



# Intelligence Report

Plaintiff Lawyers Who Recruit  
Your Employees To Sue You



By Nowland Law  
The Law Offices of Thomas F. Nowland  
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# The Law Offices of Thomas F. Nowland

Plaintiff Lawyers Who Recruit Your Employees  
To Sue You

- Informational Purposes Only -

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## Disclaimers

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There are your peers in the business world that genuinely treat their employees badly and illegally, and attorneys receive legitimate complaints and requests for representation. However, this book focuses on the plaintiff attorneys who do not simply wait for cries of genuine help, but rather cultivate, farm, and woo people into suing their employer

Past Results Do Not Guarantee Future Performance. Downloading, Receiving, Reading, or Relying on the information in this book explicitly does not constitute representation or a retainer agreement. You are not a client until you have signed and paid a retainer agreement.

Some example advertisements have had information masked, omitted, or modified to avoid identification with the actual advertiser.

This ebook is for informational purposes only and is not specific legal advice for your situation. Always speak with an experienced attorney before taking any legal action. Nowland Law has experienced business lawyers practicing in the areas of litigation defense. Call or contact Nowland Law to discuss your legal matter.

# The Contingency Lawyer

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## *They Need Your Employees*

A contingency plaintiff attorney is a lawyer who will represent and work on a case without any payment upfront; and at risk of not getting paid at all. Why operate in this manner? Because some types of cases are well trodden paths and are so likely to result in a **SETTLEMENT** or victory, that it is a safe bet to work on these cases without upfront payment.

### **Do you want to know two secrets of plaintiff attorneys?**

First, they hate going to court. Sure, if the likelihood of a huge pay off is overwhelming, they'll button up the suit and head to court. However, as a business owner yourself, you know that most of the day to day grind involves a more manageable workload.

For a plaintiff lawyer, that revolves around them recruiting people like your employees to start cases, sending template demand letters to businesses like yours demanding money, and finally, making phone calls to negotiate settlements. That's easy stuff. If they can run ads and have recruitment phone calls, then print and mail off demand letters to force you into sending \$20,000 checks that they get a cut of, without leaving the comfort of their office; wouldn't you do that all day long?

A lot of attorneys secretly want to get the settlement check and be done with the case as soon as possible. However, don't bank on this. If a contingency lawyer thinks you have money that they can pry away from you, and the plaintiff has the nerve,

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your case can easily become real. It goes from an idea to notarized pleading paper and a public court case very quickly. Yikes.

The second secret is that these plaintiff lawyers absolutely, positively, 100% need to recruit your employees. They simply cannot file a case alone. After all, an attorney needs to represent someone.

Yes, of course, there are your peers in the business world that genuinely treat their employees badly and illegally, and attorneys receive legitimate complaints and requests for representation. However, this book focuses on the plaintiff attorneys who do not simply wait for cries of genuine help, but rather cultivate, farm, and woo people into suing their employer.

So if you're a plaintiff lawyer who discovered a lucrative line of work by threatening businesses with lawsuits, but you don't want to wait for 1 or 2 cases per year to call you, what do you do? You start cultivating. You need to find people who will be willing to act as a plaintiff.

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## *How They Recruit*

Disclaimer: None of the advertisements below are meant to imply that the lawfirm attributed with the ad has dishonorable intentions, is 'farming' for customers, or has any illegitimate practices. The ebook authors have no prior knowledge of the entities behind this ad, cannot and does not depict them in any way. We are only showing examples of attorney advertising that are 'pro-active' in the sense that they attempt to find people with potential cases, rather than wait to be contacted.

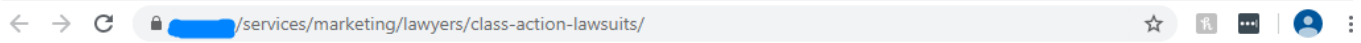


Did you know there is a whole cottage industry to help plaintiff lawyers find people willing to start lawsuits?

These companies use a variety of methods and techniques to FIND and ADVERTISE TO people who were going about their business, and interest them in the benefits of joining a lawsuit as a plaintiff.

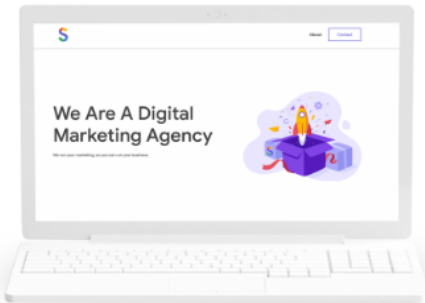
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Here are some examples:



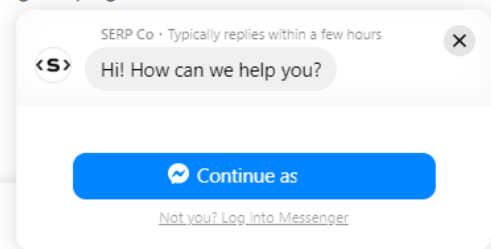
## Get Plaintiffs Fast – With Our Proven Class Action Marketing Services

Successfully finding plaintiffs for class action law firms requires a certain type of expertise – one we have perfected.



