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Volume 37, Number 6 | November 2024



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# CONTRA COSTA LAWYER

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## FEATURES

**INSIDE: Small Firms, Big Impact**, by Mika Domingo, Guest Editor. 5

**Managing Caseloads For Success: Points for Efficiency, Client Scheduling and Growing your Practice**, by Luis Montes . . . . . 7

**Challenges Faced by Solos and Small Firms**, by Jim Yu . . . . . 10

**Checklist for Starting a Law Firm**, by Ray Robinson . . . . .13

**Independent Contractors v. Employees Considerations When Scaling in California**, by Glicel Sumagaysay, Esq. . . . . 18

**Solo or Big Firm, A Choice by Design: Chosing the Path Where Success Aligns**, by Natasha Chee . . . . . 21

**Set Your Strategic Direction to Grow Your Law Practice**, by Lydia Bednerik Neal . . . . . 24

## NEWS & UPDATES

4 . . . PHOTOS: 30th Annual MCLE Spectacular, November 8

6 . . . Food From the Bar 2024

16 . . . Coffee Talk

29 . . . Calendar

30 . . . Classified Advertising

30 . . . Advertiser Index

**Looking for ways to build your visibility in the legal community?**

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Contact Sara Chakri ([schakri@cccba.org](mailto:schakri@cccba.org)) or Jody Iorns ([jiorns@cccba.org](mailto:jiorns@cccba.org)) for the details, or visit [www.cccba.org](http://www.cccba.org). See more great ideas in Lydia Bednerik Neal's article on page 24.



## Friday, November 8 8:30 am - 5:00 pm Hilton, Concord

Larry Cook, Audrey Gee and David Pearson with J. Ryann Peyton, our breakfast keynote speaker



Erwin Chemerinsky, our luncheon keynote speaker, signs a copy of his book for Winjiku Muhire as Matt Guichard and Tereza Kolesnikovoya wait their turn. CCCBA intern Gabe Scodeller assisted Dean Chemerinsky with the signing.



Eric Hass and Oliver Bray



Christina Weed with Dorian Peters.

Below, Afternoon Plenary Keynote speakers, Esther Kim and Jonathan Lee.



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# INSIDE

## Small Firms, Big Impact



by *Mika Domingo, Guest Editor*

When asked to be the guest editor of this issue, I was excited to share some of the topics that are relevant to me now as the owner of a small law firm as well as things that helped when I first started out. Truly, the growth of my firm would not be possible without the support of my community. I would like to thank the colleagues who volunteered to write the articles in this issue for their perspective on the challenges and opportunities as business owners working to provide legal services. They along with mentors and colleagues from the CCCBA and other bar associations offer resources that are invaluable. I am hoping that whether you are new to solo practice or seeking to expand your existing firm, this issue seeks to provide guidance to help you thrive.

**Luis M. Montes'** article focuses on key strategies for case management, efficiency, and pipeline building. One of the many ways Contra Costa County Bar Association has helped our practitioners build their clientele is through our State Bar-certified and American Bar Association-approved Lawyer Referral & Information Service (LRIS). For over 40 years, attorneys who serve on the different panels get connected to pre-qualified clients who need representation. The LRIS is a win for the community that gains access to representation, the lawyers who are able to build their practices and the CCCBA as well.

**Jim Yu** writes about the challenges faced by solo and small firm owners and how to overcome them.

**Ray Robinson** shares practical advice on getting started in the practice of law, from getting your bar card to setting up IOLTA accounts and more.

For firm owners who are considering employing independent contractors, **Glicel Sumagaysay's** article focuses on factors that must be taken to classify a worker as an independent contractor.

**Natasha Chee** shares her insight having run a solo firm for many years and transitioning to a big firm.

**Lydia Bednerik Neal** writes about the importance of having a good marketing plan that begins with a solid business plan.

Thank you again to our amazing authors who contributed to this issue. Starting your own practice or growing your practice can be overwhelming but we have a community of professionals whom we can reach out to for their wisdom and practical advice.

*Mika Domingo is Founder and Managing Attorney of M.S. Domingo Law Group, P.C. Her practice focuses on estate planning, probate and trust administration and litigation, guardianships and conservatorships. She was recently appointed as Commissioner for the City and County of San Francisco's Assessment Appeals Board. She has served on numerous boards including as the first Filipina President of California Women Lawyers (CWL) and is currently President of the California Asian Pacific American Bar Association (Cal-APABA) and Co-Director of Professional Development for the Filipino Bar Association of Northern California (FBANC). She hosts "Mika Minutes," a podcast designed to make information about trusts and estates accessible to everyone.*

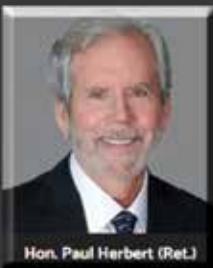
# Food From the Bar 2024

Thank you to the generous donors from the CCCBA! Your generosity brought in \$70,329 for the Food Bank of Contra Costa and Solano Counties, well in excess of our \$50,000 goal. Thanks to all who donated, to the generous donor who provided a \$25,000 matching grant, and everyone who attended Comedy Night, the event that kicked off this successful campaign.

Dan Birkhaeuser, chair of the FFTB committee said, "This was a huge success which exceeded the Food Bank's expectations and our own goal. I know you all worked very hard on it and I really appreciate your efforts."



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# Managing Caseloads For Success:

## Points for Efficiency, Client Scheduling, and Growing Your Pipeline

by Luis Montes

Managing legal caseloads is challenging for solo attorneys and small law firms. Balancing cases, client expectations, and administrative duties while maintaining a healthy pipeline of prospective business requires a balance of planning, strategy, discipline and the right tools. Mastering these skills will help avoid burnout and go a long way to building a thriving, rewarding practice.

The following key strategies aim to help solo and small law firms better manage their caseloads, keep clients satisfied, and ensure a steady flow of new business. I'll discuss practical ways to improve efficiency, streamline scheduling, and cultivate leads to create a stable pipeline of prospective clients.

### 1. Prioritizing Efficiency in Legal Work

Efficiency is critical for us solo attorneys and small firms, especially when handling multiple cases. Time is a finite resource, and every minute counts. According to a 2022 Thomson Reuters report on legal technology, small law firms that implemented time management and efficiency increase billables by 25%. This is substantial when you consider the thin margins small law firms often operate under.

Here are a few practical ways to enhance efficiency in managing caseloads:

[Continued on page 8](#) ►

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# Managing Caseloads for Success

Continued from page 7

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- **Leverage Technology:** Legal practice management software greatly helps manage client information, deadlines and documents in one place. These tools can integrate with your calendar and billing processes. These provide an organized platform to manage your entire caseload. I am surprised to learn that not all of us use such tools.
- **Time Tracking:** Automated time tracking tools not only help capture billable hours but also offer insights into how time is spent. All successful firms I know of use the insights to manage profitability and the practice process. They allow you to identify areas where you can become more profitable.
- **Delegate -Outsource Administrative Tasks:** Solo practitioners habitually handle everything from legal work to marketing and billing. It is inefficient. It can help to outsource some tasks like bookkeeping, transcription, or even legal research to appropriate virtual assistants. This reduces the non-billable time you spend on day-to-day operations.

## 2. Effectively Scheduling Clients

Unmanaged, scheduling clients can be both challenging and an inefficient and unproductive use of time for solo practitioners or small firms with limited administrative support. Efficient scheduling is crucial to avoid overlaps, missed appointments, and rescheduled meetings, which can disrupt your workflow.


