FEATURED: Protect Yourself from Identity Theft
By Jeffrey M. Allen and Ashley Hallene
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Orlando Lucero
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Get the latest tools to help successfully navigate changes and additions to the Model Rules of Professional Conduct for lawyers considering an "Of Counsel" relationship.

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Technology Tips for Seniors, Volume 2.0
Protect Yourself From Identity Theft

By Jeffrey M. Allen and Ashley Hallene

People often ask us whether the bad guys can really scan information from those little microchips that have turned up in almost all credit cards. The short answer is “you betcha!” The credit card issuers have fallen in love with microchipped cards and most of them have shifted their credit cards from the traditional magnetic strip containing your personal and account information to a little microchip embedded in the card containing that information. Yes, the cards retain the magnetic strip, but that serves primarily a secondary backup function. Most systems now use the microchip. That means that the bad guys, with the right equipment, don’t have to work very hard for your data anymore.

Don’t get us wrong, we have nothing against the microchip per se; in fact, we like microchips for a lot of reasons. The good and the bad news, however, is that the microchips make things easier for everyone, including the bad guys that want to steal your information, and perhaps your identity. They can sit back and let their equipment read it for them from a safe distance.

The purpose of this article is not to scare you (well, maybe to scare you a little), but rather, to give you some help in protecting your identity, not just from this threat, but from this and other threats.

With respect to this threat, the simplest and easiest answer is to throw out your old wallet (or save it in a drawer if you have an emotional attachment to it). That was a hard thing for me (Jeff) to do as I have had an affinity to alligator wallets for many years and have used them pretty much my entire adult life. As alligator wears extremely well, I have not had to buy very many and the one I just retired had about 7 years of use and still looks good. But logic prevailed and I got a new wallet with RFID protection. We recommend that you do the same. Maybe one day someone will make an RFID protected alligator wallet and I will get a new alligator wallet. We have seen RFID wallets made of various materials (a variety of leathers, carbon fiber, metal and combinations of the above). Unfortunately, we have not seen an RFID protecting wallet made of alligator yet (darn!).

When you choose the new wallet, make sure that you choose one that has RFID protection. RFID protection properly done makes it virtually impossible for the bad guys to scan your data from the microchips in your credit cards. Be careful when you select an RFID protected wallet, however. Some of the wallets only protect one or a couple of areas and leave the rest unprotected. That means that you need to cram all your microchip cards in the protected slot(s). Any that you leave out of those slots can still get scanned. The newer and better RFID protection wallets have RFID protection in all the credit card slots, making it easier for you to protect the cards and access
them without having to fumble through them. Some of the newer wallets have interesting features, for example, I picked up a Segrid wallet in Europe recently. These wallets (made in the Netherlands) have a lever that will push your cards out in a staggered stack making it easy for you to select the card you want to use. I saw several versions of wallets that held 8-12 cards that represented that each of the credit card slots had RFID protection. One example that I saw in a Piquardo shop in Milan held about 12 cards and represented that each slot had RFID protection. That wallet, one of the nicer that I saw, cost 69 Euros. You can probably find it for a bit less in the US as we do not have to contend with the VAT tax.

You can also get purses, belt packs, back packs, slings, a variety of cross-body bags and even jackets with RFID protected pockets. You can put an unprotected wallet into one of those protected areas and protect everything in the wallet. While we have several such items with RFID protected pockets, we choose not to rely on them for one simple reason: If you ever carry your unprotected wallet or a naked microchipped credit card outside of one of those pockets, it remains, well...unprotected. Rather than try to remember which item has which pocket protected, it makes better sense to us to simply get an RFID protected wallet and keep the microchip cards in it. On those serendipitous occasions when you put that wallet inside an RFID protected pocket, you get double protection. Kind of like wearing a belt and suspenders.

In addition to making sure that your microchip cards live in RFID protected houses, we have a few other helpful tips to assist you in protecting your identity from the bad guys.

1. **Don't get your wallet stolen!** Back in the day having your wallet stolen served as a primary means of the bad guys getting credit card information. Now that newer and better techniques have developed pocket picking has assumed a role of lesser importance. That does not mean the bad guys have stopped doing it, just that it has grown decreasingly significant in some respects. You can minimize the risk of having your wallet stolen by keeping it in a safe location. Men should not carry wallets in their inside breast pockets of their unzipped jackets or the back pocket of their pants. The safest place for it is in the front pocket of your pants (it also works better in terms of comfort when you sit). Women generally like to keep their wallets in their purse, but the bad guys can easily breach the stylish backpack purses worn on the back or a shoulder back loosely hanging at your side. Best thing to do is wear the backpack on your chest (Query: Does that make it a frontpack?). If you carry a shoulder bag hold it firmly under your arm to protect it. By the way, while this kind of loss can occur anywhere it may most likely occur when you travel as you will not have familiarity with your location and will more probably find yourself distracted.

