

# BALI



BALI | Bay Area Legal Incubator  
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A project of Alameda County Bar Association  
Volunteer Legal Services Corporation

## BALI PARTICIPANT HANDBOOK

### OVERVIEW

BALI provides a two-year acceleration program in which recent admittees to the California Bar are provided with extensive support, mentoring and education on how to successfully operate an affordable solo, small firm, or nonprofit practice that serves the legal needs of the modest means community.<sup>1</sup> The goal of the project is two-fold: 1) to provide sustainable, long-term employment for recently admitted alumni/alumnae, and 2) to increase access to justice for people of modest means.

This project is a collaboration between Volunteer Legal Services Corporation and the Alameda County Bar Association in collaboration with the Alameda County Law Library and the following law schools:

- Golden Gate University School of Law.
- University of California, Hastings College of the Law
- Santa Clara University School of Law
- University of California, Berkeley School of Law
- University of San Francisco School of Law

Participants are enrolled in the program for two years, moving from a half-time pro bono apprenticeship in legal areas of interest, to handling a caseload of low-fee cases, with a rich curriculum of continuing education on substantive law and practical skills throughout, including emphasis on law practice management. Participants are paid a small stipend for the first six months, aimed as a safety net for one's practice, and receive significant in-kind support through free research and case management services and website development and support for 1-2 years of their enrollment in the program, depending on the venter's agreement. Participants take on increasing responsibility for bearing the financial costs of their practices as they progress in the program.

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<sup>1</sup> "Modest means" here means those individuals and families whose income is just a little over the income limits to qualify for legal aid, but so low as to make it impossible to afford a full-fee attorney. For this program, we consider anyone "modest means" where the family income is between 125% and 300% of the Federal Poverty Limit. 42 USC 9902(2).

## TIMELINE

	Activities	Income	Expenses
February – July 2017	<ul style="list-style-type: none"> <li>• 20 hours / week pro bono apprenticeship</li> <li>• Continuing education</li> <li>• Development of practice infrastructure</li> <li>• Contract or other work, if desired</li> <li>• Some cases, if able</li> </ul>	<ul style="list-style-type: none"> <li>• \$500/month stipend</li> <li>• Small amount of case or contract work income</li> <li>• In-kind benefits</li> </ul>	<ul style="list-style-type: none"> <li>• \$50/month malpractice insurance to carrier*</li> <li>• Bar dues due February</li> <li>• Personal expenses</li> </ul>
August – January 2016	<ul style="list-style-type: none"> <li>• Full time cases – at least 20 hours / week spent on low-fee work with modest means clients</li> <li>• Continuing education</li> <li>• Development of practice infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Case income</li> <li>• In-kind benefits</li> </ul>	<ul style="list-style-type: none"> <li>• \$50/month malpractice insurance to carrier*</li> <li>• \$250 program fee to VLSC</li> <li>• Personal expenses</li> </ul>
February 2017 – January 2018	<ul style="list-style-type: none"> <li>• Full time cases – at 20 hours/week on modest means</li> <li>• Continuing education</li> <li>• Development of practice infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Case income</li> <li>• In-kind benefits</li> </ul>	<ul style="list-style-type: none"> <li>• \$100/month malpractice insurance to carrier*</li> <li>• \$500/month program fee to VLSC</li> <li>• Personal expenses</li> </ul>

\*For recent graduates qualifying for the Lawyer’s Mutual Strong Start program.

## BACKGROUND

There is a tremendous need for affordable legal assistance for individuals and families who earn over-income for legal aid, but still utterly unable to afford legal assistance. BALI seeks to address that need, not just for a year or two, but by creating a steady supply of solo, small firm and nonprofit attorneys committed to building a practice in which they provide all or a significant

portion of their services to clients on an affordable, low-fee, flat-fee, sliding scale, and/or contingency basis.

In the Bay Area, the need is quite pressing. Bay Area economics and the housing crunch mean that low-to-middle income families can barely afford to remain in the area. People who manage to do so have absolutely no leeway in their budgets to pay for full-fee attorneys. For example, in Alameda County, 25% of all residents with regular incomes are unable to afford basic necessities, such as housing, food, healthcare, transportation and childcare.