Several strategies can help streamline the scheduling process:

- **Use Online Scheduling Tools:** Tools like Calendly allow clients to book appointments based on availability. These tools should sync with your calendar to minimize the need for back-and-forth emails. This automated process can create a more professional experience for clients.
- **Block Time for Deep Work:** Solo attorneys often face constant interruptions, which can make it difficult to focus on complex legal tasks. Time Blocking, the practice of blocking off certain times of the day for deep, uninterrupted work, or other tasks is essential for maintaining efficient work flow.
- **Implement Client Triage:** Not all client matters are equally urgent. For example, if a client has a looming court date, prioritize that case over a routine consultation. Triage systems help ensure that the most pressing cases receive attention first, which keeps your caseload manageable and deadlines met.

## 3. The Art of Keeping Prospective Clients in the Pipeline

The art of maintaining a steady business pipeline of prospects is critical to the success of any solo or small law firm. With very limited resources, it's essential to manage your marketing efforts effectively while keeping track of potential leads. Research by Legal Trends indicates that small firms with a formal client intake and lead management system see a 35% increase in client conversion rates.

Here are some strategies to keep prospective clients engaged and ensure they convert to paying clients:

- **Develop a Client Intake System:** Use a client relationship management (CRM) tool or practice management software with a built-in client intake feature. Such tools can help you track leads, send automated follow-up emails, and record client interactions.
- **Automate Follow-ups:** This is an area where I can safely opine that we all need to practice. Potential clients often reach out for a consultation but may not immediately hire us. An automated email follow-up can keep your firm top of mind. For instance, send a follow-up email with helpful information related to the prospect's legal issue and encourage them to schedule a formal meeting.
- **Referrals and Networking:** The magic of this approach cannot be overstated. Personal referrals are one of the most, if not the most effective ways to keep your pipeline full. Building strong relationships with other professionals and offering excellent service to existing clients can result in a steady stream of new business.
- **Track Marketing Efforts and Adjust:** Tracking marketing efforts is important to identify whether clients are finding you through organic search, social media, or referrals. Then, regularly evaluate which strategies are working and adjust your marketing efforts to focus on what delivers results. 



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Renew your CCCBA membership today! <https://www.cccba.org/renew-your-cccba-membership>

## 4. Balancing the Practice of Law with Business Development

As a solo practitioner or small firm, another challenge is balancing active caseloads with business development. It's easy to get caught up in the day-to-day work of managing current clients and neglect efforts to grow your practice. Unmanaged, this will lead to burnout or worse.

Here are a few strategies to strike that balance:

- **Schedule Time for Business Development:** Treat business development as an ongoing responsibility. Use time blocking as mentioned above to dedicate time each week for marketing, networking and client outreach. It's an investment in the future of your firm.

- **Delegate When Possible:** Delegating tasks, as discussed above can free up your time to focus on strategic growth initiatives.

### Conclusion

For solo attorneys and small law firms, managing legal caseloads while maintaining a healthy pipeline of clients requires careful planning, efficient tools, and ongoing effort. By leveraging technology, streamlining scheduling, nurturing prospective clients, and using data to guide decisions, solo and small law firms can operate efficiently and sustainably, positioning themselves for long-term success.



*Luis M. Montes is the founder of the Law Offices of Luis M. Montes. In the counseling and practice of business law, Luis' clients depend on him to remove the dread of the legal process. People around Luis depend on his business judgement acumen and practical experience of running business before he became a member of the bar. He also learns volumes while mentoring new members of the bar.*

*When not practicing law, Luis is either in a scenic river fly fishing; getting ready to snow ski, or reading at a North Beach coffee shop. To relax he might be working on the horse, reading the autobiography of a Yogi or planning.*

*If you have any questions, contact Luis at LMMBUSLAW@gmail.com or (925) 433 - 2812.*



# Challenges Faced by Solos and Small Firms & How to Overcome Them

by Jim Yu

Running a solo practice or a small law firm can be daunting. It can also be extremely rewarding. As you will quickly realize, just being a great attorney is not enough to succeed in the business. You have to spend your precious and limited time wisely. You must learn to hand off tasks to the talented people around you. You have to market yourself and persuade strangers to hire you over your competition. Finally, you have to set reasonable expectations with your clients so that they are satisfied with your work and become future referral sources.

This article is aimed primarily at lawyers who recently opened up their own practice. This article is also helpful to those who have had a solo practice or small firm for a while.

## Spending Too Much Time on Administrative Tasks

When you are a solo, you wear many hats. You handle the marketing, networking, bookkeeping, etc. Oh yeah, and the lawyering. It can be overwhelming. When cash is tight, you have to bite the bullet and do everything yourself. But at the first opportunity, get help!

The rule of thumb to use when considering hiring outside help is— Would you pay your hourly rate to perform X administrative task? Of course not. If you ask yourself this question every time you are scheduling meetings, doing client intake, or summarizing voluminous documents, the answer will be clear.

In the post-Covid world, it is easier than ever to find contract attorneys, paralegals, and support staff who work remotely on a part-time or per-project basis. And for every time-consuming administrative task that a

solo encounters, there is sure to be an app that will easily save you time and money.

If you are still not convinced, think of it this way. You can use the time that is freed up to perform more billable work, go to a networking event to get more business, or hang out with your family.

## Staffing

Finding wonderful staff is easy, if you know where to look. Rather than posting a job opening online, consider approaching local paralegal programs or community college legal studies programs for part-time candidates. These students have a desire to get into the field and are motivated to learn and excel. You can also find potential candidates by asking your colleagues. They may know someone who is looking for a new role.

When hiring a part-time staff member, be flexible. A candidate is not going to commute an hour each way to work a three- or four-hour shift. Working from home, or a hybrid model, should be an option for them. Be creative. If a colleague has a great helper but does not have enough work for them, you can jump in and give them some extra hours.

## Competition From Other Firms or Alternative Services (Like Legalzoom and Rocket Lawyer)

A solo is never going to have the marketing budget of large law firms and corporations. You are never going to outspend them. You need to market yourself differently. When competing with bigger firms, explain how you are different. You are going to work on the case yourself. You live and work in the same community as your client. You charge less for superior work.

When competing with alternative services, it is important to convey that a local licensed attorney's work product is far superior and effective than those websites that cheaply crank out leases, LLC formation filings, and trusts with the click of a mouse.

There are many effective ways to market yourself without breaking the bank. Join a professional networking group and attend local bar and chamber of commerce events. Volunteer to speak at civic group lunches. Grab a colleague or two and speak at a library together. The key is to get yourself out there and establish genuine relationships.

## Managing Client Expectations From Intake to Communication

Managing your clients' expectations is crucial to running a successful practice. The consequences of not managing their expectations run from an unhappy client (at best) to bad online reviews and State Bar complaints. The first conversation with the potential client can reveal a lot. Do they want to schedule the call at an odd hour? Are they easy to reach? What method of communication do they use? Do they repeatedly ask you to promise a certain result or outcome? Are their expectations unrealistic? Based on this conversation, you can decide if they are going to be a good fit.

In that first conversation, you need to let them know your fee and what you are able to achieve (and not achieve). Give them a rough timeline. There is a strong desire to tell the potential client what they want to hear in order to win them over. Tread carefully.

During the course of your representation, you may notice that your client's expectations, whether it be about your fee, how quickly you respond to their inquiries, or the ultimate case result, are unrealistic or unreasonable. You should quickly contact your client and assertively address their concerns. Do not procrastinate. The longer the issue is left to fester, the more likely your client will assume you agree with their expectations.

