

# VALLEY LAWYER

July/August 2008 • \$4

A Publication of the San Fernando Valley Bar Association

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# VALLEY LAWYER

A Publication of the San Fernando Valley Bar Association

## VALLEY LAWYER

### SAN FERNANDO VALLEY BAR ASSOCIATION

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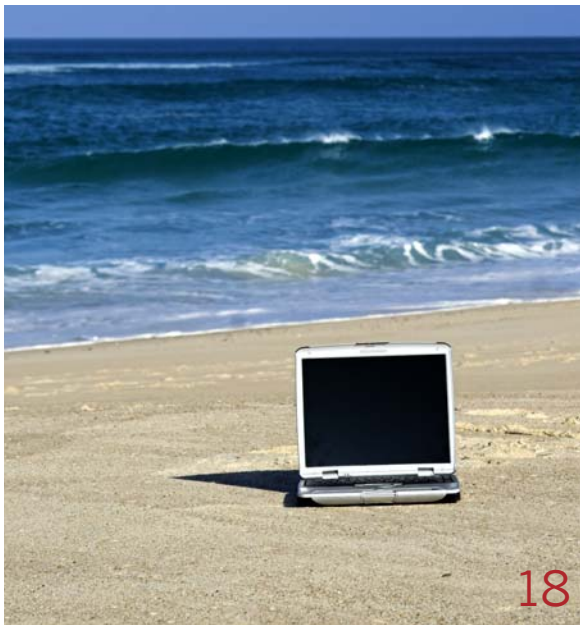
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### Election Season *A Time of Change*

**A**S SUMMER APPROACHES, we look forward to celebrating Independence Day, also known as the 4<sup>th</sup> of July. This holiday commemorates the adoption of the Declaration of Independence on July 4, 1776, when the U.S. declared independence from England.

This year, we also have the opportunity to celebrate our democratic principles by participating in the 56<sup>th</sup> consecutive quadrennial U.S. presidential election on Tuesday, November 4, 2008. This election coincides with the Senate elections in 35 states, House of Representatives elections in all states, and gubernatorial elections in 11 states.

Regardless of who wins the presidential election, there will be significant changes as we enter the second half of 2008. We can expect our daily lives to be inundated with political commercials, mailings, lobbying efforts, and other steps intended to influence our votes. I encourage you to consider the candidates' positions, make an informed decision and vote.

Our Bar Association is also entering election time. Bar members will soon receive election pamphlets and be asked to vote for Bar Officers and fill vacant positions on the Board of Trustees. The Officers and Trustees of the Bar Association make important decisions about the Bar's policies and programs. The Board's responsibility is to review and approve a yearly budget and to make policies and participate in programs sponsored by our various committees. These are important tasks that require commitment to public service and devotion to hard work. Before casting your vote, I encourage you to read each candidate's position statement, contact the candidates directly, and vote for those who best represent your interests.

As we enter the last quarter of our fiscal year, we can be proud of our Bar Association's accomplishments thus far. We can use these last few months to continue working on the programs we've embraced this year and start planning for the future. 🐾



**SUE BENDAVID**  
SFVBA President

## Board of Trustees Election

BY ANGELA M. HUTCHINSON

**T**HE SAN FERNANDO VALLEY Bar Association Nominating Committee has announced the candidates for the 2008-2009 Board of Trustees. The Board of Trustees nominees are:

**President-Elect:** Robert Flagg  
**Secretary:** Seymour I. Amster  
**Treasurer:** Alan J. Sedley  
David Gurnick  
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Tamila Jensen automatically becomes the new SFVBA president. Jensen has served in several leadership positions for the SFVBA, including Chair of the Conference of Delegates Committee and a representative of the SFVBA on Neighborhood Legal Services' Board of Directors.

Initially appointed to the Board of Trustees in 1999, Jensen was subsequently elected to two continuous 2-year terms on the Board. Jensen has practiced in the Valley as a sole practitioner for twenty years, with an emphasis on elder law and probate/conservatorships, civil appeals and real estate and business matters. "I am anxious to bring my broad background and small firm experience to continue to serve the Bar in a new leadership role," declared Jensen.

Ten candidates are competing for six open trustee seats. Over the years, many of the nominees have actively served the Bar in various leadership positions, including chairing a committee, organizing a section meeting, or coordinating a Bar-sponsored program.

As part of the application, candidates were asked to provide information about their ideas and goals for the SFVBA Board.

Nominee Natasha N. Dawood wrote, "I have many ideas relating to how to improve SFVBA programs, projects and events. In particular, I hope to assist in increasing member attendance, involvement, contributions and excitement."

Similar to most of the selected nominees, Dawood is also an active member of several other bar associations, including the Los Angeles County Bar Association, American Bar Association and the Beverly Hills Bar Association.

While the nominees come from diverse backgrounds in terms of areas of practice and experience, one shared goal is a commitment to the future development and growth of the Bar.

"We are proud of the candidates because they each have a sincere passion for public service, and are dedicated to accomplishing the Bar's existing goals and creating future achievements," said SFVBA President Sue Bendavid.

According to the SFVBA by-laws, although the nomination process by the Committee has concluded, members who are interested in having their name added to the ballot can do so by submitting an alternative nomination to be a Trustee or for any officer position (except President or President-Elect). Prospective candidates must file a written nomination that has been signed by at least 20 active members of the association. The nomination packet must be filed with the SFVBA secretary no later than 5:00 p.m. on Friday, July 25, 2008.

Ballots will be mailed to attorney members August 11. Election Day is September 10. The new Board of Trustees will be sworn in at the Installation Dinner on Saturday, September 20, 2008 at the Woodland Hills Hilton. 🐾

## From the Editor

For questions, comments or candid feedback regarding Valley Lawyer, please contact Angela at (818) 227-0490 ext. 109 or via email at [Angela@sfbva.org](mailto:Angela@sfbva.org).



