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PROPOSAL #1012-0217

RICHARD A. CIUMMO & ASSOCIATES

Richard A. Ciummo & Assoc. is a leader in indigent defense, providing quality and affordable indigent defense services in California since 1988.

4.2.1 SIGNATURE PAGE

4.2.1 Signature Page

ATTACHMENT A

SIGNATURE PAGE

(PROPOSER TO COMPLETE AND PLACE IN FRONT OF PROPOSAL)

INDIVIDUAL/COMPANY: Richard A. Ciummo and Associates

ADDRESS: 123 East Fourth Street
Madera, California 93637

CONTACT PERSON: Michael P. Fitzgerald

TITLE: Chief Executive Officer

TELEPHONE NO. 559-673-7227

E-MAIL ADDRESS mfitzgerald@ciummolaw.com

The undersigned hereby certifies that he/she is a duly authorized official of their organization and has the authority to sign on behalf of the organization and assures that all statements made in the proposal are true, agrees to furnish the item(s) and/or service(s) stipulated in this Request for Proposal at the price stated herein, and will comply with all terms and conditions set forth, unless otherwise stipulated.

"I certify that I have read the Sample Agreement (Exhibit 1) pursuant to the submittal of a Request For Proposal (RFP) and will comply with said Sample Agreement, unless otherwise noted by exception herein, as of the date and time of close of this proposal".

Michael P. Fitzgerald

Chief Executive Officer

Authorized Representative - Name

Title



Signature (in blue ink)

Date

3-10-17

Professional License No.: California Bar Number 156994

Taxpayer Identification No.: 77-0401302

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4.2.2. ACKNOWLEDGEMENT OF AMENDMENTS

4.2.2. Acknowledgement of Amendments

4.2.3. COVER LETTER

4.2.3. Cover Letter

March 10, 2017

County of Lake
Administrative Office
255 N. Forbes Street,
Lakeport, California 95453
Attn: Jeff Rein, Chief Deputy County Administrative Officer
jeff.rein@lakecountyca.gov

Re: Request for Proposal No. 1012-0217

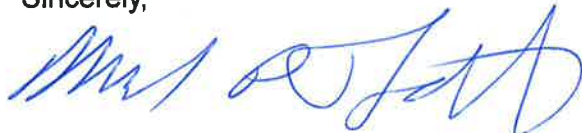
Dear Sirs:

This proposal in response to Request for Proposal No.1012-2017 is submitted by Richard A. Ciummo & Associates, a Professional Law Corporation (hereinafter "the firm"). The firm is incorporated under the laws of the State of California. Richard A. Ciummo is an attorney duly licensed by the State of California and is the majority shareholder. Michael P. Fitzgerald is an attorney duly licensed by the State of California and is the minority shareholder and Chief Executive Officer of the firm. They are both authorized to speak for, make representations on behalf of, and legally bind the firm.

The firm's contact information is:

123 East Fourth Street
Madera, California 93638
559-673-7227
559-673-6135 (fax)
raciummo@ciummolaw.com
mfitzgerald@ciummolaw.com

Sincerely,



Michael P. Fitzgerald
CEO
MFP/co

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4.2.5. EXECUTIVE SUMMARY

4.2.5. Executive Summary

This proposal presents a different business model than the one Lake County currently uses for indigent defense services. Our model provides for a stand-alone office that will serve as the primary public defender that will represent indigent defendants in Lake County.

This stand-alone office anticipates employing eight (8) attorneys, two (2) investigators and two (2) clerical staff. It is our experience that the primary public defender's office will be able to handle at least eighty (80%) to eighty-five (85%) percent of cases.

The staff of this office will be salaried employees, and will receive health benefits and a retirement plan. It will be located in one office in Lake County and will be under the direct supervision of a Chief Defense Attorney (hereinafter "CDA"). As part of the firm, the Lake County office will benefit from mentoring, continuing education, training, as well as access to administrative staff and other highly experienced attorneys. This is the model the firm has been employing for over twenty-five years in Madera and Fresno counties.

This business model assures continual oversight and continuity of training for all attorneys and support personnel. This ensures that all staff can focus on servicing their indigent clients and the Lake County Superior Court.

