bankruptcy. Users are prompted through a series of questions regarding their financial situation, debts, and assets. This information is then automated onto bankruptcy forms which are reviewed by either pro-bono attorneys at legal aid organizations or Upsolve attorneys. Upsolve partners with legal aid organizations with the goal of increasing the number of low-income clients the organizations can assist by automating and streamlining the bankruptcy process.

Traditionally, most pro-bono attorneys from legal aid organizations meet with clients to assess their financial situations, and if bankruptcy is the best course of action, provide them with questionnaires to fill out and instructions on how to take the credit counseling course. Once the clients have completed the questionnaires, they are scheduled for one-on-one forms clinics where volunteer attorneys review the completed questionnaires and relevant documents and prepare the bankruptcy petition and schedules using a software such as Best Case. The attorneys then review the completed petitions and schedules with the clients for accuracy and completeness and obtain the required signatures. Clients are then given instructions on how to file the bankruptcy petitions with their local bankruptcy court and provided information about the 341 hearing, also known as the Meeting of Creditors.

Upsolve automates this process, which, in theory, allows legal aid organizations to increase the number of clients they are able to assist. First, users answer a series of questions to determine whether they are a good fit for Upsolve. Some of these questions include a user’s ease with technology, the amount of their debt, whether they have filed their most recent tax return, and whether they have filed bankruptcy in the last eight years. Next, users are required to answer a series of questions that takes approximately 60 minutes to complete. They are then asked to upload relevant documents such as payment advices and tax returns from the last two years. User responses are then auto-

populated onto the bankruptcy petition and schedules.

Legal Service Alameda, formerly the Alameda Bar Association Volunteer Legal Services Corporation, provides bankruptcy assistance to low-income Alameda County residents. Legal Service Alameda was one of the first legal aid organizations to partner with Upsolve when it began using the software in January 2018. According to Amarilis Medrano, Volunteer and Clinics Coordinator at Legal Service Alameda, Upsolve was initially viewed as a promising game-changer, creating a lot of excitement amongst its staff and volunteers.

“Upsolve allowed clients to enter required information from the comfort of their homes. They could log in online and complete all steps virtually and then just come into our office for a final paperwork review with one of our volunteer bankruptcy attorneys,” she says. Many of its younger and more tech-savvy clients found the software to be very convenient. They could start the process and pause when necessary. The greatest advantage of using the platform, according to Medrano, is that Upsolve offers a more streamlined service by auto-populating the bankruptcy forms based on responses provided by the clients. Prior to Upsolve, pro-bono attorneys at Legal Service Alameda would spend time filling in the bankruptcy forms themselves, including listing creditors and debts taken from the client’s credit report. This was a time-consuming process especially if a client had a long list of debts. Upsolve also reminds clients to complete their credit counseling course and the certificate of completion is automatically uploaded onto the software.

While Upsolve first proved promising, Medrano and the pro-bono attorneys began to see some issues with the software. Because many of the clients it serves are low-income and senior citizens without access to a computer or the internet, clients had to come into the clinic office to use its computers and staff had to spend time guiding them through the process. Many of the clients did not have the tech skills required to navigate the software. The bigger challenge, however, was the fact that many clients did not understand the questions asked by the software. According to Medrano, “we began to notice that clients had a hard time understanding questions. They were either providing the wrong information or incomplete information. For us, this meant that our volunteer attorneys were actually spending more time fixing forms and making sure that clients disclosed all necessary information than they would usually spend had they themselves filled out the forms from the very beginning.”

The volunteer attorneys also began noticing glitches with the software such as information not being auto-populated correctly. Medrano also found that Upsolve’s eligibility guidelines were much different than Legal Service Alameda’s guidelines, and she attributes this to the fact that Upsolve is based in New York and the software is unfamiliar with California’s set of exemptions and requirements specific to the Northern District of California. The software also could not be used to assist married couples and many of its clients are married couples filing jointly. “This disconnect between Upsolve and the specific needs of each client and their situation also concerned us as this led to plenty of miscommunication between Upsolve and our clients,” says Medrano.

After a trial period, Legal Service Alameda decided to stop using Upsolve and revert back to its original system, with its attorneys screening for eligibility and preparing the bankruptcy petitions and schedules. In the end, according to Medrano, the organization’s main goal is to provide excellent legal services, which requires effective communication and the need for its own attorneys to oversee the progress of each client’s case. “After

weighing the pros and cons, we realized that we would be doing our clients a disservice if we continued using Upsolve.” said Medrano. “Considering that a large percentage of our clients are low-income and seniors in Northern California, we realized there is a greater need for a more personalized experience rather than a fast, impersonal one. We want to provide the best experience possible meaning that we are there to provide assistance every step of the way.”

***Connie Tche** is a Senior Associate Attorney at Jen Lee Law, Inc. She handles debt and credit matters, including bankruptcy, student loans, and other financial issues.*

# The Changing Marketplace – How technology and millennials are chan...

Saturday, June 01, 2019



In recent years we have seen a shift in, not just the market place for legal services, but also in traditional law firms as they learn to adapt to the newest trends in technology brought on by young legal professionals. Changes to the legal industry are being made by two significant forces, technology and millennials. These two forces are re-shaping the traditional law firm's hierarchical structure as well as impacting the future of women in the industry.