ANGELA M.  
HUTCHINSON  
Editor

Summer greetings!

I hope you enjoyed reading your premier issue of *Valley Lawyer*, where we addressed the importance of nonprofit organizations in our society. Please be sure to email any savvy comments or insightful information that you received from past articles. We may consider publishing your thoughts in the next issue, or even writing a follow-up article.

In this issue of Law Office Management and Technology for Small Firms and Sole Practitioners, I thought it would be practical to explore the value of integrating new technology into a law firm. Technology trends offer a paradigm shift in how attorneys can navigate through an efficient office environment.

The advancement of technology in the law field has changed interpersonal communication between clients, attorneys

and the judicial system. Some say for the better, enhancing productivity and efficiency; while others believe for the worse, decreasing face-to-face interaction and impeding the growth of professional relationships.

From the newest modern phone services, to computer software programs, to office equipment, to digital filing systems, an attorney's job has in many ways become more efficient, but at the same time more complex. Technology is changing so rapidly that after an attorney invests in the latest office equipment and legal research software, a more useful, sophisticated and expensive version may launch within that same year.




While it is smart to stay abreast of technology trends, it is equally as important to minimize unnecessary costs by only purchasing those new services or products that directly maximize office

space along with productivity among staff. If you are operating without a cell phone or even a Blackberry, you might consider a visit to your local cell phone store. However, if you are on your fifth PDA and are on a wait list to have the newest one delivered to you upon FTC approval, you have been stung by the tech bug.

In general, technology can tremendously improve law office management for a small firm or sole practitioner. Today's technology is indeed tomorrow's history. Therefore, it is imperative for an attorney to be tech-savvy, but not quite a tech-junky. 🐛

Have a relaxing summer!





Angela M. Hutchinson



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## SFVBA Volunteer Opportunities

Contact our Staff at  
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**PUBLIC SERVICES (Rosie, x.104)**  
ARS seeks attorneys to perform seminars for the Bankruptcy Self-Help Clinic on Monday afternoons.

**EVENTS (Linda, ext. 105)**  
Delegation Committee is recruiting volunteers for the Conference of Delegates. Golf Tournament Committee still needs experienced golfers and individuals with a marketing background.

**MANDATORY FEE ARBITRATION PROGRAM (Angela, ext. 109)**  
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# Technology and ARS

## Striking a Balance



**ROSIE SOTO**  
Director of  
Public Services

**T**ECHNOLOGY ONCE WAS the Selectric typewriter, the portable recorder, and the payphone on the corner. Now, professionals can work remotely. Some attorneys are satisfied with the cell phone, laptop and PDA. Others seek out the latest gadgets with the idea of being as efficient as possible and hoping to *extend* the time in a 24-hour day.

There are of course still security and quality issues that attorneys and their clients are concerned about as it relates to technology, but advances in these areas continue. Many clients enjoy and use technology as much as attorneys. On the other hand, some clients want their attorneys to have books on the shelf, only face to face communications, and perhaps a quality fountain pen in their hand.


Striking a balance and serving all types of clients and attorneys is a goal of the ARS. Like many attorneys the ARS has spent considerable money in order to have the latest technology. The ARS has a fairly new technologically advanced phone and computer referral system. The public appreciates the ease of obtaining a referral because of these systems. However, the ARS still puts the emphasis on "in office" consultations with referral clients. The ARS knows from experience that a client is more likely to hire an attorney who meets with them face-to-face in a professional appointed office with friendly and helpful staff. In that initial consultation meeting, the attorney can demonstrate how "connected" the attorney and client will be and how the attorney uses technology to advance the client's interests.

The latest technology available to the ARS allows the organization to be better "connected" to panel attorneys as well as the public. Most of the panel attorneys are easily reached when the ARS has a referral for them even if they are not in their offices. With the Case Manager

technology, attorneys can easily request adjustments in their panel membership, make percentage fee and dues payments, and update the status of cases all from their office computer and laptop. This system also gives ARS the technology to automate and expedite many of the administrative functions ARS staff must perform. This leaves more time to make referrals and generate business. ARS also has an enhanced and easy-to-use website so the public can request referrals online.

The ARS is launching a new technology tool, on-line profiles of ARS attorneys, that will help panel attorneys market their law practice. Now when ARS makes a referral, the potential client will be given access to that attorney's

profile. The attorneys will create the profiles so it will enable them to market themselves early on and create a connection between the attorney and the referred individual.

To be effective, the profiles must be informative, interesting, and accurate. If the ARS refers an individual to a family law attorney and the attorney profile does not mention that the attorney practices family law, the client may not keep the appointment. If any panel member would like some guidance on creating a profile, the ARS staff will be happy to help. Keep in mind, most of the panel attorneys have websites that can be used as a template for these profiles. Isn't technology great! 

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## Chatsworth Court to Hear All Civil Harassment Cases Filed in North Valley

Effective May 7, 2008, all Civil Harassment hearings that are within the North Valley District's jurisdiction shall be held in Department F43 at the Chatsworth Courthouse. Temporary Restraining Orders (TRO's) may be issued at either the San Fernando or Chatsworth courthouses.

All cases currently set in Department NV"Q" at the San Fernando Courthouse shall be heard at the time and place already set.

## California Appeals Court Disallows Graduated Probate Filing Fee

On March 27, 2008, the Court of Appeal, Second Appellate District, Division Six, issued its opinion in *Burkey v. State of California* (Appeal No. B197307), ruling in favor of the plaintiff. In that case, the graduated filing fee in probate cases was challenged as unconstitutional.