**Our class action marketing service:**

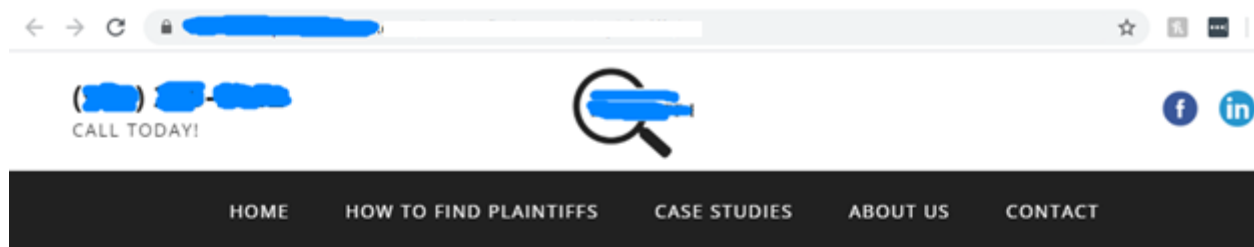
- We work with you to identify your ideal plaintiff
- We use multi-channel marketing (aka we go everywhere) those people are
- We collect plaintiff info & pass it to you – all the hard work is done for you
- We have experience running countless mass tort & class action advertising/marketing campaigns





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This agency works with attorneys to build state of the art marketing campaigns, just to entice your customers to sue.

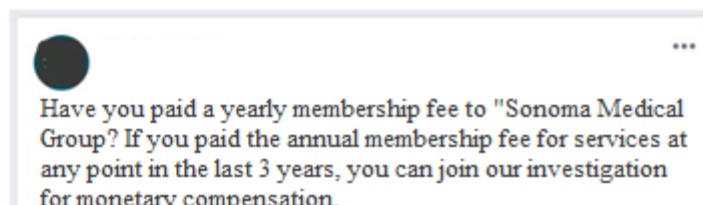


Once we have built your landing page, our next step is to identify how to market the landing page, and target your EXACT audience. The different online marketing channels we use to promote the landing page can be on Facebook Advertising, Instagram Advertising, LinkedIn advertising, Display Ads, Geo Targeted Ads to people's physical locations, geo fencing which specifies exact physical locations, Search Engine Optimization, Pay Per Click search, and Search Retargeting. There simply are a multitude of methods we use.

There are some cases where we are looking to contact a specific individual Plaintiff, where they work at a specific company with a certain job title. We can crawl the online resume databases and let them know about the investigation by sending them to the landing page.

The campaign is determine by the size of the budget and the objects of the campaign.