2. **Clean out your wallet!** While the bad guys cannot scan paper unless they get physical possession of it, if they get your wallet, they get physical possession of what you have in it. The less you have in it the better. Accordingly, don't carry cards you never or almost never use, don't carry paper that you do not need, such as social security cards or insurance cards. That may also have some health benefits. We know one attorney whose wallet
measures about three inches thick because it contains a bunch of paper, receipts, etc. that the lawyer does not need to carry for any reason. He keeps it in his back pocket and it make him sit lopsided. Then he wonders why his back hurts.

3. **Use electronic credit cards more.** Apple Pay, Samsung Pay, etc. give you the opportunity to use your credit cards without carrying them with you. More and more stores have started to accept these electronic payment devices, so you can reduce the size of your wallet and your exposure that way. If you do, remember to protect your iPhone or Galaxy or whatever device you use. More about that below.

4. **Protect your devices!** You should always protect any electronic device that carries your personal information. Protection takes several forms:

   A. Protect the device from damage by keeping it in a proper case and using common sense when you use the device.

   B. Protect the device with proper security. You should have a secure password and/or biometric protection for access.

   C. Don’t use public networks for free WiFi.

   D. If you choose to use a public network, protect yourself and your device with a good VPN (Virtual Private Network). You can get them commercially for very little money. You have many to choose from. We particularly like the NORD system.

**Authors**

**Jeffrey M. Allen** is the principal in the Graves & Allen law firm in Oakland, California, where he has practiced since 1973. He is active in the ABA, the California State Bar Association, and the Alameda County Bar Association. He is a co-author of the ABA books *Technology Tips for Seniors* and *Technology Tips for Seniors Volume 2.0*.

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A short history of the Senior Lawyers Division

The Senior Lawyers Division is in its 35th year of service to the American Bar Association, our national organization for lawyers. The SLD began life as a volunteer group with the ABA for lawyers over the age of 60, who came together for a common cause: to meet the needs of older lawyers, both those still active in the practice of law and those who have retired.

With the goal of expanded service to its members, the ABA realized that its slice of membership 62 years of age and over needed to expand and offer services and opportunities to all in the category of seniors. Being a senior meant more than simply being old. It meant that the lawyer (or judge) was now distinguished by years of practice and had achieved a higher level of experience. Such status was entitled to respect and admiration.

Achieving senior status did not take away the need to continue to participate, to serve; and to enjoy the camaraderie and collegiality of association with fellow lawyers.

Led by SLD Chair Louraine Arkfeld and supported by Vice Chair Jack Young and many past chairs and current officers, the SLD successfully argued to the Board of Governors that the SLD should follow the model of the Young Lawyers Division and should be composed of all ABA members in that category. For senior lawyers, that meant all ABA members age 62 and over. The ABA would support the group financially out of the general revenue fund and not require separate dues for membership. This model is one which has been adopted by other professional organizations such as the American Medical Association. The Board of Governors adopted the proposal in 2016.

As now structured, the SLD could provide benefits to its members with educational opportunities, publications and other services at no additional cost. It would allow the new SLD to emphasize benefits and resources in special areas such as elder law, and in general subjects such as financial planning and career transition.

The Division is now in its fourth year as an all-encompassing unit. Publications are expanding with helpful articles on all aspects of law practice and a wide variety of interesting articles on enjoying a fulfilling life.
Over 150 members participate on committees, projects and programs. The Division is doing its best to retain our members even if they leave the active practice of law and transition to other activities.

What's in a name? Why “senior lawyers”? Many hours and volumes of emails have been exchanged trying to come up with a name that accurately describes us. Some lawyers refuse to admit that they are really “seniors” and seem offended by the suggestion. The Division is always open to suggestion. If you have a better title for lawyers 62 and over, send it to us. We would be glad to try it out and see how it fits.

In the future, the Division will strive to develop centers of excellence in areas such as elder law, health law for seniors, realistic approaches for the control of opioids and other medications, retirement planning, and second careers in counseling, teaching, mediation, public service, mentoring, and writing and publishing. By working in these areas, senior lawyers can continue to take advantage of their experience and can continue service to others, which have always marked the lives of successful lawyers.

Author

Albert C. Harvey has an extensive practice in federal and state courts defending doctors, lawyers, architects, engineers, and other professionals. He is involved in complex business litigation, intellectual property disputes, and securities cases. Mr. Harvey has a special interest in national security and governmental affairs and frequently lectures, teaches, and consults with clients on these matters. In addition, he has served at the state and national levels on setting ethical standards for lawyers and judges.

