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ABA
AMERICAN BAR ASSOCIATION
**General Practice,
Solo & Small Firm
Division**

**Sustaining a Viable Law Practice Serving
Low- & Moderate- Income Clientele**

**Friday, October 16, 2009
2:45 p.m. - 3:45 p.m.**

**2009 Fall Meeting and
National Solo and Small Firm Conference
October 16 - 17, 2009
Millennium Biltmore Hotel
Los Angeles, CA**

Assistant Professor Luz Herrera
Thomas Jefferson Law School, San Diego, California

Prior to joining academia, Luz Herrera started a solo practice in Compton, California serving low- and moderate-income clients. There she founded Community Lawyers, Inc., a nonprofit organization that facilitates the provision of affordable legal services to underserved communities through on-going legal education and self-help legal clinics. Professor Herrera is in the process of launching a transactional clinical program at Thomas Jefferson that aims to prepare law students for solo and small firm practice. She is a fellow of the Bellow Sacks Access to Civil Legal Services Program at Harvard Law School and serves on the ABA Standing Committee on Delivery of Legal Services. Ms. Herrera is a graduate of Stanford University and Harvard Law School.



Rodolfo "Rudy" Monterrosa
Law Offices of Rodolfo Monterrosa, South Bend, Indiana

Son of immigrant parents, **Rodolfo "Rudy" Monterrosa** received his bachelor's degree from Stanford University and graduated from the Notre Dame Law School in 2001. As a solo practitioner, he practices mostly in the areas of criminal and immigration law. He is the Supervisor for the Deputy Public Defenders in the St. Joseph County Traffic & Misdemeanor Court where he serves as one of two bilingual deputy public defenders. He sits on the Hispanic Alumni Board of Notre Dame as well as the Indiana Supreme Court's Commission on Race & Gender Fairness. Mr. Monterrosa is this year's recipient of the Notre Dame Law School's Graciela Olivarez Award, bestowed each year upon a Latino lawyer or judge who best exemplifies commitment to community service, demonstration of the highest ethical and moral standards, and dedication to justice.



Eileen Chun-Fruto
Fong & Chun, LLP, Los Angeles, California

Eileen Chun-Fruto focuses on corporate and family immigration matters with over 11 years of experience representing clients across all industry sectors including start-up companies, established science and technology firms, hospitals, school districts, and religious organizations. She is a member of the Executive Committee for the Los Angeles County Bar Association's Immigration Section, the American Immigration Lawyers Association, and the UC Davis Immigration Law Clinic Alumni Council. She has spoken on panels and workshops for the Los Angeles County Bar Association and the Young Lawyers Division of the American Immigration Lawyers Association. Ms. Chun-Fruto has provided pro bono work for monolingual clients seeking SSI disability appeals, orphaned immigrants, and even cultural performers from developing



countries. She is a partner at Fong & Chun, LLP a law firm devoted exclusively to the practice of immigration law and which provides access to immigration services for clients of low to moderate means.

Phillip Robinson
Civil Justice Inc., Baltimore, Maryland

Phillip Robinson is the Executive Director of Civil Justice Inc., a Maryland based public interest legal association which provides services to Maryland consumers. Civil Justice has been recognized as a model program bringing together a network of nearly Maryland solo and small firm attorneys interested in **doing well while doing good.**



Phillip was recognized as the 2008 Denis J. Murphy Maryland Consumer Advocate of the Year by the Maryland Consumer Rights Coalition and a Maryland "Super Lawyer" for 2008-2009 for his work as a leading public interest attorney helping consumers who are victim of unfair foreclosure, predatory lending practices, and mortgage fraud.

Phillip's work at Civil Justice concentrates in certain program service areas designed to help at risk homeowners avoid becoming the victim of certain predatory real estate practices. He serves as class counsel in several class action lawsuits and project manager for several pro-active public education programs designed to prevent residents from entering into illegal transactions in the first instance.

Phillip is a Member of the State and Federal Bars of the State of Maryland and has served as class counsel in the past. He has a BA in Political Science from American University in 1989 and attended both Georgetown Law Center and Widener University School of Law where he received his JD in 1998.

REFLECTIONS OF A COMMUNITY LAWYER

By Luz E. Herrera*

In May 2002, I opened a law office in one of the most underserved communities in Los Angeles County. Many questioned the sanity of such a career path when evaluating my financial stability and the personal toll that such a career path can exact. Given that I graduated from some of the best universities in the country, my friends, family, and strangers were even more perplexed at my choice. I cannot say that my decision to build a law practice in Compton, California, has been easy. However, time and time again, I found myself rejecting more secure and prestigious job offers and continued in what some of my law school friends call “the more difficult route.”

This article recounts my brief, unrefined, and continuing journey as a novice attorney. My story is not unique or new; however, the triumphs, challenges and defeats of community-based private practitioners serving individuals’ everyday legal needs are largely undocumented. By providing a personal account of my experiences as a solo practitioner, I hope to encourage others working with low-income and modest-means clients to share their experiences and demand more support from our law schools, our bar associations, and legal aid organizations to allow us to better serve our clients and sustain ourselves in the profession.

MY PERCEPTION OF LAW AND LEGAL INSTITUTIONS

Growing up in the eastside communities of Los Angeles, I remember seeing signs for lawyers and bail bondsmen in my neighborhood. My only connection to these services was overhearing conversations between my parents. Once, I heard them lamenting that their small savings would again be depleted in order to post a bond for a family member who struggled with a drug and alcohol addiction. Another time, I heard my mother warning my father to not get involved and reminding him that testifying on behalf of one of his co-workers in an employment discrimination lawsuit could cause him to lose his own job. From the tone of these conversations, even as a child, I understood the seriousness of these matters. As immigrants, my parents attempted to distance themselves from any legal problems. They would rather turn the other way or put up with mistreatment than to get involved in a legal dispute.

Until my senior year in high school, my knowledge of attorneys, judges or courtrooms was limited to television depictions and classroom role-play simulations. Those educational experiences, and my ability to function in United States’ society with greater ease than my immigrant parents, predisposed me to be less weary than they were about the legal system. During my senior year in high school, at the Chicano/Latino Youth Leadership Conference in Sacramento, I encountered an attorney for the first time. Attorneys from the Mexican American Legal Defense and Educational Fund

(MALDEF) organized a voting rights and redistricting exercise for the conference. They explained political representation, leadership, education, distribution of resources and the ability to vote. They described a legal system that created equal access to opportunity – a message that inspired me.