Incubators also meet a need of recent law graduates. Of course, the job market for recent law school graduates is challenging and finding full-time legal employment has been tough in recent years, pushing increasing numbers of recent graduates into solo practice, often without mentors or a business plan. Additionally, public interest law jobs for people seeking to have an impact in their communities are particularly difficult to find and salary ranges in this sector have remained stagnant for years – a reduction in revenue for public interest organizations means that organizations cannot hire as many attorneys, cannot provide regular wage increases, and are especially unable to take on new attorneys who need training and supervision. As result, the legal profession is developing both a keener understanding of the need to support solo practitioners and an understanding of social entrepreneurship and the variety of different models that can be used to provide much-needed services to low-income communities. New attorneys, who five or ten years ago might have been focused entirely on getting salaried positions with legal services nonprofits, have now been exposed to the social enterprise model, and are more open to the incubator model as a realistic means to practice public interest law and building a community-oriented practice. And new solos in every sector are in need of mentorship, coaching and training.

## OBJECTIVES

- Empower new attorneys to open up their own practices, focusing primarily or exclusively on providing affordable, low-fee, flat-fee, sliding scale or contingency legal services.
- Provide sufficient training and mentoring so that new attorneys will provide excellent services in a sustainable manner.
- Increase the amount of pro bono assistance available to legal services programs by placing participants with legal services agencies for apprenticeships of 20 hours per week, for six months.
- Increase the number of low-fee or sliding scale matters accepted for representation in the Bay Area.

## CLIENTELE AND FEES

The chief clientele to be served are those whose income is between 125% and 300% of federal poverty level. (The largest legal services programs, funded by the Legal Services Corporation, generally only serve clients whose income is at or below 125% of the federal poverty level, and this program aims to serve those in the “gap “ population just above this level.) Modest means clients are charged an affordable sliding scale or flat hourly rate, a per-service flat fee, or a contingency fee. Fees are set by the individual participating attorneys.

Participants commit to spending at least 20 hours per week of their time on modest means cases during their participation in this project, after the initial six-month period. Part of participants' commitment is to continue to spend at least 50% of their time on modest means cases for at least the first three years after they complete the program, and throughout their time as a solo or small firm practitioner.

Because each participant is a solo practitioner, fees will go to the participant directly. The goal of this program is to teach participants how to run their own businesses, so our effort is to create a realistic environment right away, with sufficient support (both in the substantive areas of law, and the management of a law practice) to be able to learn strong skills in that arena.

Participants can receive modest means case referrals through ACBA's Lawyer Referral Service, and through the Contra Costa County Lawyer Referral Service. While the LRSs generally charge a percentage of all fees collected and enrollment fees, fees are waived for incubator participants. Additionally, participating attorneys are welcome and encouraged to market collectively through BALI itself, and receive intake through events, BALI's website, and collectively organized public events.

Of course, the pro bono apprenticeship will be on a no-fee basis. Generally, participants are placed in Qualified Legal Services Programs that are regulated by the State Bar of California, though BALI is open to working flexibly with participants to identify appropriate apprenticeship partners that will help the participant build added substantive legal skills. The goal is to partner the participant in an organization in which the participant can handle a high volume of the type of cases in which he or she is interested in developing skill, and receive strong supervision and support.

## **STRUCTURE OF THE PROGRAM**

Collaborative Partners: BALI is a collaboration between five Bay Area law schools, the Alameda County Bar Association and Volunteer Legal Services Corporation, and the Alameda County Law Library. Other partnering entities include the Contra Costa Bar Association and legal services providers with whom we will work on pro bono matters.

Time Commitment: This is a full time project, and participants must commit to working 40 hours per week on Incubator matters and continuing education, throughout the two years of the project. Participants are not employees of BALI and are therefore allowed to set their own schedules.

Supplemental Work: Many participating attorneys find ways to earn extra income through contract work or other means to supplement their practice incomes, especially in the first six months, however taking time to build one's practice is expected to be paramount and be a full-time endeavor. Participants are strongly advised to identify contract work that contributes to skill and network development in their chosen areas of practice so as to build their practice capacity through this means of earning additional income. BALI staff work with the Alameda County Bar Association to identify members of the bar willing to hire contractors through BALI to help participants earn supplemental income and develop ties to the legal community, however, they cannot guarantee contract work will be produced through such efforts.

Space and Location: The incubator offers office space – our “hub” - where participants are encouraged to work. The hub includes shared workspace (in the mode of incubators in other

professions) with locking file storage and private conference rooms for client consultations. The project provides basic office equipment, including a multipurpose copier/printer/scanner, but participants provide their own computers, cellphones and fax. The hub is currently located within the Alameda County Law Library.