Mr. Harvey recently retired from the United States Marine Corps Reserve with the rank of Major General.
Earlier this year the United States Supreme Court issued a unanimous opinion that’s good for Sturgeon but bad for moose. How bad? For some moose, fatal.

For some 40 years Alaska resident John Sturgeon traveled by hovercraft over a stretch of the Nation River that flows through the Yukon-Charley Rivers National Preserve, a unit of the federal park system managed by the National Park Service. He was doing just that when three park rangers pulled him over and informed him that he was in violation of a nation-wide Park Service regulation prohibiting hovercrafts on rivers within federal parks and preserves.

Sturgeon obediently removed his hovercraft from the Yukon-Charley. He then sued the Alaska Regional Director of the National Park Service, a man with the very Alaska-appropriate name of Bert Frost. Sturgeon sought an injunction that would allow him to resume traveling by hovercraft along his accustomed route.

The federal district court ruled against Sturgeon and in favor of Frost, and the Ninth Circuit affirmed. Undaunted, Sturgeon petitioned the Supreme Court for certiorari. That court granted the petition and earlier this year unanimously reversed the lower court decision.

The court ruled that the nation-wide Park Service regulation cited by the park rangers isn’t quite nation-wide. Under the Alaska National Interest Lands Conservation Act, which created Yukon-Charley and other national preserves in Alaska, that state—not the federal government—holds title to the rivers within those preserves, and the rivers are not subject to Park Service regulations.

So Sturgeon won, and Frost lost. But what’s good for Sturgeon is bad for moose. Why? Because the reason Sturgeon pilots his hovercraft up the Nation River is to get to his favorite hunting ground to shoot—you guessed it—moose.

That’s why what’s good for Sturgeon is bad for moose.

The case is *Sturgeon v. Frost* (U.S. 2019).
Norman G. Tabler, Jr. is a retired lawyer in Indianapolis. He serves on the editorial advisory boards of the ABA Senior Lawyers Division's Voice of Experience and the ABA Health Law Section's The Health Lawyer and is host of the American Health Lawyers Association's podcast, The Lighter Side of Health Law. Email Norm.

ABA American Bar Association
This book provides guidance, forms, and advice for those wishing to establish an “Of Counsel” relationship. Revised over the years to keep pace with developments in the law, and the increased and varied use of the “Of Counsel” designation in the profession, each edition has had an increasing emphasis on the importance of managing conflicts of interest, professional liability, and preparing a well-drafted Of Counsel Agreement. This edition of the Of Counsel book, first authored by Harold G. Wren and Beverly J. Glasscock and published in 1991, reflects some changes to the Model Rules of Professional Conduct adopted since the Fourth Edition was published in 2013, as well as some changes and additions aimed at providing those considering an “Of Counsel” relationship with all of the tools necessary to successfully navigate the process. Among the forms and checklists provided are Term Sheets for use in negotiating specific “Of Counsel” arrangements, a Conflicts of Interest and Risk Management Questionnaire, Top Ten Tips for Staying Out of Trouble in an “Of Counsel” Arrangement, and sample agreements for a variety of arrangements properly classified as “Of Counsel.” Finally, this edition has been reorganized so that each chapter is a self-contained module on the subjects covered, including copies of applicable rules and opinions, for increased ease of reference by the practitioner.

Buy Of Counsel: Forms and Advice for Legal Practitioners, Fifth Edition at Shop ABA

"Of Counsel" arrangements take a variety of forms. The American Bar Association's Formal Opinion 90-357, issued in May 1990, is the primary authority on the appropriate use of the term “Of Counsel,” and provides in part:

The use of the title “of counsel,” or variants of that title, in identifying the relationship of a lawyer or law firm with another lawyer or firm is permissible as long as the relationship between the two is a close, regular, personal relationship and the use of the title is not otherwise false or misleading.

Formal Opinion 90-357 discarded the approach of Formal Opinion 330, which distinguished two forms of "Of Counsel" arrangements: (1) where the lawyer practices in the same office as the other lawyer or firm; and (2) where the lawyer does not practice in the same office but is in regular and frequent contact with the other lawyer or firm. Although a close, personal, and continuing relationship is still essential, Formal
Opinion 90-357 is far less restrictive than Formal Opinion 330. Under Formal Opinion 90-357, four categories of "Of Counsel" relationships are specifically recognized: the part-time practitioner, the retired partner, the probationary partner, and the senior attorney. Four other categories are specifically prohibited: the lawyer on a single case, the forwarder or receiver of legal business, the occasional collaborator, and the outside consultant. Between these two groups lie countless other situations more or less comparable to one or the other of the two extremes.

