

## Small Firm Practice

### In This Issue

Private Investigation for the Small Firm


Managing a Small Law Firm

Your Law Practice and Negative Yelp Reviews

Laptops and Lattes: A Trip to the Coffice

Virtual Office — A New Path to the Future





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# RIVERSIDE LAWYER

MAGAZINE

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# MISSION STATEMENT

## Established in 1894

The Riverside County Bar Association, established in 1894 to foster social interaction between the bench and bar, is a professional organization that provides continuing education and offers an arena to resolve various problems that face the justice system and attorneys practicing in Riverside County.

## RCBA Mission Statement

The mission of the Riverside County Bar Association is:  
To serve our members, our communities, and our legal system.

## Membership Benefits

Involvement in a variety of legal entities: Lawyer Referral Service (LRS), Riverside Legal Aid, Fee Arbitration, Client Relations, Dispute Resolution Service (DRS), Barristers, Leo A. Deegan Inn of Court, Mock Trial, State Bar Conference of Delegates, Bridging the Gap, and the RCBA - Riverside Superior Court New Attorney Academy.

Membership meetings monthly (except July and August) with keynote speakers, and participation in the many committees and sections.

Eleven issues of *Riverside Lawyer* published each year to update you on State Bar matters, ABA issues, local court rules, open forum for communication, and timely business matters.

Social gatherings throughout the year: Installation of RCBA and Barristers Officers dinner, Law Day activities, Good Citizenship Award ceremony for Riverside County high schools, and other special activities.

Continuing Legal Education brown bag lunches and section workshops. RCBA is a certified provider for MCLE programs.

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*Submission of articles and photographs to Riverside Lawyer will be deemed to be authorization and license by the author to publish the material in the Riverside Lawyer.*

*The material printed in the Riverside Lawyer does not necessarily reflect the opinions of the RCBA, the editorial staff, the Publication Committee, or other columnists. Legal issues are not discussed for the purpose of answering specific questions. Independent research of all issues is strongly encouraged.*

# CALENDAR

## JUNE

- 6 RCBA Adopt-a-School Reading Day**  
7:30 a.m. – 9:30 a.m.  
Magnolia Elementary School  
3975 Maplewood Place, Riverside  
RSVP to charlene@riversidecountybar.com
- 7 & 8 Conservatorship/Guardianship Overview**  
8:30 a.m. – 5:00 p.m.  
RCBA Gabbert Gallery  
RCBA Members - \$900; Non-Members - \$1,100;  
Paralegals - \$700  
Registration Fee - \$150 – non-refundable  
Register by June 6 at [riversidelegalaid.org](http://riversidelegalaid.org)
- 16 General Membership Meeting**  
Noon – 1:30 p.m.  
RCBA Gabbert Gallery  
Speaker: Professor Steven E. Clark, UCR,  
Professor of Psychology, Director of the Presley  
Center for Crime and Justice Studies  
Topic: “The Revelation in Eyewitness  
Identification Research & Implications for  
Policy & Expert Testimony”  
MCLE
- 22 CLE Brown Bag**  
Noon – 1:15 p.m.  
RCBA Gabbert Gallery  
Speaker: Stefanie Field  
“Motions for Summary Judgments: Winning  
Strategies”  
MCLE
- 27 Appellate Law Section**  
Noon – 1:15 p.m.  
RCBA Gabbert Gallery  
Speaker: Presiding Justice Manuel Ramirez  
Court of Appeal, 4th District, Division 2  
Topic: State of the Court of Appeal  
MCLE
- 28 CLE Presentation**  
Noon – 1:15 p.m.  
RCBA Gabbert Gallery  
Speakers: Tim Scanlan & Dorothy Scanlan  
Stevens  
Topic: “Getting Real with Plaintiff’s Recovery:  
The Financial & Legal Aspects of Settlement  
Planning”  
MCLE

## JULY

- 12 CLE Brown Bag**  
Noon – 1:15 p.m.  
RCBA Gabbert Gallery  
Speaker: David M. Goodrich  
Topic: “Enforcement of Judgments: Getting it  
Right”  
MCLE
- 19 CLE Brown Bag**  
Noon – 2:15 p.m.  
RCBA Gabbert Gallery  
Speaker: Ken Matejka, J.D., LL.M.  
Topic: “Your Firm’s Web Presence, Online  
Content Creation and Related Ethical Issues”  
MCLE – 2 hours total (includes 1 hour of Legal  
Ethics)  
Every attendee will receive a complimentary  
copy of the 2017 edition of his bestseller *The  
Lawyer’s Ultimate Guide to Online Leads*.

*For the latest calendar information please visit  
the RCBA’s website at [riversidecountybar.com](http://riversidecountybar.com).*





# President's Message

by Jean-Simon Serrano

This month's issue is about small firms and small firm practice. The vast majority of work I do is done on a contingency basis (attorney fees are a percentage of total settlement), which could be problematic if I was at a small firm or solo practice. Fee structures like this result in an uneven cash-flow. If I was a solo practitioner, weeks or even months could go by without settling a single case and without any fees being earned. This uneven flow of funds would become even more problematic when expenses, such as rent and employee payroll, are considered. It would be unreasonable to expect staff to wait for a case to settle to get paid. It may even affect what cases I decided to take. Chiefly, I'd probably take a lot less medical malpractice cases.

Since at least 1975 and the formation of the Medical Injury Compensation Reform Act (MICRA), medical malpractice laws have been greatly slanted in favor of medical personnel.

Due to things such as the cap on general damages (\$250,000 set in 1975 and never adjusted for inflation); very short time limits for the commencement of an action (generally only one year); and statutorily set attorney fees, it is very hard for injured plaintiffs to find an attorney willing to take a medical malpractice case. These difficulties are all compounded for a solo practitioner.

Additionally, case law since MICRA's inception has only acted to broaden its scope, making medical malpractice cases less and less practical to pursue each year.

A year ago, the case of *Flores v. Presbyterian Intercommunity Hospital* (2016) 63 Cal.4th 75 had harsh effects for potential plaintiffs. Ms. Flores was injured when one of the rails on her hospital bed col-

lapsed as she was attempting to get out of bed. The rail had been raised pursuant to doctor's orders and evidence showed that it collapsed because the hospital had been negligent in maintaining its equipment, including the bed in question. Ms. Flores sued, alleging that the hospital's negligent failure to inspect and maintain its beds led to her injury. The hospital demurred on the grounds that the complaint, while filed well within the general two year statute of limitations for negligence in California, was not filed within the one year statute of limitations for medical malpractice claims. The trial court granted the demurrer. On appeal, plaintiff argued that the failure to maintain hospital equipment was ordinary negligence and not "professional negligence" governed by MICRA. The California Supreme Court disagreed, finding that the case fell under MICRA's medical malpractice umbrella and Ms. Flores was precluded from pursuing her claim because it was filed more than one year after the date of her injury. Was the hospital's failure to maintain its beds really medical malpractice?

A more recent case, *Cuevas v. Contra Costa County* (2017), 11 Cal. App.5th 163, expands the reach of MICRA, yet again, in a way unfavorable for injured parties. The plaintiff, Brian Cuevas, is an infant who was born with severe brain damage due to the negligence of his mother's doctor. He will be dependent on the care of others for the rest of his life. At trial, the jury found in favor of Brian Cuevas and awarded him \$9,577,000 as the present cash value of his future medical care and rehabilitation care expenses. This number was only a fraction of the \$29 million present cash value amount calculated by plaintiff's experts and requested by plaintiff. The defendants argued that plaintiff's future medical expenses should only be \$3.2 million. When the jury returned a verdict for \$9.5 million, the defendants promptly appealed the ruling.

On appeal, the defendants argued that, because of the Affordable Care Act (ACA or Obamacare), it should have been allowed to tell the jury that the plaintiff's future medical needs would be partially provided for by Obamacare and should be valued much lower than the \$9.5 million awarded. The trial court barred any mention of the ACA by the



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defendants at the time of trial as being evidence of a collateral source under Civil Code section 3333.1.

The appellate court reversed, finding that Civil Code section 3333.1 permits the introduction of evidence regarding future as well as past medical benefits. The court determined that the trial court's decision to exclude evidence of future insurance benefits that might be available under the ACA, on the basis that the ACA might not be in existence in the future, was an abuse of discretion. Thus, it was error for the jury not to consider that some of the plaintiff's future medical care may be covered, in part, by Obamacare. The appellate court reversed the judgment, remanding it for new trial on the amount of plaintiff's future medical damages – such that a jury may consider Obamacare and its effect in diminishing the value of plaintiff's future damages.

Though the jury's verdict was well below the amount calculated by plaintiff's experts (by \$20 million), the court found that the jury must take into account that Obamacare may exist to provide services for the plaintiff in the future. In turn, the doctor should receive the benefit of this potential collateral source, thereby reducing the judgment owed by her (insurance) for the lifetime of treatment she inflicted upon Brian Cuevas. Let's not

also forget that the value of the lifetime of pain and suffering Brian Cuevas is guaranteed to suffer is limited to \$250,000.00.

It's getting increasingly difficult to pursue a medical malpractice case in California and I suspect that, without changes to the law, small firms and solo practitioners will not be handling them at all in the future. Due to MICRA and surrounding case law, juries may be prevented from awarding an amount that the jury feels is fair. The attorney is prevented from contracting for a price that she feels is fair, and all must be done within short time limits.

Practically speaking, fewer attorneys are willing to take medical malpractice cases and MICRA has emboldened malpractice insurance carriers to take cases all the way to trial, instead of settling the cases, because their potential exposure is capped. As a result, this significantly increases the cost of litigation for plaintiffs. All of this results in the prevention of people who have legitimate, but smaller, malpractice complaints from ever finding an attorney. This effectively limits many victims' access to the courts.