Therefore, the court will no longer collect the graduated filing fee upon the filing of a Petition for Preliminary-Final Distribution and Discharge. The court will only collect an estate's first filing or trust fee of \$320.

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# COLUMBUS DAY GOLF TOURNAMENT

Proceeds to benefit the good works and public service programs of the SFVBA

MONDAY, OCTOBER 13, 2008 | BRAEMAR COUNTRY CLUB | TARZANA

10:00 A.M. CHECK-IN | 10:30 A.M. PUTTING CONTEST | 11:30 A.M. SHOTGUN START  
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Includes two golf foursome packages, 2 additional tickets for awards dinner for a table of 10, on-course beverage station with sign, sign at tee, name/logo prominently displayed in promotional material and banner.

- ☐ **Birdie Sponsor** \$2,500

Includes one golf foursome package, 4 additional tickets for awards dinner, name included in promotional material and sign at tee.

- ☐ **Hole-in-One Sponsor** \$1,500

**CAR PRIZE!**

Hit a Hole-In-One on a par 3 hole and win a vacation. On one surprise hole, you can win a car sponsored by Galpin Ford. We will place sponsorship signs on every par 3 hole on course. Includes 2 tickets to luncheon and awards dinner. (Only 4 sponsors)

- ☐ **Tee Sponsor** \$500

By sponsoring a tee/green sign on the course your firm or company can show your support for the SFVBA's good works. You may hand out gifts and information to the golfers at your sponsored hole. Includes 1 ticket to luncheon.

## OTHER SPONSORSHIP OPPORTUNITIES\*

- ☐ **Lunch Sponsor** \$2,500

Let us announce your generosity in "picking up the tab" for the BBQ lunch. We will place sponsorship signs at the lunch site and give you a table for you to hand out gifts and information to the golfers. Includes 2 tickets to luncheon and awards dinner. (Only 1 sponsor)

- ☐ **Cocktail Reception Sponsor** \$2,000

The awards reception will be a fun filled event! We will place sponsorship signs on the bar. Includes 2 tickets to awards dinner. (Only 1 sponsor)

- ☐ **Photo Sponsor** \$1,500

Every golfer will receive a framed photo with a picture of their foursome and 4 shots of each golfer. Your logo will be included on the frame. Includes 2 tickets to luncheon and awards dinner. (Only 3 sponsors)

- ☐ **Putting Contest Sponsor** \$1,000

We'll display a sign at the putting contest showing your support. We'll mention your sponsorship when we announce the winner of the putting contest. Includes 2 tickets to luncheon. (Only 1 sponsor)

- ☐ **Beverage Station Sponsor** \$750

Sponsor a favorite golfer spot! We will acknowledge your sponsorship by placing a sign at one beverage station and you may hand out gifts to the golfers at your sponsored hole. Includes 2 tickets to luncheon. (Only 4 sponsors)

\* All sponsors receive recognition on the SFVBA website and in Valley Lawyer magazine and acknowledgment at awards dinner.

## PLAYER ENTRY AND SPONSORSHIP REGISTRATION

If you do not have a foursome, we will pair you. Non-attorney golf pros are prohibited from participating in contests and are ineligible to compete in individual or team awards.

Player: _____	Handicap: _____	Qty	Description (✓ above)	Total
Firm: _____		_____	\$250 Golfer Player Package After September 7	\$ _____
Ph.: _____	E-mail: _____	_____	\$225 Golfer Player Package Before September 7	\$ _____
Player: _____	Handicap: _____	_____	\$195 "Early Birdie" Special Before August 15	\$ _____
Firm: _____		_____	\$150 Sitting Judge	\$ _____
Ph.: _____	E-mail: _____	_____	\$80 Non-Player Day at Club	\$ _____
Player: _____	Handicap: _____	_____	(Includes tennis, use of facilities, pool, beverages and meals)	
Firm: _____		_____	Sponsorship: _____	\$ _____
Ph.: _____	E-mail: _____	Sponsor Firm/Company: _____		
Player: _____	Handicap: _____	Sponsor Contact: _____ Ph.: _____		
Firm: _____		Please charge my credit card for: \$ _____		
Ph.: _____	E-mail: _____	Cardholder Name: _____		
		Credit Card No.: _____ Exp. Date ____/____/____		

Proceeds from the Golf Tournament financially support SFVBA programs benefitting the community and the profession, including Blanket the Homeless, Courthouse Children's Waiting Rooms, Diversity Project, Fee Arbitration Program, Attorney Referral Service and Fastcase Law Library.

Make checks payable to SFVBA. Return registration and payment to 21250 Califa Street, Suite 113, Woodland Hills, CA 91367 or fax to 818.227.0499. For more information about the tournament and sponsorship opportunities, contact 818.227.0490 ext. 105.



## Member Benefits



■ SFVBA rents its **Executive Boardroom** for depositions and hearings. Amenities include breakout room, beverage service, and free parking. Only \$150 per day.



■ **Wells Fargo Insurance Services** offers an exclusive Lawyers Professional Liability insurance program for law firms of 1-10 attorneys. Call Terri Peckinpugh at (818) 464-9353.



■ The SFVBA offers **Fastcase**, a comprehensive online law library, as a free service to all SFVBA members. Click on the Fastcase logo at [www.sfvba.org](http://www.sfvba.org) to enjoy unlimited usage, unlimited customer service and unlimited printing, all at no cost.



■ As a member of the ABA's House of Delegates, SFVBA Members can take advantage of the ABA Retirement Funds program, administered by global leader State Street. The program provides full service, cost-effective retirement plan solutions to law firms of all sizes, and charges no out-of-pocket fees for administrative services. For more information see the program's prospectus at [www.abaretirement.com](http://www.abaretirement.com) or contact Plan Consultant Patrick Conlon at (617) 376-9326.