The firm will also utilize four (4) independent contract attorneys to cover an additional four (4) levels of conflict. These contractors would be appointed to the cases that the contract public defender's office couldn't take due to conflicts of interest. These attorneys would receive cases on a rotating basis. Every effort will be taken to see that the cases are equally spread out to this panel, taking into consideration both the number of cases and the severity of the cases. The firm has been administering similar conflict panels in Fresno and Madera counties for over twenty-five years.

4.2.5. EXECUTIVE SUMMARY

The firm feels this business model will provide superior service to the indigent clients, the Lake County Superior Court and Lake County. We believe it will also be the most cost-effective option for the county.

4.2.6. EXCEPTIONS

4.2.6. Exceptions

A. Exceptions to Scope of Work:

The firm will not agree to accept special circumstance cases without limitations. The firm will agree to accept up to two (2) per year, with no more than two (2) active special circumstance cases at a time. Attached to this proposal, as Attachment "7," is the firm's proposal for special circumstance cases that cannot be handled by our office because of a conflict or limitations on caseload.

B. Exceptions to General Provisions: None.

C. Exceptions to Special Provisions: None.

D. Exception to Instruction for Submitting Proposal and Proposal Content Requirements: None.

E. Exceptions to any other part of this RFP: None.

F. Exceptions to terms in the Sample Agreement:

G. Exceptions to General Requirements: None.

H. Exceptions to Proposal Content Requirements: None.

I. Exceptions to any other part of this RFP: None.

J. Exceptions to provisions of the proposed agreement:

4.2.7. APPROACH

4.2.7. Approach

Richard A. Ciummo and Associates is a leader in indigent defense, providing quality legal services at an affordable price. Our system and approach to indigent defense is based on the wealth of knowledge and experience we have gained as a premier indigent defense provider throughout the state of California. Our working relationships and interactions with the government agencies for which we contract, and our knowledgeable, experienced administrative team ensures we meet and exceed every one of our contractual expectations. The firm has become a leader in the field of indigent defense over the past quarter century, providing indigent criminal defense services in multiple counties in California. Our firm has seen and adjusted to the many changes in the criminal justice system.

Realignment, pursuant to AB 109, and Proposition 47, has put more pressure on counties to provide services for people convicted of both misdemeanors and felonies. In addition to the changes in the law, our firm has seen the growth of specialty courts, which include drug, behavioral/mental health, and veteran's courts. Members of our firm have extensive experience in not only providing services to these courts, but also in participating in their design and development alongside other "justice partners." It has become evident that representation for indigent clients does not just begin with arraignment and end at disposition of the case. When AB 109 was passed by the Legislature, it created the Community Correction Partnership (CCP). This gave the Criminal Defense bar a seat at the table, through the Public Defender, as a voting member of the CCP. Working with the CCP allows the criminal defense bar to develop evidence-based practices and programs to assist in the rehabilitation of indigent criminal defendants and to diminish recidivism. The following will describe, in detail, the scope of services we will provide based on section 3.3 of the request proposal.

Our firm believes that while there are some quantitative ways to measure the quality and effectiveness of an indigent defense system, it is difficult to rely solely on quantitative

4.2.7. APPROACH

measures of effectiveness because of the innumerable outside factors that impact the criminal justice system. For example, while “the number of trials completed” is a helpful, common and easily reported measure of effectiveness, the number of trials completed by any given agency can be impacted by outside factors such as the election of a new/different District Attorney and their plea bargain policies, courtroom availability, new propositions/changes to the law, etc. For that reason, our firm believes that the best measure of an indigent defense system incorporates both qualitative and quantitative data. For these reasons, we closely monitor our offices to ensure that we are meeting the standards and benchmarks our firm prides itself on, which we have outlined below.

A. BENCHMARKS

1. Protection of Client's Constitutional Rights

Our firm believes that, in order to protect a client’s constitutional rights, any indigent defense contract should furnish a competent attorney acting as a diligent, conscientious advocate. Our staff attorneys are encouraged and monitored to ensure that representation is free of ethical conflicts, that the client’s access to an attorney is timely enough to preserve Constitutional rights and that all counsel have adequate time, knowledge, resources and experience to meet the needs of the client.

We expect that all attorneys in our firm will¹:

- 1) Conduct a careful factual and legal investigation with an assessment regarding the utilization of necessary witnesses and experts;

¹Consistent with the guidelines set for by “The State Bar of California Guidelines on Indigent Defense Services Delivery Systems (2006)” and as referenced in section 3.3.9 of the RFP.