*Jean-Simon Serrano is an associate attorney with the law firm of Heiting & Irwin.*



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# BARRISTERS PRESIDENT'S MESSAGE

by Erica Alfaro



## Member Update

I want to take this opportunity to thank Christopher Marin for his dedication and service to the Barristers board. Chris first came on the board as a member at large in 2013 and quickly worked his way to president from 2016-2017. Chris was thrilled to be on the board this year as the immediate past president, because

there is so much "fresh blood" with great ideas and the energy to carry them out. He attributes that success primarily to two people: Erica Alfaro, who he believes has done an excellent job leading the Barristers and the board this year, and Robyn Lewis, who re-energized and re-activated young attorneys with the New Attorney Academy (where he also served on the founding steering committee).

Depending on the day, Chris classifies himself as either an attorney moonlighting as a substitute teacher or a substitute teacher moonlighting as an attorney. Most of his current sub assignments are in Perris Union High School District, although he occasionally subs in Alvard Unified School District as well. Law-wise, he has a few active cases for some close family friends, but not actively seeking clients right now. He also volunteers for Riverside Legal Aid's Family Law Clinic, and also sits on their board. We are grateful for Chris' service to the Barristers board as well as to the entire legal community.



Christopher Marin

## Announcements

Thank you all for attending the new attorney reception on May 17, 2017! We would like to thank all the bench officers, elected officials and attorneys for coming out and making our event a success! We are so lucky to live in a community where our bench, bar and legislature are committed to helping young professionals achieve their full potential. With all of our joint efforts to make Riverside a great place to live, we really DO make Riverside a great place to live. Photos taken at the event will be featured in next month's article.

Elections will held on June 14 from 5:30 p.m.-7:30 p.m. at Heroes Restaurant Patio located at 3397 Mission Inn Avenue in Riverside. Only Barristers members who have attended two Barristers meetings may vote.

Candidates are as follows:

President: Shumika T. R. Sookdeo

President Elect: Breanne Wesche

Past President: Erica Alfaro

Treasurer: Nesa Targhibi

Secretary: Priscilla George

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Goushia Farook

Braden Holly

Kris Daams

Michael Carney

Paul Lin

Kusum Joseph

Erica Alfaro currently works at State Fund.



## \* ATTENTION RCBA MEMBERS \*

### How would you like to receive (or read) the *Riverside Lawyer* magazine?

Some members have told us they prefer reading the online version of the *Riverside Lawyer* (available on our website at [www.riversidecountybar.com](http://www.riversidecountybar.com)) and no longer wish to receive a hard copy in the mail.

**OPT-OUT:** If you would prefer not to receive hard copies of future magazines, please let our office know by telephone (951-682-1015) or email ([rcba@riversidecountybar.com](mailto:rcba@riversidecountybar.com)).

Thank you.

# PRIVATE INVESTIGATION FOR THE SMALL FIRM

by Boyd Jensen

Private Investigation is a “brave new world.” When I started practicing it was largely field work, later improved by cell phones and now largely, if capable, sitting in front of a computer. Internet/cyber investigations are often referred to as Social Media Investigations (SMI). Using “Open Source Intelligence” (OSINT) surface web and the deep web are searched, obscure forms of social media (SM) such as blogs, chat forums, etc., in addition to well-known SM platforms (Facebook, YouTube, Instagram, etc.). This article presents the option and potential value of social media investigations using open source intelligence, particularly as can be used by the small firm.

## Why SMI

The internet has changed the way we do almost everything. As of the end of 2016, Facebook had approximately 1.5 billion active monthly users, Twitter 1.3 billion registered users, and Instagram 500 million active monthly users. Those are just three of the top SM platforms, and that doesn't include LinkedIn, Pinterest, Snapchat, Flickr, YouTube, Reddit, and an endless list of other SM platforms. With SM usage this high, chances are that even if the subject of an investigation isn't on a SM platform, someone close to them is. In this circumstance, statements, photos, video, historic information, interpersonal connections, and other information about a subject may be available.

Examples of information commonly posted online includes where people are going, what they are doing, family/romantic relationships, employment information, political views, business connections, investments, and physical activity. Investigative results are successfully used in jury trials, leverage in negotiations, strategic planning, business disputes, personal injury, wrongful termination, malpractice, and more. It is likely that there is someone putting information on SM that will help garner a better understanding of the facts and circumstances, as well as the involved participants.

## Locating Content

While anyone with a computer and basic computer knowledge can perform rudimentary online research, someone with OSINT training and experience can delve deeper, accelerate results, and leave less of a footprint. For example, a Google search allows Google to display its knowledge based upon textual search terms and Google's priorities. The results are often hundreds of thousands of completely speculative and irrelevant hits, maybe...you will never know. An OSINT investigator, however may more efficiently and narrowly pinpoint useful information utilizing, for example, compatible Boolean logic search techniques.

Depending on the platform, SM has additional roadblocks. Individuals and businesses often use profile aliases, nonsensical terms or phrases, or different languages to mask their identity and their activities. Conventional search methods will be unproductive, because those methods are what users expect

to be utilized when they shield their preferences, activities, and relationships. Discerning nicknames, special dates and other beneficial search criteria may best be obtained by an investigator who can backtrack their way into connections, identities, profiles and accounts, legally overcoming host site privacy settings. While the process of finding this type of information is complicated and proprietary, experienced investigators can legally obtain it. In this regard the risks of the profession of private investigation has not changed much.

## Internet Data and SMI as Evidence

Perhaps the best part of this new field of investigation is the ease with which the information can be presented as evidence. No longer is it from the mouth of an arguably biased witness, accommodating obvious cross-examination and easily articulated aspersions against anyone with tainted lenses physically peering into a party's private affairs. Rather internet data is documentary in nature and digital. It is hard to cross-examine a document or a video segment. Establishing foundation, authentication, and chain of custody are now almost entirely completed programmatically. The application or script can be preserved along with the metadata, whether it be a webpage or a SM post. A variety of pieces of information that can be extracted, including the MD5 or SHA Hash value, essentially form a digital fingerprint.

All SM platforms and most web services abide by the *Stored Communications Act* (SCA), which often limits what they can provide in response to a subpoena. This response is generally limited to the user's name, address, IP address, length of service, and telephone number. Photos, posts, or actual content from the account may be withheld depending upon the nature of the SM platform and the information sought by the terms of the subpoena.

## Conclusion

There are many private investigators in Riverside County. (See *Breeze.CA.Gov.*) The boy next door, whom I followed from Riverside elementary to high school, grew up and became a specially trained and licensed private investigator. Joseph Jones, Bosco Legal Services, Inc. VP, obtained a degree in Psychology, Social & Behavior Sciences, and is a Certified Social Media Intelligence Expert with specialized training from national intelligence organizations. He provided much of the information for this article. As a small firm proprietor who successfully completed a four-week jury trial using as evidence, data sources referred to in this article, I can recommend this “brave new world” option of investigation unequivocally.

*Boyd Jensen, a member of the Bar Publications Committee, is with the firm of Garrett & Jensen in Riverside.*



# MANAGING A SMALL LAW FIRM

*by Robyn A. Lewis*

Managing a small law firm is not an exact science. There is no “proper way” to achieve organization and efficiency. And much of what it takes to run a successful law practice is based on an evaluation of your firm’s own specific needs and demands. But I can offer some tips I have learned that may assist you in running or managing a small law firm.

## Organization Is Key

One of the most important things you can do is to centralize the organization of your office. In our office, the buck stops with me. While support staff are there to assist you, it is important to remember that the ultimate accountability for each and every file is and should be on the handling attorney for that file. Just ask any judge, who I am sure will tell you that he or she loathes attorneys who come in and blame their secretary for filing or calendaring mishaps!

It is important to start the organization of your office at the very beginning, when a file comes in. The attorney responsible for the intake of the new client should draft an intake memo, setting forth in detail all of his or her comments regarding that particular client and case. In that memo, the attorney should set out all of the special tasks that he or she would like the support staff to accomplish. I think that the intake memo is crucial, as it helps me to remember my initial thoughts on the case months after I have met with the client. It also seems to me that the client, when he or she first is meeting with you, has a better memory of the facts relating to the case. The intake memo helps the support staff to ensure that all of the tasks that need to be done during the work-up of the file are accomplished.

Using memos to the file is another great way to maintain organization. I always send a memo to the file if I have talked to opposing counsel, if I need something done and want my assistant to help me, or if any other issue arises during the handling of a case. That aids me in assuring that all tasks on the file are completed. It also provides a good basis for the history of the file if any other staff member or attorney should need to work on it, as well. For those of you who are more advanced than I am, technologically speaking, an email works just as well as a memo!

I divide our cases into two categories for further organizational purposes – pre-litigation and litigation. I

am also a big fan of the checklist. Every file in our office has a checklist, which covers the basic necessities for each file while it is classified as a pre-litigation or litigation file. For instance, since our firm is a personal injury firm, our pre-litigation checklist includes an outline for ensuring that our support staff obtains any police report, medical records, and other pertinent items that the file will require.

Litigation checklists are similar, in the sense that the checklist distills the basic necessities of bringing a case through litigation. It begins with the filing of the complaint, monitors the service of defendants, and documents discovery, depositions of witnesses, mediations, and discovery cut-offs, up to the time that a case has been set for trial.

All of the pre-litigation checklists and litigation checklists in our office are kept in binders. That way, if members of our support staff are working on a pre-litigation file, for instance, they can pull the binder and go to the checklist for that file. They can then see, at a glance, when the last time was that someone worked on the file, what was accomplished, and what still needs to be done. It also helps that attorneys can grab it and take a quick look to get basic information on a file in seconds. And it helps me to see where our firm files are and what else I need to accomplish as the firm manager.

Once a case has been resolved, there is still much to do on a file. In our office, we usually have to resolve medical liens and then pay out on all settlements that we have received. A file continues to be monitored and tracked until it has been formally closed.