■ Join Southland Credit Union and gain access to **great interest rates** on deposits and loans, no fee traveler checks, and more. Call (800) 426-1917.



■ **Bank of America** offers members a no annual fee WorldPoints® Platinum Plus® MasterCard® credit card program. To apply by phone, call (800) 932-2775; mention priority code **FAA803**.



■ Contact the SFVBA office to receive a package of **discount coupons & membership cards** for Southern California's major theme parks and attractions.



■ Now Messenger Service offers members who open new accounts a **5% discount** off their current rates. Call (818) 774-9111.



■ Chase Mortgage gives members **1/2 point fee discount** on fixed and adjustable rate programs. Call John Bartnicki at (818) 226-0888.



■ SFVBA members **save \$10** on new AAA Membership. Please also ask us about new insurance with many available discounts. Call Hazel Sheldon at (818) 615-2289. Mention campaign code 39727.



■ Receive 10% off Super Value daily and weekly rates and 5% off promotional rates from Avis Rent A Car. To make a reservation, call (800) 331-1212 or visit [www.AVIS.com](http://www.AVIS.com). When reserving a vehicle, provide discount AWD Number G133902.



■ Members save up to 15% off Hertz daily member benefit rates at participating locations in the U.S. and special international discounts are also available. Your SFVBA CDP #1787254 is the key. Visit [hertz.com](http://hertz.com) or call (800) 654-2200.

## Benefit Profile

### SFVBA Partners with UCB *New Benefit for Members*

**I**N THIS SPRING'S SFVBA membership survey, 22% of survey participants responded that they would like the Bar to offer discounts on banking services. As a result, the SFVBA has partnered with United Commercial Bank (UCB) to offer unique banking services to members.

Benefits include no account maintenance fee on business checking accounts with a minimum average balance and a \$200 credit to offset check ordering fees; lower fees on credit card merchant services; and UCB Express Deposit Service that enables members to scan checks from the office and transmit the image to UCB via a secure Internet connection for processing and clearing.


UCB's local branch office is located at 6440 Sepulveda Boulevard in Van Nuys, but SFVBA members can make deposits into their UCB accounts at any Wells Fargo Bank or Bank of America branches.

### UCB HELPS BUSINESSES SUCCEED

A leading bank in the United States with over 70 branches worldwide, UCB and its affiliates provide commercial banking services to small- and medium-sized businesses and professionals, as well as consumer and private banking services.

UCB is dedicated to providing business customers with the means to maximize their financial efficiency. Its full line of business deposit products includes business checking, savings, money market, and retirement accounts.

UCB also offers cash management services such as remote deposit capture, zero balance accounting and investment sweep accounts. Other financial services for businesses include business online banking, payroll services, business credit card, merchant bank card services, and a full range of commercial lending services.

For more information, contact Branch Manager Irene Williams at (818) 988-6668 or visit [www.ibankunited.com](http://www.ibankunited.com) 



Since 1974, United Commercial Bank (UCB) has been building strong customer relationships with extensive local knowledge and experience. Headquartered in San Francisco, UCB and its affiliates have expanded from a local community bank to an international bank with over 70 branch offices operating in six states in the United States and seven offices across the Pacific Rim in Beijing, Guangzhou, Hong Kong, Shanghai, Shantou, Shenzhen, and Taipei.

With our unique full service banking platform in China and Hong Kong, we now have RMB deposit services\* available, as well as lending and trade finance services to our customers who are doing business in China.

Building relationships with our customers by having a full understanding of their needs and culture will continue to be UCB's tradition as we expand our network and services both domestically in the United States and internationally across the Pacific Rim.

**www.ibankunited.com 1-800-821-3899**

Member FDIC

\* RMB deposits available through UCB (China) Limited are not insured by the FDIC or any federal government agency; are not deposits or obligations of UCB and are not guaranteed by UCB. Other restrictions apply.

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## MCLE ARTICLE AND SELF-ASSESSMENT TEST

By reading this article and answering the accompanying test questions, you can earn one MCLE credit. To apply for the credit, please follow the instructions on the test answer form on page 17.

# STREET LEGAL

## Ethics in Business Development for Small Firms

By Lisa Miller, Esq.

**W**HILE MANY SOLO AND small firm lawyers have crafted effective business development plans, they sometimes wonder about the ethical boundaries for these marketing activities. Fortunately, the State Bar of California and several local bars offer useful guidance for practitioners seeking answers in these areas.

Article 9.5, Section 6157-6159.2, of the State Bar Act addresses issues related to lawyer advertising. This Article covers topics ranging from false, misleading or deceptive advertising to electronic media concerns, and everything in between.

In Section 6157, the Act demonstrates that its provisions are to be construed broadly. For example, the Article applies not only to attorneys, but to their agents as well. "Advertisement" means any communication, disseminated via television, radio, any print medium (including newspapers and billboards), or by a mailing directed to the general public that solicits employment of legal services provided by a State Bar member, and is paid for by, or on the behalf of, an attorney. "Electronic medium" includes not only the traditional television and radio networks, but computer networks as well. Presumably, this includes text messaging, although the State Bar has not promulgated a rule directly on point.

Section 6157.1 generally prohibits false, misleading or deceptive advertising, nor may advertising omit to state any fact necessary to make the statements, in light of circumstances, not false, misleading, or deceptive. On a more specific basis, Section 6157.2 addresses advertisements containing guarantees, settlements, impersonations, dramatizations and contingent fee basis.

The Section prohibits advertisements that contain or refer to any of the following:

- Any guarantee or warranty regarding the outcome of a legal matter as a result of representation



by the member.