## Technology

The 2019

Report on the State of the Legal Market is jointly issued annually by the Center on Ethics and the Legal Profession at Georgetown University Law Center and Thomson Reuters. This report examines the state of law firms across the United States and breaks down market changes. The report has found that the biggest contributor to change in the market is technology. [1]

Technology and innovation come in a variety of applications available as useful tools for attorneys in their professions whether working in their offices or at home. Legal professionals have easy and quick access to many social media apps. These apps are useful in most areas of the legal profession. [2]

As client needs and expectations are changing, law firms are being pushed to achieve greater innovative efficiency. "Clients have more choices than ever for meeting their legal needs, and leading firms are now tailoring their strategies and delivery models to provide legal services in the manner that most effectively intersects with clients' considerations," said Mike Abbott, vice president, Enterprise Thought Leadership and Content Strategy, Thomson Reuters. [3]

There is no denying that technology is the future of the legal profession, one that attorneys should fully embrace. Technology defines the future of the traditional law firm



and thus, the future of the legal profession.

## Millennials

It is an exciting time to be in the legal profession. The workplace has a multitude of generations shaping the industry. The legal industry is comprised of five generations: 1) the traditionalists, 2) baby boomers, 3) millennials, and 4 & 5) members of generations X and Z.

The traditional law firm is facing a challenge due to millennial views not meshing well with the traditional structure and hierarchical system. Although boomers, Generation Xers, and millennials share common values, their life experiences have completely changed their perspective and how they solve problems. [4]< Thus, we see a younger generation of lawyers not staying at one firm for their entire career.

The hierarchy of traditional law firms is an offsetting idea for millennials. They think horizontally in terms of growth for their career, while prior generations think vertically, focusing on the hierarchical status of each team member. If millennials do not feel they are appreciated right away for their contributions as opposed to "paying their dues," they lose interest. These young lawyers are leaving the traditional law firm system and creating legal startups that ignore all traditional law firm structures.

Millennials come into the workforce with excitement and are ready to immediately be active members of the law profession. JP Box, the author of " *The Millennial Lawyer*," discusses this exact problem and provides a solution. He believes the future of the legal industry should embrace the enthusiasm of young lawyers. He states this can be done by empowering associates to contribute immediately and keeping an open-door policy, so new ideas or enthusiasm are not shut out by the hierarchical structure. [5]<</p>

Mr. Box believes that embracing this new perspective leads to improved overall productivity that benefits the firm. [6]< The key to keeping millennials interested and the legal industry moving is to embrace these new ideas whether it be through renovating the firm through technology or new legal approaches.

## Women are leaving the industry - Technology and millennials may be the solution

This past summer at the ABA Annual Meeting in Chicago, the ABA's initiatives focused on the issue of women leaving the practice at what should be the height of their careers. As we think of the future of the legal industry, it is hard to imagine the number of women in the legal field diminished. Women have fought for their right to go to law school and become members of the legal profession, and yet there seems to be a decline of women lawyers.

Some of the reasons why women are leaving the practice are listed as "Paternalism, tokenism, lack of 'face-time,' and an atmosphere of competition vs. teamwork." [7]< With the legal industry changing with innovative technology and the new trend of millennial ideas, the solution to women leaving the practice could be as simple as embracing the millennial model that focuses on the horizontal structure versus vertical.

Keily Blair, who was this year's winner of the Inspirational Women in the Law Award in the UK, states that the traditional career path in a law firm rewards the number of hours spent in the office. This linear approach to promotion has had a disproportionately negative impact on women. [8] Blair provides studies that show horizontal workplace structures and technology that makes it easier for women to work away from the office with just as much impact if not more, and thus more [CL1] likely to keep women in the field.

The outdated law firm models which stifle growth in the legal profession and oppress the women who work in it are being challenged by millennials. Technology and the millennial perspective are changing the structure of the traditional law firm which is directly impacting the future of women in the industry. The direct impact, if it continues, may be the solution needed to keep women in the field. There is no denying the future of the legal industry is going to be more innovative than ever, and we hope for it to be more diverse than ever as well.

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*Ivette M. Santaella is a planner for the ages focusing on estate planning, trust administration, elder law and families with special needs individuals. She is a partner at the law firm of Santaella & Jahangiri, APC located in San Ramon, servicing all of California. Ivette is a long time resident of San Ramon where she has raised her two sons, Aaron and Ethan. She is passionate about issues involving the elderly and is a board member of the Contra Costa/Solano counties Ombudsman Board. She is active in making presentations regarding the importance of estate planning and elder law based on personal experiences with her own family. Ivette enjoys the practice of the law and spending time with her friends and two dogs.*

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# Practicing Virtually

Saturday, June 01, 2019

## IN THE BEGINNING



Not too long ago I worked in firms that had not yet embraced the technology that would make it possible for attorneys to work wherever they wanted, at whatever time they wanted. Clients had to come to us, and obtaining legal services was often very inconvenient for clients and attorneys. While many of the tools that make virtual practice possible today weren't available at that time, lawyers who were embracing the internet could certainly see the changes and opportunities that were coming.

In the traditional law firms where I was cutting my teeth, "facetime" was an unspoken requirement that you be physically present in the office during traditional work hours, as opposed to technology that now allows us to take a face to face meetings with anyone, anywhere, any time. A "cloud" was a puffy thing in the sky that might dump rain on our commutes, not a digital place to store and share documents with teammates and clients. "Slack" was a verb meaning to be relaxed or lazy, as opposed to the name of an online workspace where I now collaborate with colleagues from wherever I spend my work time.