Calendaring is obviously a critical task in any law office. I cannot emphasize enough how important it is to be organized with your calendaring. In our office, we have one staff member in charge of central calendaring (just as we do with accounting and check-writing). Everyone else must submit a calendaring request to her in writing so that there is no confusion. We attorneys also make it a point to have weekly calendar meetings with her and monthly meetings with the entire staff to keep everyone on track and to discuss upcoming events.

You have to evaluate your firm, your staff, and your caseload and come up with a system that best suits your needs. But, however, you decide to do it, organization is the key to the running of a successful law firm.

---

## Always Remember Customer Service Is a Priority

Sometimes, I think that attorneys lose sight of the fact that their clients are customers, just as in any other business. Clients want to know that their business is valued and that their case is being worked on diligently. I soon learned that clients would clog up the phone lines with questions about their cases when they didn't hear from our office. The better part of my day was spent on the phone with clients rather than working on their files. So I made client relations a priority for our firm. And I must admit that just a few simple things that we have adopted have really assisted us in maintaining high client satisfaction and control.

To begin with, it is important to educate clients about whatever legal process they are embarking on. Consider drafting a form letter that can be used to explain the initial legal process to your clients. Our new clients receive a lengthy letter within a week after they first meet with our firm that sets forth what they can expect during the pendency of their case. We also send clients copies of all correspondence that we send out on their behalf. It takes two seconds to print off an extra copy of a letter that you have drafted and to mail it to your client. It may cost a little more, but clients are so happy to see that you are working on their file.

During each critical step of a case, we have a form letter that is sent to the client that explains what is going on. For instance, if we send out a demand package on the case, our client will receive a copy of the demand as well as a letter that explains what a demand is and what the client can expect at that point in the case. Letters regarding filing a lawsuit, discovery and settlement are all mailed to our clients with regularity.

Once a case is done, we send the client a thank-you card. We periodically send letters to former clients, either in the form of a newsletter or simply with a business card, to remind them that we appreciate their referrals. Every holiday season, each of our clients, both current and former, receives a card from our office.

I'd like to think that those little touches have turned into a steady stream of referrals from clients who have been pleased with our representation. But, however you decide to do it, client management is critical for smooth firm operations, in addition to making good business sense.

## Take Advantage of Outside Resources

If you are a solo practitioner or a member of a small firm, you may not have the resources that other, larger firms may enjoy. But there are many things that you can take advantage of to assist in the running of your firm.

The best tip that I can give you is . . . use legal interns! I can't emphasize how invaluable they can be to a small law firm. Many interns just want the experience of working in a law office and are willing to work for free or for a small hourly fee. When my husband, Jonathan Lewis, who is a solo practitioner in Riverside, first opened his doors, he could not afford any support staff. However, as his practice grew, he found himself drowning without any help. He was fortunate enough to meet a very ambitious and talented student who was entering UCR. That student was interested in going to law school, but wanted to see what it was like to work in a law firm before he made that commitment. He volunteered to work for Jon for free, which worked out great for Jon, who desperately needed help but could not afford it at the time. As a side note, that intern is now a practicing family law attorney in Riverside with his own firm.

You can take advantage of other free resources, as well, to aid in your practice. For instance, the Victor Miceli Law Library offers free sessions on Westlaw and Lexis/Nexis. You can also rely on [www.findlaw.com](http://www.findlaw.com) for legal research, if you don't have the financial resources to pay for Westlaw and Lexis.

If you are a member of any of the local bar associations, keep your eye out for deals offered in their monthly publications. You can find all sorts of freebies and discounts on everything from insurance to support services.

Practicing law is hard enough, but running a practice in this day and age requires computer savvy. One of the best recommendations that I can make is to find a good computer tech person you can call upon rather than trying to deal with the hassle on your own. There are many computer tech people out there, who can assist you with networking, problem-solving, or creating the best solutions for your business for an economical price.

A small firm may often find it hard to compete with larger firms when it comes to finding staff members, because of benefits. Often, small firms or solo practitioners cannot provide health benefits to their employees because they are just too expensive – or, at least, they seem to be too expensive. The same goes for professional malpractice insurance. Having just paid our renewal premium, I know how expensive that can be.

As a solo practitioner or member of a small firm, you can always take advantage of some of the programs that the local bar associations offer. The State Bar provides discounted rates on professional liability insurance, life insurance, worker's compensation insurance, and other types of coverage. If you use the company Paychex for your payroll, you can use them as well to get discounted rates on worker's compensation insurance and even health insurance.

The many MCLE sessions that the RCBA offers are also invaluable tools to aid in your practice. You can always go to one of the brown bag lunches, the other presentations offered by different sections or even Barristers meetings. That is a really inexpensive way not only to get your MCLE credit, but also to get advice and tips from other attorneys.

## Miscellaneous Tips

### **Trust Account**

Your attorney-client trust account is an incredible responsibility and certainly one that you should not take lightly.

However you do your accounting, you should make sure that there is some form of reconciliation of your trust account for each individual client. If you find yourself in a situation where you have not been doing a regular reconciliation, I would strongly suggest hiring an accountant to help with the trust account audit and get your account reconciled. It is our firm's policy that each file must be reconciled before it is closed to ensure that what went into the trust account is exactly what went out. Our bookkeeper also reconciles the entire account monthly to make sure that there were no stop payments, wire transfer fees, or other banking costs that need to be reconciled back to that account.

### **Closed Files**

This topic often presents a dilemma to attorneys in small private practice, who are uncertain what to do about closed files. In our fee agreement, we have a provision that was suggested by Judge Thomas Cahraman when he was in private practice. That provision allows our office to destroy files after a particular period of time. When a file is closed, we place files in a numbered box that goes off-site to a storage facility. Our office maintains a record of each file contained in each numbered box. Once a year, we destroy any files that are beyond the time limitations set forth in our fee agreement. And we always ask clients if they would like their file back at the end of their case.

As you get to the point where you have many closed files, I would recommend looking into a data management company. Our

office uses Corodata Records Management Inc. For a small monthly fee, companies like Corodata, will store your boxes for you, shred files as instructed, and even retrieve and deliver files, should you need to review a closed file that has been sent off site.

If you are able, you can create a virtual file by scanning the file's contents before giving the file back to the client. I know that there are companies that can do this for you. But no matter what you do, you are obligated to maintain that file on your client's behalf.

## Conclusion

If you are a solo practitioner or a member of a small firm, inevitably the subject of firm management will come up. Like it or not, running a law firm is running a business. You have to be organized, always be thinking about the needs of your individual office, and surround yourself with great support staff. But don't feel as if you are all alone; know that there is no one right way to do it. There are resources out there to help you, and careful consideration and planning will always lead to the success of a well-managed law firm.

For more articles, tips and guides on managing a small or solo law practice, you can check out [www.myshingle.com](http://www.myshingle.com).

*Robyn A. Lewis of J. Lewis and Associates, APLC is a former president of the Riverside County Bar Association and a former president of the Leo A. Deegan Inn of Court. She is a member of the Bar Publications Committee and is currently serving as past president on the RCBA Executive Board.*



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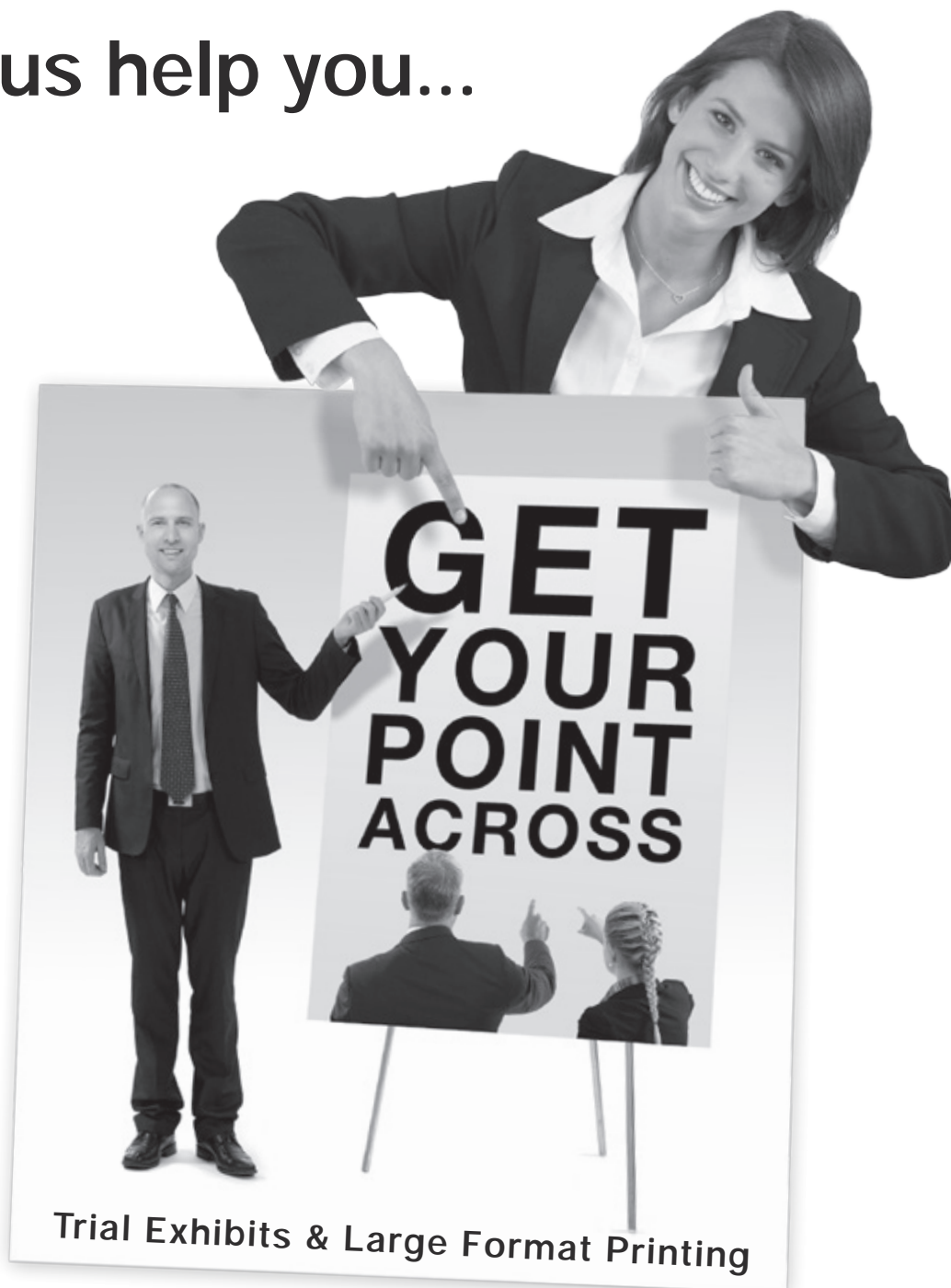


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# YOUR LAW PRACTICE AND NEGATIVE YELP REVIEWS

*by Ken Matejka*

No matter how hard you try, eventually a client is going to be disappointed enough with an interaction or case result to voice it on a review site like Yelp. A bad review that ranks high in search engine results is going to have a negative impact on your online success. Therefore, you need to do everything you can to minimize the potential damage.