- Statements or symbols stating that the member featured in the advertisement can generally obtain immediate cash or quick settlements.
- An impersonation of the name, voice, photograph, or electronic image of any person other than the lawyer, directly or implicitly purporting to be that of a lawyer.
- An impersonation of the name, voice, photograph, or electronic image of any person, directly or implicitly purporting to be a client of the member featured in the advertisement, or a dramatization of events, unless disclosure of the impersonation or dramatization is made in the advertisement.
- A spokesperson, including a celebrity spokesperson, unless there is disclosure of the spokesperson's title.
- A statement that a member offers

representation on a contingent basis unless the statement also advises whether a client will be held responsible for any costs advanced by the member when no recovery is obtained on behalf of the client. If the client will not be held responsible for costs, no disclosure is required.

When counsel does decide to disseminate advertisements, Section 6157.3 provides guidance on disclosure of the advertisement's financial sponsor, if it is someone other than the State Bar member. The Section requires that the advertisement itself must disclose any business relationship, past or present, between the member and the person paying for the advertisement.

The State Bar has promulgated specific rules related to solicitation for employment in the immigration or naturalization areas. Section 6157.5 requires specific disclosures in advertising; all advertisements published, distributed, or broadcasted by or on behalf of a member seeking professional employment for the member in providing services relating to immigration or naturalization **shall** include a statement that counsel is an active member of the State Bar, licensed to practice law in California. When advertisements seeks employment for a law firm or law corporation employing more than one attorney, the advertisement **shall** include a statement that all the services relating to immigration and naturalization provided by the firm or corporation shall be provided by an active member of the State Bar or by a person under the supervision of an active member of the State Bar. If the operative portion of the advertisement is in a language other than English, the required statement shall be in the same language as the advertisement.

Violations of this section shall be cause for discipline by the State Bar. The Bar has built in two significant exceptions, however, to this Section's requirements:

- This Section does not apply to classified or "yellow pages" listings in a telephone or business directory of three lines or less that state only the name, address, and telephone number of the listed entity
- This Section does not apply to members employed by public agencies or by nonprofit entities registered with the Secretary of State.

While these rules may seem limiting, most attorney advertising is not transmitted via traditional print or broadcast media; rather, most advertising, and more and more in the future, is through electronic media.

Electronic media advertisements, addressed in Sections 6157.1 and 6157.2, provide no exception to the rules that apply to more traditional advertising means; messages may not be false, misleading or deceptive and message must be factually substantiated. The "message" means the effect in combination of the spoken word, sound, background, action, symbols, visual image, or any other technique employed to create the message. "Factually substantiated" means capable of verification by a credible source.

The State Bar, in order to protect the public, has established in Section 6158.1 rebuttable presumptions regarding false, misleading or deceptive messages; the Section states that there shall be a rebuttable presumption affecting the burden of producing evidence that the following messages are false, misleading, or deceptive within the meaning of the Section:

- A message as to the ultimate result of a specific case or cases presented out of context without adequately providing information as to the facts or law giving rise to the result.
- The depiction of an event through methods such as the use of displays of injuries, accident scenes, or portrayals of other injurious events which may or may not be accompanied by sound effects and which may give rise to a claim for compensation.
- A message referring to or implying money received by or for a client in

a particular case or cases, or to potential monetary recovery for a prospective client. A reference to money or monetary recovery includes, but is not limited to, a specific dollar amount, characterization of a sum of money, monetary symbols, or the implication of wealth.

In Section 6158.2, the rules set forth a set of presumptions that certain information is not false, misleading or deceptive. Certain statements and information is presumed to be in compliance with this article for purposes of advertising by electronic media, provided the message as a whole is not false, misleading, or deceptive:

- Name, including name of law firm, names of professional associates, addresses, telephone numbers, and the designation "lawyer," "attorney," "law firm," or the like
- Fields of practice, limitation of practice, or specialization
- Fees for routine legal services, subject to the requirements of subdivision (d) of Section 6157.2 and the Rules of Professional Conduct
- Date and place of birth
- Date and place of admission to the bar of state and federal courts
- Schools attended, with dates of graduation, degrees, and other scholastic distinctions
- Legal authorship
- Legal teaching positions
- Memberships, offices, and committee assignments in bar associations
- Memberships and offices in legal fraternities and legal societies

- Technical and professional licenses
- Memberships in scientific, technical, and professional associations and societies
- Foreign language ability of the advertising lawyer or a member of lawyer's firm

However, Section 6158.3 addresses portrayal of result in particular cases and requires additional disclosures. In addition to any disclosure required by Section 6157.2, Section 6157.3, and the Rules of Professional Conduct, the following disclosure shall appear in advertising by electronic media (but use of the following disclosure alone may not rebut any presumption created in Section 6158.1). If an advertisement in the electronic media conveys a message portraying a result in a particular case or cases, the advertisement must state, in either an oral or printed communication, either of the following disclosures:

- The advertisement must adequately disclose the factual and legal circumstances that justify the result portrayed in the message, including the basis for liability and the nature of injury or damage sustained, or
- The advertisement must state that the result portrayed in the advertisement was dependent on the facts of that case, and that the results will differ if based on different facts.

Counsel are required under Section 6159.1 to retain a true and correct copy of any advertisement made by a person or member shall be retained for one year by the person or member who pays for



**VICTORY VIDEO**  
LEGAL VIDEOGRAPHY

:: depositions  
:: site surveys  
:: mock trials  
:: ethical wills  
:: day-in-the-life documentaries  
:: settlement documentaries

**Wayne P. Marien, CLVS**  
805.404.3345 :: VictoryVid@mac.com

an advertisement soliciting employment of legal services.