4.2.7. APPROACH

- (2) Take prompt action to protect a client's legal rights;
- (3) Inform the client of case developments;
- (4) Demonstrate a willingness to try appropriate cases;
- (5) For cases to be tried, prepare for in limine motions, jury selection, examination of witnesses, and arguments;
- (6) Demonstrate knowledge of and explore sentencing alternatives available in the relevant jurisdiction;
- (7) Advise clients concerning their rights of appeal;
- (8) For Supervising Attorneys, ensure appropriate caseloads pursuant to national guidelines and assign cases to attorneys according to their skill and experience level.
- (9) Maintain client confidences and secrets.

2. Attorneys Are Free of Ethical Conflicts

To ensure that our firm meets the requirement that all clients are provided representation free of ethical conflicts, we enter every appointment into JCATS, a nationally recognized case management software system.² The firm also has an established and proven case management policy for the opening and closing of files, the maintenance of files in a uniform manner, the oversight of cases by the CDA, routing and calendaring investigation requests, maintenance of relevant statistics for required reports, and other procedures

² The software is used nationally by a wide range of criminal justice and government organizations, public defenders and district attorneys. For more information, see: <http://www.canyonsolutions.com/exp.html>.

4.2.7. APPROACH

developed by the firm for Lake County and elsewhere during the course of the firm's business.

The firm will make every effort to avoid creation of a conflict. In multiple defendant cases, discovery will be screened to prevent attorneys from being appointed to a defendant with whom they have a conflict of interest. The Contract Public Defender office and subcontractors will also be advised to screen files in multiple defendant cases prior to meeting with and conferring with clients. The firm has adopted a detailed conflict policy that ensures all cases are screened prior to declaration of a conflict. We will encourage the subcontractors to follow the same policy.

If it is determined that the primary conflict defense office is unable to accept appointment, our firm will contract with four (4) attorneys to cover an additional four levels of conflict. These attorneys will be independent contractors. They will maintain their own office and file management system. The firm will assure they have adequate support resources to provide contractual services. They will be assigned cases on a rotating basis. The Contract Administrator will monitor the appointments to assure that assignments are made on an equal basis. The subcontractors will be paid an annual flat fee based on anticipated caseloads. These four (4) independent attorneys will be assigned cases rotationally in an effort to maintain parity in their caseloads. As we have done in other counties, we will develop procedures to transfer cases to the independent contractors in a timely manner in the event of a conflict. We have instituted such procedures in Fresno County, Madera County and the other counties in which we are employed.

4.2.7. APPROACH

3. Access to Attorney is Timely Enough To Preserve Constitutional Rights

Client Appointment

Limitation of Stand-in Counsel³: The firm will make every effort to avoid the use of stand-in counsel. The firm will have eight (8) attorneys working in the contract Public Defender's office. These attorneys will be assigned to each court, and will be present during all proceedings. Four (4) independent contract attorneys will cover any conflicts.

An attorney from the contract Public Defender's office will always be present in Court at the time of appointment. The attorney will see to it that contact information is provided to all clients at time of appointment.⁴ The firm will ensure that contract attorneys receive notification of when to be in court to accept appointments on conflicts; this policy will be developed with the contractors prior to the commencement of the contract.

Client Contact

The firm, as a policy, will try to see all in-custody clients within forty-eight (48) hours of appointment when possible. Procedures will be in place to ensure that all appointed in-custody clients are seen within five (5) days and prior to each court date as needed.

With regard to out of custody clients the firm will make every effort to meet the criteria set forth in the RFP and shall establish procedures to encourage such contact. However, out-of-

³ As referenced in section 3.3.3(c) of the RFP.

⁴ It is our ultimate goal that a contract Public Defender's office staff attorney and subcontractors are present in court when court appointments occur, but in the rare circumstances when that cannot occur, (and although we strive for a much quicker response time) the firm can ensure the county that attorneys will respond within one hour.

4.2.7. APPROACH

custody clients must also exercise some responsibility to arrange such contact and often they do not.

Clients who are out-of-custody will be provided contact information and advised to contact our office at their earliest convenience to schedule an appointment before their next court date. Hopefully, the Court will also instruct the client to do so. If a client does not make an appointment, the assigned attorney or their staff will make an effort to contact the out-of-custody clients before their court date. Our firm and staff are accustomed to the needs of our indigent clients, including the need for visits in custodial facilities, psychiatric units, and group homes in and out of the origin county.