## EMBRACING VIRTUAL LEGAL SERVICES

It wasn't until I entered solo practice that I realized how much freedom I had given myself to work how I wanted, where I wanted, and with whatever clients I wanted. All of a sudden I was no longer constrained by location or time. I didn't even need to worry about office space or physical storage for files. The freedom this gave me was liberating. Early on a woman contacted me about helping her with a pre-marital agreement. Thanks to secure email, cloud-based document storage, and online video conferencing, I was able to accept clients who were based anywhere. Thanks to offering virtual services I have been able to serve clients all over California, and in places farther afield – Florida, Hawaii, Maryland, and even Japan and Australia.

## BENEFITS OF VIRTUAL PRACTICE

Although I no longer have a solo practice, I still routinely serve my clients, even most of the local ones, virtually and work with my colleagues virtually. The benefits to my clients are things such as convenience: they don't need to come to my office to meet with me, for instance, and they can access their entire case file through my cloud-based document storage platforms. This is an important consideration not just for clients who don't live or work in the same town as your office – it is a great help to clients who may be disabled, or not able to drive, or who have non-traditional work schedules. The benefits to me are even greater: I can work where I want – from home, a coffee shop, a park bench. I can work when I want which has allowed me to build a work/life balance that respects my personal and professional values, relationships and interests.

## THE TOOLS I USE

To make virtual services possible, I've curated several tools that allow me to work efficiently and seamlessly with my clients. Here are a few of my favorites:

1. **A Laptop:** Ditch the desktop and get something portable with good internet capabilities. Most practice software is web-based these days, so check the requirements of the programs your practice needs, and then go pick something portable. I'm partial to my MacBook.

2. **Cloud-based Document Storage:** Dropbox offers excellent security and lots of flexibility. I can share documents easily with my clients either directly from Dropbox or as attachments to emails.

3. **Smartphone:** My trusty iPhone is never far from my side. All the web-based services I use have apps that I keep on my phone so that I can jump into my office at any time, should I need to. I keep a scanning app there, too, which is very handy.

4. **Cloud-based Practice Management Software:** I currently use two cloud-based services for timekeeping, invoicing, client management, and case management: Clio and MyCase.

5. **A Voice Over IP (VOIP) Phone Line:** "But, didn't she just say she's got a smart phone?" I sure did, but I also hate handing my personal cell phone number out. I use Vonage, and forward that line to my cell through the Vonage app. This way I am not tied to a landline, but I can also turn the office number off (don't worry, all voice mails are routed to email) and protect my personal time. Google Voice is another good option for a VOIP phone line.

6. **Online Videoconferencing:** I use FaceTime and Skype to have face to face meetings with people who prefer that to coming into the office for a meeting.

7. **A Way To Sign Documents Digitally:** DocuSign is a popular option. I also use the Preview program on my Mac.

8. **A Place To 'Meet' In the Cloud:** For the team I currently work with, Slack is a godsend. It's a place to hold discussions, share documents, and check in during the workday. We can even establish private "channels" with individual clients if email and phone are not

cutting it for communication. There are several similar services, such as Basecamp, Asana, and Trello.

9. **Boundaries:** Working virtually is great for being available to clients, but don't forget to keep some boundaries in place. This is something most attorneys could work on, whether they offer virtual services or not. For me this means I keep my work to certain hours of the day, turn off call forwarding during my "off" times, and I never, ever hand out my cell number to clients or colleagues.

10. **Flexibility:** Even with good boundaries, it is important to have some amount of flexibility, after all that's one of the best benefits to offering virtual services.

*Sara E. Raymond is a family law attorney. She is currently of counsel to Jarratt Martin Law in Pleasanton, California. She loves cats and books and her family. Sara can be reached at [atsara@jarrattmartinlaw.com](mailto:atsara@jarrattmartinlaw.com)*

# Challenges and Trends Shaping the Future of Law Firms

Saturday, June 01, 2019



It's an exciting time to be practicing law in the San Francisco Bay Area! Law firms are grappling with several challenges, while exploiting trends to meet the challenges and shape the future of law firms across the nation.

## Top Three Strategic Challenges

Law firms are dealing with three strategic challenges that are shaping the future of law firms.

### Privately-Funded Companies

You are probably familiar with Alternative Legal Service Providers (ALSPs) such as Axiom and UnitedLex. You also likely know about Legal Publishers (LegalZoom, Avvo, RocketLawyer). They are privately funded companies with seasoned management teams. Although they currently target clients who may not be good clients for many law firms in Contra Costa County, they have ambitions to reshape the legal industry on a global scale. Meanwhile, they serve as sources of clients for many attorneys who are starting their own firms.

### Productivity Lag and Rising Costs

Dramatic productivity improvements have been seen across many industries over the past decade, allowing companies to drive down prices without sacrificing (and sometimes improving) quality. The legal industry, however, has not significantly improved productivity. Clio's 2017 Legal Trends Report found that attorneys typically bill only two hours per day. The remainder of the time is spent elsewhere, including administrative tasks (48%) and business development (33%).

The productivity issue is compounded by the rising costs of operating in the Bay Area: rent, compliance, and compensation specifically. In response to rising

costs, law firms raise fees. This means that clients pay more for the same services, creating the opportunity that is being exploited by ALSPs and Legal Publishers.