In college my interest was further piqued when I learned how lawyers used litigation strategies to cement civil rights victories in the 1960s and 1970s. Learning about this history helped me envision a role for myself in the legal profession. I wanted to be a lawyer who used her legal training to open doors for others. I believed that going to law school would prepare me to be an advocate for people who, like my family, my neighbors, and my friends, did not understand how to navigate government institutions. At the time I applied for law school, the only lawyer I knew well was in his first year of practice. He worked as a Los Angeles County district attorney, and he invited me to observe him in court. As he gave me a tour of the courthouse, he talked about his job with great enthusiasm. I remember walking into a holding cell adjacent to the courtroom where two working-class Latino immigrant men were on their knees praying for a merciful decision before being escorted to the courtroom. The fear and apprehension I saw in their eyes was similar to what I sensed as a child listening to the adult conversations about lawyers and courts. My friend explained that these men had been arrested for selling food without the proper permits and licenses. His job was to prosecute those who broke the law.

Because I thought I knew this district attorney’s politics, I was puzzled at why he enjoyed a job where it was his responsibility to prosecute men who I believed were honorable and hard-working. He explained that his job was to uphold the law even if its application did not always seem fair. As a district attorney, he had the power to make things very difficult for these men or give them an opportunity to rectify their mistake by paying a fine and educate them about their responsibilities when selling food to the public. I understood his explanation, but I did not understand why these men were placed in a holding cell and treated like dangerous criminals. I left the courthouse that day very disillusioned. It was my first introduction to justice in a courtroom and the first time that I questioned whether I could be an attorney.

MY LAW SCHOOL EXPERIENCE

First-year law school courses are supposed to teach students to think like lawyers. However, I often felt disengaged from the theoretical discussions of rules that seemed to take me away from the context of my experiences, my world, my self and into a world of rational behaviors presented as apolitical, asexual and void of identity. The first-year courses were teaching me to think like a lawyer, and while I acknowledged that I was

changing, I was not all that pleased by what I was becoming. My discomfort in the law school classroom was due to my identity as a first-generation, working-class Chicana. The idea that laws were neutral and that their application was fair did not ring true in my world of working-class individuals. Despite being a student leader in college, I found myself staying silent in much the same way my parents had when they were forced to deal with legal matters. When I was forced to speak in class, I spoke with a fear similar to what I saw in those street vendors' eyes — engaging in an unfamiliar process in a foreign system.

During law school, I sought training that would help me to be a voting rights expert just like those first attorneys who motivated me. Unfortunately, the only voting rights classes available were not in the university's law school, but in the school of government.¹ Very few of the discussions in my civil rights classes touched upon groups other than African Americans. It seemed every professor and career counselor I talked with about my interest in working on behalf of the Latino community was supportive, but did not know how to direct me to resources that would help me develop my career path. Some directed me to jobs at legal aid organizations or suggested I apply for government jobs — neither matched my ideas of community building. While their intentions were good, I never felt fully understood or heard by my advisors. It seemed that the only work that was valued as public interest was the work done by established non-profit organizations or government bodies. I knew that impact litigation work that organizations like MALDEF engaged in was the type of work acknowledged as “public interest.” So, I secured funding from a private donor that allowed me to work for a summer in MALDEF's San Francisco office.

MY INTRODUCTION TO LAW PRACTICE

Working at MALDEF, I found some wonderful attorney-mentors who understood and supported my passion for community. While I enjoyed working on cases involving issues of voting rights, education, and immigration law, I realized that this type of work was not for me. As an intern, I spent most of my time doing legal research, and I did not have opportunities to meet clients. By the end of my internship, it was evident that impact litigation was not my calling. I wanted more client interaction. I also questioned whether the current impact litigation strategies were the best route to community empowerment with courts becoming increasingly conservative and restrictions on attorney fees provisions making it more and more difficult to finance the litigation. While I continued to respect and support the work of organizations like MALDEF, I did not see a role for myself at such institutions.

Because I ruled out impact litigation following that summer internship, I decided to interview for jobs with big law firms where I believed I would be trained while making a salary that exceeded my expectations. At the same time that I interviewed for law firm jobs, I participated in the clinical program at the

Legal Services Center of Harvard Law School.² There, I had the opportunity to engage in direct client service with low — and moderate — income individuals who were forming businesses, organizing nonprofit organizations, and negotiating real estate transactions. Most of the clients I worked with attempted to use the legal system to forge their dreams of stability and self-employment. Working with these clients reaffirmed in me the importance of developing a sound economic strategy and a political agenda for underserved or underrepresented communities. This clinical work in community economic development and its accompanying coursework helped me understand that I wanted to facilitate community building. Unfortunately, employment opportunities in community development for graduating law students were few and far between. In addition, large student loan payments and my father's recent lay-off provided more justification for accepting employment at a corporate law firm. I convinced myself that I could contribute financially to support the causes I believed in, hoping that making financial contributions and taking on pro bono matters would be enough to satisfy my desire to make a difference. I accepted a job offer in the real estate department of a corporate law firm that promised to teach me skills that I could later translate to community economic development work.

ENTERING AND EXITING CORPORATE AMERICA

At least 90% of my classmates went to work at large firms upon graduating law school or directly out of post-graduate judicial clerkships. At Harvard Law School, law firms courted us with expensive dinners, hospitality suites, activity-filled summer internships, promises of training and, of course, big salaries. Even though I did not go to law school to get a job at a large law firm, I was convinced that it would be foolish to decline a large law firm's offer when I did not see a clear path for my passions. I chose to work with a firm that took pride in their commitment to diversity and pro bono work. I believed that I had a better chance of succeeding in corporate America if I worked at an institution that shared some of my values. While I found the work interesting, I did not receive great training nor did I find mentors there. The intellectual stimulation of the work was not enough to outweigh the absence of collegiality and personally fulfilling work. The feeling that I did not belong with this firm was mutual, and I was encouraged to look for employment elsewhere. Within two years of graduating law school, I found myself without a job.

FINDING MENTORS

Instead of looking for a new job, I set out to look for a mentor. I interviewed for a few small law firms, a couple of public sector jobs, and an in-house position. None of these employment opportunities felt right for me. While I struggled to carve a career path that fit my values, I began to do some contract work for friends and non-profit organizations. It was on one of my contract assignments that I unexpectedly found the

mentor I sought. Salvador Alva was part of a delegation that I helped administer on a trip to Cuba. When he learned that I was an attorney he offered me a job in his law office. He had been in solo practice for over twenty years and had started his career as an attorney for California Rural Legal Assistance. He handled mainly criminal, family, and personal injury cases, but at the time I met him his primary client was a neighboring municipality. About five weeks after our initial meeting, I began working with him on a range of legal matters. Before I knew it, I was interviewing clients, attending depositions, writing legal memoranda, and drafting city ordinances. He invited questions and, whenever possible, he took time to have lunch with me to address my concerns or confusion. Salvador interacted with his clients respectfully and professionally, expressing genuine concern for their problems.

