

# AMERICAN BANKRUPTCY INSTITUTE JOURNAL

The Essential Resource for Today's Busy Insolvency Professional

## ABC Update

BY J. SCOTT BOVITZ

### Modern Rainmaking and Law Office Tools for Professionals

Congratulations! You are board certified by the American Board of Certification (ABC) in business bankruptcy, consumer bankruptcy or creditors' rights. You are also an active ABI member. Your substantive knowledge of bankruptcy is solid — and grows with each continuing education program and issue of the *ABI Journal*. (Gosh. The stuff I never knew.)

As a working bankruptcy lawyer, you are a hippalectryon — part workhorse (reviewing documents, filing pleadings, etc.) and part rooster (oral advocate and rainmaker). Are you still landing new clients in 2013? Are you making the best use of your existing technology in your law office to leverage, manage and improve your law practice?

#### Rainmaking

According to Catherine Kaputa, author of *You Are a Brand*,<sup>1</sup> “[m]y mantra to my clients is ‘You are a brand!’ ... Make yourself a little bit famous. Find an arena you can dominate and build a self-brand identity.” Teresa Warren<sup>2</sup> preaches that legal rainmakers need to increase visibility with the twin goals of gaining name recognition and attracting new clients (while keeping within the advertising rules of your jurisdiction).

In order to build your brand, you give speeches. Do you bring a spare projector, screen, microphone and long microphone cable (to cover any audiovisual problems)? Do you pass out materials to the audience? Do you post your materials online after the speech? Have you taken acting or speaking lessons? Do you teach your associates how to make presentations to the public?

Michael Port, author of *Book Yourself Solid*,<sup>3</sup> says that “[m]arketing and sales isn't about trying to convince, coerce, or manipulate people into buy-

ing your services. It's about putting yourself out in front of, and offering your services to, those whom you are meant to serve — people who already need and are looking for your services. Before you can establish yourself as a category authority you must be one. How do you do that? You truly become a category authority by learning everything you possibly can about the one thing you've decided you want to become known for.”

You have already established your “category authority” in bankruptcy by becoming an ABC-certified specialist. Let's start with this simple step: Make sure that your email signature lists your name, contact information and the statement that you are “Board Certified, Business Bankruptcy Law, American Board of Certification.”<sup>4</sup>

Carry a memorable business card. In 2013, the American Bar Association ran a survey of creative business cards.<sup>5</sup> My custom [bovitz.com](http://bovitz.com) guitar pick made the cut.<sup>6</sup> Oh, yes, I have a classic business card as well; it states that I am a dual-certified bankruptcy specialist.

You can also enhance your reputation by writing and publishing short, easy-to-read articles on the Internet. If you don't already have a website (shocking!), then hire a local web designer to create a website for your law firm. A website provides a really good bang for the buck, as long as you feed the website with fresh articles and information on a regular basis (at least monthly). Make sure that you own your domain, own your web content and design, and can post information on your own website without paying for update services to the web designer or host. Be sure that your website includes the following:

<sup>4</sup> Check your rules of professional conduct regarding this type of “advertisement.”

<sup>5</sup> The results were posted at [pinterest.com/abajournal/lawyer-business-cards](http://pinterest.com/abajournal/lawyer-business-cards).

<sup>6</sup> I am the recording engineer for the Los Angeles Lawyers Philharmonic and Gary S. Greene's award-winning Big Band of Barristers. I have also written or produced, recorded, mixed, mastered and posted 326 songs on [bovitz.com](http://bovitz.com). So the guitar pick/business card works for me.



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<sup>1</sup> Nicholas Brealey Publishing, 2010.

<sup>2</sup> Learn more at [tw2marketing.com](http://tw2marketing.com).

<sup>3</sup> John Wiley & Sons, 2010.

- attorney biographies and photographs (there is no reason to limit your impressive biography online, so be sure to include all honors, speeches, articles and certifications);
- street address;
- telephone and fax numbers;
- email addresses (monitor and respond to your email);
- driving directions and map to your office(s);
- office hours;
- description of firm services;
- languages spoken;
- simple, obvious navigation;
- a disclaimer;
- updated, focused articles/content for prospective clients (for search engine optimization, you should focus on geography, area of law and user needs);
- billing rates (but if you are competing on price alone, you are going to lose that battle);
- whether you charge for the initial consultation;
- how to contact the law firm;
- types of clients; and
- links to social media.

How do you drive traffic (potential clients) to your website? Publish useful articles. According to Guy Kawasaki,<sup>7</sup> the key is to “Write Good Stuff. In my mind, Google is in the business of finding good stuff. It has thousands of the smartest people in the world, spending billions of dollars to find the good stuff. All you have to do is write the good stuff; you don’t need to trick it. Let Google do its job and you do your job.”