The following is what is possible to do in the eventuality of this happening to you.

## **Challenge the Review**

Whether the review is at Yelp or on some other review site, if the review is libelous, you can write to the editors to have it removed. You may find a review where you do not recognize the author or the circumstances he or she is describing, leading you to a conclusion that it may have been posted by a competitor or by someone who is mistaking you for someone else. You may recognize the client, but the review is filled with mischaracterizations, falsehoods, and vilifying opinions. If you recognize the person and they are expressing their opinions, then there's not a lot you can do to get Yelp to remove it. Yelp specifically won't get involved in a "he-said-she-said" argument.

To try to have a review taken down, you can write to the editors through a contact form on the website for this specific purpose. When you write, you will make your strongest case for why the review should be removed. If a few weeks later the review is still there, you may want to follow up with another email requesting that the review be taken down.

## **Respond to the Client**

If you know the person who put the review on the website, you may want to respond to the reviewer to see if there is anything that can be done to make things better. In the case of Yelp, you have an opportunity to reply privately through the Yelp website itself to see if there is any hope of improving the reviewer's attitude toward you.

If you tried this and it was unsuccessful or if you think it would be pointless to try, you may want to post a public reply if the review site allows.

## **Posting a Public Reply**

Yelp and some other review websites will give you an opportunity to give your side of the story in the form of a public reply. This can be effective if handled artfully but can be risky if the reviewer wants to post a reply to your

public reply, in which case you may be making matters worse.

## **Bury the Review**

By eliciting positive reviews from other satisfied clients, you may be able to drive the negative review deeper into your listing and dilute the overall negative impact of the bad rating for your law firm. Simply asking for reviews from former satisfied clients and giving the link to your Yelp listing (where your negative review exists) may be enough. On Yelp, plan for many of your reviews to be filtered out, but some of them will stick. Don't be too specific on what you want them to say because it may be considered misconduct under Rule of Professional Conduct 8.4.

Do not post fake reviews at Yelp or at Google+ because they can often detect that and penalize you for it. Besides, posting fake reviews will run afoul of your State's "false or misleading" communication prohibition of Rule of Professional Conduct 7.1 (RPC 1-400 in California).

## **Bury the Search Result**

If none of the above has helped and the negative review is still showing prominently in the search results for your firm's name, the next best thing would be to bury the search result by crowding it off the first page of Google's search results with more positive information about you. Your active social media platforms can be effective by appearing earlier in the search results for your name than a Yelp listing. In addition, posting frequently to your Google+ account should cause that account to rank well in Google's search results.

Google has an apparent fondness for certain press release websites like PRWeb. By putting up press releases at websites like these (often for a small fee - PRWeb as of this writing charges \$149 per press release), you should be able to get your handcrafted positive content to rank well.

YouTube can also be helpful in displacing a negative search result.

If you find yourself in this situation, and most law firms will eventually, be proactive in minimizing the negative impact on your law practice.

## **Getting Positive Reviews**

There are ways of dealing with negative reviews that are addressed in the previous section, and you should certainly deal with negative reviews first if you have any. Presently, we are going to focus on getting positive reviews.

## Yelp's Filters

Unfortunately, it's not enough to get positive reviews. You must get positive reviews that do not get "filtered." A filtered review will neither show in your business listing nor will the rating that the reviewer gave you be part of the calculation towards your overall rating.

A lot of positive reviews in Yelp get filtered out because Yelp questions their authenticity. While this is effective in minimizing the number of artificial reviews posted, unfortunately, it screens out many genuine reviews.

If someone joins Yelp, leaves one review, then never reviews again, Yelp is likely to filter that out as questionable. A review from someone who already has an established history of reviewing local businesses is more likely to write a review that sticks.

Here's how you find out who among your former satisfied clients is already an established Yelp reviewer.

First, create a Yelp individual account as a reviewer, and let Yelp scan your email contacts. This will give you a list of people who are already Yelp reviewers. Find the established Yelp reviewers whom you served well and where you are sure they would leave a positive review for you. Next, reach out to the clients who you believe will give you 5-star reviews. Third, send these email contacts the link to your listing so that it's easy for them to click on it and leave a review. Keep in mind that you should do this very gradually. Aim for maybe one or two additional 5-star reviews per month. Too many, too fast may be viewed as suspect by Yelp.

One final warning - make sure the reviews are genuine, from actual satisfied clients. Yelp sometimes posts alarming alerts when it uncovers evidence of review fraud. These show up

directly in the reviews section with a "Show me the evidence" button.

*Ken Matejka, J.D., LL.M, is a California-licensed attorney and best-selling author of The Lawyer's Ultimate Guide to Online Leads. To receive a complimentary copy of his book, please write to ken@matejkamarketing.com.*

*Mr. Matejka will also be speaking at the RCBA on July 19. Please see the calendar on page 2.*



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# LAPTOPS AND LATTES: A TRIP TO THE COFFICE

by Abram S. Feuerstein

T.S. Eliot's poetic character, J. Alfred Prufrock, observed that he had measured out his life with coffee spoons.<sup>1</sup> Today, most attorneys and other professionals easily could state that they measure out their lives in visits to coffee shops.

The information age has made work mobile, and that mobility enables people to work from places other than their day-to-day office. And, the local coffee shop, or the "coffice,"<sup>2</sup> is likely the most popular alternative work-site.

The coffee shop as an ad hoc office or meeting place is hardly a new concept. Indeed, the link between coffee and work runs deep and is historic. As Tom Standage notes in *A History of the World in 6 Glasses*<sup>3</sup> "when a seventeenth-century European businessman wanted to hear the latest business news, follow commodity prices, keep up with political gossip, find out what other people thought of a new book, or stay abreast of the latest scientific developments, all he had to do was walk into a coffeehouse." Like today's www, "Europe's coffeehouses functioned as information exchanges for scientists, businessmen, writers, and politicians," Standage writes.<sup>4</sup>

## The Right Beverage at the Right Time

For seventeenth century Europe, coffee represented the right beverage at the right time. Originating in the Arab world (and probably in the Yemen area) sometime before 1500, coffee represented a "legal" alternative to wine and other alcohol, the consumption of which had been prohibited on religious grounds.<sup>5</sup> European travelers to Damascus and Cairo took notice of "Coffa" houses in early 1600, and within several decades coffeehouses had opened in Venice, Amsterdam, and England.<sup>6</sup>

1 A copy of Eliot's poem, "The Love Song of J. Alfred Prufrock," can be retrieved at: <https://www.poetryfoundation.org/poetrymagazine/poems/detail/44212>.

2 The term "coffice" can be located in various online dictionaries. The author first encountered its usage in an article by Daniel Bitonti, "Conducting business at the coffee shop? Be sure to follow 'coffice' etiquette," retrieved at <http://www.ctvnews.ca/conducting-business-at-the-coffee-shop-be-sure-to-follow-coffice-etiquette-1.1732436>.

3 Tom Standage, *A History of the World in 6 Glasses*, p. 151 (Bloomsbury ed. 2006, \$17.00, 311 pp) (hereinafter, "Standage"). According to Standage, the other five world-changing "glasses" joining coffee are: beer, wine, spirits (whiskey in America), tea, and Coca-Cola.

4 Standage, p. 152.

5 Standage, p. 137-8. As a stimulant, the legal status of coffee, too, had been the subject of debate among Muslim scholars. [*Id.*].

6 Standage, p. 140-1

Made with boiled water, coffee was safer to drink than regular water.<sup>7</sup> But unlike beer and other alcoholic beverages, it had a "sobering" and stimulating effect instead of an intoxicating one. A handbill promoting the opening of London's first coffeehouse in 1652 by an individual named Pasqua Rosee, entitled *The Vertue of the Coffee Drink*, advised would-be patrons that coffee "will prevent Drowsiness, and make one fit for business..."<sup>8</sup> In short coffee was a rational, if not enlightened, beverage for an emerging "Age of Reason."<sup>9</sup>

By 1663 there were 83 coffeehouses in London.<sup>10</sup> By the end of the century, in a city with a population of 600,000, London by one report had as many as 3000 coffeehouses.<sup>11</sup> Businessmen kept regular hours at specific coffeehouses so that they could be located by business associates and customers, and they used coffeehouses for their mailing addresses.<sup>12</sup> Various trades met at and became associated with specific coffeehouses.<sup>13</sup> Indeed, a London coffee shop opened by Edward Lloyd in 1688 became a gathering place for merchants, ship owners, and insurance brokers which, with the passage of time, evolved into Lloyd's of London.<sup>14</sup> Similarly, the London Stock Exchange's forerunner was a coffeehouse.<sup>15</sup>

Intellectuals converged at coffeehouses. Samuel Pepys (pronounced "peeps"), possibly the most famous English language diarist, littered his writings with the notation, "Thence to the coffee-house."<sup>16</sup> Adam Smith apparently

7 Standage, p. 135.

8 Standage, pp. 142-43. The British Museum apparently possesses a copy of the handbill, the full re-print of which is available at: [http://www.openculture.com/2012/07/the\\_vertue\\_of\\_the\\_coffee\\_drink\\_londons\\_first\\_cafe\\_creates\\_ad\\_for\\_coffee\\_in\\_the\\_1650s.html](http://www.openculture.com/2012/07/the_vertue_of_the_coffee_drink_londons_first_cafe_creates_ad_for_coffee_in_the_1650s.html).