### **Law Firm Succession and the Multi-Generational Melting Pot**

Many law firms have aging partners who will be retiring in the next two to five years. Unfortunately, most of the firms are not prepared for the exit of these partners. Often, the firm must utilize outside advisors (succession plan experts, law firm strategists, etc.) to move forward. There are several potential issues:

1. The junior partners cannot afford to buy out the senior partners.
2. The senior partners do not want to cede control to the junior partners.
3. The senior partners have no junior partners to succeed them, either because they cannot keep their talent or because they haven't sought them out.

Complicating the succession planning effort is the multi-generational melting pot: baby boomers, Generation X, millennials (i.e. Gen Y), and Gen Z. Each of these generations has differing motivations and approaches. A law firm that works well for baby boomers is not likely to be appealing to Gen Y or Gen Z. The generational differences make it difficult to attract and retain the best talent and the best successors.

## **Trends Rise to Meet the Challenges**

Challenges create trends. The trends in this article address three areas: cost reduction, productivity, and growth.

### **Cost Reduction Trends**

Law firms are increasingly leveraging remote employees, both full-time and part-time. Remote employees can save on rent expenses as well as labor costs. Legal marketplaces such as Hire an Esquire and Lawyer Exchange make it easier for law firms to locate qualified talent elsewhere.

Alternative dispute resolution such as mediation is rapidly gaining popularity as a less costly, more appropriate alternative to traditional methods in certain situations.

### **Productivity Trends**

Law firms are adopting technology more quickly. Practice management software, for example, is becoming a "de facto" requirement for law firms of all sizes.

The next step is the application of artificial intelligence/ machine learning to the practice of law. These software tools speed up the time it takes to gather, review, and analyze different aspects of data, allowing attorneys to spend more time on substantive tasks.

Typically, losing an employee hurts the firm's productivity. Firms are finding that they need to change their culture to attract and retain millennial and Gen Z talent. The new culture typically emphasizes results over office hours, flexible work policies, work-life balance, and opportunities for professional growth. The firms that adopt these traits find that they attract and retain high quality talent, which in turn leads to a tremendous productivity improvement.



## Growth Trends

Marketing has never been a more powerful force in the field of law than it is today. The firms with the strongest marketing have unmatched reach and presence. They command a premium for their services and attract the best talent. The firms with weak marketing get the leftovers.

The reason for this is the internet. As more clients move to the internet to seek out an attorney, a firm's online marketing acumen will increasingly dictate its growth potential. We see this in personal injury, criminal defense, and family law, and it is rapidly spreading.

Closely related to online marketing is the rise of thought leadership.

Thought leaders are recognized experts in their niches. These people are the Super Lawyers, the Avvo contributors, the YouTubers, the authors and speakers. They are the people who focus on niches and sub-niches. Potential clients and referral sources will have unprecedented access to thought leaders. Thought leaders will leverage online strategies and technologies to build dominant national or international practices within their niches.

The last trend is value-based pricing. Value-based pricing is often misunderstood. It's a powerful methodology, usually flat-fee based that prices the services based on *its worth to the client*, not on how much it costs to deliver the service. Law firms that adopt value-based pricing enjoy several strategic benefits. Value-based pricing will reach into every aspect of law over the next few years, because clients want it. Law firms that get it right will have a significant advantage over the others.

## Next Steps

The future of law is bright. I'm particularly excited by the improved quality of life that attorneys will experience. Law firms will need to change to survive. They should be looking at three things:

- Embracing new strategies for growth
- Evolving their culture and technology to improve productivity
- Exploring opportunities to reduce costs

**Alay Yajnik** is a law firm strategist and the founder of *Lawyer Business Advantage* ([www.lawyerbusinessadvantage.com](http://www.lawyerbusinessadvantage.com)). His firm helps attorneys create their *Perfect Practice™* in terms of income, happiness, and time off. *Lawyer Business Advantage* is a proud affiliate of the Contra Costa County Bar Association.

# Open the Gates: Tomorrow's Lawyers are Knocking - We Have the Interest

Saturday, June 01, 2019



As a 3L at Golden Gate University School of Law (GGU), I attended GGU's student-faculty mixer last semester. There, I noticed the sheer quantity of the 1L class. Their class numbers easily eclipsed my class, and the classes I had seen come before me. For reference, my 2016 class matriculated 148 students; the 2018 class matriculated 237 students. [1] In two years, GGU had increased the 1L class size by almost one hundred students.

GGU is not alone in this phenomenon. Since 2016, 1L enrollment has risen by 3percent and overall law school enrollment has risen over 5 percent [2]

The reason as to why, has been labeled by some as the "Trump Bump." [3]The most telling statistic compared the number of LSAT test takers in 2016 to those in 2017. The increase was 21.4percent. [4] The 2016 election, and the subsequent policies, hearings, investigations, and reports, has prompted more people to attend law school. In a Kaplan Test Prep survey, [5] pre-law students explained:

"The election gave me a litmus test for how divided our country will be for the next few years and how I want to remedy that. The country needs level headed leaders and through law school, I believe that I can become one of them."

"I decided to go to law school BECAUSE of the 2016 election. Somebody has to hold these politicians accountable, and it's clearly not anyone in office right now. Also, if Hillary isn't gonna be the first female president, then it's going to be me."