Make sure that the ABC knows about your firm’s website. The ABC will link your website to your personal listing on its national directory of ABC-certified specialists.<sup>8</sup>

Even if your law firm does not support regular publications on your traditional website, you might become active on at least one social media site (where people exchange information in virtual communities). Catherine Ho<sup>9</sup> reports:

Big Law is warming up to the advertising power of social networking. Leaders at several top 100 firms are for the first time hiring full-time social media specialists to manage firms’ LinkedIn, YouTube and Twitter accounts, and many more are making a concerted effort to prioritize social media outreach in marketing campaigns ... now, 20 percent of law firms have a full-time social media specialist on staff, and about 40 percent said [that] blogging and social-networking initiatives have helped the firm land new work, according to an ALM Legal Intelligence report released in February that surveyed 179 attorneys, managing partners and marketing directors.... Many firms are honing in on LinkedIn and blogs, and shying away from Facebook, which they consider a personal rather than professional networking tool.

For inspiration, check out law marketing blogs from Jay S. Fleischman and Larry Bodine.<sup>10</sup> According to Bodine, social media “is one of the most cost-effective means of building your platform. It will increase traffic to your web-

site. It will influence buying decisions by your potential clients. It connects you to referral sources.”<sup>11</sup> Of course, lawyers who engage in social media are still governed by the traditionally conservative lawyer advertising, confidentiality, and communications limitations in your state.

In 2005, the State Bar of California Standing Committee on Professional Responsibility and Conduct issued Formal Opinion 2005-168. The official (scary) digest of that opinion states:

A lawyer who provides to website visitors who are seeking legal services and advice a means for communicating with him, whether by email or some other form of electronic communication on his website, may effectively disclaim owing a duty of confidentiality to website visitors only if the disclaimer is in sufficiently plain terms to defeat the visitors’ reasonable belief that the lawyer is consulting confidentially with the visitor. Simply having a visitor agree that an “attorney/client relationship” or “confidential relationship” is not formed would not defeat a visitor’s reasonable understanding that the information submitted to the lawyer on the lawyer’s website is subject to confidentiality. In this context, if the lawyer has received confidential information from the visitor that is relevant to a matter in which the lawyer represents a person with interests adverse to the visitor, acquisition of confidential information may result in the lawyer being disqualified from representing either.

The New York State Bar Association’s Committee on Professional Ethics is a leader in social media issues. In its official digest of Opinion 843 (June 10, 2010), it states that “[a] lawyer representing a client in pending litigation may access the public pages of another party’s social-networking website (such as Facebook or MySpace) for the purpose of obtaining possible impeachment material for use in the litigation.” Also, in its official digest of Opinion 972 (June 26, 2013), the committee concluded that a “[l]aw firm may not list its services under [the] heading of ‘Specialties’ on a social media site, and [a] lawyer may not do so unless certified as a specialist by an appropriate organization or governmental authority.”<sup>12</sup>

One example of what not to do was published on Sept. 11, 2013, in the ABI Newsroom.<sup>13</sup> The Newsroom ran a story on the self-inflicted problems of a San Diego law firm that allegedly posted false (positive) law firm reviews on Yelp.com. So reach out — but watch out. The magic technology behind the web can be a law firm rainmaker’s dream, but should be handled with care.

## Law Office Tools

We all love the smell and feel of books. Today, your daily law library is on your laptop and iPad. You probably grew up with Lexis and Westlaw, but are you familiar with the Law Library of Congress?<sup>14</sup> This is an excellent site for legislative history, research papers, international law, blogs, law reviews and bankruptcy trivia.

Are you a master of at least one search engine? If you use Google, be sure to study the powerful advanced search

<sup>7</sup> See “Guy Kawasaki Explains How Entrepreneurs Are Getting Social Media All Wrong,” *Business Insider*, March 4, 2012, [businessinsider.com/guy-kawasaki-explains-how-entrepreneurs-are-getting-social-media-all-wrong-2012-3](http://businessinsider.com/guy-kawasaki-explains-how-entrepreneurs-are-getting-social-media-all-wrong-2012-3).

<sup>8</sup> See [abcworld.org/search](http://abcworld.org/search).

<sup>9</sup> Catherine Ho, “Law Firms Get into the Social Media Game,” *Washington Post*, March 11, 2012.

<sup>10</sup> See [legalpracticepro.com](http://legalpracticepro.com) and [blog.larrybodine.com](http://blog.larrybodine.com).

<sup>11</sup> Larry Bodine, “Law Marketing Blog,” [blog.larrybodine.com](http://blog.larrybodine.com), Dec. 6, 2012.

<sup>12</sup> This may illustrate another benefit of ABC certification.

<sup>13</sup> See [news.abi.org/headlines/yelp-sues-bankruptcy-law-firm-alleging-it-posted-fake-positive-reviews](http://news.abi.org/headlines/yelp-sues-bankruptcy-law-firm-alleging-it-posted-fake-positive-reviews) for a link to the article.