9 Standage, pp. 134-35.

10 Standage, p. 143.

11 *Id.* Standage doubts the accuracy of this number, calling it "unlikely." Of note, by the end of 2013, the United Kingdom had approximately 16,500 coffee shops. Nathalie Thomas, "Why Coffee Shops are Replacing Pubs In Britain," *The Telegraph*, September 9, 2014, available at <http://www.telegraph.co.uk/finance/newsbysector/retailandconsumer/leisure/11084328/Why-coffee-shops-are-replacing-pubs-in-Britain.html>.

12 Standage, p. 153.

13 Standage, p. 152.

14 David Cookes, "Thirsty Work: The Coffee Shop as Office" ("Thirsty Work"), *Independent*, May 29, 2011, retrieved at <http://www.independent.co.uk/life-style/gadgets-and-tech/features/thirsty-work-the-coffee-shop-as-office-2290725.html>; see also, Standage, p. 163.

15 Standage, pp. 164-65.

16 Standage, p. 156.

wrote *The Wealth of Nations* (1776) at the British Coffee House, a haunt for Scottish intellectuals.<sup>17</sup> Coffee and coffeehouse enthusiasm spread to the rest of Europe, too, including Germany, where Johann Sebastian Bach (circa 1735) composed the *Coffee Cantata*, a short comic opera about a spirited woman addicted to coffee.<sup>18</sup> In France, patrons of Café Procope included — although not at the same time — Rousseau, Diderot, Benjamin Franklin, and Voltaire, who reportedly drank dozens of cups of coffee daily.<sup>19</sup>

Given this history, it is not surprising that today's mobile worker, armed with a laptop, has plugged himself or herself into the local information exchange network available at most coffeehouses, with coffee remaining, in Standage's words, "the drink over which people meet to discuss, develop, and exchange ideas and information."<sup>20</sup>

## The Benefits of Working at the Coffee

Although working out of one's home sounds liberating — a well-stocked refrigerator, no commute, no suit or tie, no heels, no obnoxious co-workers — work is not necessarily intended to be liberating, and the home environment may be less than ideal. Family or other household obligations can be distracting; the television is at arm's reach; or the apartment set-up is not work-friendly and is not an appropriate meeting location. The discipline that comes from the regular routine of dressing in business clothes and leaving the home for an office may be lacking. More than anything else, however, the "stay at home" laptop warrior may simply feel isolated from the work-a-day world.

For these reasons, leaving the house for the local coffee shop may lead not only to a more enjoyable work experience but greater productivity. In addition to a change of environment, some articles suggest that the ambient noise created by the hubbub of a coffee shop promotes creativity and concentration, with the coffee shop replicating the feel of an office.<sup>21</sup> Remarkably, a website — *Coffitivity* — founded by a self-described "team of entrepreneurs, freelancers and creatives" living in Richmond, Virginia, who all "LOVE the vibe of the coffee shop," reproduces coffeehouse sounds in order to "help you work better" and "boost your creativity."<sup>22</sup> The website offers in its "café library" the fol-

17 Standage, p. 163.

18 Standage, p. 146; see also, J.S. Bach's Comic Opera, *The Coffee Cantata*, Sings the Praises of the Great Stimulating Drink (1735), at <http://www.openculture.com/2014/06/j-s-bachs-comic-opera-the-coffee-cantata.html>.

19 Standage, p. 168.

20 Standage, p. 171.

21 Crookes, "Thirsty Work," *Independent*, May 29, 2011; see also, Simon Oxenham, "Do you get your best work done in coffee shops? Here's why" ("Best Work"), *New Scientist*, May 27, 2016, retrieved at <https://www.newscientist.com/article/2090717-do-you-get-your-best-work-done-in-coffee-shops-heres-why/>.

22 See <https://coffitivity.com/premium>, referenced in Oxenham,



*The coffee shop work place.*

lowing menu selections: a "Morning Murmur," featuring a "gentle hum (that) gets the day going"; a "Lunchtime Lounge," with "bustling chatter of the lunchtime rush"; and "University Undertones," which includes the "scholarly sounds of a campus café."<sup>23</sup>

Aside from ambient noise, some articles suggest that an "audience effect," i.e., the perception of being on display while working in a public place, fosters productivity.<sup>24</sup> Coffeehouse owners seem to understand this dynamic and have taken it into account in the design of their premises. A *New York* magazine listing of the best coffee shops for doing work several years ago complimented the owner of one East Village café for having "outfitted the sunny room with overstuffed armchairs and vintage bookshelves;" a Brooklyn café owner for the shop's "exposed brick walls, refurbished wood counters, floor-to-ceiling windows and a sunny back patio;" and a third establishment for its "modernist, minimalist space" where "(s)mall tables with white cushioned seats line the walls, and except for the whir of the coffee machines and the clicking of fingertips making use of the lightning quick Wi-Fi connection, it's mostly quiet during the day."<sup>25</sup>

## Coffeehouse Etiquette

The use of a coffeehouse location as a 9 to 5 alternative worksite for the self-employed or the small business owner brings with it a code of behavior. Some of the rules are obvious, some less so. A blogger in San Francisco, who claims to have seen one laptopper "pull a screwdriver out

"Best Work," *New Scientist*, May 27, 2016.

23 Other choices include: the "Brazil Bistro" with background "musical chatter"; and a "Texas Teahouse" complete with the "hefty sounds from a big state."

24 See generally, [https://en.wikipedia.org/wiki/Social\\_facilitation](https://en.wikipedia.org/wiki/Social_facilitation). See also, Oxenham, "Best Work," *New Scientist*, May 27, 2016; Crookes, "Thirsty Work," *Independent*, May 29, 2011

25 Jamie Feldmar, "Best coffeeshops for doing work," *New York*, December 7, 2010, at <https://www.timeout.com/newyork/restaurants/best-coffeeshops-for-doing-work?pageNumber=2>.



*The shelves of a local coffee shop are depleted towards the end of the business day.*

of his bag to remove a cover plate the owner had secured over an outlet,” several years ago issued a list of “15 Tips for the Wi-Fi Workforce.”<sup>26</sup> The recommendations include “leave chairs free,” “take one chair, and the smallest table available,” “don’t bogart bandwidth,” and “recognize that everyone wants the outlet seat.” More than anything, the author counsels that customers should remember that they are “frequenting a business.”<sup>27</sup> Recommendations such as buying something through the day (every hour or so), tipping well, and cleaning up after yourself all seem to be components of basic good manners but probably are worth repeating.

## Laptop Lawyers

The coffee shop environment may be appropriate for a down-on-her luck JK Rowling to write her first Harry Potter novel,<sup>28</sup> or a homeless Jewel to begin receiving recognition for her singing,<sup>29</sup> but is it suitable for the practice of law?

From a professionalism viewpoint, some clients may like the casual atmosphere of a coffeehouse meeting, while others prefer a lawyer, dressed in business attire, located in an office with walls decorated by diplomas, housed in a building with a shingle outside or a building directory in the lobby. Expectations vary.

Designing or analyzing legal strategies, and the complexities of drafting anything but the most routine of

<sup>26</sup> See <http://mightygirl.com/2008/12/11/coffee-shop-etiquette-15-tips-for-the-wi-fi-workforce/>.

<sup>27</sup> *Id.*

<sup>28</sup> Rowling wrote large parts of the novel at Edinburgh’s The Elephant House on George IV Bridge. See Crookes, “Thirsty Work,” *Independent*, May 29, 2011.

<sup>29</sup> Jewel received her “big break” at the Inner Change coffee shop in San Diego. See Danny Hajek, “In Lumberjack Bars and Coffee Shops, Jewel Found Her Voice,” NPR, September 12, 2015, at <http://www.npr.org/2015/09/12/439764172/in-lumberjack-bars-and-coffee-shops-jewel-found-her-voice>.

documents, may defy the coffeehouse environment. Many lawyers spend large parts of the day on a telephone, and long or loud phone calls likely belong outside the coffee shop’s doors.

But the main obstacle for lawyers in conducting business at a coffeehouse concerns the privacy of documents and conversations. Safeguarding client confidences, among other things, is at the core of preserving the attorney-client privilege. To that end, California Evidence Code Section 952 defines a “confidential communication” between a client and lawyer to mean:

“information transmitted between a client and his or her lawyer in the course of that relationship and in confidence by a means which, so far as the client is aware, discloses the information to no third persons other than those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted.”<sup>30</sup>

Careless or inadvertent disclosure by clients, or their attorneys, effectively will waive the attorney-client privilege. As one court noted, if a client wishes to preserve the privilege, “it must treat the confidentiality of attorney-client communications like jewels – if not crown jewels.”<sup>31</sup> With the California definition of a “confidential communication” in mind, it would be hard to argue that a customer sitting at a nearby table, or a barista dutifully preparing customer orders, are necessary third persons furthering the client’s interests or the aims of the consultation.

That said, with diarist Samuel Pepys, it is “Thence to the coffee-house.”