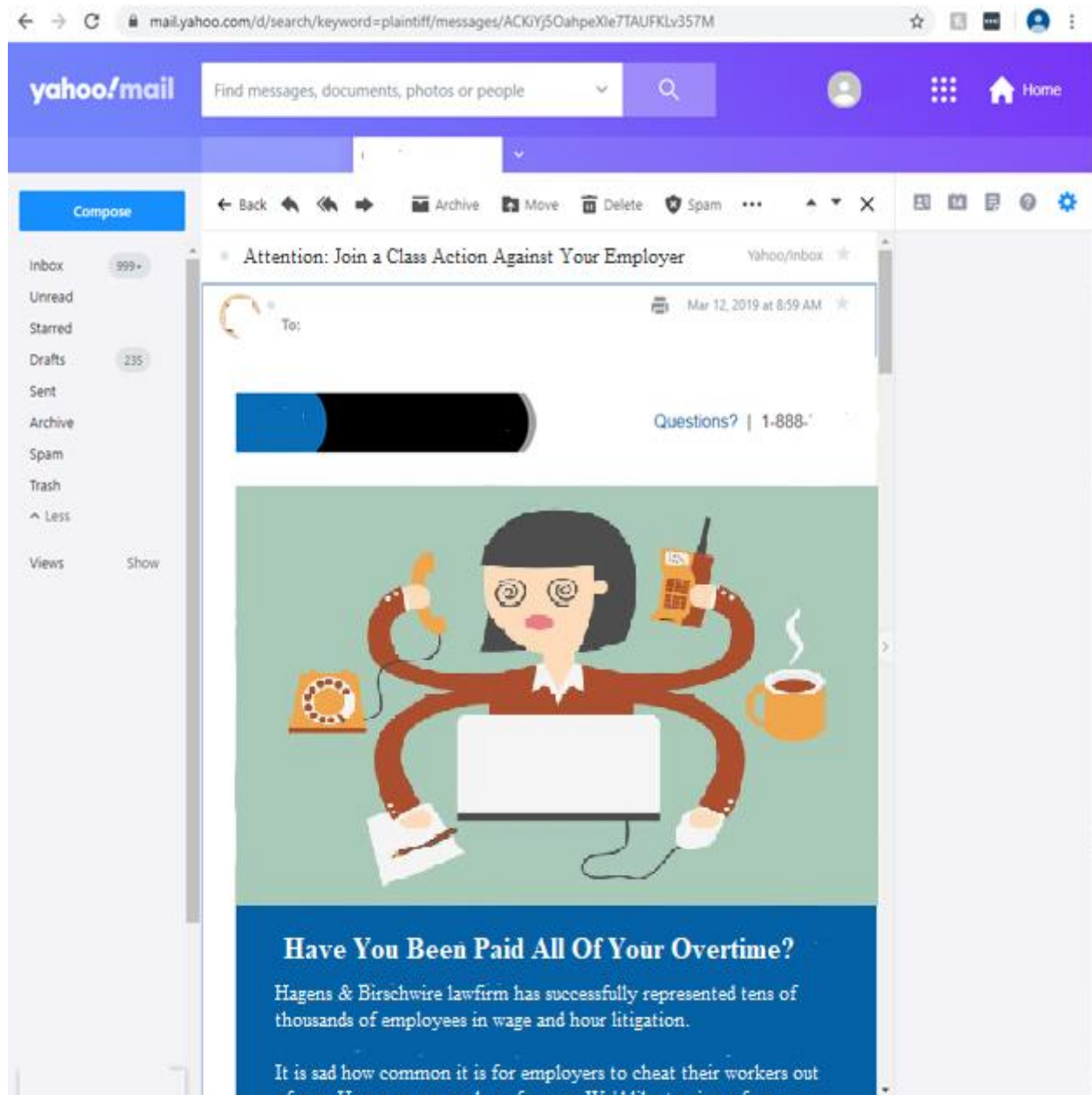
Here is an example of a facebook ad:



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These lawyers will mass email millions of email addresses. They'll hire sophisticated marketing companies specifically to find plaintiffs.



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What else? They wouldn't... build social media ads on places like facebook **and literally target people** who specifically identify themselves as employed by you, would they?

Launched February 2020

● Active

Started running on Feb 11, 2020

ID: 4730660333



**California Class Action Experts**

Sponsored

... currently has an active and open investigation into the See's Candies company for forcing their employees to purchase work uniform equipment above and beyond standard or reasonable. If you are a former or current See's Candies employee, and bought your own equipment, you may be entitled to MONETARY Compensation. Sign up now to request a FREE and CONFIDENTIAL consultation.



See's Candies Employees Aren't Being Properly Reimbursed

Sign Up

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What else? They wouldn't... build social media ads on places like facebook **and literally target people** who specifically identify themselves as employed by you, would they?

● Active  
Started running on Jan 8, 2020  
ID: 4602191

This ad has multiple versions. ⓘ

 **Attorneys for Employee Protection**  
Sponsored

ATTENTION: WORKERS WHO WERE TREATED POORLY, UNJUSTLY, OR UNFAIRLY ARE LIKELY ELIGIBLE FOR COMPENSATION We have worked with employees all over the country to recover millions of dollars. You deserve to see if you are owed money! Learn and fight for your rights at work! Protect unpaid wages. We are currently investigating multiple cases...



**We Protect Workers' Rights**

**Bad Boss!**

[Learn More](#)

[See Ad Details](#)

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Just imagine: You're an employee who might be interested in getting some money out of your boss. You get email blasted, you see these lawyer ads on random websites on the internet, your social media feed is full of ads, but you turn off your computer and turn on the TV. Safe from temptation finally? No way. Here is a production company showcasing the television ad they produced for an employment firm. We like how they really drive home the point at what it's all about, when they pair a lawyer with cash raining down from the heavens.



Law Firm TV Commercial About Employment Discrimination

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Of course, not all employees are on their computer or phones all the time. However, they obviously drive to work:



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We could show you additional billboards, newspaper ads and yellowpages clippings. However, the point has been made.

By now it should be clear: By the numbers, your employees are likely to see an advertisement at some point promising cash. All they must do is talk to this attorney for a 10 minute free consultation.

“Well, what’s the harm in talking?” So they call up the lawfirm, and are typically subjected to a questionnaire that teases out if there is enough to start sending the demand letters.