Under Formal Opinion 330, if the "Of Counsel" attorney was a retired partner, he or she was deemed to have a close association with the lawyer or firm. This lawyer did not need to practice in the offices of the lawyer or firm. But, to satisfy the notion of a "continuing" relationship, there was an implied requirement to remain active in the practice of law and to remain in daily contact with the lawyer or firm. While Formal Opinion 90-357 removed any requirement of daily contact with the law firm or lawyer, it retained a requirement of a continuing relationship.

Formal Opinion 90-357 permits the "Of Counsel" designation to be used by current political officeholders and other public officials, provided they actively practice law in the same offices as the lawyer or firm, regardless of their prior affiliation with the firm. Some states follow the view of the ABA opinions; others do not. In the latter jurisdictions, the "Of Counsel" attorney need not actively engage in the practice of law with the firm, provided the parties' past relationship satisfies the requirement of a continuing relationship.

Some arrangements contemplate that "Of Counsel" attorneys will not practice law in the same office as the lawyer or firm. An out-of-state lawyer, a lawyer who acts as a consultant to one firm while maintaining a full-time position with a corporation or other law firm, or a lawyer who engages in multiple "Of Counsel" relationships cannot be physically present on a full-time basis in the office of the lawyer or firm with which he or she is affiliated as "Of Counsel". Despite this, Formal Opinion 90-357 seems to allow these relationships, where they might have been prohibited under Formal Opinion 330. "Of Counsel" attorneys must be available to the lawyer or firm on a frequent, ongoing, and continual basis. Consultation on a single case is insufficient to establish an "Of Counsel" relationship, even where the consultant is a former partner of the firm.

Formal Opinion 90-357 permits law firms to use the "Of Counsel" designation to describe a relationship between law firms. It also permits a lawyer to be "Of Counsel" to more than two law firms. Probationary partners and senior attorneys who normally have an employee relationship with the firm are now recognized as appropriate candidates for the "Of Counsel" designation.

Despite its positive, flexible approach to defining the "Of Counsel" relationship, Formal Opinion 90-357 relies on one negative aspect contained in Formal Opinion 330 in its prohibition on the use of the "Of Counsel" designation for relationships that are like that of a partner or associate. If the relationship has facets commonly found in one of these other relationships, use of the "Of Counsel" designation may be
improper. When the relationship more nearly resembles that of partner or associate, the "Of Counsel" attorney is exposed to other problems, particularly in the area of vicarious liability. Thus, an "Of Counsel" attorney should never share in the firm's general profits, or assume management and control of the business. Likewise, an "Of Counsel" attorney should be careful to avoid the appearance of a partnership. An implied partnership could exist when the parties represent to the public that a partnership exists, and there is reasonable reliance upon that representation by the person seeking to establish the partnership. If an implied partnership is found, an "Of Counsel" attorney will be liable to an injured third party for torts committed by the firm.

Author

Jean L. Batman is the President and founder of Legal Venture Counsel, Inc., formed in 2004 to provide outside general counsel services to investors, entrepreneurs, and small businesses in industries ranging from real estate development to high technology. She has written and spoken on a number of business law topics, such as choice of entity, venture financing, and finding practical solutions to common legal problems. She is also the author of Advising the Small Business: Forms and Advices for the Legal Practitioner 3rd Ed., ABA, 2018, and Letters for Small Business Lawyers, ABA, 2011.

Ms. Batman chaired the ABA Business Law Section's Middle Market and Small Business Committee (2001 to 2005), was a Board Member of the ABA Business Law Section's Publications Board (2001 to 2005), Co-Founded and Co-Chaired the ABA's Private Placement Broker-Dealer Task Force (1999), and is a former Partner of Duane Morris LLP, one of the country's 100 largest law firms.
On the day of my funeral, my clients are not going to care that I worked all night on April 14 to get their tax returns to them the next day. There will always be a client who’s upset over having to go hire someone else to deal with those issues! As a lawyer I put clients first, which is the professional ideal. On my death bed, I do not want to be going through my final checklist and discover that I forgot something. What did I forget?

As an elder law or estate planning lawyer, I help clients prepare for their incapacity and death by drafting documents and discussing plans for long-term care, funerals and distributions of estates and care of family members. However, as a lawyer, have I thought about myself?

Starting with the basics, every lawyer should have an estate plan that includes a will, trust, durable financial power of attorney, health care power of attorney, advanced directive or living will, and HIPAA release. In addition, the lawyer needs a succession plan for their law practice that includes a lawyer to help wind down the practice. The durable financial power of attorney will need to have a power to allow the holder of power of attorney to hire another lawyer to help wind down the law practice. I revise and review my estate plan annually.