Office Hours and Availability

The Lake County office of the firm shall be open and staffed with the necessary administrative personnel during normal business hours. It shall also have an answering machine or voice mail system in use when the office is closed. Our proposal will assure prompt appearances, responsiveness and accountability to the Lake County court system. Establishing a contract Public Defender's office provides stable coverage at the first level of representation. This office will capture the vast majority of cases.

We will also work with the Courts to institute procedures to see that additional levels of conflict ("wheel attorneys") are promptly notified when they will be needed in court to accept appointments on cases that go beyond the first level of representation. We have experience in administering such a system.

Out-of-court interpreting (Spanish) will be performed by the staff of the firm's Lake County office. Bilingual clerical and investigative staff will be sought and preferred. With regard to

4.2.7. APPROACH

other languages, the firm would propose that a system be developed wherein the County would reimburse the firm for such services. Our experience in other counties (some of which contain substantial non-English speaking populations) demonstrates that the need for non-Spanish interpreters is relatively small.

In all of the counties in which we practice there are significant non-English speaking populations; this is particularly true in Fresno and Madera Counties each of which has substantial Spanish speaking populations. Fresno County also has a substantial Southeast Asian population. Our firm is sensitive to the issues involved in representation of a diverse client population and will apply that experience in Lake County.

4. Counsel Has Adequate Time, Knowledge and Training to Meet the Needs of the Client⁵

Indigent Defense Providers Adhere to State Bar California Workload Standards.

The legal representation provided by the firm shall meet, at a minimum, the standard set forth in the RFP and applicable legal and ethical requirements. We have provided such service for almost thirty (30) years. The American Bar Association's Code of Responsibility requires that the caseload of an attorney should not be so excessive that it interferes with "the rendering of quality representation or endangers the client's interest in the speedy disposition of charges or may lead to the breach of professional obligations." Our firm has structured this proposal around this requirement and those set forth by California law.

In order to ensure that our firm employees are under the workload standards set forth by applicable law and ethical guidelines, the firm has set forth the following:⁶

⁵ As referenced in Section 3.3.9 of the RFP.

4.2.7. APPROACH

Effective Monitoring Plan: The twill follow State Bar of California workload standards. Based on recent caseload statistics we will have sufficient staff in The Contract Public Defender's office to handle the anticipated caseloads. The contract attorneys' caseloads will be monitored to see that they do not have excessive caseloads.

Monthly Reports: The firm agrees to abide by reporting requirements as set out in the RFP.

Caseload Projection: The firm's staffing plan will provide sufficient staff to meet the requirements of the RFP.

Cumulative Caseload Report: The firm agrees to abide with the reporting requirements and cooperate with the county and the courts in developing said report.

Training and Education

The firm, Richard A. Ciummo & Associates, has been an accredited MCLE provider for nearly twenty years. The firm conducts a minimum of four (4) MCLE seminars per year, totaling twelve (12) hours. Over a three-year period this provides thirty-six (36) hours of training. The State Bar requires a minimum of twenty-five (25) hours over a three (3) year period. The firm provides these California State Bar-approved seminars in-house, and at no cost to its attorneys. The seminars cover a variety of issues in the criminal justice area,

⁶ AS REFERENCED IN SECTION 3.3.8 "WORKLOADS" OF THE RFP.

4.2.7. APPROACH

including use of scientific evidence, search and seizure, substance abuse, ethics and prevention of bias in the work place.

In addition, the firm pays for outside continuing legal education seminars (e.g. training offered by the California Public Defender Association, or CPDA and/or California Attorneys for Criminal Justice, CACJ at various locations throughout California). These seminars include homicide defense, handling sex crimes, driving under the influence and trial practice; death penalty certified attorneys will also attend the death penalty training that is presented by CPDA/CACJ each year and any other training specific to handling death penalty cases. Each year we send as many attorneys as possible to the CPDA Trial Practice School. This is a four-day training program that provides intense training in all aspects of a trial.

The firm also has a video library, an on-line research library accessible by attorneys and staff from their offices and homes, and mandates that all attorneys in the juvenile assignment attend an 8-hour video course prior to assignment to that area. The firm also requires specialized training for attorneys on the Juvenile Team. They attend the annual two-day juvenile seminar conducted by the California Public Defenders Association.