In fact, 87 percent of those surveyed stated that the current political climate was a significant factor in their decision to apply, and 57 percent stated they plan to use their law degree for public or political issues they care about. [1] These percentages mean that in a time of political chaos and confusion, people are turning to law school to better understand how our country functions and to help them affect change. These applicants

are sending a powerful message that they are choosing law for patriotic purposes.

Soon an entire wave of motivated and passionate people will enter the legal field. While law school admission officials caution applicants against basing a law career off of policy issues, [2]

the end result can only benefit the legal field. If these new lawyers do not go into politics, I predict they will navigate towards civil rights law, constitutional law, and public interest law. In whatever avenue they choose, they will carry their motivations with them. With their addition, the future of law will see driven, passionate lawyers who are ready to practice at a fierce intensity.

### **We Need Accessibility**

Of course, to practice law in California, the above legal-hopefuls must first pass the bar exam. The California State Bar imposes two prohibitive measures: a high cost and a low passage rate.

As a 3L, I am currently experiencing the high cost of choosing to practice in California. Even excluding the little costs like a \$21 fingerprinting live scan fee, a \$153 laptop registration fee, and a \$125 fee to take the Multistate Professional Responsibility Exam, the State Bar charges \$1,523. [3] The State Bar requires a \$122 registration fee, a \$551 moral character application fee, and \$850 fee simply to sit for the exam. [4] But the cost of knowing that the pass rate is 40.7 percent? [5] Priceless.

Actually, kidding aside, the cost is not priceless. To pass the bar exam, recent graduates incur even more loans to finance the months spent studying, and pay steep rates for bar prep courses in the hope they will pass. Themis currently charges \$2,195 [6] and Barbri's early decision rate charges \$2,695. [7]

Even more than the steep costs, the State Bar threatens accessibility by imposing an arbitrarily high pass score ("cut score.") California has the second-highest in the country, second only to Delaware. In July of 2018, only 40 percent of bar takers passed. [8]

California's cut score is 144. [9] But nationwide, the median cut score is 135. [10] New York, a state which has similar demographics to California, has a cut score of 133. [11] Were California using New York's standard, 20 percent more people would have passed the bar exam on their first try. [12] This prompts the question, is New York and the rest of the country allowing unqualified lawyers to practice, or is California prohibiting qualified lawyers from passing? Since no mass complaints exist about the quality of other state's lawyers, I believe the answer is the latter.

But what about the job market? If California lowers its cut score, will there will be more lawyers in California than there are jobs? UCLA Law School Dean Jennifer Mnookin argues that may be so, but that it is not the place of the State Bar, nor the California Supreme Court, to decide the job market. [13] The bar is supposed to represent a standard of minimum competence. For California to intentionally and arbitrarily impose a high cut score, then charge money as people try multiple times to simply gain access to practice law, impedes qualified lawyers from accessing the law. With a new wave of patriotic-minded lawyers taking the bar in a few short years, this impediment is even more tragic.

In response to the low passage rates the State Bar has implemented a “California Bar Exam Strategies and Stories” program. [14]The program is a sort of social network for bar takers. Those studying for the exam will have access to video stories from past bar takers about their experience. Then at the end of the exam, they will upload their own story. While I appreciate the State Bar trying to foster a sense of community, most students already anticipate the intense stress of bar study and have sought the advice of professors and classmates. To make a real difference to bar takers, California should lower the cut score.

*Maneesha Birdee is a 3L at Golden Gate University School of Law. She lives in Walnut Creek and is interested in public interest and bankruptcy law. To unwind from law school, she practices yoga at Diablo Valley College.*

[1] Id.

[2]  
Id.

[3]  
<https://www.law.uci.edu/academics/registrar/bar-info/cal-bar-fees/>

[4] Id. Some costs based personal charges from the State Bar.

[5]  
<http://www.calbar.ca.gov/About-Us/News-Events/News-Releases/state-bar-releases-july-2018-bar-exam-results>

[6] <https://www.themisbar.com/faq>

[ 7 ] [https://www.barbri.com/wp-content/uploads/2018/01/student\\_enrollment\\_form\\_early\\_decision.pdf](https://www.barbri.com/wp-content/uploads/2018/01/student_enrollment_form_early_decision.pdf)

[8] *Supra*, note 10.

[9] <http://www.ncbex.org/assets/BarAdmissionGuide/NCBE-CompGuide-2019.pdf>; pg 33

[10]  
<http://newsroom.ucla.edu/stories/ucla-faculty-voice-why-is-it-so-much-harder-to-become-a-lawyer-in-california-than-in-new-york>

[11] *Supra*, note 14.

[12] *Supra*, note 15.

[13] *Supra*, note 15.

[14] <http://www.calbar.ca.gov/Admissions/Examinations/California-Bar-Exam-Strategies-and-Stories-Program>

[1] <http://law.ggu.edu/about/consumer-information/>

[https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2018-509-enrollment-summary-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2018-509-enrollment-summary-report.pdf); and  
[https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/statistics/2016\\_standard\\_509\\_data\\_overview.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2016_standard_509_data_overview.pdf)

[3] <https://abovethelaw.com/2018/12/law-school-enrollment-is-up-for-the-first-time-in-nearly-a-decade/?rf=1>

[ 4 ]  
[http://www.abajournal.com/news/article/increase\\_in\\_lsats\\_test\\_takers\\_is\\_seen\\_as\\_evidence\\_of\\_trump\\_bump](http://www.abajournal.com/news/article/increase_in_lsats_test_takers_is_seen_as_evidence_of_trump_bump)

[5] <https://www.kaptest.com/blog/press/2019/02/25/kaplan-test-prep-survey-nearly-90-percent-of-law-schools-say-the-political-climate-was-a-significant-factor-in-application-increase/>

# The Law Firm of the Future - A Personal View

Saturday, June 01, 2019



Throughout my career as a tax lawyer, I've attended (and occasionally spoken at) seminars on a variety of technical subjects related to tax and other legal subjects, and of course listened to talks about more pragmatic topics such as substance abuse and bias in the legal profession. I've also spent a small fortune building a range of hard-copy and electronic resources to assist me in my law practice. And, every day, I am presented (confronted?) with a variety of resources and advice about how to use the "cloud" for organizing, marketing, and managing a virtual law practice.