<sup>14</sup> Content for the Law Library of Congress, the world’s largest law library, is available at [loc.gov](http://loc.gov).

tools.<sup>15</sup> Do you use Google to find legal advice, forms, articles and cases? Do you look up your opposing counsel, witnesses and clients? As a certified specialist, you will receive calls from the press, clients and other lawyers across the country; do you prepare for that first interview by using a search engine? Do you search for images and maps? (“Google” your own name. Go ahead. I’ll wait.)

Do you search for current events (news) on topics of interest to your existing clients? When you find something, do you “clip it” and send it to your partners and client with a personal note?

When was the last time you visited your court’s website? In the Central District of California, the hard-working court clerk (**Kathy Campbell**) has a gold mine of practical information for local professionals,<sup>16</sup> including the “local local” rules of our 29 bankruptcy judges. The court also has a Twitter feed. However, I have yet to read an official “tweet” that tells me what I really need to know (e.g., “Judge XX is in a really bad mood today.”).

Do you convert all of your documents into PDFs? (Please don’t send me a paper document production in a box.) Are you a master of Adobe Acrobat or your PDF-creation software? Can you add footers, text and comments? Can you redact text? Do you know how to “flatten” documents before filing? When is the last time you took a class on your PDF software? Do you have the latest Adobe training manuals<sup>17</sup> for Adobe Acrobat?<sup>18</sup> Do you read Rick Borstein’s Acrobat for Legal Professionals Blog?<sup>19</sup>

You probably use a notebook (portable) computer. What if the hamster inside drops dead on his tiny wheel? Do you back up your data every business day? Where are your backups stored? Do you perform emergency training for restoring your data? Can you find this information — paper and pen would be handy here — if your “computer guy” is missing in action after an earthquake hits?

You are a writer. Have you taken a writing class at the local community college or online? Be sure to visit Legal Writing Institute’s website<sup>20</sup> and Bryan A. Garner’s law prose website. Read a Bryan Garner book and sign up for his “tip of the day.” Better yet, send your whole firm to a Garner seminar.<sup>21</sup>

You need to type most of your own work. My experienced personal legal secretary can still take shorthand,<sup>22</sup> but your teenage personal assistant cannot — and you share him or her with five other billing professionals at your law firm.

Have you mastered your word-processing program? Do you look carefully at the spell check and usage suggestions? Do you know how to turn on (and off) “track changes”? Can you compare two documents to find the changes? You might want to take a free Word class online.<sup>23</sup> If you are a terrible typist, have you tried dictating into the “Notes” application on your iPad? The program works surprisingly well, especially in a quiet room. You can move the tran-

scribed file to your main computer, then edit in your normal word processor.

Are you familiar with all of the features of your personal calendaring program? Calendar everything, including family time. This will help with your time-management.

Cell phones and iPads have morphed into personal digital assistants. Is your device “password protected”? Can you remember your password without looking at a post-it note on your credenza? Do you know how to use the applications on your iPhone and iPad?

You can already use the cellphone, but do you know how to make an international call? Can you set up a conference call? Can you confirm the length of a recent telephone call? Have you mastered the “mute” button (for telephonic appearances and noisy environments)?

Have you learned how to use the free or inexpensive cellphone/iPad “apps” for your calendar, contact list, billing, video, reminder alarms, calculator, maps (it knows where you are!), recording, and real-time translations?<sup>24</sup> Clarence Darrow (“The trouble with law is lawyers.”)<sup>25</sup> would have been amused by all the fuss over technology. However, a little “upgrade” on your part will pay big dividends. **abi**

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*The American Bankruptcy Institute is a multi-disciplinary, non-partisan organization devoted to bankruptcy issues. ABI has more than 13,000 members, representing all facets of the insolvency field. For more information, visit ABI World at [www.abiworld.org](http://www.abiworld.org).*

15 See [google.com/advanced\\_search](http://google.com/advanced_search).

16 See [cacb.uscourts.gov](http://cacb.uscourts.gov).

17 This is the “Classroom in a Book” series.

18 Visit [adobe.com](http://adobe.com).

19 See [blogs.adobe.com/acrolaw](http://blogs.adobe.com/acrolaw).

20 See [wionline.org](http://wionline.org).

21 Learn more at [lawprose.org](http://lawprose.org).

22 Pick up some tips at [en.wikipedia.org/wiki/Shorthand](http://en.wikipedia.org/wiki/Shorthand).

23 Online classes are available at [office.microsoft.com/en-us/word-help/training-courses-for-word-2013-HA104030981.aspx](http://office.microsoft.com/en-us/word-help/training-courses-for-word-2013-HA104030981.aspx).

24 See J. Scott Bovitz, “What’s on Your iPad?,” *ABI Journal*, February 2013, for my favorite programs and applications.

25 Visit [http://en.wikipedia.org/wiki/Clarence\\_Darrow](http://en.wikipedia.org/wiki/Clarence_Darrow) to learn more about this American lawyer. The quote is perhaps one of the most famous statements he made during his career.