Approximately two months after I began working with my mentor, I came upon a letter from John Ortega, an attorney in the city of Compton who was retiring and looking for someone to lease his small office space. The letter expressed a concern that there were no Spanish-speaking attorneys in an area that greatly needed bilingual services. At that time the only thing that I knew about Compton was that it had been devastated by years of drug dealing and gang warfare in the 1980s and 1990s. I did not know that more than half of its population was Latino. When I brought the letter to Salvador's attention, he explained that he had worked for this attorney in Compton at the start of his career and asked me to set up a time for us to visit.

Driving to Compton with Salvador to meet Mr. Ortega rattled my sensitivities. We passed a couple of communities before reaching Compton Boulevard, but none of them came close to being as underdeveloped and economically depressed as Compton seemed. Deteriorated, boarded-up properties on the main boulevard and in residential areas were commonplace. Most of the occupied properties had metal bars on the windows and doors. I was in disbelief that such a community existed in Los Angeles County. We had a difficult time finding Mr. Ortega's law office because it did not have signage. We finally arrived at a storefront, situated across the street from a drycleaner and adjacent to one of many dollar discount stores in the city. With the exception of a few fast food restaurants, some small family-owned business and a couple of donut shops, there was little indication that this was a city where an attorney could make a living.

The 400-square-foot wood-paneled office was crammed with outdated law books; the windows and door had bars for additional security. Mr. Ortega, a general practitioner who took

just about every type of case, welcomed us and began to talk about Compton's need for a Spanish-speaking attorney. Mr. Ortega was unaware that we were just visiting to say hello. He explained, "[s]ometimes, these people, all they need is a phone call. When you make it for them, they are very appreciative.

You can make a living here." He was asking for rental payments of \$400 per month. As Mr. Ortega spoke, a woman he introduced as Maria came to the door and asked whether we wanted to buy homemade tamales that day. For each of us – three generations of Latino attorneys – the decision to buy food from a street vendor was quite simple. We did not wonder whether our health would be adversely affected by eating them or whether Maria was violating a local ordinance by going door-to-door to sell home-prepared food in order to make a living. We simply bought them even if we were not hungry.

We did not discuss Maria or the purchase of the tamales, but I left knowing that Mr. Ortega and Salvador understood entrepreneurship and community needs the same way that I did.

Subsequently, I had several conversations with Salvador about Ortega's office space. He explained that there was a great need for service in this area but to make a living there would require a lot of hard work and time that he did not have. After giving it some thought, I asked if he would be offended if I tried to do it on my own. He responded with a surprised smile and said, "Luz, if that is what you want to do, you have my support. I know you can do it." My gut told me he was right.

TAKING MATTERS INTO MY OWN HANDS

Soon after our initial visit, I returned to Compton to explore the possibility of taking over John Ortega's office space. Ortega was stunned when I told him, "If you rent me the space for \$350 a month, I will set up my law office in Compton." He was excited that a Harvard-trained attorney would agree to practice law there and even more impressed that a female would be willing to take on such a project, given the city's reputation. He immediately agreed to lower rent and said I could keep his old books, some of his office supplies and I could even borrow his desk until I bought my own. Most importantly, he allowed me to keep the same phone number that had been associated with his law office for about thirty years. In anticipation of opening my office, I continued to work with Salvador Alva and used my earnings to buy some office equipment.

Many people have asked why I turned down more lucrative or traditional job offers to set up a solo law practice in Compton. For me it is simple. I went to law school because I wanted to

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represent individuals like Maria and the street vendors that district attorneys prosecute. They are the working poor. They are entrepreneurial immigrants. They are those individuals who struggle to make full rental and mortgage payments on time. Establishing my own practice allowed me the opportunity to fuel the fire that burned in my belly. I followed my instincts and went forward with what felt right. When I decided to venture out on my own, I did not have a business plan. I had never litigated in a courtroom. However, I knew how to read, write and advocate in ways that my neighbors, my friends, and my relatives did not. I wanted to use my education to directly contribute to the community that applauded each of my educational accomplishments as if they had been their own.

My decision to open an office in Compton was absolutely selfish in that it provided a vehicle for my idealism. I also saw this risk as an investment in myself. I recaptured the courage I had once traded for diplomas from elite institutions and rejected the notion that only the financially privileged can work on behalf of the poor. The fact that I was only three years out of law school and did not have much experience concerned me, but it did not paralyze me. When I considered that I learned much more in the six months I worked with Salvador Alva than I had after almost two years at a corporate law firm, my insecurities diminished. I learned that we become good at doing what we do through practice, study and reflection. I did not know how it was all going to work, but I knew that there were thousands of individuals in my immediate surroundings who did not possess the privilege of a law degree and bar admission. I knew that given the needs of Compton and the larger community, I would not starve. My potential clients inspired me to take a chance on myself.

John Ortega sent letters to a number of people announcing his retirement and my arrival to Compton. He organized a retirement picnic with former clients, his family and friends where he introduced me to the community. With the exception of one or two colleagues, the invitees were working-class men and women from Compton and the surrounding communities who attended to show their appreciation for Mr. Ortega's many years of service to the community.

PRACTICING LAW IN COMPTON

Media images usually depict only part of a community's reality; such is the case with Compton, California. Rap culture, the news media and a tumultuous history with drugs and violence continue to plague this particular city in Los Angeles County. The 2000 Census offers this reality of Compton: 56.8% of its population was Hispanic/Latino and 40.3% was Black/African American. The same census revealed that 31.4% of Compton's residents were foreign-born, 55.2% spoke a language other than English in their homes and 38.5% were under the age of 18. Less than six percent of Compton's population had a

bachelor's degree or higher, and 28% lived below the federal poverty line. The reality for me as one of the few professionals in the city, and as the only Spanish speaking attorney in private practice, is that I feel pulled in many directions because my advocacy skills, my contacts and my legal training are needed there. My role has positioned me to serve as a resource for local businesses, nonprofit organizations, churches, and residents.