Yet for all of these efforts, when asked to share my thoughts on what will be important to the boutique law firm of the future, none of these elements seem particularly relevant to what strikes me as being one of the most important characteristics of that model. Notwithstanding our ability to generate emotive language for websites and write taglines for marketing content, I believe that the key element will be the ability for the lawyers to interact with our clients and deliver our guidance with the *appropriate* bedside (or desk-side) manner. For present purposes, I would define this as actively listening and responding (with limits of course) as we would if a casual friend were sharing personal problems with us. [1]

To analogize, in the 1991 movie "*The Doctor*," William Hurt portrays a successful but aloof surgeon who is ultimately diagnosed with throat cancer. In one early scene, Hurt's character lectures his interns that personal feelings have nothing to do with the science of medicine. [2] The movie chronicles how Hurt's philosophy begins to evolve after he sees one doctor, who is recognized as the "go to" specialist, for treatment. She is abrupt, detached and impersonal (traits we saw earlier in how Hurt interacted with his own patients). Ultimately, Hurt's character is so put off he decides to consult with another doctor, someone Hurt has often derided behind his back. That (second) doctor is a much more active-listener and more openly compassionate. Of course, Hurt's character (now in the unforeseen role of a patient) chooses the second doctor to operate on his throat and attempt to save his vocal chords.

So, with that perhaps imperfect analogy as a springboard, and since this is not intended

as a review of an almost 30-year-old movie, how is this relevant here? The intended takeaway is that lawyers in successful “future state” law firms will be less scripted and more openly emotive with their clients. There are both technical and practical reasons for doing this.

The technical reason is that being more openly compassionate and recognizing the plain human element involved builds a rapport between the client and the lawyer. In my experience, such a rapport makes the client more at ease to tell us uncomfortable but critical truths which can be very relevant to the legal task at hand. Stated differently, we don't know what we don't know. In a relatively short interview, we can't ask every question that may theoretically elicit a response significant to our legal analysis. And obviously, it's not realistic to expect our prospective clients to volunteer all factual nuances of facts that may make a difference in our technical analysis and approach to the legal matter at hand. [3]

More practically, compassion can create a bond that improves the odds of being retained. A while ago, I got a call from a prospective client who just met with one (or more) other tax lawyers located more convenient to her. I usually start off my consultations with the artfully crafted question- “What's going on?” She told me about the tax problems that ensued in parallel with the debilitating illness of her husband. Instead of jumping into a technical reaction to her tax problems and how I could represent her, I responded with something like “Wow. That's a lot. How are you doing?” My simple (and heartfelt) response, while by no means profound, resonated with her. Later, she told me she was so surprised by the unexpected sentiment of my question that notwithstanding the inconvenience, she wanted me to represent her and her husband with the IRS issues. Again, I reiterate it is presumptuous to believe that I am unique in this approach. Nonetheless, I strongly believe that actively conveying empathy will be a key element of “future state” law firms, particularly in the age of more automated (self-serve) delivery of legal services.

Further, even if counterintuitive, I believe this actually presents another reason why lawyers should feel confident enough to charge *something* for their consultations. By so doing, we're more likely to be more comfortable letting the conversation take an occasional tangent into the murkier terrain of “life context” and away from the dry recitation of what appears to be the legal issue.

Finally, it is important to recognize that there is no “one size fits all” strategy that works across the spectrum of legal practice areas, client types and lawyer personality types. I assert that “active compassion” should be a key element of successful law firms in the future. As a prognosticator, I may or may not be correct. At an absolute minimum though, I strongly believe lawyers should discuss this more actively within our appropriate professional forums. In particular, in addition to discussing the benefits of a compassionate approach in dealing with our clients and how lawyers of varying personality types can incorporate this into our practices, we should also discuss within professional forums the limits of compassion, and in particular, how to balance the urge to be sensitive with the reality of delivering unfavorable guidance to our clients.

***Harry-Todd Astrovis*** the Principal and Founder of *Astrov P.C.* ([www.astrovlaw.com](http://www.astrovlaw.com)), a tax law firm with offices in Pleasanton and Folsom. H.T. represents individuals and small businesses who are being audited by or owe money to the Internal Revenue Service, Franchise Tax Board and other taxing authorities.

[1] It would be presumptuous to call this innovative or to deny the fact that many of us already naturally conduct our meetings with some aspects of this approach. The main points I seek to convey here are that (1) compassion is important and (2) lawyers should talk about this more in appropriate professional forums.

[2] See <https://www.rogerebert.com/reviews/the-doctor-1991>

[3] The more cynical corollary to this is “everyone lies” –one of the tenets of Dr. Gregory House in the eponymously named television show “House.”