Participants are encouraged to maximize their usage of the hub by using it as their primary business office. Doing so allows for maximum benefit of access to the staff and attorney community, as well as maximizing benefit of being within the law library and accessible by members of the public looking for legal counsel.

All participants are expected to serve a rotating shift conducting intake for the broader BALI community and helping maintain the hub.

Staffing: ACBA/VLSC employs a Mentoring Attorney to provide mentoring to participants. This person, an experienced attorney in solo or small firm practice and in one or more of the areas of practice common to participants, will:

- Provide day-to-day assistance and referral to coaches for participants as they handle their modest means and pro bono matters and build their law practices;
- Organize continuing education, teaching some of the basic skills programs and recruiting (with the help of the ACBA/VLSC) volunteer presenters for programs;
- Problem solve with participants when issues come up;
- Work with participants to evaluate the program; and
- Oversee the program generally.

Initial Steps: In the first few weeks of the program, participants will learn about alternative structures for their new practice, and receive expert help on selecting and implementing a business structure. They will also sign up for malpractice insurance, with the assistance of the Mentoring Attorney. (The deadline for setting up a business structure and obtaining malpractice insurance in March 15.)

## **CASE HANDLING PROGRESSION**

### First Six Months:

- For the first six months of the program, participants will spend 20 hours each week in a pro bono apprenticeship. An apprenticeship may involve working in the offices of a legal services provider, or working in the incubator space on pro bono cases placed and supported by a legal services provider, or another arrangement preapproved by the mentoring attorney and designed to build capacity of the participant. Regular feedback sessions will take place between the participant, the Mentoring Attorney, and the legal services program staff attorney.
- For the balance of time during those first six months, participants will be taking continuing education classes as part of the curriculum (see below), and taking on cases as appropriate in terms of skill and time management. Participants will also continue work on their business plan and development.

### After First Six Months:

After the first six months, participants will no longer be in their pro bono apprenticeships (though they may still be finishing up pro bono cases and may continue this volunteer work if they and

the volunteer placement wish). They will continue their continuing education, and will begin to take on a caseload of modest means cases, with assistance from the Mentoring Attorney and/or coaches within the legal community. As participants' experience increases, their caseload will increase and the degree of coaching can decrease or shift in terms of complexity or focus (for example, as people's substantive law skill grows, they may need more coaching in law practice development).

By the end of their two years, participants will have built up full practices and will be able to handle their practices with minimal assistance and coaching.

Referral of Low-Fee Cases: Fee-paying cases handled by participants will come in part from the ACBA Lawyer Referral Service and Contra Costa modest means case intake, as well as through the BALI website and walk ins at the hub. As the project continues, participants will be learning about marketing, and developing and implementing their own outreach plans, specifically to modest means populations. Participants are encouraged to use the hub as a resource in marketing: offering community educational events or clinics in collaboration with other attorneys or organizations, or on their own.

Curriculum: The curriculum continuously evolves based on the needs of the current cohort. It generally includes approximately 3-5 hours of instruction per week for the first two weeks of the program, 1-3 hours per week thereafter in the first six months, and approximately 2 hours of instruction per two weeks thereafter. There are also bimonthly group status check ins where the cohort can share information and problem solve collectively, and monthly check ins with the mentoring attorney.

Topics typically covered in continuing education include:

- Introductory classes on subject areas (e.g. Introduction to Family Law and Practice, Introduction to Immigration Law and Practice) – addressing the substantive, procedural and practical aspects of the area.
- Basic practice skills, including:
  - Client interviewing
  - Recordkeeping
  - Courthouse and courtroom conventions
  - Professionalism
  - Ethics
  - Trust Fund requirements
  - Debt repayment and management
- Practice Management, including:
  - Marketing
  - Case management software
  - Billing alternatives
  - Collections
  - Networking
  - Office management
  - Lease negotiation
  - Hiring staff

Participants also have access to all ACBA's regular roster of CLE programs and PLI's full online and live offerings, free of charge.

Mentoring: The Mentoring Attorney will provide day-to-day guidance participants in substantive law and law practice management, as described above. As each participant identifies one or more areas of interest on which they wish to focus (see below) and the design of their practice, they will also benefit from having a volunteer coach or coaches who specialize in areas of law or who have developed practices like the one the participants wants to build. Expert volunteer attorneys will be available to consult with participants, answering questions about law or practice.