At some point, it may become clear that you and your client do not see eye-to-eye on important issues. The issues may be critical enough that you have to consider withdrawing. Just as your client has the right to fire you, you have the right to fire your client. Obviously, this option should be your last resort. If you choose to stick with your client until the bitter end, remember to learn from the awful experience.

The key to client expectations is communication. Talk to your clients. And more importantly, listen.



*Jim Yu runs a solo personal injury practice in Walnut Creek and helps seriously injured pedestrians and bicyclists. He is a Past President of the Alameda-Contra Costa Trial Lawyers Association. Northern California Super Lawyers magazine named Jim as a Top 100 Lawyer, one of just six solos on the list.*

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# Checklist

## for Starting a Law Firm

by Ray Robinson

### Introduction

The process of starting your own law firm can be both exciting and intimidating. Reasons for being your own boss include work-life balance, work flexibility, autonomy, unlimited decision-making, and financial freedom. With that comes stress, uncertainty, consequences for bad decision-making, and the risk of insolvency.

Planning is key to successful start. Most new businesses fail in the first year of operation or operate at a loss. Law firms are no different. To succeed, you will need to know how to think like a business owner in addition to thinking like a lawyer. You will also need to know what essential tools are needed to get your firm off the ground from the moment you are sworn in to practice.

### Regulatory Tasks

#### State Bar Profile, Card and Wall Certificates

Once you are sworn in, you need to create your State Bar profile. On the State Bar's website, click on the Attorneys tab and go to the State Bar Profile Help Guide.<sup>1</sup> Once you create your profile, you can print a paper bar card<sup>2</sup> or order a plastic one. You can also order a wall certificate. If you intend to practice in federal court, you must apply for admission to each federal district court and pay the one-time admission fee. Once admitted, you can order wall certificates for that court.

#### Rules of Professional Conduct (RPC) and Ethics

Adhering to the RPC is crucial to your success as a lawyer and avoiding disciplinary action. Once your profile is created, you should print and review a current copy of the RPC.<sup>3</sup> You should also print a current copy of the handbook on Client Trust Accounting<sup>4</sup> (CTA) for California attorneys. Additionally, you should register for the State Bar's Ethics/CTA

classes,<sup>5</sup> which are conducted online via Zoom or on a similar platform. Registered participants will receive helpful resource materials including a PowerPoint presentation, handbook, exam, and link to class.

#### Open an Operating Account and IOLTA

Once your firm name is established, you need to open a business checking account and if you intend to hold money on a client's behalf, you will need to open an IOLTA<sup>6</sup> (*Interest on Lawyers' Trust Accounts*). An IOLTA may not be needed



Continued on page 14 ►

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# Checklist for Starting a Law Firm

Continued from page 13

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under certain circumstances. The IOLTA class and handbook are helpful to assist you with determining whether your business platform requires you to have an IOLTA. Lawyers have statutory and ethical obligations to safeguard funds they hold in trust for their clients or other people. Lawyers must keep those funds separate from their business and personal accounts and must maintain accurate books and report timely and completely to their client regarding the status and accounting of these funds. To strengthen public protection and better support attorneys in fulfilling their client trust accounting duties, the State Bar implemented the Client Trust Account Protection Program (CTAP). With very few exceptions, all California lawyers must comply with the reporting requirements through their State Bar Profile. The new requirements may be found on the State Bar's website.

## Insurance: Malpractice, Life, and Business

Rule 1.4.2.(a) of the RPC requires you to disclose in your fee agreement whether you have professional liability insurance. The CCCBA and the State Bar sponsor several insurance programs specifically designed to serve the needs of licensed attorneys. These programs include malpractice, life, and business insurance. Information on these products is available on CCCBA's Member Benefits page<sup>8</sup> and at CalBarConnect.<sup>9</sup> Keep in mind, when selecting malpractice coverage, you may find it beneficial for coverage that covers the cost of defending against discipline proceedings. The added coverage is often minimal but good to have in case you need representation in defense against a State Bar complaint.

## Create a Fee Agreement

California Business and Professions Code section 6148 requires a written fee agreement anytime it is reasonably foreseeable that the costs to a client, including attorney fees, will exceed \$1,000. You can find sample fee agreement templates on the State Bar's website by typing "sample fee agreements" in the search window or go to the forms page.<sup>10</sup>

## MCLE Compliance

With few exceptions, all active State Bar licensees

must complete 25 hours of Minimum Continuing Legal Education (MCLE) in their three-year compliance periods and file a report with the State Bar. For MCLE compliance and fees, visit the State Bar's website for MCLE.<sup>11</sup>

## Business Arrangements:

### Choose Firm Name and Create Your Branding

You must form your legal entity. Select a name that does not violate the RPC. For example, the name cannot be misleading to the public (i.e. Attorney and Associates if you are a sole practitioner). If you intend to operate as a sole proprietor, check with your county recorder's office to see if the firm name is already in use by someone else. Once the county recorder approves your selection, you will need to publish the fictitious business name statement in a local newspaper (unless the name selected is your own personal name).

California professional law corporation name endings permitted by the California Secretary of State and State Bar include: A Professional Corporation, A Professional Law Corporation, Professional Corporation, Law Corporation, A Professional Legal Corporation, and others. Depending on the type of entity formation you select, you may be required to register with the State Bar. If you intend to operate in a corporate form, check with the Secretary of State to see if the corporate name is already in use by someone else.

Once you have selected a firm name, you should think about your branding. Creating a logo, website, and email address is a good start to branding your business. There are a lot of companies that will assist you with branding. Selecting an email address is the easiest and least expensive part of branding. Take your time constructing your website and logo, even if you need to purchase temporary business cards until your website and logo selection are complete.

### Office: Home, Brick-and-Mortar, or Virtual?

The least expensive office is likely a home office. The challenge, however, is when a client wants a face-to-face meeting. During the height of the pandemic, most client meetings were held remotely using computer video. Nevertheless, if you operate a home office and need to meet face-to-face with a client, you can meet at the client's residence or ask a colleague if you can use their conference

room. Conference room rentals are also available at CCCBA for its members and the new Contra Costa County Law Library in Martinez for the general public. Keep in mind, depending on the city where you reside, you may be required to obtain a business license to operate a home office, regardless of whether clients come to your home.

The most expensive is office space. Most office spaces are rented based on a yearly or multi-year lease. Usually, rent is based on a price per square foot. Additionally, some landlords pass CAM (common area maintenance) costs to the tenant (on top of office rent) to reimburse the owner for the expenses paid to maintain the property. CAM charges can include taxes and insurance the owner pays.

Virtual office space is hybrid approach to a home office and brick-and-mortar. For a low fixed fee, you can use their address location for advertising, meeting with clients, mail delivery (and in some cases telephone calls). For an excellent Contra Costa Lawyer magazine article on software and office set-up resources, see: <https://www.cccb.org/article/going-virtual/> for more information.

## Mentorship

Perhaps the most important tool for success with starting a law firm is mentorship. As a CCCBA member, you can join numerous sections<sup>12</sup> (including barristers/young lawyers and solo practice/small firm). Most sections are set up to provide you with mentorship.

## Networking and Advertising

Revenue is key to avoiding insolvency. Before you open your firm, you need to have a plan in place for generating revenue. Networking and having an advertising plan are good places to start. Don't be afraid to ask other solo practitioners how they generate revenue. Most will share the do's and don'ts with you. You just have to ask.