The saddest thing to face on the death bed will be regrets. Did I work so much that I did not enjoy the world and my family? Most people postpone travel and enjoyment until retirement. However, in my experience some people are not able to travel during retirement because of their own illness or illness in the family. My goal has always been to travel throughout my life. It is part of work-life balance for me. I have friends all over the world.

My final checklist is a work-in-process. I want to make sure that my family and pets are taken care of if I become incapacitated or die. I have that planned in my documents. I have picked the right person to make sure that my wishes are carried out. I have a list of professional and personal goals. As I get older, the personal goals are more important to me. I want to make sure that I maintain my connections with friends and family now.
My assignment to you is to develop your own final life checklist. It will have the normal things on it such as estate planning and funeral, but add the fun and surprises, too!

* "And When I Die" by Laura Nyro recorded by Blood, Sweat, and Tears
  https://www.songfacts.com/lyrics/blood-sweat-tears/and-when-i-die

Author

Donna J. Jackson is a nationally recognized lawyer, authority, speaker and educator in estate planning. Ms. Jackson is a CPA and holds a Master’s Degree (LL.M.) in Elder Law. Ms. Jackson has over 30 years of legal experience. She limits her practice to elder law, probate and estate planning.

ABA  American Bar Association
Special Needs Planning: Some Things to Consider

By Chantelle Hickman-Ladd

When planning for a child or family member with special needs there are certain planning tools and milestones that one must consider. Clients with special needs or a client’s family member with special needs can range from a child to an older adult. The planning will differ from client to client and depend on where each individual with special needs is in his or her life. Therefore, an attorney will consider different planning tools for each client:

Transition Planning

When a child reaches around 14 years old, parents of a child with special needs may want to begin considering what their child’s life will look like after their child completes school. Planning ahead can allow the parents time to set up a plan to transition their child into an adulthood that will allow for as much independence as possible.

More specifically, the child’s “Individualized Education Plan (IEP) should begin addressing the academic, social, and life skills that will be needed.” These considerations may include thinking about living arrangements or career options.

Guardianship

If a child or family member with special needs is unable to make decisions on his or her own, a guardianship may be necessary. In the case of a child, when the child reaches majority age, “parents will not be able to access an adult child’s health records or take an active role in their IEP meetings unless they take legal action.”

A guardianship will allow someone to look over and protect the individual with special needs if they are unable to make decisions for himself or herself. However, a health care power of attorney and durable power of attorney may be a less restrictive alternative to a full guardianship under certain circumstances.

Government Benefits

Once a child turns 18, eligibility for government benefits is based on his or her own income and assets. It’s important to consider whether government benefits are needed to help care for a child or family member with special needs and to plan accordingly.
Many government benefits have income and asset limits that contribute to determining eligibility to receive the benefit. Receiving a sum of money or inheritance could jeopardize an individual's eligibility for any government benefits. However, having a plan in place may help prevent disturbing any benefits the individual with special needs is currently receiving or may receive in the future.

Estate Planning and Special Needs Trusts

A special needs trust may be an option to protect against the unknowns. A person with special needs or other authorized individuals may be able to establish a special needs trust to ensure the individual with special needs is taken care of if he or she is unable to care for himself or herself and in order to help that individual remain qualified for certain government benefits. For example, a person living with a qualifying disability might be the beneficiary of a personal injury lawsuit or be the named beneficiary of a parent's IRA or other investment. A trustee (individual or corporate) would manage that person's assets for their sole benefit while making sure not to penalize or disqualify the beneficiary from their benefits. In order to maintain qualification for those disabilities or to preserve the potential qualification in the future for benefits, the special needs trust might be the appropriate estate planning tool.

On the other hand, a client may want to leave a portion or all of his or her estate to a child or loved one that is or may eventually receive government benefits. This is where the supplemental needs trust comes in. Instead of leaving it to that individual outright, the estate planning document could set up a supplemental needs trust for that individual's share. This type of trust can safeguard government benefits that the individual might be receiving by not putting the assets into that person's name outright.

Similarly, in this situation, a third-party trustee is designated to manage the trust assets and the individual with special needs is the beneficiary. The trustee is given discretion on when and how much to distribute from the trust. Because of this, it is important for the trustee to be someone who will correctly look after the beneficiary's needs and keep up to speed on the individual's government benefits and requirements (if applicable). It could also be useful to designate a corporate trustee depending on the situation. As with all jobs, the corporate trustee would have to be delicately chosen so that the right company and person is chosen for the job and is up to the task of serving as the trustee of a special needs trusts.