As an attorney in solo practice my work is defined by my clients' legal needs; it varies from securing their parental rights, protecting their economic rights and helping them understand their responsibilities. At other times my role involves community legal education, strategic planning or participating in discussions with community members to develop a collective vision for the neighborhood where we live and work. I advocate for the rights of individuals, small businesses, and non-profits in Compton and in other communities of Los Angeles County, as well. I do not classify my practice or my work as "cause lawyering" or under any of the classifications created by academics. For me, and other attorneys working in underserved communities, our roles are so fluid and our clients' needs are so

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diverse that we practice in different ways depending on the client, the community and the problem. Our work and our clients' lives are complex and messy. Effective community-based lawyers and advocates understand that legal problems are multi-faceted and often require interventions from the larger community, non-legal institutions, and non-lawyers. Most of my clients' legal needs are rooted in more systemic problems. However, when a client is about to lose their home or their parental rights, the long-term designs of a social movement seem irrelevant.

MY CLIENTS

While some of my clients are poor and working-class retail clerks, waitresses, and janitors, some of them are also college graduates, homeowners, and teachers whose legal problems cannot be addressed by self-help remedies or legal hotlines. My clients are generally not destitute, but they live paycheck-to-paycheck. They represent the working poor and the middle class. An illness or loss of employment for a few months would cause financial havoc to most of my clients.³ The majority of them reside in the southeastern communities of Los Angeles County, but I have a handful of clients who live in neighboring counties and a couple who live several hundred miles away. The fact that someone 400 miles away would hire me is a reflection of the lack of affordable legal services that exists throughout the state of California.⁴

My first two clients were prime examples of individuals who do not have the means or connections to obtain subsidized or market-rate legal services and could not navigate the legal system without the assistance of an attorney. The first client was living in her mother's house and was mildly developmentally

challenged. While her mother was in hospice care, she faced eviction by her brother. My client had only a part-time job and no other family members to provide housing. The second client was an immigrant and father of five who lived in a two-bedroom apartment with his children, his wife, and his brother-in-law. He was the victim of a fraudulent real estate transaction that left him with the responsibility of a mortgage but without the benefit of occupancy in the home. He had limited English competency and was not knowledgeable about the legal process in the United States. Both of these cases required that I appear before several courts and learn several substantive areas of law. These cases required me to go to probate court, a family law court, bankruptcy court and to engage in general civil litigation. The complexity of these first two cases was an indication of the difficulty and complexity of problems that awaited me. Many of the clients that came to my door were clients whom others had turned away because they did not qualify for publicly funded services, because they lacked the funds or because the language barriers were too difficult to overcome.

CHALLENGES OF SOLO PRACTICE

Although there is information available on the challenges faced by solo practitioners,⁵ I was not prepared for the journey that I embarked on, as I had relatively little experience and no business plan. My decision to open my law office was not motivated by financial considerations, but by a personal thirst to create a practice that fit my belief system. Based on my clinical work in law school and my prior work experience, I knew enough to set up a client trust account and draft a basic retainer agreement. I also was prudent enough to search for affordable legal malpractice insurance. I read publications published by the American Bar Association and the California State Bar for individuals starting law firms.⁶ The advice contained in those books was relevant and helpful, but the sources were also not written with my clients' needs in mind and tended to assume that attorneys who start their practice have more financial resources and experience than I had. I was plunging into a world of unknowns; it was daunting. Shortly, financial concerns became paramount. I needed to buy books and enroll in continuing legal education courses to prepare myself. These needs along with the technology necessary to run a law office brought start-up costs and anxiety to levels I had not expected.

In the first two years on my own, I invested my profits in training myself and getting involved with several organizations to market my services. Most of my clients were referrals from other attorneys, community leaders, school friends, and former clients. Getting clients through the door did not prove too difficult for me. In the geographic areas where I practice, the number of clients with legal problems is larger than the attorneys who can address them. My language skills and flexible payment plans filled a need in the community. I adopted practices utilized

by corporate law firms and honed my organizational abilities to develop systems that allowed me to manage my clients. Developing intake questionnaires and retainer agreements took much work, even though there were samples available through bar associations, my malpractice insurance carrier and my mentor. But learning how to charge clients and developing a billing system proved most challenging.

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Like other community lawyers, I continued to represent clients who I knew could not afford to pay me. Without a business plan, sufficient support staff or a mastery of the business side of law, I embarked on my own pro bono work – mostly work for which I never billed or was never paid for. The problems with billing plagued the viability of my practice for some time. While I found attorneys able to offer advice about marketing, client management, and their expertise on substantive and procedural law, it was much more difficult to get advice on the viability of a practice. It was also difficult to find bookkeepers trained to manage billing for small law practices. It took a couple of years to develop a system for billing and find individuals I could employ to meet my business needs. With a billing system in place, I found that most clients, particularly the ones with the most modest means, pay when billed.

Over four years, operating a law practice in an underserved community has had many financial and emotional drawbacks. To make ends meet, I lived with my parents, limited my social engagements, and forwent luxuries. In the first two years, whatever money I earned went back into my business or my frugal living expenses. It became difficult to keep up with my friends and colleagues as the discrepancy in our financial means kept widening. Even though I believed in what I was doing, it was an emotional struggle that I finally won when I stopped comparing my financial status to that of my classmates and understood that the value of my work could not be measured by the digits behind the dollar sign.

The emotional costs of solo practice can be high. There are numerous demands on one's time, money, and skills. Clients expect and warrant excellence. Family and friends expect and warrant time. Professional circles require development. Community partners require investment. A solo practitioner cannot hide behind a large corporation, a junior associate or business partners to carry the load when she is not feeling up to par. When you are your own boss running your own business, there is constant scrutiny about your performance, your appearance, your commitments and your future. The loneliness and isolation that accompany those demands are inherent in the job.

FACILITATING OPPORTUNITIES FOR OTHERS

Since venturing out on my own, I have received calls from peers, paralegals, law students, and prospective law students who are interested in my career path and want to discuss career

options. After many meetings and conversations, it has become evident to me that many lawyers are looking for alternative options in practicing law. Even attorneys who are happy with their salaries often feel unfulfilled or trapped in their current job environments. There are fellowships that allow attorneys to set up their own legal projects. These programs are usually granted only to recent law school graduates and are usually adhesive to existing public interest organizations. Often they limit lawyers who have an entrepreneurial spirit by placing restrictions on salaries and viewing public service through a strictly nonprofit model. At the same time, lawyers who turn to government as a way to serve the public and secure a comfortable salary with benefits often find themselves with systemic restrictions that inhibit their creativity and ability to affect community change.

It is not easy to find individuals who are willing to make a full-time commitment to providing legal services to low and moderate-income individuals. Although many have cheered my efforts, there are only a handful of people who are willing to take a chance on themselves and on such communities. For those attorneys who are looking for work that combines direct service and social impact but are unsatisfied with a low-salary job at a legal aid organization, the alternatives are not apparent.