## Case Management and Online Research

There are several case management platforms in the market. Although price is a major factor in your selection, reviews by attorneys that have used the software and software capabilities should be key to your decision. For example, if you are a general practitioner, you want a case management program that you can use in every type of

case that you practice. Many platforms (including Clio, PracticePanther, and Smokeball) offer free trial periods of their software. Members of CCCBA also have access to discounts on a variety of practice management software and legal technology solutions. See CCCBA member benefits.<sup>13</sup>

Having access to online research is important. Members of CCCBA enjoy use of vLex FastCase.<sup>14</sup> Additionally, the Contra Costa County Law Libraries offer free access to online research databases, including CEB. Clio also offers a free guide to starting a law firm. Smokeball offers free trust accounting and billing software for CLA members.

## Join Contra Costa County Bar Association

Membership brings professional development, networking events, continuing legal education, connections to new clients and an opportunity to lead and shape the legal community of Contra Costa County. CCCBA offers programs and benefits for all legal professionals, from attorneys and judges to paralegals and law students.<sup>15</sup>


## Join California Lawyers Association

After you create your State Bar Profile, you will be able to pay your bar dues online through your profile. You will also be able to join the California Lawyer's Association (CLA) and various sections. Like CCCBA membership, the CLA offers programs and benefits for its members. Recognizing the importance of trust accounting and billing, effective November 12, 2024, CLA members can get FREE access to Smokeball's trust accounting/billing software (a \$588 per user/per year value).<sup>16</sup>

## Conclusion

There are many reasons to hang your own shingle. Whether you began your legal career with BigLaw and eventually experienced burn-out; or whether being your own boss, flexible working conditions, and autonomy is simply more attractive to you, starting a law firm can be rewarding.



*Ray Robinson is solo general practitioner. He was a trial/litigation paralegal for 30 years prior to his admission to practice. He serves on the CCCBA Board of Directors, is the Vice President of Contra Costa Justice for All, and serves on various CCCBA sections. He can be reached at: ray@rayrobinson.attorney.* **Continued on page 16** 

# Coffee Talk



Coffee Talk is a feature of the Contra Costa Lawyer magazine. We ask a short question related to an upcoming theme and responses are then published in the Contra Costa Lawyer magazine.

For this issue, Guest Editor Mika Domingo asks:

## Red Flags: What do you look for when interviewing potential new clients?

A potential client who cannot describe why the opposing party is opposed to them, other than that their opponent is evil by nature or simply crazy, is a major red flag. If they can't even tell me (in simple terms) what story the opposing party wants to tell the judge or jury about the case, then they likely have a very poor understanding of the facts of their own case, will probably leave out key details, and will need to be fact-checked constantly.

- Christopher Baudino

Does the potential client have or has had an attorney in the same case?

What is the level of anger, if any, displayed by the PC? (Some anger or disappointment is to be expected but in my experience, the angrier the PC the more likely that the PC will be difficult to work with.)

Lubna K. Jahangiri, Esq.

How many lawyers has this potential client already had on their case? I will not be #4, and probably not #3 either. Especially if they've got their checkbook out, already pre-filled with my name, antsy for me to tell them the dollar amount.

- Gary Vadim Dubrovsky

I do not practice criminal law. If someone asks me whether something they are about to say is protected by attorney-client privilege more than twice, that's a major red flag.

-Anonymous

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## Checklist for Starting a Law Firm

Continued from page 15

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1. <https://info.calbar.ca.gov/knowledge/en/my-state-bar-profile-guide>

2. <https://info.calbar.ca.gov/knowledge/en/order-a-bar-card>

3. <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-Professional-Conduct/Current-Rules>

4. <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Client-Trust-Accounting-IOLTA/Client-Trust-Accounting-Handbook>

5. <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Ethics-Schools>

6. <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Client-Trust-Accounting-IOLTA/ethics=>

7. <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Client-Trust-Accounting-IOLTA/Client-Trust-Account-Protection-Program>

8. [https://www.cccbba.org/member-center/member-benefits/#page\\_section\\_7](https://www.cccbba.org/member-center/member-benefits/#page_section_7)

9. <https://www.calbarconnect.com/solutions/insurance/>

10. <https://www.calbar.ca.gov/About-Us/Forms>

11. <https://www.calbar.ca.gov/Attorneys/MCLE-CLE>

12. <https://www.cccbba.org/ccba-sections/>

13. [https://www.cccbba.org/member-center/member-benefits/#page\\_section\\_10](https://www.cccbba.org/member-center/member-benefits/#page_section_10)

14. <https://www.cccbba.org/fastcase/>

15. <https://www.cccbba.org/member-center/>

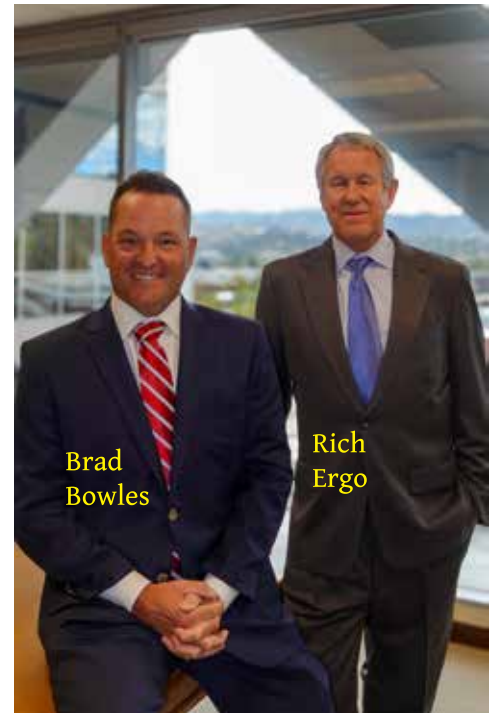
16. <https://www.smokeball.com/bar-associations/californiabill>





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To see Mr. Ergo's full biography, click on <https://www.bowlesverna.com/attorney/ergo-richard-a/>

Mr. Bowles has 25 years' experience in representing plaintiffs in personal injury matters, specializing in wrongful death and catastrophic injury matters. He routinely represents clients in state and federal courts throughout California, including as court-approved Class Counsel. He also represents clients in courts throughout the U.S. in individual actions, multi-district litigation and class actions.

To see Mr. Bowles' full biography, click on <https://www.bowlesverna.com/attorney/bowles-bradley-r/>

Mr. Ergo and Mr. Bowles are available for virtual mediations throughout the U.S., as well as in-person mediations, including mediations at their Walnut Creek office in the San Francisco Bay Area. Bowles & Verna is pleased to offer these services without an administrative fee.

For more information, please contact Rich Ergo at [reργο@bowlesverna.com](mailto:reργο@bowlesverna.com), Brad Bowles at [bbowles@bowlesverna.com](mailto:bbowles@bowlesverna.com) or Legal Assistant, Kathy Trujillo, at [ktrujillo@bowlesverna.com](mailto:ktrujillo@bowlesverna.com).

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# Independent Contractor v. Employee: Considerations When Scaling in California

By Glicel Sumagaysay

Under California law, independent contractors are generally less costly to a company than an employee because they do not require costs associated with, *inter alia*, workers' compensation insurance, unemployment insurance, and entitlements such as overtime, meal and rest breaks and reimbursement for necessary work-related expenses.<sup>1</sup> This makes independent contractors more desirable than employees, at least initially, when trying to expand.

The independent contractor may also genuinely not want to be an employee because they value or need freedom over their time. In trying to proceed with independent contractor relationships, parties to a contract should remember that workers are presumed to be employees unless the hiring entity shows otherwise. They should also remember there are steep penalties for misclassifying an employee as an independent contractor, as discussed below.