Additionally, when AB 703 went into effect on July 1st, 2016, our firm was ready to meet the compliance guidelines set forth in the new law (which required mandated training hours in juvenile delinquency law). Prior to the law going into effect, the firm had arranged for in-house MCLE training, in addition to sending attorneys to the Pacific Juvenile Defender Center (PJDC) training sessions. To our knowledge, we were one of the first firms to design and hold our own AB 703 MCLE compliance training, outside of PJDC.

4.2.7. APPROACH

The firm also required all its offices to conduct training concerning the implementation of AB109 and requires attorneys to have specific levels of experience to handle the various types of cases.

This training, in conjunction with the firm's employee evaluation, complaint follow-through, and mentoring of less experienced attorneys, ensures effective services to our courts. We believe practicing within a large firm (as opposed to multiple, independent contractors) provides superior training and support to less experienced attorneys. Our model also ensures better quality control as opposed to having multiple, independent contractors. The supervising attorneys of our firm take great satisfaction in mentoring and training less experienced attorneys and watching them develop into accomplished trial attorneys.

The firm shall ensure that each investigator will be provided with training and continued education/updates in the area of criminal investigation at the firm's expense. The investigators are members of the Defense Investigators Association and attend various seminars in their field. Two of the Fresno office investigators were enrolled in the Defense Investigators Training Accreditation Academy and were among the first students ever trained in criminal defense investigation in a college-accredited setting.

Finally, management personnel are often sent to management training seminars held by both legal and business organizations. They receive training in both legal and non-legal business management techniques and policies.

4.2.7. APPROACH

Our firm shall provide sufficient staff to meet the requirements of Penal Code Section 987.05.⁷ In addition, our staff will have the necessary training and experience to accept appointment in all felony cases. It is our experience that a first level conflict defender office, and the subsequent levels beyond, must anticipate handling a large number of serious cases. The firm attributes this to the fact that there are more conflicts on cases involving multiple defendants, serious and violent felonies, and those involving gang and gun enhancements. Our firm has come to understand, accept and ensure that our staff is at all times, prepared to handle a myriad of cases. Our cognizance of these issues ensures that our hiring, employment and training practices are specifically structured to anticipate those needs.

B. CLIENT'S RECEIVE BEST POSSIBLE OUTCOMES

1. Wrongful Convictions Are Prevented

Unless it would be contrary to the client's interest to do so (e.g. where there would be adverse consequences to seeking an appeal) our attorneys are expected to file a notice of appeal following a guilty verdict at trial. Our firm expects and requires that our trial attorneys be responsive to information sought by the Central California Appellate Project attorney handling a client's appeal. This is an important way our firm ensures that our clients receive a fair trial and are not convicted of crimes they did not commit. Our firm strives to hire and foster diligent attorneys who:

⁷ Penal Code Section 987.05 requires attorneys to represent to the Court that they will be ready to proceed to preliminary hearing or trial within the time provisions prescribed in the Penal Code. We will comply with this provision except in extraordinary circumstances.

4.2.7. APPROACH

- a)** Preserve the greatest number of trial errors (unrelated to counsel's effectiveness) for appellate counsel to review.
- b)** Participate in identifying and collaborating on potential appellate issues with the Central California Appellate project by filling out post-trial summary forms and completing any necessary follow-up in an expedient and thorough way so that appellate counsel can raise any issues related to the client's case on appeal.
- c)** Are effective and competent and avoid findings of "ineffective assistance of counsel on appeal."

2. Cases Are Resolved in Timeframe Least Harmful to the Client

It is a general firm policy to minimize continuances of cases. There are times that continuances are necessitated by circumstances. For example, in the event the District Attorney provides late discovery or additional investigation is necessary, a continuance may be requested in order to adequately prepare. Continuances are also discouraged because they have the effect of clogging a court calendar. It will be the Chief Defense Attorney's responsibility to monitor continuances. Attorneys with excessive continuances will be required to justify the need for continuances. They will be counseled on ways to reduce the need for continuances.

As we have done in other counties, we will work collaboratively with the courts and the "Wheel Attorneys" to develop procedures to transfer cases from the firm to conflict counsel in a timely manner in the event of a conflict. We have instituted such procedures in Fresno, Madera and the other counties in which we are contracted.