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*Abram S. Feuerstein is employed by the United States Department of Justice as an Assistant United States Trustee in the Riverside Office of the United States Trustee Program (USTP). The mission of the USTP is to protect the integrity of the nation’s bankruptcy system and laws. The views expressed in the article belong solely to the author, and do not represent in any way the views of the United States Trustee, the USTP, or the United States Department of Justice. The photographs accompanying the essay were taken by the author on May 8, 2017, using a cell phone camera.*



<sup>30</sup> Cal. Evid. Code. Sec. 952.

<sup>31</sup> See, e.g., *In re Sealed Case*, 877 F.2d 976, 980 (D.C. Cir. 1989). The strict waiver rule reflected by this case likely has been superseded by Federal Rule of Evidence 502(b), which applies a more lenient test that includes an inquiry as to whether the holder of the evidentiary privilege took “reasonable steps to prevent disclosure.” See *Amobi v. District of Columbia Dep’t of Corrections, et al.*, 262 F.R.D. 45 (D.D.C. 2009).

# IN MEMORIAM: DENNIS F. FABOZZI

by Edward J. Miller

I first met Dennis Fabozzi in early 2003 when I was a 1L looking to gain some real world experience working at a law firm. I felt out of place at law school since I was almost thirty years old and changing careers surrounded by a sea of impressionable, younger students who were either looking to delay the imposing doom of adulthood by attending graduate school or who longed to understand why the law didn't always seem "fair." It was tough to cultivate potential business contacts at school since I lived in Temecula and drove every day to law school in San Diego. Luckily, I was introduced to Dennis through a mutual friend and immediately began working for him as a law clerk at his new firm in Temecula.

At the time, the word "firm" was a stretch. There were only three of us working in a tiny, 400 square foot office, 300 or so square feet of which was Dennis' personal office. Dennis, who was then about 50 years old, told me that he had tried retiring a few times, but that he always got bored and couldn't imagine leaving the practice of law behind. I later came to realize that Dennis was modest about his accomplishments. The man I first believed to be a sole practitioner in Temecula was a very accomplished attorney who had managed two large law firms in Orange County and had earned a reputation as a tough, but very fair and ethical, attorney. I also learned that Dennis didn't brag about his renowned legal career as I would go on to learn that from others who knew him.

For those who worked for, or against Dennis, it was amazing to watch him work. Dennis had an incredible memory and attention to detail. He could recall case law effortlessly and could always point wayward associates in the right direction. Dennis could calculate mathematical equations in seconds without the use of calculators. Dennis never liked computers, or any kind of technology for that matter. He thought they were pointless. Dennis' briefcase, a rugged and weathered case he had carried for his entire career, commonly only contained a legal pad and pen. He was amused watching other attorneys drag out their laptops and fancy PowerPoints. He didn't need them. For research, he preferred tried and true methods like Witkin, Miller & Starr, or any other such volumes of books which lined his office. He also hated post it notes



Dennis F. Fabozzi

in any color other than traditional yellow. Those who chose to use a blue or pink one did so at their own peril.

Even though Dennis spent over 40 years in the practice of law, he never failed to prepare and was always a diligent student of the law. Dennis was commonly the first one in the office in the morning. He liked to read in the early hours and often-times had been working on a case, or his intended oral argument, for hours before anyone else came into work. But when it came time to present his argument, it appeared effortless. Dennis was excep-

tionally witty and quick on his feet. He considered oral advocacy the single most important aspect of the practice of law. He treated his clients the same way. Dennis hated e-mail. He felt it impersonal and too lazy. As such, he required all of his associate attorneys to call clients, not just e-mail them. Dennis made it a point to call at least two clients every day if only to say "hello" and catch up with them on a personal level. It was because of this dedication, as well as his authentic interest in their lives, that he had retained many clients for decades.

Dennis was also a generous and loyal mentor. Throughout his career, Dennis mentored hundreds of attorneys and regularly kept in touch with many of them. Keeping with his motto, e-mails were not acceptable forms of communication. He made time to speak with, or meet, many of his former associates as they progressed through their careers. He was always available to share his decades of knowledge.

As my own legal career progressed, Dennis was always on hand to help (or push, if necessary) along the way. Dennis was often called upon by the Riverside Superior Court to act as a temporary judge. When it came time for me to be sworn in as an attorney, he ensured that he was on the bench that day just so he could do it himself. Dennis loved sitting on the bench and he had a natural ability to see the legal issues quickly. He felt satisfied when he could resolve seemingly convoluted issues quickly and decisively. I first watched, and then participated in, many trials with Dennis over the years. Dennis was a voracious advocate. He was never afraid to put his client's needs over his own. He instilled the glorious burden of advocacy in

each of the attorneys who worked for him. And he lived it every day.

My entire time as an associate attorney was spent working under Dennis' tutelage. And over the years, Dennis re-grew his once small office in Temecula into one of the largest firms in town. Dennis and I became law partners in 2014 and the firm became known as Fabozzi & Miller. Knowing that he wanted more time to travel and enjoy family and friends, Dennis was planning to step away from his role as managing partner in April 2017. Tragically, he passed away a few short days before his retirement. His memory lives on at the firm he spent over 17 years creating, and it will be our privilege to carry on his legacy every day. As best put by one of our associates, "We knew he was leaving, but we didn't know he would be gone."

Dennis was first and foremost a loving father to three adult children: Michael, Nicholas and Elizabeth, and grandfather to Tucker, his pride and joy. Dennis graduated from Arizona State University in 1974 and Loyola Law School, Los Angeles in 1977. He practiced law in Orange

County from 1977 until 1999 when his practice was relocated to Temecula. Dennis was a member of the State Bar of California, the Orange County Bar Association and Riverside County Bar Association. Dennis was admitted to practice in all U.S. District Courts in California and the Ninth Circuit Court of Appeal and was rated AV, the highest rating by Martindale-Hubbell, in the recognized directory of attorneys. Since 1997 Dennis was listed in the directory of Pre-Eminent Lawyers of America. Dennis was active in his practice even as he prepared for retirement, having won a \$4.6 million jury verdict following a five-week trial in February 2016.

Dennis' legacy will live on for decades to come in the hearts and minds of all of the legal professionals whose lives he influenced throughout his stellar 40 year legal career. I am thankful to be one of them.

*Edward J. Miller is the partner of Fabozzi & Miller and practices in civil litigation, business law, real estate and estate planning.*



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Dennis was our inspiring mentor, dear friend, and founding partner. He was a generous community leader and passionate advocate who had an impact on so many. Dennis will be missed by all who knew him.

*It is hard to forget someone who gave us so much to remember...*

From all of us at Fabozzi & Miller, APC



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# VIRTUAL OFFICE — A NEW PATH TO THE FUTURE

*by Nesa Targhibi*

Every client-facing industry is undergoing changes due to the increased availability of technology and automation. These advances in technology and the increased usage of internet in everyday life make it necessary to have some form of virtual presence in order to run a successful business. Law firms are no different, and in fact, it is almost impossible to practice law without some form of virtual presence, such as e-mail.

“Virtual Office” is one of the latest trends in the legal practice. Whether it is the use of cloud-based technology or a web-based accounting platform, most firms incorporate at least some measure of virtual functionality into their operations, however, there are some who are taking the whole law firm virtual and no longer have the traditional brick and mortar office. A 100% Virtual Law Firm is a fully connected, cloud-based practice. It incorporates multiple virtual functions which enable attorneys to access essential firm functions, documents, and client files at any time and from anywhere. This does not necessarily mean giving up on any sort of physical office space or face-to-face interactions with clients, but it does mean placing an emphasis on both digital efficiency and cost efficiency.

There is a wide array of options available when it comes to setting up a virtual law firm. The basic package provides a business mailing address, with a la carte administrative services, while the most comprehensive package includes personal answering of a phone line(s), voicemail boxes, secretarial services, and access to conference room space. There’s no “one-size-fits-all” mold, instead, the wide range of options allows attorneys to operate their firms based on their needs and the needs of their clients. Further, the business can change as these needs change over time.

## **Benefits of Using Virtual Law Firms**

### **(1) Economic Benefits**

Perhaps the single major benefit of using a virtual law firm is the economic benefits, since the rent for a traditional office space is usually the single biggest expense of any law firm. A virtual firm allows you to effectively cut out the day-to-day costs of operating a brick and mortar office. You will minimize both minor expenses, like office supplies, and major expenses, like employing full-time support staff and paying rent. This minimal operational

expense and low overhead can even be converted into more attractive client pricing.

Further, a virtual law firm which makes use of cloud-based technology has lower costs, because it is less expensive than paying for software, local storage, and server hardware, which often requires an additional IT professional to manage these functions within the office. Also, use of web-based softwares means no need for local in-house software installations and regular software updates and new features can be added instantly without disturbing the law firm’s work flow. This use of technology will help make you more efficient which usually translates to more profit.

### **(2) Extend Your Client Base**

When you are tied to a traditional office, you tend to become limited by your geographic proximity to others. A virtual law firm presence enables you to extend the reach of your practice either throughout the state where you are licensed to practice, or nationally if you practice a federal specialty like immigration. You will gain the potential to reach brand new client bases and collaborate with other law firms and professionals from across the country.

Also, majority of business which provide virtual offices have branches throughout the state or the country, and they have plans which will give you the flexibility to meet clients at different locations. This also allows you to easily meet with clients where it is most convenient for them.

The savings that use of virtual office brings you, allows you to spend more money on your online presence. This in turn will allow you to capture those clients who look solely to the web to find legal help. There is a huge market segment of potential clients which turn to the web to do almost anything, such as shopping, banking, booking travel, and entertainment. These clients expect that their attorneys will also work with them online.