Many counsel have heard of competitor law firms that employ “runners” and “cappers,” addressed in Section 6151. A runner or capper is any person, firm, association or corporation acting for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm as provided in this article.

Section 6152 provides that it is unlawful for:

- Any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any attorneys or to solicit any business for any attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.
- Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to the claim and primarily for treatment of the injury, is presumed fraudulent if the release is executed within 15 days after the commencement of confinement or prior to release from confinement, whichever occurs first. The rules are clear, however, that nothing in Section 6152 shall be construed to prevent the recommendation of professional employment where that recommendation is not prohibited by the Rules of

Professional Conduct of the State Bar of California. For example, nothing in the Section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether those persons are in custody or otherwise. Any contract for professional services secured by any attorney at law or law firm in this state through the services of a runner or capper is void, per Section 6154.

Attorneys are not prohibited from jointly advertising their services. Permissible joint advertising, among other things, identifies by name the advertising attorneys or law firms whom the consumer of legal services may select and with whom the consumer initiates contact.

Rule 2-101, Professional Employment, is adopted to foster and encourage the free flow of truthful and responsible information to assist the public in recognizing legal problems and in making informed choices of legal counsel. Accordingly, a member of the State Bar may seek professional employment from a former, present or potential client by any means consistent with these rules.

### PRACTICAL APPLICATIONS

But how to apply these rules and restrictions when considering marketing legal skills in chat rooms and via unsolicited e-mails? What are the parameters of solicitation in this context?

To be a “solicitation,” a lawyer’s communication must meet two elements:

- (1) Where a “significant motive” for the communication is “pecuniary gain,” and
- (2) Where either (a) the communication is delivered in person or by telephone or (b) the recipient of the communication is known to be represented by counsel.

Because chat room communications occur through computer contact, they are not “in person,” and since chat room communications are not “delivered by telephone,” but rather “delivered over telephone lines,” chat room communications are not prohibited. However, practitioners should remember that communication or solicitation shall not be transmitted in any manner which involves intrusion, coercion, duress,

compulsion, intimidation, threats, or vexatious or harassing conduct.

One of 16 standards adopted by the State Bar Board of Governors is “communications” that are presumed violations of the rule applies to communications “delivered to a potential client whom the member knows or should reasonably know is in such a physical, emotional, or mental state that he or she would not be expected to exercise reasonable judgment as to the retention of counsel.” So counsel must be sensitive to the purposes and expectations of chat room participants. This differs from e-mail messages to prospective clients, which are not a prohibited solicitation,

Web sites offering e-mail interactivity permitting potential clients to request legal assistance fit within the scope of the ethics requirements of the State Bar. The content of the Web site is a means of announcing the lawyer’s availability for professional employment; the Web site is directed to the general public. “Communication” includes every advertisement, regardless of medium. However, while a Web site is not a “solicitation,” even where pecuniary gain is a significant motive in establishing and maintaining it, attorneys must retain for two years copies or recordings of any communications by written or electronic media. This applies to each page of every version and revision of the Web site.

Counsel should protect themselves against confusion about whether information submitted by consumers via electronic means will be held confidential; the State Bar suggests the following language: “I understand and agree that Law Firm will have no duty to keep confidential the information I am now transmitting to [lawyer or law firm].” 📌

*Lisa Miller, Esq., is the Chair of the SFVBA Small Firm & Sole Practitioner Section and the Chair-Elect of the Solo and Small Firm Section of the State Bar of California. She writes frequently on ethics issues. She can be reached at [Barnotes@LMillerconsulting.com](mailto:Barnotes@LMillerconsulting.com) or (818) 508-8502.*



# MCLE Test No. 2

This self-study activity has been approved for Minimum Continuing Legal Education (MCLE) credit by the San Fernando Valley Bar Association (SFVBA) in the amount of 1 hour. SFVBA certifies that this activity conforms to the standards for approved education activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education.

1. "Advertisement" means any communication, disseminated via television, radio, any print medium, or by a mailing directed to the general public that solicits employment of legal services.  
True  
False
2. "Electronic medium" means television and radio.  
True  
False
3. State Bar rules related to electronic media advertising provide several exceptions to the rules that apply to more traditional advertising means.  
True  
False
4. "Message" means the effect in combination of spoken words and visual images.  
True  
False
5. Information that is presumed to be in compliance for electronic media advertising purposes includes public or quasi-public offices that counsel holds or has held in the past.  
True  
False
6. Including counsel's military service in an advertisement is never allowed.  
True  
False
7. The State Bar has not established a rebuttable presumption that an advertising message as to the ultimate result of a specific case presented out of context without adequately providing information as to the facts or law giving rise to the result is false, misleading, or deceptive.  
True  
False
8. Attorney advertising via electronic means may never include statements of fees for routine legal services.  
True  
False
9. Attorney advertising delivered via electronic media is within State Bar requirements unless it includes foreign language ability.  
True  
False
10. Attorney advertising that portrays a result in particular cases requires no additional disclosures.  
True  
False
11. An advertisement portraying a result in a particular case must adequately disclose the factual and legal circumstances that justify the result portrayed in the message.  
True  
False
12. An attorney advertisement portraying a result in a particular case need not disclose the facts of the case.  
True  
False
13. Counsel must retain copies of advertising, offered by the person or member who pays for an advertisement soliciting employment, for a period of seven years.  
True  
False
14. A "runner" or "capper" is any person, firm, association or corporation acting for consideration in any manner or in any capacity as an agent for an attorney at law or law firm, whether the attorney or any member of the law firm is admitted in California or any other jurisdiction, in the solicitation or procurement of business for the attorney at law or law firm.  
True  
False
15. It is unlawful for any person to act as a runner or capper for any attorney or to solicit any business for any attorney near places of detention, hospitals, courts, or in any public institution or in any public place or upon private property.  
True  
False
16. Attorneys are prohibited from jointly advertising their services.  
True  
False
17. Chat room communications of a business development nature are "delivered by telephone," so they are prohibited.  
True  
False
18. Counsel engaged in business development activity through chat room participation must be sensitive to the purposes and expectations of chat room participants because "communications" that are presumed violations of the rule applies to communications "delivered to a potential client whom the member knows or should reasonably know is in such a physical, emotional, or mental state that he or she would not be expected to exercise reasonable judgment as to the retention of counsel."  
True  
False
19. Attorneys must retain for two years copies or recordings of any communications by written or electronic media.  
True  
False
20. A Web site is a "solicitation" within the contemplation of State Bar rules.  
True  
False