Could you imagine some of your employees hearing, ‘Good news. I think there is enough to take your case. The best part is, there are no out of pocket expenses, we will take a contingency fee percentage AFTER you get paid.’

Certainly, many employees would be too embarrassed to pursue payments unless there was serious and real illegal behavior on your company’s part. However, there are enough employees that are convinced this is a great way to get some extra money, that vexatious or frivolous lawsuits are pursued.

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## *Why They Chose You*

You know who these operators are. You know how they reach your employees. However, you know that you are not exactly swimming in cash. Dealing with cashflow problems, short margins, even borrowing and financing obligations on your part are a major part of your day. So why do these plaintiff lawyers still want to pursue you? There could be a few reasons.

**They don't know your finances.** All they see is that you've been in business a while, you have employees on continuous payroll, you have customers. In their eyes, what else is there to figure in? You'll come up with the cash, they think.

**They don't care about your finances.** After all, the law CAN compel you to pay, regardless of your after-expense revenues.

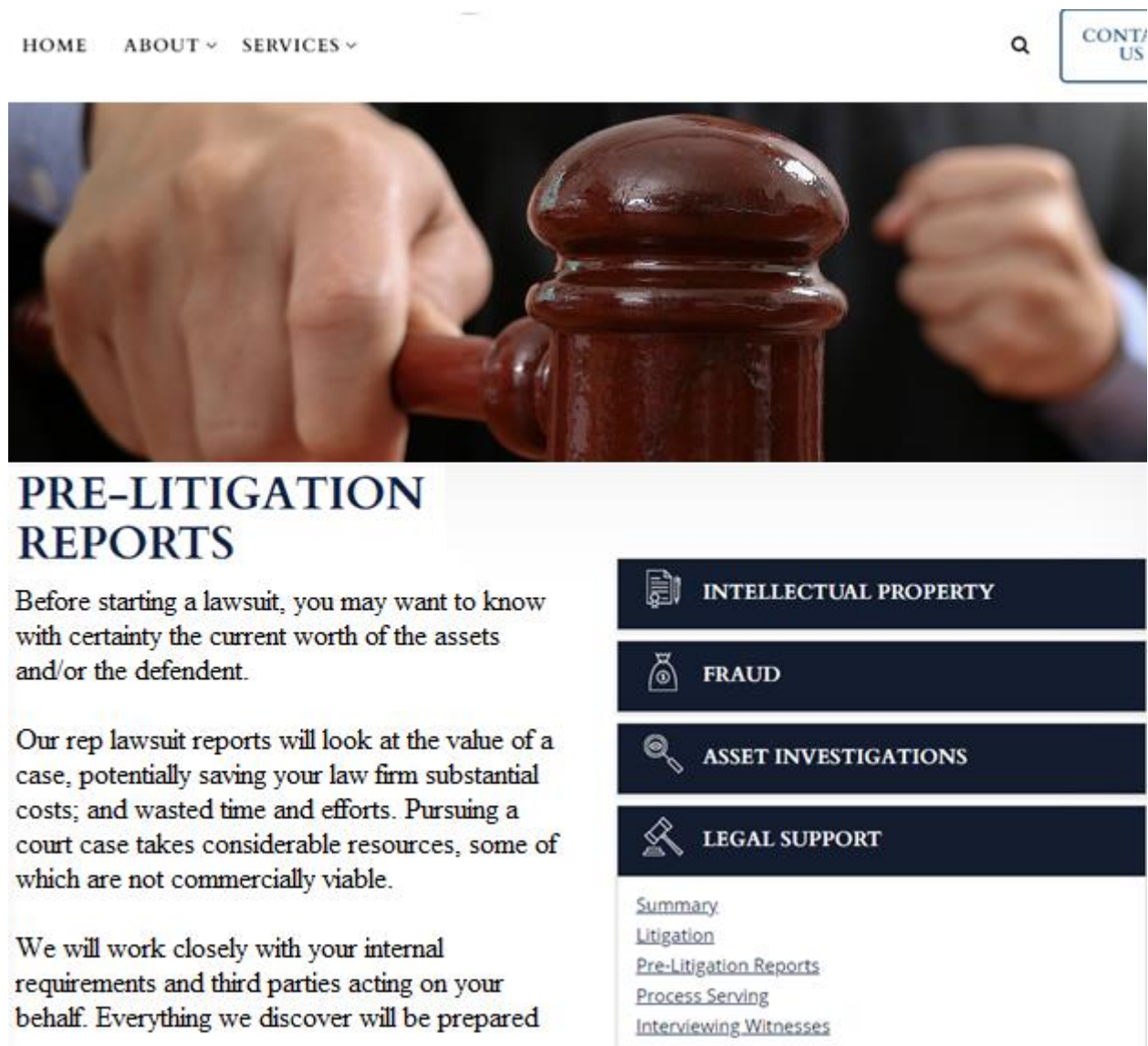
**They know about your finances and they like what they see.** The last option might be most infuriating and creepy of all. Under the premise that the attorney is pursuing a genuine case in the court of law, they are able to hire private investigators that have methods of determining