Before meeting Salvador Alva and John Ortega, I had not planned on opening up my own practice. The career counseling that my Ivy League institution offered did not include becoming a solo practitioner in a low-income community as a viable option for its graduates. Salvador Alva exposed me to constant client contact. John Ortega's referrals forced me to step into the courtroom. Other attorneys I have met during this journey have guided me through such challenges as bankruptcy adversary proceedings and preparing my first trial. I was fortunate that I found these individuals and that I was not shy about asking for help. However, going out on your own can be overwhelming.

STRENGTHENING THE NETWORK

In April 2006, I took advantage of an invitation to return to the Legal Services Center at Harvard Law School as a clinical instructor. This opportunity was possible because I found another Spanish-speaking attorney who understood my client base and was willing to sublease my office space to start her own practice. During my time away, I had the opportunity to reflect on my work and to learn about the work of other solo practitioners in community-based practices throughout the country. By talking with other solo practitioners, reading interviews with them, and surveying the small body of literature about them, I came to understand that there is a deep need for a greater system of support for solo practitioners. Most solo practitioners whose law practices serve the daily legal needs of

their communities find their work fulfilling. However, it comes with a price as they are frequently overworked, underpaid, and unrecognized.

There is a need for greater support systems for attorneys in private practice who serve the needs of working-class clients. Monthly publications, occasional seminars, and discounts on legal software are some of the benefits that bar associations offer their members, but they do not address the everyday needs of lawyers running their businesses in working-class neighborhoods. Discounted legal software still requires a significant investment of time, money, and personnel. The occasional bar seminar is often accompanied by a significant fee and held during inconvenient time frames. The legal profession owes a greater commitment to attorneys who practice on their own and work to address the needs of individuals, families, and small businesses in communities across the United States.

Access to affordable health care for these attorneys and their employees, student loan assistance programs, technology assistance programs, tax deductions for attorneys who work in underserved areas, training arrangements with large law firms, coordinated bookkeeping services, greater integration of telephonic appearances, paying client referrals from legal services organizations – these are just some initiatives that could improve the lives and livelihood of

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solo practitioners. To improve access to and delivery of legal services in our country it will be necessary for the bar, courts and law schools to address and remedy the discrepancy of resources and support systems available to attorneys in private practice who represent the legal needs of the average American.

CONCLUSION

I returned to Compton in June 2007 with some apprehension but even more conviction. I had the unique opportunity to continue to re-envision my law practice or to change direction. I felt torn between (a) engaging full time in re-building my practice and (b) focusing on finding resources to develop a model infrastructure for a community law practice incubator. My own experience with legal education and the conversations I continue to have with pre-law and law students, and new attorneys, reveal that the legal profession is lacking structured experiences and opportunities that encourage idealism.

My law practice is now a small operation that is nestled between teaching law students and helping build Community Lawyers, Inc.⁷ My desire to increase access to affordable and quality legal services is coupled with my commitment to help prepare a new generation of attorneys to make a difference in their communities. I envision developing post-graduate or law school clinical programs that prepare new attorneys to make a good living without gouging consumers of legal services.

Providing more hands-on training to those entering the legal profession, strengthening the network of existing community-based lawyers in private practice, and connecting them with the other sectors of the profession will greatly benefit clients by increasing the quality and availability of affordable legal services and by developing a pipeline of attorneys who understand and

serve the needs of underserved neighborhoods. My space in Compton will continue to be an incubator for entrepreneurial and community-minded lawyers who strive to use their degrees to make a difference for the families and individuals that inspired them to become attorneys.

ENDNOTES

* Luz E. Herrera is currently a visiting professor at Chapman University School of Law. She continues to practice part-time in Compton and is a board member and founder of Community Lawyers, Inc.

¹ Because law school policy prohibited me taking courses at the Kennedy School of Government as an elective during my first year of law school, I was only able to audit a seminar taught by Keith Reeves and Leon Higginbotham. Lani Guinier, a voting rights legal scholar, did not arrive at Harvard Law School until the 1998-99 academic year. She was the first and only woman of color to be a tenured professor at Harvard Law School until Jeannie Suk was hired in 2006-07. Only one of the three civil rights courses I took during law school was taught by a tenured law professor.

² When I met other progressive students and alumni who shared some of my ideas about lawyer advocacy in low-income communities, they pointed to Gary Bellow and the Hale and Dorr Legal Services Center so I enrolled in a year-long course with Professor Bellow and did clinical work for two semesters of my second year.

³ For further discussion on the vulnerability of working class or middle class America, see Elizabeth Warren, *Financial Collapse and Class Status: Who Goes Bankrupt?*, 41 OSGOODE HALL L.J. 115, 123 (2003); see ELIZABETH WARREN & AMELIA WARREN TYAGI, *THE TWO-INCOME TRAP* (Basic Books 2003).

⁴ See The California Commission on Access to Justice, *Action Plan for Justice* (April 2007), http://calbar.ca.gov/calbar/pdfs/reports/2007_Action-Plan-Justice.pdf.

⁵ See Leslie C. Levin, *Preliminary Reflections on the Professional Development of Solo and Small Firm Practitioners*, 79 Fordham L. Rev. 847 (December 2001); Leslie C. Levin, *The Ethical World of Solo and Small Firm Practitioners*, 41 Hous. L. Rev. 309 (Summer 2004); Carroll Seron, *The Business of Practicing Law: The Work Lives of Solo and Small-Firm Attorneys* (Temple Univ. Press 1996). See also Richard H. Abel, *American Lawyers* (Oxford Univ. Press 1991); see also Jerome E. Carlin, *Lawyers on Their Own* (Rutgers Univ. Press 1962).

⁶ See Jay G. Foonberg, *How to Start and Build a Law Practice* (American Bar Association 5th ed. 2004) (1935); K. William Gibson, *Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer* (American Bar Association 4th ed. 2005) (1949); Edward Poll, *Attorney and Law Firm Guide to the Business of Law* (American Bar Association 2d ed. 2002) (1994).