## The ABC Test

The "ABC test" sets forth factors a company must meet in order to classify a worker as an independent contractor, subject to exceptions. The test is as follows:

(A) The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact.

(B) The worker performs work that is outside the usual course of the hiring entity's business.

(C) The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.<sup>2</sup>

Typically, prong B is the hardest to meet. In order to meet prong B, the independent contractor essentially cannot do work that is related to the company's business. An example of meeting the second prong is a retail store hiring an outside electrician to install a new electrical line.<sup>3</sup> An example of not meeting the second prong is a clothing manufacturing company hiring work-at-home seamstresses to make dresses from cloth and patterns supplied by the company that the company will sell.<sup>4</sup> Generally, paralegals and legal assistants do not meet prong B in a law firm, since they perform work related to a firm's business.

## The Borello Factors

There are exceptions to the ABC test for certain occupations, including actively licensed lawyers and private investigators. When, as here, the ABC test does not apply to workers, generally, the *Borello* factors should be applied to determine whether a worker should be an employee.

The *Borello* factors are as follows:

(1) Whether the person to whom service is rendered has the right to control the manner and means of

accomplishing the result. The *Borello* Court referred to this as the “principal test” of an employment relationship. An independent contractor would have control over the manner and means of accomplishing the result.

(2) Whether the hiring party has the right to discharge at will, without cause.

(3) Whether the one performing services is engaged in a distinct occupation or business.

(4) The kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the principal or by a specialist without supervision.

(5) The skill required in the particular occupation.

(6) Whether the principal or the worker supplies the instrumentalities, tools, and the place of work for the person doing the work.

(7) The length of time for which the services are to be performed.

(8) The method of payment, whether by the time or by the job.

(9) Whether or not the work is a part of the regular business of the principal, and

(10) Whether or not the parties believe they are creating the relationship of employer-employee.<sup>5</sup>

These factors are typically evaluated in combination. Additionally, the *Borello* Factors are applied to professional services contracts, business-to-business contracts, construction subcontractor contracts, and referral agency contracts, if certain other criteria are met.<sup>6</sup>

It is possible for attorneys to be independent contractors if they can, for example: control the manner and means of performing work for the hiring firm, set their own hours, use their own equipment, and work for

other firms. Hiring firms would be wise to ensure their attorney independent contracts comply with the *Borello* factors.

### **Bona Fide Business-to-Business Contracts**

Another way companies can engage non-employees include: bona fide business-to-business contracts. These contracts provide that a sole proprietor or other business entity can act as a “business service provider” to another “contracting business.”<sup>7</sup> Think: a paralegal who creates a business for herself and offers her services to multiple firms through UpWork.

Some key requirements include: The contracting business must demonstrate that the business service provider: is actually “free from the control and direction of the contracting business entity in connection with the performance of the work”; has any required business license or tax registration; provides services directly to the contracting business rather than to customers of the contracting business (with exceptions); can set its own hours and location of work; can negotiate its own rates; provides its own work equipment. The contract must also be in writing and specify the payment amount, applicable rate of pay, services to be performed and the payment due date.<sup>8</sup>

### **Consequences for Misclassification of Employees**

Misclassifying an employee as an independent contractor can result in a company being subject to penalties and, for nonexempt workers like paralegals and legal assistants, backpay for unpaid overtime. Individuals and companies that knowingly misclassify their workers as independent contractors may be

subject to “a civil penalty of not less than \$5,000 and not more than \$15,000 for each violation, in addition to any other penalties or fines permitted by law.”<sup>9</sup> A non-exempt misclassified employee could also be entitled to backpay in the form of unpaid overtime plus interest, as well as premium pay for meal and rest periods that the company failed to provide the worker.

So hiring employees may be the safest bet, at least for non-lawyer workers. In any case, it behooves hiring entities to take extreme caution when engaging independent contractors.



*As the owner of Law Office of Glicel Sumagaysay, an Employment Law Firm, Glicel Sumagaysay (she/her) represents private, public and federal workers in pre-litigation and litigation claims for wrongful termination; whistleblower retaliation; disability, race, gender and other discrimination; harassment; wage theft; and other wage claims.*

*Glicel is a member of the California Employment Lawyers Association (CELA) and Chair of its Worker Outreach committee, which provides videos and programs to educate workers about their workplace rights. Glicel is currently serving a second term as the Filipino Bar Association of Northern California’s (FBANC) Legal Clinics Co-Director. Additionally, Glicel is a Co-Chair of the Asian Pacific American Women Lawyers Alliance’s (APAWLA) Civic Engagement Committee and Secretary of APABA Solano County. Glicel is a member of the Alameda and Contra Costa County Bar Associations.*

1. See e.g., IWC Order 4-2001, Cal. Lab. Code § 2802.

2. *Dynamex Operations W., Inc. v. Superior Court of L. A. Cnty.*, 4 Cal.5th 903, 957-59, 61-63 (2018) (“Dynamex”)

## Contractor v Employee

Continued from page 19

3. See, e.g., *Enforcing Fair Labor Standards*, 46 UCLA L.Rev. at p. 1159 cited in *Dynamex supra*, 4 Cal.5th at 959-60.

4. (cf., e.g., *Silent Woman, Ltd. v. Donovan* (E.D.Wis. 1984) 585 F.Supp. 447, 450-452; accord *Goldberg v. Whitaker House Coop, Inc.* (1961), 366 U.S. 28, 81 S.Ct. 933 ) cited in *Dynamex*.

5. *S.G. Borello Sons v. Department of Industrial Relations*, 48 Cal. 3d 341, 350-351 (Cal. 1989) (“Borello”)

6. Cal. Lab. Code § 2750.3(c), (e), (f), (g)

7. Cal. Lab. Code § 2776


8 Id

9 Cal. Lab. Code § 226.8

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# Solo or Big Firm, A Choice by Design: Choosing the Path Where Success Aligns

by Natasha S. Chee, Esq.

My legal career resembles the hiking trails that I often choose to traverse with twists, turns, rocks in my shoe, inclines and descents, a lot of sweat, a few steep switch-backs for good measure, a spectacular view at the top, and of course nothing ever goes as planned.

Up until a few months ago and for much of my legal career, I ran my own successful solo Entertainment and IP Law boutique firm, the Law Offices of Natasha S. Chee, working on film, TV, music, and video game projects with amazing creatives. After much consideration I joined a firm of over fifty attorneys, Donahue Fitzgerald LLP as Senior Counsel in their Entertainment, Music, and IP practice group, with an excellent reputation of serving world-renowned clients. Transitioning from a solo practice to joining a larger law firm has been both exhilarating and challenging. While solo practice may offer autonomy, entrepreneurship, and complete control over your business, larger firms may provide camaraderie, support, and resources. Each situation includes its own set of challenges and rewards. Like those “Choose Your Own Adventure” books that I read as a child, I will explore the advantages of each setup and offer guidance on deciding which adventure to follow.

## Advantages and Disadvantages of Managing a Solo Firm

Solo practice has many appealing advantages, such as being your own boss and thus having complete control over your practice - from the practice area, the clients you work with, the number of hours you work, and the freedom to make decisions without needing approval from anyone. Running your own firm ensures direct interaction with clients and handling a case from inception to final result, which can foster strong relationships

Continued on page 22 ▶

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## Solo or Big Firm

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Continued from page 21

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and client loyalty. There can be an efficiency in managing everything yourself. Being flexible is another benefit, allowing a lawyer to pivot to practice areas that are of interest. Successful solo practitioners can potentially earn more than their counterparts in larger firms, as they keep all the profits from their practice. And no one is stopping you from working wherever you choose.