Because the beneficiary of a special needs trust and supplemental needs trust does not have control over and access to the trust assets, the trust is not considered a resource for government benefits eligibility. If a person wants to leave money to a special needs family member who was on government benefits, an outright bequest could disqualify the family member from continuing to receive those benefits. By including provisions in the person's trust to distribute the family member's share into a supplemental needs trust, the trustee of the supplemental needs trust can continue to provide for that individual's care, not interfere with his or her government benefits, and not have a Medicaid payback provision wherein any assets remaining in the trust must be paid back to the state agency upon the death of the beneficiary.
A care manager may also be employed in these situations, so that the special needs beneficiary has someone to advocate for him or her when that person is unable to. The care manager would ensure the beneficiary’s needs were being met and that the beneficiary was receiving the services he or she needed.

Review Beneficiary Designations

After getting estate planning done, it is important to check all beneficiary designations to make sure they all work with the estate plan. As previously mentioned, a person living with a qualifying disability might be the named beneficiary of a parent’s IRA or other investments and life insurance policies. Inheriting these outright could interfere with maintaining or qualifying for government benefits.

Letter of Intent

A letter of intent is a great way for a parent or family member caring for an individual with special needs to document important details about the individual to help a guardian or trustee when the parent or family member is no longer able to care for the individual with special needs. The Special Needs Alliance recommends including things such as: “medical and educational history, the individual’s likes, dislikes, and habits, and aspirations concerning the loved one’s future, including living arrangements, career, and lifestyle.”

End Notes


2. Id.

3. Id.

Author

Chantelle Hickman-Ladd is an associate at Donna J. Jackson & Associates, PLLC in Oklahoma City, Oklahoma. She practices in estate planning and elder law. As a newer attorney, Chantelle is enthusiastic about continuing to grow in her career and help others.
Member Spotlight: Orlando Lucero

By Orlando Lucero

Tell us a little bit about your career.

I was the first in my family to graduate from college and professional school. When I graduated from Stanford Law School in 1983, I immediately went to work at a large firm in Albuquerque, New Mexico (well, large by New Mexico standards!). Even though I had gone to college and law school in California, as a fourteenth generation New Mexican, I knew that I wanted to return home to practice law.

I was with my first law firm about ten years before it broke apart. Having lived through that experience taught me that I personally had to be more knowledgeable about and engaged in the business of my law firm, and since then I was actively engaged in the management of the other law firms where I practiced. Throughout my private firm career I mostly worked on real estate transactions of all kinds, including sales and purchases, real estate financing, leasing, and land use.

In 2004 I decided to leave the private practice of law and I went into the title insurance business, where I worked primarily as a commercial escrow officer for Stewart Title. In that role, I was more of a business development person than a lawyer. The tug of doing legal work never really abated, and in 2013 I became an underwriting counsel, which is what I do today as the New Mexico Underwriting Counsel for the Fidelity National Title Group. In that capacity I work with Fidelity title insurance agents and Fidelity’s direct operations to help them underwrite title policies. I love my job in that I get to visit with many people daily, use my experience and judgment in a real hands-on way, and I help get deals done. That is the best reward.

My career has encompassed much more than my pure professional legal work. I have been very active in my community since I began my career. I have served and/or chaired numerous boards in Albuquerque, including the Albuquerque Museum Foundation, the New Mexico Natural History Museum Foundation, All Faiths Receiving Home, and the New Mexico Chapter of NAIOP. For many years I chaired the Unauthorized Practice of Law Committee for the New Mexico State Bar. I currently serve as the President of the New Mexico Land Title Association, and I have served on the Board of Trustees of The Stanford Associates.
Is it what you had planned when you started law school?

Not at all. I chose the firm I first joined because I thought I wanted to be a labor lawyer, and this firm had the premier labor law practice in New Mexico. I had loved labor law in law school and my favorite professor and mentor was Bill Gould, a preeminent labor lawyer himself. At that time my firm believed every new associate should have a well-rounded view of the practice areas, so all new associates had to rotate through different practice areas of the firm. To my surprise, during my business rotation I discovered that I really enjoyed the transactional practice and helping clients get their deals done.

What has been the highlight of your career?

I have been fortunate in each stage of my career and have developed a reputation as a “lawyer’s lawyer.” I take that as the highest compliment in that other lawyers recognize and value my knowledge and expertise. Since I became involved in the title insurance business, I am a frequent national speaker and author on matters relating to title insurance. I have also taught a course on commercial real estate at the UNM Anderson School of Business, and I am the co-creator of Las Llaves de Mi Casa/The Keys to My House, a Spanish and English language video for the first-time homebuyer. I am very happy to be recognized by my peers as one of their go-to persons when it comes to difficult, complex title insurance matters, even though I live and work in a small “flyover” state. I do my very best to help our customers get their deals done with acceptable risk to the title insurer.