⁷ See Community Lawyers, Inc., available at <http://www.community-lawyers.org/1.html> (last visited Oct. 14, 2007). Community Lawyers, Inc. is a tax-exempt, not-for-profit organization founded in 2005 to encourage education, training, and support for legal professionals committed to working in underserved communities. See *id.*

WEB-BASED MARKETING TIPS AND RESOURCES FOR SMALL AND SOLO PRACTITIONERS

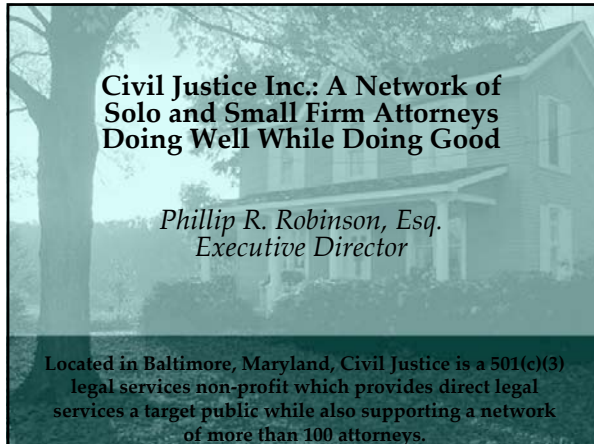
By Eileen Chun-Fruto, Fong & Chun, LLP

Many solo and small law office practitioners are too focused on the practice of law to devote a lot of time to marketing. As a solo or small law office practitioner, running an office, supervising an assistant, working on the cases, staying in touch with clients, *and* being responsible for marketing is overwhelming. Marketing and networking often take a backseat to the more pressing and imminent matters of the day-to-day practice of law. However, marketing is critical to the success and vitality of small law firms and underutilized.

According to an American Bar Association Technology Survey, “40% of solo practitioners and 65% of small law firms have an established Web presence. In larger firms 92% of firms with 10 to 50 attorneys have a website, a figure reaching 100% for firms over 50 members.”

Marketing your solo or small firm on the internet is a convenient way to reach new clients without having to attend networking sessions, dinners, meet and greets, etc. Here are some tips on utilizing non-traditional marketing tools on the web that can be done via the internet, and hopefully from the comfort of your office or home.


1. Create a **website**.
2. **Update** your website
 - Provide useful information that will continue to draw new readers to your site so they view your site as a resource to them
 - Ask clients if they are willing to share a success story or other testimonial about your services and post them on your website.
 - Link your website to a blog
3. Create a **blog**
 - A blog can be more casual and takes less time to write
 - Let readers subscribe to your blog
 - Keep abreast of pending or proposed legislation and provide small updates on current issues
 - Try to link topics of interest to your practice to catch web traffic
4. Create an **online presence** by joining an established forum or other online community utilized by the type of clients you are targeting.
5. Utilize **social networking** websites such as LinkedIn, Facebook, Twitter
6. Think about investing in a Search Engine Optimization (**SEO**) company



Civil Justice Inc.: A Network of Solo and Small Firm Attorneys Doing Well While Doing Good

*Phillip R. Robinson, Esq.
Executive Director*

Located in Baltimore, Maryland, Civil Justice is a 501(c)(3) legal services non-profit which provides direct legal services a target public while also supporting a network of more than 100 attorneys.



Background on Civil Justice, Inc.

- Founded in 1998 as an “affiliated” non-profit of the University of Maryland School of Law.
- Separate Board of Directors of legal and non-legal professionals from throughout Maryland
- We receive no direct support from the UMD but do receive substantial indirect support.
- CJ serves two communities: (i) to targeted public seeking access to justice; and (ii) the needs of solo- and small-firm attorneys.

CJ's Services

For the Public	For Attorneys
<ul style="list-style-type: none"> • Free Legal Referrals to “low bono” attorneys (approximately 5,000/year). • Program Services: <ul style="list-style-type: none"> – Legal Grind – East Baltimore Development Project – Sustainable Homeownership Project • Direct Legal Services 	<ul style="list-style-type: none"> • Low Bono Client Leads from referrals and various program services • Pleadings library • CJ Listserv • Networking and Co-locating • Low-Cost Legal Research • Co-Counseling

Organizational Structure

- Staff
 - Three FT Attorneys
 - Two FT Paralegals
 - One PT Administrative Assistant
 - Three-Four PT Law Clerks/Work Study
- Budget
 - Approximately \$300,000 annually
- Active Board of Directors

Funding Sources

- Program Service Revenues
 - Attorney Fee Awards
- Unrestricted Grants/*Cy Pres*
- Restricted Program Grants
 - East Baltimore Development Redevelopment
 - Department of Housing and Community Development
 - Targeted Foreclosure Litigation
- Member Dues

Leveraging Pro-Bono Into Fee-Shift Awards

Sample Co-Counsel Case

Sample Homeowner in Predatory Loan With Exotic Sub-Prime Mortgage

Background on Homeowner & Transaction

Retired on Fixed Income; homeowner for more than twenty years; never had a problem with a mortgage before.

Present loan was a 4.25% fixed three-year arm (due in two years).

Homeowner had premium credit scores (over 750+). Deceptive solicitation was sent to homeowner by mortgage broker/lender... "You may be entitled to a \$1,600 FHA refund based on our records."

Homeowner calls and says, am I entitled to the refund. Loan Officer responds, "I don't know but will get back to you."

Sample Homeowner in Predatory Loan With Exotic Sub-Prime Mortgage

Background on Homeowner & Transaction (continued)

- Loan Officer says 'I can get you a 2.25% loan fixed for 5 years.' Homeowner says, 'How can you do that?' A: 'because you have excellent credit'. Client placed in a "Stated Income, Negative Amortization, Payment Option Loan"

- Court ruled that lender violated the Consumer Protection Act for Unfair and Deceptive loan.

• WHY?

Sample Homeowner in Predatory Loan With Exotic Sub-Prime Mortgage

The Misleading Documents

1.

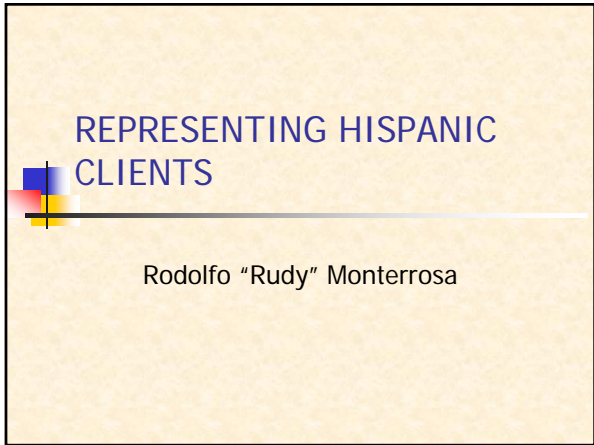
Uniform Residential Loan Application

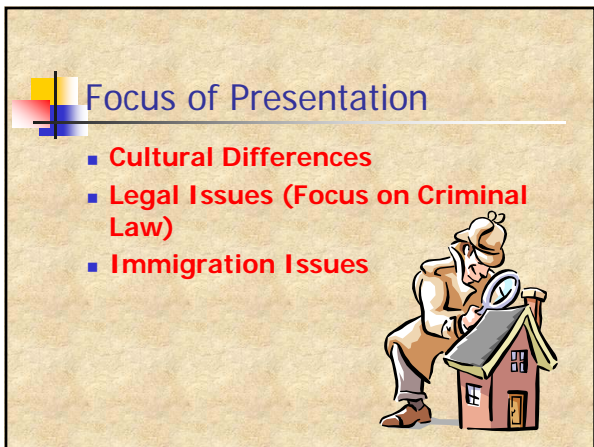
This application is designed to be completed by the Applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower" as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when the borrower or co-borrower is a "Borrower" or "Co-Borrower" as to the property being purchased to make the loan. The income or assets of a person other than the "Borrower" has community property (either community or separate) and Borrower resides in a community property state. The security property is located in a community property state, or the borrower is making an other property located in a community property state as a basis for repayment of the loan.