# The Budget for California Courts: A Step in the Right Direction

Saturday, June 01, 2019



I have written before for the Contra Costa Lawyer about the Conference of California Bar Associations (CCBA). Briefly, the CCBA is a statewide conference in which our local bar association (the CCCBA) participates. Our Contra Costa delegation, and delegations throughout the state, work together to write resolutions within our respective delegations, and these resolutions are heavily vetted through debate by lawyers from all over the state at our annual conference.

Every March or April, we also have the opportunity to participate in Legislative Day at the State Capitol. Legislative Day is our opportunity to take proposed legislation, that has been sponsored by state assembly members and senators, and present it to various other state legislators in the hope that our proposed legislation will gain momentum, get voted on, and ultimately pass the state legislature. The CCBA has been instrumental in having a substantial number of new laws, or amendments to laws, passed and signed into law by the Governor.

When we attend Legislative Day, we have various informational meetings throughout the day. This year, we received substantial information about the California Judicial Branch, and what Governor Newsom's budget priorities may be for the Judicial Branch for fiscal year 2019 – 2020.

As attorneys, we likely have formulated at least some opinion about the state of the court, the future of the court, and what the future of the law may be. We know that the courts never seem to have enough funding, but we may not be able to quantify or fully identify why we feel that way. Perhaps, we have seen the results of insufficient funding, but we are not sure what is the cause or reason for the insufficient funding.

Some may be aware of the California judicial system budget cut from \$4 billion in fiscal year 2012 to \$3 billion in fiscal year 2013. [1] Since that time, many attorneys, lobbyists, and even the delegates of the CCBA have been fighting to regain some of this funding.

At Legislative Day, we learned that the Governor's proposed budget for the Judicial Branch includes \$275.2 million in new General Fund monies to support trial court operations, efficiencies, and innovations, for a total budget of \$3.16 billion. This is definitely a step in the right direction, and one to be thankful for, but it is still a bit of a tough pill to swallow that the judicial system is only allocated 1.5% of the general fund if you count the newly proposed funds of \$275.2 million.

Of the additional \$275.2 million, it is proposed that \$75 million will be allocated over two years by the Judicial Council to develop, implement, operate, or evaluate pretrial decision-making pilots in 8 to 10 courts. \$20 million will be allocated to dependency counsel to reduce the average attorney caseload statewide from 210 clients to 186 clients per attorney. Clearly the decrease in the amount of clients per attorney is warranted, but 186 clients is still a substantial amount of clients for one attorney to represent.

\$23.2 million will be allocated to replace outdated case management systems in 10 trial courts (Amador, Colusa, Contra Costa, Lassen, Marin, Mariposa, Mono, Nevada, Shasta, and Solano). \$20.5 million will be allocated to information technology initiatives. \$20.2 million will be allocated to extend the life of trial court facilities and avoid adverse impacts on court operations and public access. \$52.5 million will be allocated to address anticipated revenue shortfalls due to lower filing fee and criminal assessment revenues. \$63.8 million will be allocated to language access, employee health and retirement costs, judicial compensation, trial court security and equipment, and enacted legislation.

Again, these are all steps in the right direction, but there are budgetary issues that have not been addressed by the proposal. For example, the 1% cap on trial court reserves still needs to be addressed and adjusted. Adjusting the 1% cap would enable courts to better maintain public service levels when unanticipated costs and economic downturn occur. Currently, courts that maintain more than the 1% cap receive less funding because they have more money. This does not incentivize courts to try to retain funds and manage money more efficiently; it does the exact opposite. As a consequence, many trial courts are forced to borrow money to pay payroll to court employees in July (the beginning of the fiscal year) because only the 1% cap has been retained, and additional funding has not yet come through.

In addition, approximately \$36.5 million of additional funding is needed to fund 25 previously approved but unfunded judgeships. This is an important oversight considering the fact that courts are currently facing an urgent need for judges, especially in counties where there has been a significant population boom.

According to the Judicial Council's Fact Sheet, "New Judgeships," [2] as of the end of 2018, San Bernardino County experienced 13% population growth in the last decade and is currently operating with 69% of the judges it needs. Riverside County has recently experienced 30% population growth, and similarly is operating with approximately 69% of the judges it needs. Fresno is operating with approximately 86% of the judges it needs, and there are other counties with similar needs. Ultimately, it is our clients who bear the ultimate cost of having an insufficient number of judges to adequately serve the community. Family law matters, domestic and workplace violence issues, housing disputes, business disputes all get delayed, and the burden on the criminal courts is substantial.

So what's next? The Judicial Council continues to diligently work to have the approved,

but unfunded judgeships funded. Attorneys and lobbyists continue to request additional funding for the courts. The CCBA also requests and lobbies for additional funding for the courts every year at Legislative Day. While we have a long way to go, hopefully the Governor's new proposal to allow some additional funding to the courts is a trend that continues.

If you are interested in being an advocate for changes and improvements to the law, and meeting with the people in charge of making these decisions on an annual basis, I highly encourage you to reach out to the Contra Costa County Bar Association about how you can get involved in the CCBA. We have been able to achieve many positive changes, but we can always use additional help. The future of the law and access to justice for those in our community depends on the efforts of many, including those in our own community.