Areas of Focus: Participants may choose to create their own practice model. Participants are encouraged to select focus from among the most commonly requested areas of civil law in low-income communities:

- Landlord-tenant
- Family law and Domestic Violence
- Guardianship
- Dependency
- Consumer and Bankruptcy
- Immigration
- Wills and Trusts
- Employment
- Expungement
- Criminal Defense

The program will consider supporting other subject areas after consultation with participants. Participants are encouraged to focus on one or two of these areas at first, though broadening later in the program will be encouraged.

## **PARTICIPANT STIPENDS AND FEES**

First Six Months: For the first six months of the program (when participants will be taking in little or no income from cases), the program will pay each participant a stipend of \$500/month. Obviously this will not pay all of their bills. It offers some support as a form of safety net for business expenses, such as travel costs or malpractice insurance premium payments.

Second Six Months: At the end of the six months, the stipend will end. In addition, each participant will be responsible for paying a \$250/month program fee.

Year Two: Starting in year two, the program fee each participant pays will increase to \$500/month. The purpose of this fee is offset the costs of the program, and to provide a realistic environment in which the participant can build their practice and their business plan.

Other Expenses and In-Kind Benefits: Participants are expected to pay their own malpractice insurance costs, which generally run at approximately \$500 for the first year, and \$1000 in the second year for new solo practitioners. We anticipate lining up corporate support to assist in defraying other costs. For example, CEB has already indicated its support. CEB is committed to supporting the delivery of legal services to Californians who cannot afford them, and is also dedicated to aiding legal education for law students and new lawyers. To support this incubator program, CEB has committed to provide 12 months of free access to OnLAW, which is CEB's online database of legal practice guides, for up to 15 participants. Other free tools include online research, case management and trust account management, and website development and maintenance. ACBA dues will be waived for participants engaged in the program.

## SELECTION OF PARTICIPANTS

Criteria: The three primary criteria for selection of participants are:

- A commitment to access to justice
- A commitment to building a modest means practice
- An entrepreneurial spirit and interest

Selection methodologies and timelines may vary from one sponsoring law school to the next. First application rounds are timed to allow selection of participants (and others placed on the wait list, if applicable) by September 30 preceding the start of each new February cohort; a second round of applications may be solicited in the December preceding each new cohort launch.

Partnerships: Participants are encouraged to collaborate and co-counsel but are strongly discouraged from applying as a partnership, or forming a formal law partnership during the incubator period. Reasons for this discouragement include restrictions on the less expensive malpractice insurance, to concerns about amplifying liability exposure.

Bar Admission: The program will only enroll participants that have already been admitted to the California Bar. (We will not have the resources to provide the extensive supervision necessary to allow non-admitted graduates to begin practice. In addition, the rhythm of the program will be thrown off if participants need to take off two months or more to study.)

Participants accepted into the program are accepting pending bar admission. Participants who do not pass the bar exam will not be permitted to enroll, and another applicant may be admitted from the waiting list in his or her place. Those who do not pass the bar the first time may receive preference for the next “class” of the project. Participants who have passed the Bar exam but have not been admitted to the California Bar by the start of the program, will be considered on a case by case basis.

Participants in the program are expected to remain in good standing with the California Bar throughout their participation in the program, and to provide the program with notice of any complaints filed or disciplinary action taken against them.

Project Timeline: The first cohort of participating attorneys joined BALI in January 2016. New cohorts begin each following February. The program is a two year program.

Because BALI is new, the collaborative partners are assessing whether it is effective, and whether it works for them to continue to work with and fund it. If a sponsoring law school determines that it will not continue in the project, it will still support its alumni through the completion of their two-year program.

## EVALUATION

Because the program is innovative, VLSC and BALI staff will be tracking data from the project, and reporting back to all collaborative partners and funders. Participants commit to making data from their practices available, including but not limited to:

- Number of pro bono matters handled
- Number of modest means cases handled
- Demographic and outcome information about pro bono and modest means cases handled
- Progress of participants towards the goal of building a sustainable, modest means practice
- Success of participants at building a realistic business plan, including financial viability of their practices
- Long-term sustainability of the program
- Efficacy of the program in meeting the law schools' goals.