If this is an application for joint credit, Borrower and Co-Borrower each agree that we intend to apply for joint credit (sign below)

Borrower		Co-Borrower	
Mortgage Applied for: <input type="checkbox"/> VA <input type="checkbox"/> Conventional <input type="checkbox"/> Other (specify)			
Agency Class Number			
Lender Case Number			
Amount	Interest Rate	No. of Months	Amortization Type
\$ 216,000	3.400 %	360/360	<input type="checkbox"/> Fixed Rate <input type="checkbox"/> Other (specify)
Borrower Property Address (street, city, state, & ZIP)			









Cultural Differences

■ LANGUAGE

- Translations
- Importance of having certified legal translators



Cultural Differences

■ BACKGROUND/ ETHNICITY

- Just because I speak Spanish, doesn't mean I'm Mexican
 - Mexico
 - Central America
 - South America
 - Europe





Cultural Differences

■ FAMILY DYNAMICS

- Trust me, two chairs in your office is NOT enough!
- ENTIRE FAMILY is involved
- Issues with client confidentiality



Cultural Differences

Rule 1.6. Confidentiality of Information

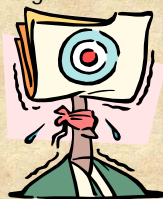
(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).



Cultural Differences

■ TRUST

- Immigration status: Even legal immigrants have to deal with anti-immigrant attitudes
- Fear of Institutions





Legal Issues

■ COMMUNICATION

- If you're not bilingual, then it's important to have a translator present at ALL times
- Importance of providing bilingual forms
 - See handouts



Legal Issues

Rule 1.4. Communication

(a) **A lawyer shall:**

- 1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- 2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- 3) keep the client reasonably informed about the status of the matter;
- 4) promptly comply with reasonable requests for information; and
- 5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law or assistance limited under Rule 1.2(c).



Legal Issues

· COMMON CRIMES

- DNL (But see Villegas v. Silverman, 2005 Ind. App. LEXIS 1451 (2005))
- Battery/DV Battery
- OWI
- Identity Deception/Forgery





Legal Issues

· PLEA SUBMISSIONS

- Bilingual plea agreement (HANDOUT)
- Importance of translator at hearing
- Supreme Court's rights video



Legal Issues

• TRIAL MATTERS

- Issues w/Confessions
 - **Miranda**
 - Santana v. Indiana, 679 N.E.2d 1355 (1997)
 - Spanish Miranda card sufficient
 - Morales v. Indiana, 749 N.E.2d 1260 (2001)
 - Failure to translate "Waiver of Rights"
- At trial
 - Have translator at counsel table



Legal Issues

• AFTER THE CONVICTION

- Immigration Hold
 - 48 hours to detain
 - If no release, file State Habeas Petition
- Transfer to Immigration Court
- ICE



Immigration Issues

- U.S. Citizens
- Legal Permanent Residents
- Non-immigrants
 - Students
 - Temporary workers
 - Undocumented





Immigration Issues



- Clients may not always be who they claim to be
 - Problems with Identity
 - Working without authorization
 - Creating a record with a false name



Immigration Issues

■ CONSEQUENCES OF CERTAIN CONVICTIONS

- Controlled substance offenses
- Crimes of moral turpitude
- Firearms offenses
- Domestic violence, stalking, crimes vs. children
- Aggravated felonies



Immigration Issues

■ THE CONVICTION ITSELF

- How ICE looks at it
- Juvenile court disposition is NOT a conviction for immigration purposes
 - Matter of Devison, 22 I&N Dec. 1362 (BIA 2000)



Immigration Issues

■ CRIMES OF MORAL TURPITUDE

- No true definition
- Generally held, a crime where the conduct is inherently base, vile or depraved
- Reader's Digest version
 - Crimes with an *intent to steal or defraud* (e.g. *theft, forgery*)
 - Crimes in which *bodily harm* is caused or threatened by an intentional act, or *serious bodily*



Immigration Issues

■ AGGRAVATED FELONY

- Worst type of conviction
- Can include misdemeanors
- Two types:
 - Categorical
 - Sentence Based
 - <http://library.findlaw.com/1999/Jun/1/126967.html>





Immigration Issues

■ AGGRAVATED FELONY

- Categorical
 - Murder, Rape, Sexual Abuse of a Minor
 - Drug Trafficking
 - Fraud + loss to victim(s) > \$10,000
- Sentence based
 - Crime + sentenced imposed
 - Typically one year or more (regardless of imposed time)
 - Crime of violence, Burglary, Theft, and Bribery
 -



Immigration Issues

■ DEFENSE STRATEGIES

- NEVER plead to an aggravated felony
 - Simple possession
 - Identity Deception
 - Assume another person
- AVOID crimes of violence
 - No batteries, especially DV battery
 - Plead down to Disorderly Conduct



Immigration Issues

■ DEFENSE STRATEGIES

- NEVER plead to a Theft charge + one year
 - Criminal conversion is preferable
 - Ensure less than one year
- If it means doing time to avoid crime of moral turpitude/aggravated felony, worth it
- AVOID the bad words: defraud, steal, force, bodily injury, etc.



CONCLUSION

"Humanity knows no borders. It is a universal truth."





Acknowledgments/Citations

- "Immigration Consequences of Convictions Summary Checklist", New York State Defenders Association
- "Immigration Consequences of Criminal Convictions", San Diego, CA, 8/26/04, Dan Kessellbrenner, National Immigration Project

LAW OFFICE OF
RODOLFO S. MONTERROSA, JR.

430 EAST LASALLE AVENUE
SOUTH BEND, IN 46617
(574) 236-2953

February 9, 2009

John Doe
101 North Main Street
Elkhart, IN 46514

Dear Mr. Doe:

It was a pleasure meeting with you today regarding representing you in a criminal action filed against by the St. Joseph County Prosecutor's Office. The purpose of this correspondence is to set forth the terms upon which I may agree to represent you, in order to establish and maintain a mutual understanding of our goals and our respective responsibilities.