*Christina Weed, LLM (Taxation), is a Partner at Mendes Weed, LLP, and a Co-Founder of Weed Law, PC. Weed has been certified by the State Bar of California as a Specialist in Taxation. Weed is the Chair of the Tax Section of the CCCBA. [mwlawca.com](http://mwlawca.com); [weedlawpc.com](http://weedlawpc.com); (925) 390-3222.*

[1] National Center for State Courts – California. [https://www.ncsc.org/Information-and-Resources/Budget-Resource-Center/Budget\\_Funding/California.aspx](https://www.ncsc.org/Information-and-Resources/Budget-Resource-Center/Budget_Funding/California.aspx)

[2] Judicial Council of California – Fact Sheet, “New Judgeships”. <https://www.courts.ca.gov/documents/fact-sheet-new-judgeships.pdf>. December, 2018.

# Inside: To Boldly Go Where No Lawyer Has Gone Before

Saturday, June 01, 2019



No, this issue is not about time travel or space travel, but that might make it easier to figure out what we should do now! When the board asked me to be a guest editor for the Contra Costa Lawyer, I wondered exactly what the editorial board had up their sleeves. Once the topic was introduced, I knew I had to accept the invitation. The practice of law is changing at an amazing (and sometimes alarming) speed and lawyers also need to adapt to changing marketplaces, delivery methods, diversity, and clients. The traditional law firm model does not always fit the changes happening in the world, so the future of law also consists of finding our way forward.

As one of those non-traditional lawyers and law firm owners, I am thrilled that the future of law is a topic of discussion, even when it makes many lawyers uncomfortable. Whenever I hear a lawyer lament that they are competing with online forms companies and non-lawyers for clients, the question should not be how to compete with them but how to create products and services that meet the needs of the firm's ideal clients. Innovation and differentiation are the future of law.

This edition comes at the future of law from several different angles and perspectives. The broad range of authors this month brings in thoughts from law students, non-attorneys, different practice areas, and different client approaches to help us figure out what is to come and how to create the right products and services for future legal clients.

From a law student perspective, you'll read about why people are going to law school these days and what challenges these new lawyers are facing when entering the practice of law. Pay attention to these new graduates.

Their innovative ideas are the future of the law. Alay Yajnik also wrote a great article about strategic challenges and trends that law firm owners are grappling with, including those online service providers and productivity.

Then, there are the challenges of virtual practice and innovation to try to overcome those challenges. Sara Raymond wrote a practical article

on tools that she uses to help her clients virtually without having to have multiple office meetings. What about software that purports to eliminate the need for a lawyer? We have an article about bankruptcy software that clinics have used to assist *pro se* debtors, but there are some pitfalls and limitations that were not expected.

Finally, we have two articles on the changing marketplace. There are a lot of different forces at work these days and they are all putting pressure on that traditional, billable hour, law firm model. How will you adapt to these changes?

Of course, the six feature articles in this edition are not the only perspectives out there. Every day, I read about new technology, new apps, new ideas for helping clients with their legal problems. One of my concerns as we were pulling our articles together for this issue is that they would be out-of-date before the issue was published! I encourage you to think about ways you can make the legal world better and help more people who may not have had access to legal services under a more traditional model.

Thank you very much to the guest contributors who answered my overly-excited emails and agreed to write on this topic. And, thank you to the editorial board for all of their hard work that they put into every issue and for asking me to contribute to a topic that I am so very passionate about educating on and discussing.

Please enjoy this issue and I hope it sparks some innovative thoughts for the future of your law career.

***Jen Lee** is the managing attorney at Jen Lee Law in San Ramon. She focuses her practice on helping individuals and business owners come up with effective legal and financial strategies to deal with debt and credit issues.*

# Mock Trial 2019 Volunteers

Saturday, June 01, 2019

[metaslider id="17906"]

Congratulations to the student team from California High in San Ramon for winning the 2019 Mock Trial Competition for the second straight year. The 38th annual event was presented by the Contra Costa County of Education, in Pleasant Hill, and held at the Bray Courthouse in Martinez.

The top four teams were:

1. California High School, San Ramon
2. Alhambra High, Martinez
3. Acalanes High, Lafayette
4. Campolindo High, Moraga

This impressive competition could not happen without the dedicated group of approximately 75 practicing attorneys, retired attorneys, senior law students and judges who volunteer their time. Thank you all who make this life changing event possible for the students in Contra Costa County.

[table id=16 /]

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For the results of each school that participated this year, see the Contra Costa County Office of Education's Mock Trial website here.



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**[The Law Firm of the Future – A Personal View](#)**  
 Throughout my career as a law lawyer, I've attended (and occasionally spoken at) seminars on a variety of subjects, with some related to law, but not other legal subjects, and of course, I've read in books, about some interesting

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**Spotlight**

[The Budget for California Courts: A Step in the Right Direction](#)  
I have written before for the Contra Costa Lawyer about the Conference of California Bar

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[Get to Know Judge Wendy Coats](#)  
On December 7, 2019, former Governor Jerry Brown announced 13 new judges appointed to the

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**News & Updates**

[Mock Trial 2019 Volunteers](#)  
Congratulations to the student team from California High in San Ramon for winning the 2019

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[Women's Wine Tasting & Silent Auction](#)  
On April 17, the CCCBA Women's Section hosted its annual fundraiser

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You can be a leader within our legal community as a Director on the Contra

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[Happy Hour in Antioch](#)  
The second of CCCBA's 2019 informal Happy Hour Gatherings took place at the beautiful Smith's