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your business's financial health. There is entire cottage industry dedicated to this among private investigators. After a quick google search of 'pre-litigation asset investigation', here are just a few examples as proof:



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CONT/US



## PRE-LITIGATION REPORTS

Before starting a lawsuit, you may want to know with certainty the current worth of the assets and/or the defendant.

Our rep lawsuit reports will look at the value of a case, potentially saving your law firm substantial costs; and wasted time and efforts. Pursuing a court case takes considerable resources, some of which are not commercially viable.

We will work closely with your internal requirements and third parties acting on your behalf. Everything we discover will be prepared

- INTELLECTUAL PROPERTY
- FRAUD
- ASSET INVESTIGATIONS
- LEGAL SUPPORT

- [Summary](#)
- [Litigation](#)
- [Pre-Litigation Reports](#)
- [Process Serving](#)
- [Interviewing Witnesses](#)

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## SHOULD YOU SUE? CONDUCTING A PRE-LITIGATION ASSET SEARCH



A pre-litigation asset search can provide you or your client with valuable information to determine if a lawsuit is worth filing or to gain leverage in the course of negotiations prior to filing a lawsuit.

Talk to a Professional Private Investigator - One solution for all your investigative services

Join of conviction or other means. You can identify: Home - Private Investigator - Asset Search - Services - Insurance Investigations - Personal Investigations - Missing - Offshore - Capital Flight - Lawyers - Creditors - Affidavits - Jurisdictional - Contacts - Our Company - Products, Services and other information.

### PRE-LITIGATION / PRE-JUDGMENT

Pre-Litigation asset search investigations are part of counsel's legal due diligence and are a preemptive tactic used to determine what assets or income may be seized in the event a judgment is ordered. Subsequent information can be used to determine if the judicial venture is economically worth the effort. The goal of legal due diligence investigation is to assess the potential benefits and risks of settling a case, selling or buying another business or business assets. There are two main areas of focus in a due diligence investigation: First, is to determine the current status. Second, what are the consequences of a potential agreement.

Evidence obtained during this process can be admissible in court and used at trial to prepare a better case. A secured position will give a creditor significant leverage over the debtor that may prompt the debtor into a quick settlement. It may also provide significant protection in the event of a bankruptcy or even prompt the debtor not to file bankruptcy because secured debts are not dischargeable. A court order or judgment does not need to be in place to conduct a pre-judgment asset search. This information is derived from public records. Our principal investigator searches millions of public records to compile the most comprehensive report for our clients. Our pre-judgment assets search are significantly cheaper than an asset search that provides banking or brokerage information.

### PROBATE AND ESTATE DISCOVERY

A Probate Asset Investigator can help counsel, surviving family members, the administrator of the estate or the executor find missing or unknown bank accounts and assist in identifying insurance policies. It is necessary for an estate's executor to conduct a search for all of the decedent's assets, including hidden assets, when preparing an estate inventory. The decedent's important papers will include information about the decedent's assets, including bank and brokerage statements, stock and bond certificates, life insurance policies, corporate records, car and boat titles, and deeds; and information about the decedent's debts, including utility bills, credit card bills, mortgages, personal loans, medical bills and the funeral bill.

#### Overview of Probate Asset Searches:

- Financial Accounts (Statewide or Nationwide Bank Account Search, Brokerage, Mutual Fund, and Retirement Accounts)
- Life Insurance Policies and Annuity Contracts
- Personal/Family Trusts
- Real Property and Tangible Assets (Motor Vehicles, Aircraft, Boats)
- Business Interests (Including Private Companies, Shell Corporations, and Special-Purpose LLCs)

The individual (or bank or trust company) that is appointed to settle the estate of the testator under a will is called an executor or personal representative. If there is

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This last site screenshot is pretty honest. You're urged to find out "if the judicial venture is economically worth the effort." So... business owner readers, are your recruited employee's attorneys investigating if you and the business are 'worth' the effort for a 'judicial venture'? The client is to think of this with a backdrop literally containing stacks of cash.

## **Bad employees or vendors.**

Lastly, there is a very small, but impactful subset of employees, repeat litigant applicants, and vendors who make a business (or at least side-income) on suing targets like you.