SCOPE OF SERVICE AND RETAINER:

You seek to hire me, Rodolfo S. Monterrosa, Jr., Attorney at Law, to represent you in connection with the above-mentioned immigration matter.

CLIENT COOPERATION:

In order to effectively advocate your interests, you have an affirmative obligation to cooperate with me during the pendency of this matter. For example, you will be required to furnish certain information and documents and to attend court hearings, should this matter reach that stage. A client's non-cooperation is grounds for an attorney's withdrawal, and thus, it is essential that we maintain open communication.

In return, I agree to keep you informed of the status of this matter and to consult with you when appropriate. You will be sent copies of significant correspondence and documents. In the event that I am out of the office or otherwise unavailable, please leave a message with the secretary or my voice mail disclosing the nature and urgency of the call.

LEGAL FEES, COSTS AND DISBURSEMENTS:

As compensation for my services, Rodolfo S. Monterrosa, Jr. shall be paid a flat rate of one thousand (\$1000.00) dollars. This is my standard rate for a Class A Felony and covers the entirety of your financial responsibility including, but not limited to, all court appearances, pleadings and motions. If a trial is necessitated, an additional charge may be incurred. Additionally, you will be responsible for payment of any expenses incurred on your behalf. Such expenses and disbursements include, but are not limited to, photocopying and facsimile charges, and long distance telephone calls, travel expenses and computer research charges.

LAW OFFICE OF
RODOLFO S. MONTERROSA, JR.

430 EAST LASALLE AVENUE
SOUTH BEND, IN 46617
(574) 236-2953

WITHDRAWAL:

You have the right to terminate our agreement at any time, subject to payment of any final billings. Conversely, I reserve the right to withdraw from representation, subject to the ethical restrictions imposed upon us by the applicable Rules of Professional Responsibility. If I choose to terminate representation, I will give you reasonable notice.

BINDING AGREEMENT:

The foregoing represents the entire agreement between you and me, Rodolfo S. Monterrosa, Jr. By signing below, you acknowledge that this Agreement has been carefully reviewed and its content understood and that you agree to be bound by all of its terms and conditions. Furthermore, you acknowledge that I have made no representations to you regarding the outcome of the legal matter for which I have been retained.

If this Agreement reflects your understanding of our relationship and you wish to hire me, please sign and return to me the enclosed duplicate copy. In conformance with the law office policy, I cannot continue work upon your matter until I have received this executed Agreement.

Thank you again for this opportunity to be of service to you.

Sincerely,

Rodolfo S. Monterrosa, Jr.
Attorney at Law

John Doe has reviewed and agreed to the above terms of engagement of Rodolfo S. Monterrosa, Jr., Attorney at Law.

Drew Kerry

Date: _____

LAW OFFICE OF
RODOLFO S. MONTERROSA, JR.

HISTORIC LYONS HOUSE
110 SOUTH TAYLOR STREET
SOUTH BEND, IN 46601
(574) 236-2953

22 de noviembre del 2005

Client Name
Street Address
City, State Zip

Estimado _____:

Fue un gusto hablar con usted sobre el caso de daños personales resultando de un accidente automovilístico el día 29 de Agosto del 2005. El propósito del presente es exponer las condiciones bajo las cuales quedo de representarlo, establecer y mantener un entendimiento mutuo de los cometidos y las responsabilidades respectivas de usted, como el cliente, y yo, como el abogado.

EL ALCANCE DE SERVICIO Y EL RETENEDOR:

Usted ha retenido a Rodolfo S. Monterrosa, Jr., Abogado, para representarlo en el caso contra _____.

LA COOPERACIÓN DEL CLIENTE:

Para eficazmente apoyar sus intereses, usted tiene una obligación afirmativa de cooperar conmigo durante la pendencia de este caso. Por ejemplo, usted estará obligada a proporcionar ciertos documentos, información y liberaciones, prontamente. Usted puede estar obligado a atender affidavits, aparecer en Corte y discutir asuntos como se presenten a todo lo largo de este caso. La falta de cooperación de un cliente es suelos para mi retiro y así, es esencial que mantengamos comunicación abierta.

A cambio, quedo de mantenerle informado del estado de este caso y consultarlo cuando sea apropiado. A usted le serán enviadas copias de correspondencia y documentos significantes. En caso de que este yo fuera de la oficina o de otra manera no este disponible, por favor deje un mensaje con mi correo de voz de teléfono revelando la naturaleza y la urgencia de la llamada.

LOS HONORARIOS DEL ABOGADO, LOS GASTOS Y LOS DESEMBOLSOS:

Como compensación por mis servicios, Rodolfo S. Monterrosa, Jr. será pagado en el porcentaje de 33 1/3 porciento (33 1/3 %). Adicionalmente, usted se hará cargo de cualquier gastos para el peritaje, copias, affidavits, diligencia de emplazamiento, o costos de la corte. Es acordado adicionalmente que usted no ejecutará ningún acuerdo sin o fuera de nuestra representación.

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RODOLFO S. MONTERROSA, JR.
HISTORIC LYONS HOUSE
110 SOUTH TAYLOR STREET
SOUTH BEND, IN 46601
(574) 236-2953

EL RETIRO:

Usted tiene el derecho de terminar mi representación en cualquier momento, sujeto al pago de cualquier expensas, y desembolsos sobresalientes. Inversamente, me reservo el derecho para retirarme de su representación, sujeto a las restricciones éticas impuestas en mi por la Reglas aplicable de Responsabilidad Profesional. Si decido terminar mi representación, entonces yo le daré aviso razonable.

ACUERDO OBLIGATORIO

Lo predicho representa el contrato entero entre _____ y Rodolfo S. Monterrosa, Jr.. Con firmar debajo, usted reconoce que ha repasado este acuerdo cuidadosamente y que ha comprendido su contenido y que usted esta de acuerdo a someterse a las obligaciones de los términos y condiciones del contrato.

Además, usted reconoce que yo no le he hecho representaciones referente al resultado del caso legal para el cual he sido retenido.

Si este Contrato refleja su comprensión de nuestra relación, entonces por favor firme y regréseme a mi la copia duplicada adjunta.

Gracias otra vez por esta oportunidad para servirle a usted.

Sinceramente,

Rodolfo S. Monterrosa, Jr.
Abogado

Carlos Guijosa ha repasado y esta de acuerdo con las condiciones citadas anteriormente del contrato de Rodolfo S. Monterrosa, Jr., Abogado.

_____ La fecha: _____
Carlos Guijosa