Before you imagine yourself drafting an agreement on the beach, let's go over the risks associated with opening a solo practice, because they are plentiful. The biggest concern is uncertainty and financial risks, because as a solo you are wholly responsible for overhead costs, managing cash flow, administrative duties, client acquisition, and the list goes on. As a solo practitioner, you wear many hats – head marketer, sole rainmaker, one-person billing department, and office manager – and oh yeah, the actual lawyer too. You will be responsible for following business requirements, getting your own insurance, hiring staff, building a website, etc. This can be overwhelming and you may find yourself spending a disproportionate amount of time on non-billable tasks, which equals less cash flow. Also, you have to build a strong network of mentors and colleagues because you will need to co-counsel, phone a friend, or refer out cases. You also need to be strategic in marketing, branding your firm, and advertising your skills for clients to find, choose, and hire you. Being solo may hinder your ability to take on larger and more complex cases. On the flip side you may scale up too quickly and suddenly find yourself underwater if the cases fizzle out. Running your own firm may increase the pressure to succeed, which could lead to burnout.

Solo practice is best suited for lawyers who have that independent entrepreneurial spirit and mindset, those who understand that running a law firm is not just practicing law, but that it is also a business, and are comfortable with weathering storms while waiting for the sun to shine.

### Advantages and Disadvantages of Working in a Larger Firm

There are many advantages to working in a larger firm, including extensive resources, administrative support, a built-in network of colleagues, a stable salary with great benefits, and a corner office with a spectacular view. The larger firm support may allow you to focus more on practicing law and less on administrative tasks, though the extent to which that is true will depend on the skills of your support staff and your role within the firm. Larger firms often have structured mentorship programs and opportunities for professional development, such as practice group meetings, firm retreats, and sponsored events, where you can benefit from the guidance of experienced attorneys and the steady availability of learning opportunities.

Working at a reputable larger firm can bring caché and enhance your professional credibility while providing opportunities to work with influential clients and peers. The stability provided by a larger firm, including competitive salaries, bonuses, and benefits, can alleviate personal stress for people who may not be able to stomach the financial ebbs and flows of a solo practice.

Working within the hierarchical structure of a larger firm often means less autonomy, especially as a more junior attorney. Decisions must go through multiple levels of approval, and you may not have control over the types of cases you work on, depending on your experience and

ability to generate your own work. Larger firms have high billable hour requirements and performance expectations, which can lead to long hours and a stressful work environment. While larger firms offer opportunities for specialization, they may also pigeonhole attorneys into specific practice areas, limiting your ability to diversify your practice and explore different areas of law. The demands of a larger firm can also impact work-life balance and lead to mental health issues.

Larger firm practice is best suited for lawyers who crave stability, the prestige and backing of a larger firm, and having a built-in network of colleagues, at the same time understanding their place within the puzzle and being comfortable with having less autonomy.

### Start Your Own Practice or Join a Firm

When deciding whether to start your own practice or join a firm, I recommend assessing your risk tolerance, career goals, work-life balance preferences, business acumen, and financial situation. If you have an entrepreneurial spirit and are comfortable with risk, starting your own practice could be rewarding beyond measure. Looking back on my years building my own law firm business brings me a great sense of accomplishment. However, if you prefer financial stability, want to focus on practicing law instead of running a firm, and enjoy the comradery of co-workers, joining a firm might be more ideal.

Consider your long-term career goals and ask yourself what you value most - autonomy and building a business, or stability, mentorship, and opportunities to work within a team. Evaluate your financial situation and future earning potential, as solo practice can lead to higher earnings, but also comes with financial risks, especially in the beginning, ►



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whereas in a larger firm the seemingly high salary may not be a direct correlation to the amount of effort you are putting in.

My experience in both solo practice and a mid-size firm environment has given me a unique perspective on this decision. As an attorney, I have always been committed to challenging myself while maintaining impeccable service to my cherished clients. I have been fortunate to have found a firm that supports my entrepreneurial spirit and autonomy, while providing the resources and guidance to take on larger and more complex cases.

In sum, transitioning from a solo practice to a larger firm, or vice versa, requires careful consideration of the advantages and disadvantages of each. By evaluating your priorities, and being mindful of what brings joy to your practice as a lawyer, you can choose to design a path where success aligns.

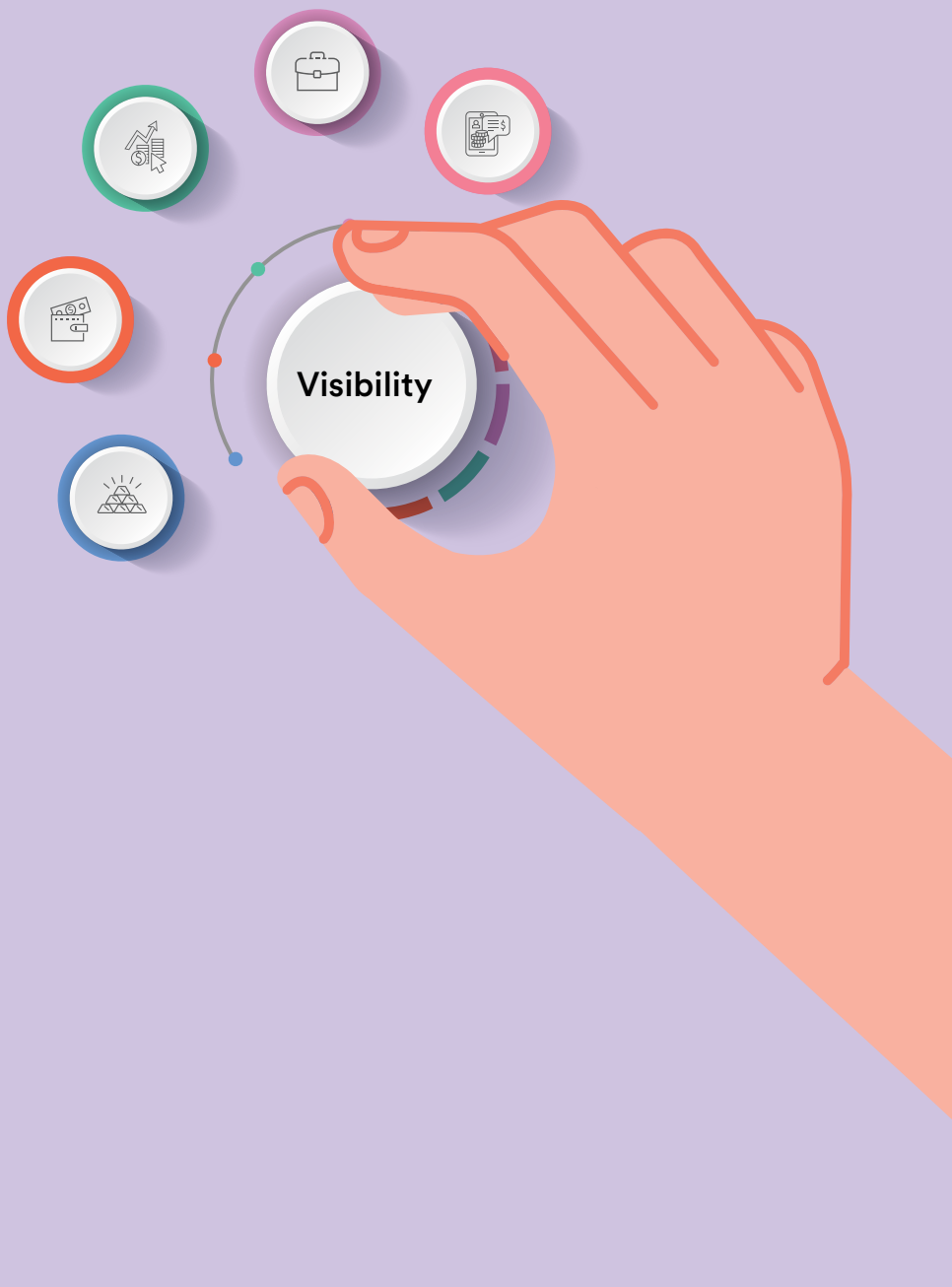


*Natasha S. Chee, Esq. is Senior Counsel at Donahue Fitzgerald LLP in their Entertainment, Music, and IP Group. Natasha is a seasoned deal-maker in the entertainment industry. She represents producers, production companies, filmmakers, composers,*