## **Bad Apple Applicants.**

There are stories in the news about people who's livelihood is to apply for jobs, looking for the tiniest slip up in the hiring process to bring litigation.

## **Lawyer Shopping.**

There are employees who want to leave and want to take as much as they can with them. In these scenarios, they will talk to a few lawyers, and they are all but guaranteed to find one that does not do their own investigation before taking the person on as a client. Thus, they take on cases that would never prevail in court, and the employee hopes that it'll reach settlement before going to trial.

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## **Bad Business.**

Similar to the vindictive (or simply ruthless) employee, there are vendors that will claim they were miscategorized as a 1099 employee, and bring up the threat of litigation to get a big payout, once their normal course of business with you has been concluded. Our law firm, Nowland Law, has unfortunately seen this happen repeatedly. We encourage you to call our firm for a free consultation if this ever happens, as we have successfully crushed or negotiated away these attempts.



# The Contingency Lawyer

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## *Attack Vectors*

### *Your Weak Spots*

Applicants who claim discrimination

#### **Concept.**

Before you even have employees, you could be targeted in a lawsuit. If, for any job posting, an applicant believes that he or she should have been hired, but was not chosen for a potentially illegal reason, with the right contingency plaintiff attorney you could open up the mailbox containing a demand letter for tens of thousands of dollars.

The broad categories that these types of lawsuits fall under is claiming that you did not hire an applicant because of their credit history, a prior Worker's compensation claim, prior criminal records, or discrimination.

The grounds that they could win on for discriminations would be race, sex, disability, religion, etc.

To help to prevent these, or to set your company up to win decidedly, contact a business lawfirm to audit your hiring practices.



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## *Attack Vectors*

### *Your Weak Spots*

Applicants who claim discrimination

#### **Laws.**

If you are interested in further researching the laws that are typically cited in these cases/demand letters, you can review:

California's Fair Employment & Housing Act

Federal Civil Rights Act of 1964

Federal American with Disabilities Act

Federal Equal Pay Act of 1963

Federal Age Discrimination Act

Federal Fair Credit Reporting Act

#### **What to do.**

Put your hiring process into a policy book. Follow the policies every single time. Have a HR company or business law firm review or draft the hiring process book in order to make sure it is squared away.

An important consideration is that your job descriptions used in job postings should try to be as objective as possible. The more mushy, abstract, vague assertions about 'culture' or qualifications are more likely to leave you in a world of hurt. Focus on making the qualifications as concise and clear as possible.

The hiring policy handbook should talk about the process to review applications, choose interviewees, and the actual interview process. Should litigation ever happen, you should be able to show the court

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## *Attack Vectors*

### *Your Weak Spots*

Applicants who claim discrimination

your policies, that the plaintiff went through the same process/considerations as everyone else.

It's good etiquette to take down yard sale signs after the yard sale. Same with postings. Take down job postings that have been fulfilled. You should also consider adding an expiration date to your posting.

Doing all of this reduces the likelihood that you'll receive a resume from a very qualified candidate who doesn't get hired, because you've already hired someone. It avoids the possible confusion that they were not hired because of some discriminatory reason.

Lastly, if it is not you yourself doing the actual interviews, make sure the people you entrust to conduct interviews have been trained on not asking illegal questions, (such as 'do you have a good credit score', 'were you ever fired before and why', etc.)

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## *Attack Vectors* *Your Weak Spots*

### Unfair Discipline

#### **Concept.**

Employers can open themselves to risk of litigation when they discipline inconsistently. If you have a discipline policy, or even just when you need to discipline existing policies, your team must do it consistently. If an employee who was disciplined can take you to court and show that other employees committed similar actions but were not disciplined, they then have room to assert that your discipline was really a type of discrimination.

At that point, they would just allege the discrimination was related to whatever protected class they are in.

#### **Laws.**

California's Fair Employment & Housing Act

Federal Civil Rights Act of 1964

Federal American with Disabilities Act

Federal Equal Pay Act of 1963

Federal Age Discrimination Act

#### **What to do.**

Every employee should get a copy of an employee handbook that covers policies for employee conduct (globally or in specific situations.) It might also be a good idea to send out yearly reminder emails, or if your employees are in an office environment, posting the codes of conduct in a place such as the break room.



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## *Attack Vectors*

### *Your Weak Spots*

#### Unfair Discipline

Naturally, these policies should be handled consistently, and all detailed out in your handbook. This should include a progressively more severe discipline system. Every single step of the disciplinary process should be documented, including documented evidence of the reason an employee got in trouble in the first place. This gives you ammunition, something to point to, when you are to prove that everyone gets treated the same (read: 'fairly') under the same system.

Finally, if you are named a defendant in a case, you need to speak with a qualified business law firm as soon as possible. Look for a law firm that places an emphasis on handling this in such a way that is most strategically beneficial for you.