## MCLE Answer Sheet No. 2

Street Legal: Ethics in Business Development for Small Firms

### INSTRUCTIONS:

1. Accurately complete this form.
2. Study the MCLE article in this issue.
3. Answer the test questions by marking the appropriate boxes below.
4. Mail this form and the \$15 testing fee for SFVBA members (or \$25 for non-SFVBA members) to:

San Fernando Valley Bar Association  
21250 Califa Street, Suite 113  
Woodland Hills, CA 91367

### METHOD OF PAYMENT:

- ☐ Check or money order payable to "SFVBA"  
☐ Please charge my credit card for \$\_\_\_\_\_.

Credit Card Number \_\_\_\_\_ Exp. Date \_\_\_\_\_

Authorized Signature \_\_\_\_\_

5. Make a copy of this completed form for your records.
6. Correct answers and a MCLE certificate will be mailed to you within 2 weeks. If you have any questions, please contact our office at (818) 227-0490, ext. 105.

Name \_\_\_\_\_

Firm/Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State/Zip \_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_

State Bar No. \_\_\_\_\_

### ANSWERS:

Mark your answers by checking the appropriate box. Each question only has one answer.

- |     |                               |                                |
|-----|-------------------------------|--------------------------------|
| 1.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 2.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 3.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 4.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 5.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 6.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 7.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 8.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 9.  | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 10. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 11. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 12. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 13. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 14. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 15. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 16. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 17. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 18. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 19. | <input type="checkbox"/> True | <input type="checkbox"/> False |
| 20. | <input type="checkbox"/> True | <input type="checkbox"/> False |

# JOURNEY INTO A PAPERLESS WORLD

BY ANGELA M. HUTCHINSON



**I**N TODAY'S HIGH-TECH SOCIETY, many attorneys dream of a modern office with the latest office gadgets and computerized equipment. For sole practitioners curious about the journey into a paperless world, the following Q&A with Attorney Arthur Paul Berg may prompt the use of modern technology to maximize office productivity.

Having practiced law for 34 years, Berg's personal experience from paper to disk is an enlightening one. He has a solo personal injury, products liability, and insurance practice in Northridge. A large part of Mr. Berg's practice is providing heavy law and motion, and discovery support to trial attorneys in those practice areas.

## Q & A WITH SFVBA MEMEBER



**Attorney Arthur Paul Berg**

### Q: Why did you decide to take the journey to a paperless world?

A: Several years ago, I decided to downscale my practice and let my staff go. As good as it was not to have to write those checks each month, the stacks of paper in my office grew. I found that I did not enjoy filing and I just didn't do it. The paperless office seemed the way to go. No filing; no indexing. Simply scan. The computer – and the trash bin – would replace my file cabinets.

### Q: Why didn't you just try a combination printer, fax and scanner?

A: I did. But the fax quality (about 200 dpi) wasn't good enough. The scanned images looked fine on the screen, but printed poorly. Also, the speed was fine for short documents but was too slow for the longer ones.

### Q: What kind of scanner did you get?

A: I needed a stand-alone scanner which would scan at least 300 dpi, had a paper feeder that would accommodate at least 30 pages, and would be reasonably fast even at the higher resolutions. Duplex (scanning both sides of a two-sided document on a single pass) and color would be nice too. The Documate262 met my needs. It sits on my desk within arm's reach. When a document comes into the office the biggest problem is getting the staples out. Then all I do is slide it into the scanner, switch to my scanning software, name the document and hit "scan." Then, I file the paperwork in that big circular file cabinet sitting near my desk.

### Q: Did you need special software as well as the scanner?

A: I use PaperPort, a program which handles both the scanning and document management side of the paperless office. It allows you to specify the type of scanning (e.g. black and white or color, simplex or duplex, and resolution), the document name, the destination folder, and the output file type (e.g., PDF, Microsoft Word, and WordPerfect).

### Q: What else does Paperport do, besides let you scan documents?

A: With PaperPort I can easily navigate between and view documents. No need to open each individual document to view it; PaperPort allows you to simply click on the document name and see the contents. The program also has built in character recognition (OCR) capability.

### Q: Why is the character recognition important?

A: With OCR I can easily use scanned material in my own documents. Highlight the area you want, right-click, and choose

"copy text." The program converts the scanned image to editable text which you can paste into a document. For example, when I am answering interrogatories, I can convert the scanned questions to text and paste each one before my answer. I don't need to retype anything.

### Q: How do you locate a file with all the files on your computer?

A: Good folder organization and a naming scheme for documents helps you easily find files. You can make as many folders and subfolder as you need. When a folder gets to have a lot of documents, I just subdivide it.

### Q: Can you further explain your system?

A: My basic case organization has four folders: correspondence, pleadings, discovery, and investigation. But then I subdivide. Correspondence may have separate folders for client, counsel and other correspondence. Discovery may have separate folders for written discovery, deposition notices, and deposition transcripts. Starting with these, I create additional folders as I need them.