If you could go back to the beginning of your legal career, would you have done anything differently?

I don’t think so. I appreciated getting to understand different practice areas first-hand and I think having had those experiences ultimately made me a better lawyer.

What advice would you give to someone considering law school today?

Take some time off between undergrad and law school. In retrospect, I think I would have benefited from doing something, whether it was a paying job or some kind of volunteer or teaching opportunity. I think I would have had a much better perspective in law school. I am very proud to say that my daughter has just started Yale Law School, after having done many interesting things in the five years since she graduated from college. Although I had always hoped she’d go to law school, her time off helped her reach a very clear understanding of why she wanted to go to law school and I think it is making her a much better and more engaged law student.
What were the biggest changes you saw in the legal profession over the course of your career?

First, technology. When I started practicing law, word processing was just gaining a foothold in the office. I handwrote my documents, my secretary typed them, and then word processing staff turned them into WordPerfect documents. I remember one Saturday in the office when none of us associates who just happened to be there could figure how to send a fax. I remember having to spend hours at the law library, researching physical books. I remember lots of concern about giving lawyers desktop computers and how that would transform us into mere word processors. Today, I cannot do my job without my computer and access to the internet. Everything I need is at my fingertips.

Second, the diversity of the profession. During the course of my career, I have seen our profession become more diverse in every way: race, ethnicity, gender, sexual orientation, and many other categories. Through my ABA service I have been proud to work to help promote diversity and inclusion within the profession and within the ABA. While we still have much work to do this sphere, it certainly is quite different than when I started my career.

When did you first become a member of the ABA and why did you decide to join?

When I started, my firm automatically paid for everyone’s ABA dues, so I became an ABA member in 1983. I attended my first ABA Annual Meeting in 1989 and since then I was hooked and became actively engaged. Not only did the ABA provide me with tools and networking opportunities to develop myself and my practice, I came to understand the critical role that the ABA plays in so many important issues facing our country and our profession and in ensuring the rule of law at home and abroad.

What has been the highlight of your work with the ABA?

My first home and still one of my homes in the ABA is the Section of Real Property Trust and Estate Law. I slowly worked my way up the leadership ladder, from committee vice-chair, to Council, to Secretary and to Vice-Chair, and now as a Delegate. I would have become chair of the section, had I not been elected to the Board of Governors in 2015. Serving on the Board during very challenging times and having to make difficult decisions brought the responsibilities of stewardship into sharp focus. I have been active in diversity efforts for the ABA, including service on behalf of the Hispanic Commission and as Chair of the Pipeline Council. As a member of the Council of the ABA Fund for Justice and Education, I am happy to help support the ABA’s many charitable endeavors, including the Legal Opportunity Scholarship Fund. I grew up in the time where ABA meetings often became our family vacation. My wife and I have been blessed to have made so many life-long friends through the
ABA, and our daughter grew up with the ABA. I look forward now to continue to share my experience and perspective in the Senior Lawyers Division.

If you had not become a lawyer, what do you think you would have done?

I had thought seriously of pursuing a career in architecture. I loved (and still do love) architecture, but I wasn't sure if I had the math and technical abilities for the job (the classic comeback to why did I become a lawyer). One of the real draws of architecture is its creativity; creativity comes in many forms and I believe that creative thinking is one of the real strengths that I have brought to my legal career, whether in private practice or in the title insurance world.

Author

Orlando Lucero is Vice-President/New Mexico State Underwriting Counsel for the Fidelity National Title Group in Albuquerque. He is a member of the American College of Real Estate Lawyers. An avid theatre and opera buff, you can catch Orlando and his wife at theatre productions almost every weekend, enjoying the Santa Fe Opera season in the summers, and going to musical theatre productions in their travels across the country.
Call for Division Officers and Council Member Nominations

By Marvin S.C. Dang, Chair, SLD Nominating Committee

Nominating Committee

The Chair of the Senior Lawyers Division Albert C. Harvey has appointed the following to the Division’s Nominating Committee: Marvin S.C. Dang, as Chair, and Karen P. Campbell, William Mock, Orlando Lucero, and Michael J. Van Zandt, as Members.

Automatic Succession

Under the Division’s Bylaws, upon adjournment of the 2020 ABA Annual Meeting, Chair-Elect Michael J. Van Zandt automatically becomes Chair; Vice Chair Sheila Slocum Hollis automatically becomes Chair-Elect; and Albert C. Harvey, Chair during the 2019-20 bar year, automatically becomes Immediate Past Chair of the Division.