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## *Attack Vectors* *Your Weak Spots*

### Harassment Claim

#### **Concept.**

It's not extremely common for people to just simply love going into work every day. Every one of us, including business owners, have had difficult bosses or co-workers in our past. When does normal workplace frustrations cross the line into something like harassment?

A very publicized form of harassment is Sexual Harassment. If any of your employees have had to field sexual advances from co-workers, or superiors, then you have a problem. However, it is not just sexual advances, or sexual innuendos that can cause a lawsuit. If disparaging or offensive comments about an employee's gender are made, even in jest, this can also be considered sexual harassment.

The other major type of employment harassment claim stems from a 'hostile work environment.' If a court or government employee rights agency begins reviewing a plaintiff's case, and they believe that there was an adverse employment decision that was constant or notable that any reasonable person would consider it hostile, intimidating or abusive, then there might be room for a case.

# The Contingency Lawyer

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## *Attack Vectors* *Your Weak Spots*

### Harassment Claim

Frivolous lawsuits tend to rest on one notable incident. A more genuine case would show a pattern of sustained behavior, with repeating comments or negative behavior singling out an employee.

Of course, if any of the actions revolve or involve hostile actions with a nod or element of a protected class (ie: constant jokes about a certain gender being incompetent, nasty behavior because of someone's age, etc.) then the plaintiff attorney can it was also a discrimination based action.

#### **Laws.**

Federal & State Discrimination Laws

Department of Labor Policy

Caselaw

California Code of Civil Procedure section 527.6

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## *Attack Vectors* *Your Weak Spots*

### Harassment Claim

#### **What to do.**

It's a good idea to pay for occasional employee training to prevent actual or even perceived instances. The biggest thing you can do to avoid this is to have a policy in your employee handbook for what should happen to co-workers, vendors, or supervisors when a complaint against them is lodged internally.

More importantly, you need to follow that policy of discipline consistently. When a serious complaint is made, investigate it. If the complainant alleges a serious hostile work action, or real sexual harassment, terminate the offending employee. Make sure you have insurance if you don't and get in touch with a business law firm.

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## *Attack Vectors* *Your Weak Spots*

### Retaliation

#### **Concept.**

The courts give businesses a wide road to navigate how to respond to employee behavior. However, some employee behaviors are protected by law, and if you adversely react and discipline (or even appear to) you may end up with a court case against you. These employee actions protected by law are called “protected actions” or “protected activity”. The types of retaliation could range from changing work assignments to a less desirable one, changing their schedule undesirably, to docking pay, or even termination.

What are some examples of protected activity:

- Forming or joining a representative organization (union)
- Filing a complaint through internal reporting procedures
- Filing charges of criminal activity
- Opposing the employer’s activity, rules or policies if they are illegal or discriminatory.
- Complaining about discrimination or threatening to file discrimination charges.
- Safety or health violation complains
- Participating in an investigation against the employer
- Requesting a government labor organization investigate the employer.
- Requesting Safety Data Sheets for hazards or hazardous materials.

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## *Attack Vectors* *Your Weak Spots*

### Retaliation

- Refusing to do a task that a “reasonable person” would assess places that or another worker in a real “danger of death or serious injury.”
- Requesting environmental data
- Reporting injuries that occurred on the job, or illnesses.
- Filing a workers compensation claim

This is not a complete list, just some examples.

### **Laws.**

National Labor Relations Act

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## *Attack Vectors*

### *Your Weak Spots*

Failure to Accommodate

#### **Laws.**

FEHA

FMLA

ADA

Federal Discrimination Laws

#### **Case Study.**

There is a court case involving an Orange County, California dispatcher who sued the County of Orange because the government agency she worked for took too long to accommodate her. The department worked with her throughout her disability medical leaves, changing shifts and work types due to effects on her mental performance due to medication, and even came up with an accommodation agreement that both parties signed. However, that was still not enough to avoid a claim.

The plaintiff ended up losing, however, it goes to show that sometimes you can do all the right things and still face a lawsuit.

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## *Attack Vectors*

### *Your Weak Spots*

#### Defamation Post Employment

##### **Concept.**

When a fellow business calls you up to get an honest opinion on one of your ex-employees, it is second nature to be honest.

Unfortunately, if you pose your opinion in such a way that is perceived to adversely affect the ex-employee, you could be opening yourself to a libel lawsuit.

Make sure you have established procedures for employees that handle HR requests like this (or that you yourself are trained if you are a small business). Having a procedure in place that helps guide you through responding to these requests can help save your skin. One way to guarantee you stay out of hot water is to either refuse to provide answers to requests about an ex employee as a general policy. If that sounds too severe, you could always save your opinion and just very information such as start date, the last date of employment, what position(s) they held, etc.