### Q: What is your system for naming each scanned file?

A: I name documents so that the name gives me information about the content. Letters are "letter from a to B-date." Discovery documents are type, propounding party, responding party and set number. I also name files so that related ones are next to each other when they are listed alphabetically in a window. For example, I give a set of interrogatories and the response the same name; the responses have "-resp" at the end.

### Q: What are the other advantages to having documents in an electronic format?

A: Reorganizing my file is a snap. A case often starts small but, if it becomes more complex, it often is handy to break up files into smaller, more specialized ones. With paper files this is a massive job: physically disassemble the file, sort the documents, put them into new file folders, label them, and then prepare new indices. It was a massive job, so I didn't do it very often. With electronic files I simply create a new folder, select the documents to go into it, and drag and drop the files into their new home.

### Q: What kind of a backup system do you need in a paperless office?

A: Lose the electronic version and you are dead! Backup is vital; multiple backup is better. I do all my work on one internal hard drive and each night back up automatically to a second and to an external drive. The chances that all three hard drives will fail is minuscule. Once a week I also back up to a small external hard drive which I keep in a safe place away from my office; this protects in case of a fire or other disaster. ⚡

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## 2008 Conference of Delegates Gather to Change Law



PATRICIA L.  
McCABE

**A**S THE SUMMER DAYS lengthen, members of the Conference of Delegates committee for the San Fernando Valley Bar Association begin to meet weekly to discuss and debate the resolutions of the 2008 Conference of Delegates of California Bar Associations ("CDCBA"). The resolutions have been written and proposed by voluntary bar associations from across the State for the purpose of changing the California Code or for creating new statutes.

Currently, there are 117 resolutions in 12 different categories. The areas of law impacted are as varied as the possible areas of practices of law. There are even resolutions to modify or create new Rules of Court.

Participating bar associations send representatives to the three-day conference held in conjunction with the State Bar's annual fall meeting. About 500 lawyers gather to debate the resolutions; proponents for and against each measure formulate their best arguments and attempt to sway the conference. Politics come into play with offers of amendments and requests to withdraw resolutions. The majority vote carries the day.

If a resolution is passed by the conference, it is then prioritized and presented by the CDCBA, via a lobbyist, to a member of the state legislature for inclusion in a bill or creation into a bill. Currently, the SFVBA has two resolutions which are before the 2008 conference.

A resolution typically comes into fruition because a lawyer sees the need in everyday practice. In 2006, Roger Franklin, a long time member and current Co-Chair of the SFVBA Delegation committee, sponsored a resolution relating to landlord tenant law. The resolution provided that the landlord would not have to give notice to a former tenant, if the landlord were to keep or dispose of the property left behind by a former tenant, if the property was valued at \$500 or less, which was an increase from the amount set by law of \$300. The resolution was introduced as AB 410 by Assemblyman Anthony Adams in 2007.

Prior to the Conference, the members of the SFVBA delegation committee read each resolution, discuss the proposition, research various code sections and then debate the impact of the resolution before establishing the formal position of the SFVBA. The delegation allotted to the SFVBA is based upon the size of

membership. The delegation currently has three openings.

To join the SFVBA delegation committee, contact co-chair Cindy Elkins at [celkins@employer-law.com](mailto:celkins@employer-law.com). 

*The resolutions for 2008 are listed at [www.cbcb.org](http://www.cbcb.org).*

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# Valley Community Legal Foundation

## A Giant Farewell with Tremendous Gratitude



**MARCIA L.  
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VCLF President

### THE FOUNDATION HAD ITS BIG LAW DAY

Fundraising Gala June 7, and it was a big success. The event was truly a team effort. Everyone on the Board pitched in one way or another. Never before has there been seen such a great effort by so many people.

Raising funds for the Children's Waiting Room was a big motivator this year, but funds will be directed to our scholarships and grants programs. The Foundation would like to thank the following dedicated volunteers who took on multiple tasks to make the event a success:

- **Jill Banks Barad**
- **Judge Wendy Kohn**
- **Steve Holzer**
- **Tom & Amanda Melatis**
- **Judge Susan Speer**
- **Tracy Beavers**
- **Jodie Berman Levine**
- **Patricia McCabe**
- **Judge Michelle Rosenblatt**
- **Commissioner Alan Friedenthal**

The Board members put in enormous time, money and efforts to back this endeavor. But this is only a small smattering of the tremendous energy and enthusiasm generated by this Foundation. This year, the Foundation's fabulous Board has accomplished much.

The website is almost up and running. The logo was recently designed. Funds were raised toward the Children's Waiting Rooms at the San Fernando and Van Nuys courthouses. The Scholarship and the Grants Committee met and distributed funds to deserving individuals and organizations. The Foundation's financial data has been organized and revamped.

A special credit should be given to those who spent extra hours sending solicitation and thank you letters out along with a million other jobs. There will never be enough words to tell each person how grateful the Foundation is for their help.

Blessings, and remember *generosity counts.* ✎

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## SFVBA 2008 INSTALLATION GALA

Saturday, September 20, 2008

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6:00 PM Cocktail Reception  
7:00 PM Dinner

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President Sue Bendavid will hand over the reins to Tamila Jensen, who will be installed as SFVBA President.

The Valley Community Legal Foundation, the SFVBA's charitable arm, will also install its Board of Directors, with Stephen Holzer assuming the presidency from Marcia Kraft.

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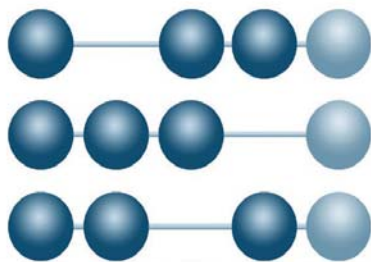
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