*musicians, content creators, investors, video game developers, and tech companies. Natasha has worked as Co-Producer, Attorney of Business and Legal Affairs, Post-Production Supervisor, Music Supervisor, and Script Supervisor on numerous films. She is a dynamic and highly sought-after engaging speaker who is invited to speak at conferences and universities and has written numerous legal articles on the topics of Entertainment, IP, Technology, and Music Law. Natasha is a graduate of Santa Clara University School of Law with a J.D. and a High Tech Law Certificate, UCLA with a B.S. in Biochemistry and a Minor in French Studies, and UCLA School of Theater Film and Television Professional Program in Producing. To learn more about Natasha, please visit: <https://donahue.com/attorneys/natasha-s-chee/>.*

# Set Your Strategic Direction to Grow Your Law Practice

by Lydia Bednerik Neal



Whether you're launching a new solo or small-firm practice or have been at it for a while, an important aspect of ongoing success is attracting new business. But where to start? The options for spending your hard-earned dollars on marketing "opportunities" seem limitless. So how do you separate the wheat from the chaff?

## Create Your Business Development Roadmap

When considering your marketing journey, start by articulating what success looks like for you. It's not the same for everyone, so some self-reflection will help you create a manageable plan.

A good marketing plan begins with a solid business plan. What are your goals for the firm? Ask yourself:

- What kind of clients do I want to represent?
- What kinds of matters do I want to take?
- How do I want the firm to grow now? In the future?
- Is recruiting partners, associates or other talent a focus?
- Which geographies or industries can I effectively serve?
- What's my business exit strategy? For example, when I retire, will I simply take down my shingle or position my practice for a future sale?

Before you develop your marketing plan, it's a good idea to create a strategic business plan based on a thorough SWOT analysis (identifying your Strengths and Weaknesses, as well as the market Opportunities and Threats to your success). With this self-reflection, you'll have a good foundation on which to build your business development and marketing plan.



## Do Your Research

Now that you've clearly articulated the kinds of clients you want to represent, you can move forward with developing your messaging and brand expression. What problems will you solve for clients? What qualities or themes will resonate with these audiences? To help create a unique message that positions your practice effectively, explore the competition. How do they talk about themselves? Identify differentiating factors or service promises you can promote to set yourself apart.

Next, discover where your prospects and referral sources engage. Are they members of professional associations or civic groups? What are the publications they read, websites they visit or events they attend? These venues and channels will be the roadmap for your visibility plan, focusing your activity.

## Align Your Brand With Your Strategic Direction

The hub of your brand and service offerings will likely be your website. Be sure it speaks to your potential clients, both in words and imagery. Highlight your services and demonstrate your competence with representative work in your area of focus (of course, always minding the rules of professional conduct for advertising and solicitations). This might include testimonials and case studies or lists of representative matters. Don't just tell people you are an expert, show them by drawing a picture with enough specific detail to showcase your story. Then, be consistent about your visual brand across all of your materials.

## Increase Your Visibility

There are nearly limitless ways to promote your firm. Ultimately, what works for you will require leveraging your strengths, interests and resources in the places your prospective clients frequent. Here are a few

activities to consider incorporating in your plan:

## Writing, Speaking and Thought Leadership

Showcasing areas of focus and expertise through writing and speaking positions you as a good fit for prospective clients. Take advantage of news cycles and industry trends. Then, be sure these activities appear on your profile. This credentialing offers potential clients reassurance that you are well-versed in the nuances of their specific problem. Some venues for content include hosting or guesting on:

- Industry and trade media outlets
- Podcasts and blogs
- Short-form video
- Webinars
- Panels and conferences

## Social Media

Consistent use of social media allows you to deepen relationships, stay top of mind, and expand your reach beyond your personal network. Which platforms are your prospects likely to use? Engage there. LinkedIn is the most heavily trafficked for business relationships, but other platforms may have a strategic usefulness in your plan.

## Paid Advertising

Some practices will benefit from paid advertising. Whether you need to reach a wide audience (and have the budget) or a narrow prospect pool, you might consider advertising in outlets and channels such as:

- Print (magazines, newspapers, etc.)
- Billboards and physical signage
- Broadcast (radio and television)

- Captive monitors (lobbies, elevators, etc.)
- Digital (websites, podcasts, native content, e-newsletters)
- Social media
- Organizations (publications, conferences, sponsorships)
- Directories and listings

Today's technology enables advertising to reach much more narrowly targeted audiences and gain valuable insights into the campaign's effectiveness. Include specific calls to action (CTAs) to drive engagement. Then, be sure to monitor your results and adjust your campaigns, as necessary.

## Sponsorships

Consider aligning your brand with relevant causes or business, civic or community programs, either through pro bono services and volunteering or paid sponsorships. These activities not only showcase your name and logo, but also often come with additional benefits. When sponsoring, don't leave tickets, signage or other included benefits unused. If there is a benefit you simply cannot use, ask for an alternative. And be sure to celebrate your support on firm platforms.

## Get Creative

Beyond the tried-and-true methods discussed, some practices (and personalities) lend themselves to other creative ways for gaining visibility. Incorporate your personal interests into your business development so it doesn't feel like a chore. If you love mountain biking, form a riding club with a network of referral sources. If you enjoy fine dining, sponsor and organize client events around restaurant week.

Continued on page 26 ►

## Strategic Direction

Continued from page 25

### Other ideas might include:

- Video explainers or client stories
- Publishing a white paper, book or industry resource
- Hosting client or community events
- Strategic partnerships with trusted, aligned service providers

### Leverage Your Resources

Be realistic about your available resources (bandwidth, money and

expertise). It's better to do a few things well consistently. Remember that clients and referral sources need brand repetition to keep you top of mind, so for any initiative, think about all of the ways you can cross-promote the same materials or message in as many formats as possible. Be sure to develop a system for tracking the leads generated through your activities. You'll want that information to guide your future decisions.

### Use Your Strategic Plan as a Lens for All Future Decisions

Whenever a new marketing opportunity comes across your desk, ask

how it supports your plan. Just because other law firms are doing something, doesn't necessarily mean it's right for you. Don't be afraid to say "no" to anything that doesn't advance your goals.

If you are thoughtful about your approach, your marketing and business development efforts will continue to yield results far into the future.



*Lydia Bednerik Neal is Vice President of Marketing Services at Blattel Communications, where she helps lawyers and other professional services clients create and implement strategies to grow their practices. She can be reached at [lydia@blattel.com](mailto:lydia@blattel.com).*

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Please bring a non-perishable food item (or more) for donation to the Contra Costa Food Bank - and an unwrapped toy for the Annual Toy Drive for homeless children, sponsored by CCCBA's Juvenile Section!