It is not even safe to provide salary information, as it is now against California law for employers to ask for previous salaries. Better to not get dragged into someone else's lawsuit. I'm sure you don't need that kind of distraction. Consider having an HR Professional or a business law attorney help draft your procedures for handling these kind of requests.



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##### **Laws.**

Cal. Civ. Code § 45-46

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## *Attack Vectors* *Your Weak Spots*

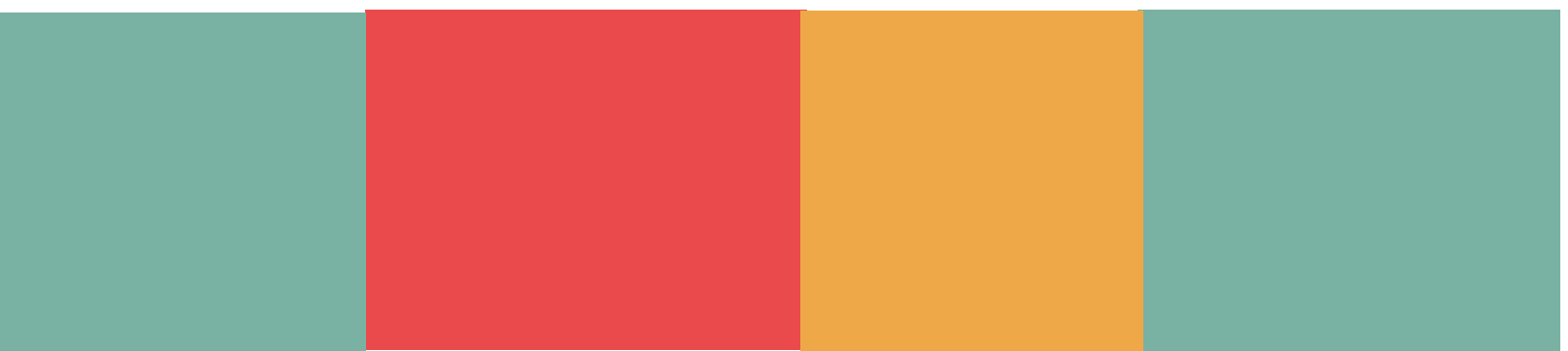
### Misclassification

#### **Concept.**

Although these cases have become less common, it was a very regular practice to hire some folks as an ‘independent contractor’ or 1099 vendor. A 1099 employee is a misnomer. Without getting into a complicated breakdown, simply put: if the individual providing services has an established business before ever speaking with your company, and the services they provide to you are related to that business, you can begin to feel safer about paying them as a 1099.

However, if you put out a job ad, and let others know you pay them as independent contractors, and that they might consider filing a dba, business license, llc, etc., in order to receive 1099 payments, you are likely going to run into a ‘misclassification’ law suit.

Businesses sometimes pay ‘employees’ as independent contractors, because they do not have to follow some of the same discrimination or employment laws that they would an employee. They would do so because the ‘employer’ would have tax savings themselves. They could also get away with not paying any benefits, including state required benefits.



# The Contingency Lawyer

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## *Attack Vectors*

### *Your Weak Spots*

#### Misclassification

However, as much as that benefits the business, it is a ‘limited pie’ problem. Many situations in business are win-win. You create value for yourself and the people you work with. Misclassifying workers simply is win-lose. You win, they lose. So all of those benefits a business gains, the employee loses. They have higher taxes, they have reduced benefits, reduced employment protections, etc.

Try firing a misclassified worker for a protected discrimination reason and see how fast you get hit with a discrimination lawsuit, PLUS a misclassification lawsuit. We have even seen situation get worse. An employer took adverse actions on a discrimination ground, then when the employee stated that was illegal; the business asserted they could do so because the employee was being paid as an independent contractor.

Naturally, the individual asserted that the misclassification was illegal, and if the problem weren’t rectified, they would see the employment board of California. The business fired them.



# The Contingency Lawyer

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## *Attack Vectors*

### *Your Weak Spots*

#### Misclassification

If you want to pay out thick settlements for cases you would lose in court, try combining a discrimination, overtime, whistleblower retaliation, and misclassification lawsuit into one. In the end, it is not worth the upfront cost savings.

If you work with established vendors, fine. If you're encouraging new hires to be independent contractors, you need to contact a business attorney as soon as possible to help defuse your litigation risks immediately.

#### **Laws.**

FLSA



# FREE CONSULTATION

Nowland Law is a California Law Firm dedicated to representing business interests.

We've been down dangerous legal paths before and know how to guide a business out of them.

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