### **(3) Technology**

By operating a virtual law firm you will be in a position to make good use of numerous productivity-enhancing technologies. Cloud-based technology in particular—such as Google Drive—allows you to cast off the shackles that tie you to a single location, to reach more people, and to be more productive and efficient. The use of internet and web technology, also allows your client to

be able to work with you from their home or work during traditional or non-traditional work hours when it fits into their daily routine

#### **(4) Freedom to Work from Anywhere**

A virtual law firm gives you the freedom to work from any location you desire. Work from home and spend more time with your kids. Head down to your favorite coffee shop and work from there. Use of virtual office provides you with a credible address for business communications and a professional, fully-equipped physical location to utilize when needed for face-to-face meetings with clients or anyone else. Further, you will have 24 hour access to files and records as long as you have an internet connection. Being able to work from anywhere and at any time, also gives you scheduling flexibility.

#### **(5) Safety**

In the past, some of attorneys would opt to work from home which has its own pros and cons. However, working from home has one major security risk which is opening your house to potential clients. Use of a virtual law firm gives you all the benefits of working from home without the risks and concerns associated with that and allows you to maintain a business professionalism.

#### **(6) Environmentally Friendly**

A virtual law firm is an environmentally friendly office. The use of cloud-based technology allows you to practically eliminate your use of paper. Also, no commute means drastically cutting down your carbon footprint.

#### **Drawbacks of Using Virtual Law Firms**

As with almost anything, there are some drawbacks to the use of virtual law firms. There can be a variety of distractions when you are working from home or at a coffee shop that you would not experience in an office setting.

Another major drawback is that the virtual law firm is not yours. Although you can use the conference rooms or day offices to meet clients, you cannot decorate them or make them feel like your own office space. Further, your access to the office space is limited to the business hours which can sometimes be an inconvenience.

*Nesa Targhibi, treasurer of the Riverside County Barristers, is a sole practitioner based in Riverside County. She practices in the area of immigration.*



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# JUDICIAL PROFILE: JUSTICE RICHARD T. FIELDS, SR.

by Justice Carol D. Codrington

Richard Todd Fields, Sr. was born in Centerville, Illinois. His family moved to California in 1963, where he has resided ever since. His parents were Dan and Murl Fields, (later Murl Gatlin). Justice Fields comes from a hardworking family with humble beginnings. His father was a janitor and worked at a car wash. His mother was a U.S. Postal worker for over 27 years. Murl was a multifaceted individual, therefore Justice Fields gets his talents naturally. Murl was also a Sickie Cell Coordinator, Sunday School Superintendent, and a Distinguished Toastmaster. The Distinguished Toastmaster (DTM) award is the highest the organization bestows. The DTM recognizes a superior level of achievement in both communication and leadership. To be eligible for the award, you must have earned the following: Advanced Communicator Gold or Advanced Toastmaster Gold award.

Justice Fields is happily married to Donna Michelle Fields, a clinical laboratory scientist for 33 years and is the proud father of Richard T. Fields, Jr. a Computer Coder and Denee Marie Fields, a nurse.

Justice Fields graduated with honors from California State University, Fullerton with honors in 1981. Justice Fields received a Bachelor of Arts majoring in Sociology, with a minor in Spanish. He completed the degree in three and a half years. He received his Juris Doctorate degree from Western State College of Law in 1983. He completed his law degree in two and a half years. During his time at Western State, he was on the honor roll, named Who's Who among in American Universities and Colleges, and was named one of the outstanding young men of America. He was also on the National Dean's list, was an honors moot court advocate, served as a "Don" program mentor, and received a letter of commendation for outstanding service on the law review. Justice Fields was also awarded the degree of Master of Laws in taxation from the University of San Diego School of Law in December 1987.

Justice Fields served as a Superior Court judge in Riverside County since 2000. He served with distinction as presiding judge of the court in 2007 and 2008 and was a commissioner from 1991 to 2000. Justice Fields was presiding judge during a particularly difficult time in our court's administrative history. During his tenure,



Justice Richard T. Fields, Sr.

Chief Justice Ronald George appointed several judges from out of county to preside over cases in Riverside County to reduce the backlog of criminal cases. During that time, several civil departments were reopened. Prior to ascending to the bench, Justice Fields was a deputy public defender at the Riverside County Public Defender's Office from 1985 to 1988 and also from 1990 to 1991. During his time away from the Public Defender's Office, Justice Fields was an attorney at the Law Offices of Reynolds, Bawden & Lawson from 1988 to 1990. He was also associated with the Law Offices of Susan R. Wasserman.

During his career as an attorney and jurist, Justice Fields received numerous awards and commendations. He was selected as a Reginald Heber Smith National Poverty Law Fellow with the Legal Aid Foundation of Los Angeles in 1983. Justice Fields has received accolades for outstanding service by the Riverside County Board of Supervisors. In 1997, he was named to the Western State College of Law Hall of Fame. That same year, he received an outstanding achievement award from the African-American attorneys in the Inland Empire. In 2001, he received a Volunteer of the Year award from Liberty Elementary School. In 2007, he received the Southwest Bar Association's Judge of the Year award. In 2008, he was named as Judge of the Year by the Riverside – San Bernardino chapter of the American Board of Trial Advocates. In June 2009, he received the Outstanding Jurist award from the Leo A. Deegan Inn of Court. In 2013, he received the Alba Witkin Humanitarian Award from the California Judges Association. Justice Fields has also been honored for judicial excellence by the California Association of Black lawyers and the hundred Black men of the Inland Empire.

Justice Fields has dedicated his life to public service and his involvement in community activities is legendary. He is a member and past president of the Riverside Sunrise Rotary Club. Justice Fields enjoys mentoring students, participating in the Inland Aids Walk, assisting with major immunization drives, sending students to leadership camp, participating in a program called "lunch buddy" where he has met special elementary students for lunchtime fellowship. Justice Fields has also been a mock trial judge and mentor for over 23 years. He was the



*Justice Richard T. Fields addressing attendees in Department 1 of Riverside Superior Court*



*Justice Carol D. Codrington and Justice Richard T. Fields*



*Justice Richard T. Fields and Family*

speaker/mentor for a program called, “The Endangered Black Male, A Call to Action.”

Justice Fields was a guest lecturer at the University of California, Riverside, in the Afro-Ethnic Studies Department. Justice Fields is an in-demand speaker throughout the Inland Empire including, Lincoln High School, and Second Baptist, and Park Avenue Baptist Churches in Riverside. He has participated in a holiday party for children in emergency shelter. He is also a past president of the Leo A. Deegan Inn of Court from 1999 to 2002. He has been a speaker for the Riverside County Bar Association “Bridging the Gap” and other programs. He is the founding director and past president of the Corona Parent Advisory Group – a group dedicated to bridging the achievement gap between African American students and other ethnicities. The group sponsors college and career field trips, provides scholarships, and hosts an academic achievement awards banquet each year for deserving students.

Justice Fields has been the graduation speaker for the Alternative Sentencing Program in addition to Riverside County’s Drug Court Program. He was the guest speaker for the Riverside NAACP’s 54th Annual Freedom Fund Banquet. Justice Fields was the speaker at a special program at the Riverside courthouse steps commemorating the *Brown v. Board of Education* decision. Justice Fields has served as the Grand Marshal of both the Riverside and

Moreno Valley Black History Parades. He was the commencement speaker at California Baptist University and Western State College of Law.

Justice Fields was nominated to the California Court of Appeal, Fourth District, and Division Two on December 23, 2016, and unanimously confirmed by the Commission on Judicial Appointments on February 9, 2017. Life is full of surprises. I had the honor of testifying at Justice Fields’ confirmation hearing alongside Presiding Judge Becky Dugan and retired Judge Sherrill Ellsworth. It is serendipitous that a little less than seven years ago, Justice Fields testified at my confirmation hearing. I had the unique opportunity of returning the favor and witnessing the special occasion including his swearing in ceremony.

Justice Fields and I share a relationship of mutual respect, admiration, collegiality, and friendship that has spanned nearly 11 years. I admire his family, especially his wife Donna, also known as “Momma” and his two children Richard T. Fields, Jr. or “Ricky” and his lovely daughter Denee. Our spouses know each other. We have been attending professional events honoring one or the other for years. Together, we have eaten probably over 100 chicken dinners and clapped enthusiastically at each and every speech the other has made, as though it were the very first time we heard each other speak. We had dragged our poor spouses, Dorian and Donna, to hundreds



*Marvin Powell, Jr. and Angelica Powell*



*Nicole Williams and Justice Richard T. Fields*



*Judge John Vineyard and Carol Greene*



*Girtha Williams and Justice Richard T. Fields*



*Q'Vinc Asberry, Judge Irma Asberry, and George Asberry*



*Eric Keen, Justice Richard T. Fields, O.G. Magno and Sydney Magno*



*Judge Helios Hernandez, Gloria Hernandez, Samra Roth-Furbush, and Diane Roth*

of events over the years. There will be many more events in the future.

Justice Richard T. Fields is a local legend in Riverside County. He is one of the few jurists to have a bar association bear his name during his lifetime. The Richard T. Fields Bar Association is thriving in the Inland Empire. It was established in 2010 and held its inaugural reception at University of La Verne College of Law. The group's mission is to represent the interests of African-American lawyers in the Inland Empire. The bar association engages in numerous educational and social activities and community outreach. This year will mark the Richard T. Fields Bar Association 6th Annual Installation and Awards Gala. That alone is a testament to his reputation for excellence in the legal community. He is fluent in Spanish. He is a concert level pianist. He is truly a renaissance man and dedicated public servant.

I met Justice Fields my very first day as a Superior Court Commissioner in the Riverside Superior Court in May of 2006. Why was this meeting important? History was made on that day. At that time, Justice Fields was the first and only African-American jurist in the history of the Riverside Court. He was elected court commissioner in February 1991 and Judge in April 2000. People actually thought he was related to his friend Judge Charlie Field. Justice Fields bears as much of a resemblance to retired Judge Charlie Field as I do to Justice Carol Corrigan. It is quite an honor to be mistaken for someone as brilliant and erudite as California Supreme Court Justice Carol Corrigan. I can't tell you how many times I have been introduced as my illustrious colleague. I wonder if she is ever introduced as Justice Carol Codrington, but I digress...