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# CALENDAR

## UPCOMING EVENTS | OVERVIEW

December 12 | CCCBA

### 2024 CCCBA Holiday Party

(In Person)

5:30 pm – 8:00 pm | The Greenery, 1551 Marchbanks Drive, The Eagle Room, Walnut Creek | Free for CCCBA members, \$35 non members

**Sponsors:** JAMS | Judicate West  
For more information, see page 26.

January 9 | Barristers

### Barristers 2nd Annual AFTERGLOW Party (In Person)

Location and details TBD

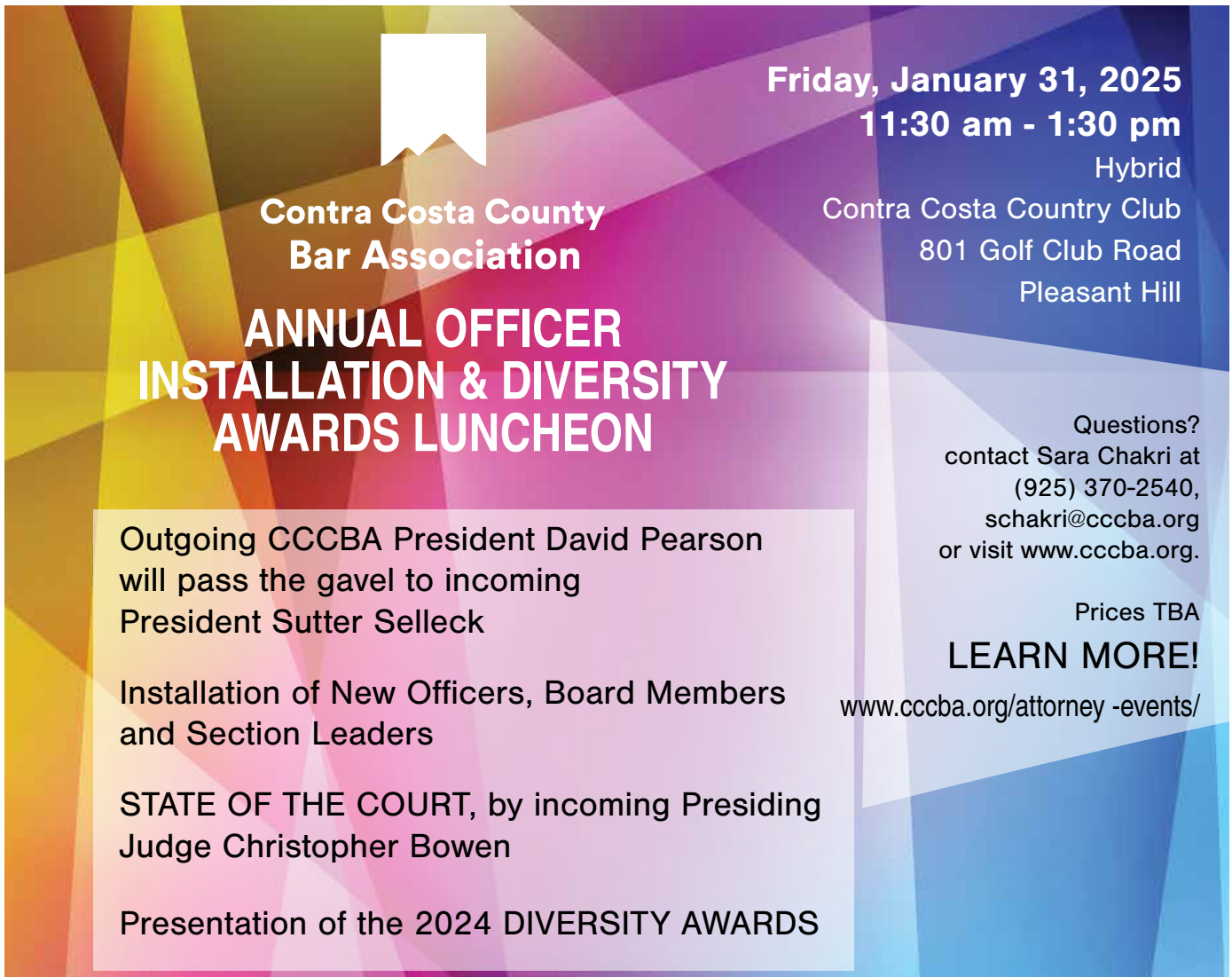
January 31 | CCCBA

### Annual Installation and Awards Luncheon

(Hybrid)

11:30 am – 1:30 pm | Contra Costa Country Club, 801 Golf Club Rd., Pleasant Hill | Details TBA

For more information, see below.



**Contra Costa County  
Bar Association**

**ANNUAL OFFICER  
INSTALLATION & DIVERSITY  
AWARDS LUNCHEON**

**Friday, January 31, 2025  
11:30 am - 1:30 pm**  
Hybrid  
Contra Costa Country Club  
801 Golf Club Road  
Pleasant Hill

Outgoing CCCBA President David Pearson will pass the gavel to incoming President Sutter Selleck

Installation of New Officers, Board Members and Section Leaders

STATE OF THE COURT, by incoming Presiding Judge Christopher Bowen

Presentation of the 2024 DIVERSITY AWARDS

Questions?  
contact Sara Chakri at  
(925) 370-2540,  
schakri@cccba.org  
or visit [www.cccba.org](http://www.cccba.org).

Prices TBA

**LEARN MORE!**  
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# CLASSIFIEDS

## ADVERTISING SPACE AVAILABLE

Did you know that you can run classified ads in Contra Costa Lawyer and also on the CCCBA website? Classified ads run on the CCCBA website for 30 days. Members pay just \$75 per month for online classified ads that can include photos or graphics. For information, please contact Carole Lucido, CCCBA Communications Director at (925) 370-2542 or [clucido@cccba.org](mailto:clucido@cccba.org).

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# Advertiser Index

Acrisure . . . . .	31	The Congress of Neutrals . . . . .	19
ADR Services . . . . .	6	JAMS . . . . .	28
Barr & Douds Attorneys	23	Judicate West. . . . .	2
Bowles & Verna LLP . . .	17	LawPay . . . . .	12
The Bray Law Firm . . . . .	9	Lawyers Mutual . . . . .	27
Casper Meadows Schwartz & Cook . . . . .	32	Morrill Law Firm . . . . .	20
Contra Costa Senior Legal Services . . . . .	30		

## Advertising Opportunities

### Contra Costa Lawyer Magazine - Print and Online



The Contra Costa Lawyer is the official publication of the Contra Costa County Bar Association. It is published every other month for an audience of more than 1,500 attorneys, judges and court officials, law libraries and public officials involved with the administration of justice in Contra Costa County and has a readership of approximately 4,500 online.

Both the print and online editions of Contra Costa Lawyer have won awards of excellence from the National Association of Bar Executives.

Cost effective display and classified advertising opportunities are available in the print magazine. Online ads are available on the CCCBA's website: [www.cccba.org](http://www.cccba.org).

View and download the complete media kit at [www.cccba.org/flyer/2025/ccba-adkit-2025.pdf](http://www.cccba.org/flyer/2025/ccba-adkit-2025.pdf)

Contact CCCBA Communications Director Carole Lucido if you have questions, [clucido@cccba.org](mailto:clucido@cccba.org) or (925) 370-2542.

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