Call for Nominations

The Nominating Committee will accept nominations for the following elected Division leadership positions for terms beginning with the adjournment of the ABA Annual Meeting in August 2020.

Officers:

- Vice Chair for a one-year term with automatic succession to Chair-Elect.

- Division Delegates (2) for a three-year term.

Council Members:

- Council Members-at-Large (4) for a four-year term.

- Honorary Council Members (2) for a two-year term (non-voting).
Nomination Process

You can nominate yourself or you can nominate another person for one of the elected Division leadership positions.

If you are nominating another person, please confirm with that person that he or she will accept the nomination, and you must state this in your nomination.

Anyone currently holding an elected Division position can self-nominate or be nominated for another position even if the term for the current position expires after August 2020.

Nominations must only be submitted at https://americanbar.qualtrics.com/jfe/form/SV_0Btru7S6DMu8fO5.

No other form of submissions of nominations will be accepted.

The deadline to submit nominations is Monday, January 13, 2020.

The Nominating Committee plans to meet during the ABA Midyear Meeting in Austin in February 2020 to consider nominations. The Committee will thereafter submit its report to the Division Chair.

Additional nominations may be made by petition pursuant to Section 6.2 of the Division’s Bylaws which requires receipt of those petitions by the Division no later than sixty (60) days prior to the opening of the Annual Meeting of the Association.

All elections shall be held at the business session of the Division during the 2020 ABA Annual Meeting in August in Chicago.

###
Thank you for being a valued member of the Senior Lawyers Division. If you missed the recent renewal notice, your membership is about to expire. Renew your Senior Lawyers Division membership today to keep access to these benefits with no additional dues:

- **VOICE OF EXPERIENCE** an informative monthly e-newsletter with columns on elder law, physical and mental health, technology tips and Division news

- **INFORMATIVE WEBINARS** on wellness, retirement and our AARP Checklist book series

- **EXPERIENCE MAGAZINE** an award-winning quarterly magazine covering a range of topics like elder law, retirement, finances and capacity issues

- **EXOTIC EXCURSIONS** with our trusted travel partners

Don’t miss out on these and other valuable resources from Senior Lawyers Division! If you're age 75 years or older with 25 years of continuous ABA membership, you may qualify for a discounted rate of $225. Judges, solos, small firm lawyers, retired or inactive, you may qualify for $150 rate. Determine your reduced membership rate by contacting the ABA Service Center at (800) 285-2221.

Make sure your membership is renewed by October 31st to continue to receive uninterrupted membership in Senior Lawyers Division. [Renew membership in Senior Lawyers Division now](https://www.americanbar.org/groups/senior_lawyers/publications/voice_of_experience/2019/october-2019/is-your-sld-membership-expiring/) or call the ABA Service Center at (800) 285-2221.

If you have recently renewed, please accept our thanks. We're glad to have you as a member!

[ABA American Bar Association](https://www.americanbar.org/groups/senior_lawyers/publications/voice_of_experience/2019/october-2019/is-your-sld-membership-expiring/)
The International Law Committee of the Senior Lawyers Division ("SLD International") serves experienced lawyers who are members of the ABA, are 62 or older, and who are interested in international law (including Transnational Law) and practice and in issues with international aspects, including retirement, travel, etc.

Our objective is to serve our members and advance the goals of the ABA by focusing on international law in its many aspects. We have identified various areas of interest and are now in an organizational phase. We encourage all those who have an interest in international matters to join the committee and work together to:

- Employ the knowledge and skills of committee members to address important and timely international issues of the Association and/or issues of concern or interest to its members via development of programs, publications, projects, and policies;

- Collaborate with other entities of the Division and the Association and with international government and non-government organizations ("IGOs" and "NGOs") in addressing international concerns, including (but not limited to) efforts to advance the rule of law in the world, protect the legal profession worldwide, promote ethical practices of the profession in rule of law-challenged countries, etc.;

- Explore the legal professions of other jurisdictions via personal and group exchanges;

- Offer opportunities to member to transition to “second-season” international careers or activities; and

- Develop mentor and legal assistance programs that involve activity in foreign countries and work with existing programs linked with the Association and with other lawyer or non-lawyer based organizations involved in programs with activities or focus on countries outside the US.
Our organizational conference call for 2019-2020 will take place on November 6th from 11:30 am to 12:30 pm ET. Call-in 866-646-6488 | Conference Code: 376-453-1400.

If you wish to participate, please send emails to the SLD International Law Committee co-chairs: Aaron Schildhaus and Professor Robert Lutz with a copy to Emily Roschek at emily.roschek@americanbar.org.

Please let us know in your email that you are interested in a copy of our proposed game plan and to let us know areas of particular interest to you as a member of the Committee.