When I was elected Superior Court Commissioner in 2006, I became the second black judicial officer and first African-American woman. I was the first African American appointed to the Fourth District Court of Appeal. Justice Fields will be the second. Justice Fields had been the sole African-American jurist in a very diverse community for 14 years. You can imagine the challenges he faced back in 1991. He was disrespected by litigants and called derogatory

names to his face. He handled it all with grace and diplomacy. History was not lost on Justice Fields. He was called upon to speak at just about every local chamber of commerce, high school, college, church, and bar association in the county. He is a local hero.

Our meeting was truly a historical moment. When I was elected commissioner, I had no idea what Justice Fields had experienced as a jurist. I didn't know any members of the Riverside bench and I was unfamiliar with the size and scope of the Riverside courts. I had practiced law across the state and appeared in virtually every jurisdiction, but primarily in Los Angeles County. My family had recently relocated to Riverside County. Being an out-of-county practitioner, I was deeply honored and truly humbled to be elected Superior Court Commissioner and welcomed with open arms in the Riverside legal community.

Although I had never met or heard of Judge Richard T. Fields before that meeting, if you had seen the introduction you would have thought we were long-lost friends. We have remained friends since that fateful meeting. I often liken that moment to the scene in the movie *The Color Purple* where Celie and her sister Nettie reunite in a heartfelt ending to an extraordinary film. I applaud Justice Fields for opening that door. Great strides have been made in diversity in the Riverside Courts – there are now many women jurists and several African-American, Hispanic, Asian, Native American, and LGBT jurists in the Riverside Superior Courts.

I am so proud that our statewide courts have experienced vast improvements in diversity. We are now a virtual melting pot, which gives hope to those who might not otherwise pursue a career as a judicial officer. As our courts continue to strive for access, fairness and diversity, I look forward to the day when the judicial branch reflects the diversity of the state's residents in such a way that appointments, such as that of Justice Fields to the Court of Appeal, is no longer a historical moment. It is clearly a merit selection.

While on the trial court, Justice Fields took me under his wing as he often does with new judicial officers and became one of my mentors. I could rely on him for sage

advice and counsel when I experienced some of the same discrimination and disrespect while serving as a judicial officer. Justice Fields is more than just an ‘experienced jurist.’ He has excelled in virtually every assignment in the trial court. He has presided over small claims and unlawful detainers on one end of the spectrum, to high profile homicide trials including death penalty cases on the other end. He has presided over many complex civil and criminal trials over the years.

Justice Fields is exceptionally well qualified to serve as a justice on the California Court of Appeal. He has exceptional writing ability, a wide breath of knowledge of complex civil and criminal law, a reputation for hard work and integrity, and excellence as a colleague. He is a highly respected member of the legal community and has countless commendations for his work as a jurist and volunteer work with at-risk youth. His resume is quite long so I could literally go on and on regarding his numerous accomplishments and awards. There are simply too many to mention. Suffice to say he has won virtually every “Judge or Jurist of the Year Award” and every community service award given or presented by every bar association and service organization in the Inland Empire and beyond. Now that is a boatload of awards!

This appointment has to be bittersweet for Justice Fields. It is tough to leave a job you love and your friends and colleagues on the trial court. On the other hand, it is quite an honor to be appointed to the Court of Appeal. This is an amazing new chapter in a remarkable career. Justice Fields will be challenged in new and different ways; however, he will enjoy serving the People of the State of California in this new assignment. The Riverside Superior Court has suffered a great loss. The loss is our court’s gain. Justice Fields is a wonderful asset to the California Court of Appeal. The Governor made an excellent choice!

Justice Fields is kind, eternally optimistic, thoughtful and just a wonderful salt of the earth human being. His analytical brilliance and 26 plus years as a jurist will serve him well on the Court of Appeal. I have never met a person who did not like Richard T. Fields. He is a welcome addition to the Fourth District, Division Two. We are fortunate to have him. His nomination and confirmation are well deserved and well-earned. We are honored and fortunate to have him join the California Court of Appeal. I am certain he will continue his stellar career and life of excellence.

*Justice Carol D. Codrington is an Associate Justice of the Court of Appeal, Fourth District, Division Two.*



## MEMBERSHIP

The following persons have applied for membership in the Riverside County Bar Association. If there are no objections, they will become members effective June 30, 2017.

**James M. Blucker** – Law Office of James M. Blucker, Upland

**Marc S. Colen** – The Colen Firm, Riverside

**Patrice V. Corpus** – Maline & McGee, Riverside

**Marion H. Donovan-Kaloust** – Immigrant Defenders Law Center, Riverside

**Al Motlagh** – Motlagh Law, Los Angeles

**Matthew C. Onyett** – Best Best & Krieger, Riverside

**Leah A. Reeves** – Law Office of Leah A. Reeves, San Diego

**Joseph E. Richards** – Law Offices of Joseph E. Richards, Corona

**Ethan S. Robinson** – Maline & McGee, Riverside

**Laurel Starks (A)** – Starks Realty Group, Rancho Cucamonga

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### Conference Rooms Available

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# SPRING INTO ACTION FUNDRAISER RAISES \$11,000 FOR RIVERSIDE COUNTY BAR FOUNDATION

*by L. Alexandra Fong*

On May 9, 2017, Riverside County Bar Foundation, Inc. (“Foundation”) held its inaugural “Spring into Action” fundraiser at the Benedict Castle in Riverside. The hors d’oeuvres and non-alcoholic drinks were catered by Benedict Castle and entertainment was provided by The Untold Truth.

The fundraiser was planned by the Foundation’s Steering Committee (Marlene Allen, Jacqueline Carey-Wilson, L. Alexandra Fong [chair], Cathy Holmes, and Greg Rizio), with the goal of bringing awareness to members of the bar and the community of the programs supported by the Foundation, as well as to raise funds for continued success of these programs. Fundraising sub-committee members, Megan Demshki and Boyd Jensen, as well as Betty Fracisco, assisted in obtaining several of the items sold in the silent auction.

The Foundation was created as the nonprofit arm of the Riverside County Bar Association and supports charitable programs such as (1) Project Graduate, which provides assistance to Riverside County foster youth to graduate high school with a plan for the future; (2) The Elves, which provides holiday gifts and meals for families in need; (3) Good Citizenship Awards to acknowledge the achievements of local high school students; (4) Adopt-a-High School, which educates students about the legal

system, and (5) Reading Day, where members volunteer to read to an elementary school in Riverside and donate funds to the school’s library for the purchase of books. Brian Unitt, Breanne Wesche, Kelly Moran, Charlene Nelson, and Greg Rizio spoke about each of these programs at the event.

The Foundation would like to thank its sponsors: Rizio Law Firm (platinum), Best Best & Krieger LLP (silver), Gresham Savage (silver), McCune Wright Arevalo LLP (contributor), Thompson & Colegate (contributor), and Joseph Widman, Esq. (contributor).

The Foundation would also like to thank its donors of silent auction items: Aitken Aitken Cohn, Angels Baseball, California Academy of Sciences, Corona Fire Department, Riverside City Councilman Paul Davis and May Lynn Davis, Jacqueline Carey-Wilson, Presiding Judge Becky Dugan and Jean Younger, Michael J. Elderman, Emerald Isle Golf Course, District Attorney Michael Hestrin, Gless Ranch, Hollywood Wax Museum, Knott’s Berry Farm, The Living Desert, Moonlight Amphitheatre, Picaboo, Jamee Rashi (Esquire Deposition Solutions), Riverside Police Department, Greg Rizio, San Diego Chargers, Tim Scanlan (Long Beach Skate Company), Sea World San Diego, Six Flags, Judge Gary Tranbarger (retired), the Walt Disney Company, and William W. Weathers.

*Sponsor Sign*



*Benedict Castle*



*Mark Easter placing a bid.*





*Stefanie Field and Greg Rizio*



*Brian Unitt addressing the attendees at the Foundation fundraiser.*



*The Untold Truth  
Top (l-r): Jesus, Juan, Morgan  
Bottom (l-r): Bianca, Sarah, Ali*

The Foundation is grateful to Greg Rizio, for auctioneering the live auction, and for the following agencies/individuals for donating live auction items: Corona Fire Department, Mitchell Norton, Riverside Police Department, Greg Rizio, and William Weathers.

Lastly, the Foundation thanks Geoff Goacher, Marketing Director of the Rizio Law Firm, who prepared the marketing materials advertising the fundraiser.

The Foundation raised approximately \$11,000 to support its programs. Project Graduate raised an additional \$470 with attendees donating directly to the program through its stars, hearts, and rhombus program. Project Graduate would like to thank Angel Coleman, Megan Demshki, Mark Easter, Nick Firetag, Richard Gerhardt,

Mike Gouveia, Cathy Holmes, Anna M. Marchand, Michael Sargent, Shumika T. R. Sookdeo, Matt and Lauren Strickroth, and Brian Unitt for their donations.

The Foundation is a 501(c)(3) corporation and donations to it may be tax deductible, to the extent authorized by law. We accept donations year-round. Please consult your tax advisor for further details.

*L. Alexandra Fong is a deputy county counsel for the County of Riverside, president-elect of the Riverside County Bar Association and Riverside County Bar Foundation, Inc., and is vice president of the Leo A. Deegan Inn of Court.*

*photos courtesy of Jacqueline Carey-Wilson*



*L-R: Jacqueline Carey-Wilson, Theresa Savage, and Lisa Visingardi*



*L-R: Shumika Sookdeo, Nesa Targhibi, and Breanne Wesche*



*L-R: Brian Unitt, Richard Gerhardt, and Mike Gouveia*



*L-R: Presiding Judge Becky Dugan, Judge Irma Asberry, Justice Carol Codrington, and Jack Clarke*



*L-R: Luis Lopez and Greg Rizio*



*L-R: Anna Marchand, Kelly Moran, Matt Strickroth, and Jean-Simon Serrano*



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