4.2.7. APPROACH

Calendar Management

Attorneys will receive the complaint and available discovery at the arraignment. These materials will then go to clerical for the opening of the file and calendaring. The file is then routed to the various team leaders for assignment. At this point, it will be the primary responsibility of the assigned attorney in conjunction with clerical staff to track the files. It will be the attorney's responsibility to keep accurate file notes and pertinent dates in the file. After every court appearance, files will go to a calendaring clerk so all pertinent dates are calendared, (i.e., motion dates, trial conferences, and trial dates. A system will be in place to assure each case is appropriately calendared and tracked). The office will use both its internal calendar and, if available, will access the Court's calendar.

It is the assigned attorney's primary responsibility to file all motions in a timely manner. The supervising attorney will be required to review the team's master calendar on a weekly basis and make sure attorneys are meeting their deadlines and the cases are moving toward trial or final disposition in a timely matter. Supervising attorneys shall also periodically review the files and work product of their subordinate attorneys and offer such constructive criticism as may be necessary and appropriate. Annual evaluations are submitted of all staff to the firm's administrative office for review and additional monitoring. Evaluations are based on an employee's competence, performance, and professionalism; evaluations are weighted heavily in favor of attorneys who are zealous and quality trial advocates.

2. Clients Receive Vertical Representation

To assure our clients receive the best possible representation, the Lake County office will implement vertical representation. All efforts will be made to provide vertical representation to our clients. Although most of our offices operate in a vertical manner

4.2.7. APPROACH

because we have found it to be the most effective and competent way of delivering service, there may be a time when this is not possible or preferable. The firm has established procedures to adequately document each file in the event another attorney must handle a matter for an absent attorney. The firm reserves the right to provide legal services in the manner which achieves the best balance between protecting the interests of our clients, achieving maximum cost efficiency, and adapting to changing court structures and schedules. In any event, our clients' best interest will always be our highest priority.

Limitations on Stand-In Counsel⁸

The firm will make every effort to avoid the use of stand-in counsel. The firm will have eight (8) attorneys working in the contract Public Defender's office. These attorneys will be assigned to each court, will be present during all proceedings, and will cover the first level of representation. Four (4) independent contract attorneys will cover the first (1st) through fourth (4th) levels of conflict. The firm will put procedures in place to make sure that these attorneys receive notification to be in a particular court to accept appointment on conflicts.

C. INDIGENT DEFENSE SYSTEM IS ACCOUNTABLE TO TAXPAYERS

1. Systems in Place Ensure Only Indigent Clients Receive Appointed Counsel & Recoupment

Richard A. Ciummo and Associates has been involved in managing and fulfilling indigent defense contracts throughout the state for close to thirty (30) years. In that time, the firm has developed the insight and experience required to recommend the following benchmarks as it pertains to accountability, based on observations of the indigent defense

⁸ As referenced in Section 3.3(c) of the RFP.

4.2.7. APPROACH

systems throughout multiple counties. We submit the following benchmarks and measures designed to support and enhance any recoupment efforts conducted by Lake County:

- The State Should Pay for An Attorney Only When the Defendant Is Indigent (Measures include the percentage of defendants screened for indigence, the percentage of defendants who meet uniform indigence requirements, the percentage of defendants who get appointed counsel and subsequently retain counsel).
- The firm will participate in recoupment efforts by submitting county-developed forms and ensuring the submission of those forms at the completion of our representation.

At all times the firm will strive to use county/taxpayer money as efficiently as possible. Our firm does this by compensating service providers on a timely basis, negotiating group or firm discounts from experts, etc.

2. Financial Transparency and Efficiency

We provide representation in adult criminal matters (felonies and misdemeanors), juvenile matters (both delinquency and dependency), and in contempt proceedings. In some counties we also provide services on special circumstances cases. We have experience with numerous court organizations, differing legal cultures, and counties and courts with different fiscal landscapes. Our firm is mindful of the finite nature of resources available to accomplish its mission and prudently allocates those resources. We always work collaboratively to accomplish our mission with these differing conditions in mind.

The firm currently contracts with five (5) counties and has reporting processes in place in all these counties. All the offices use the same data entry methods in order to promote uniformity. All case information will be entered into the system. This includes co-defendant

4.2.7. APPROACH

names, witness names, conflict information and disposition information, including cases settled by plea, trial or dismissal by the District Attorney prior to trial. Our Information Technology Team can add any caseload field requested by individual counties for inclusion to our quarterly caseload reports. The information can then be accessed as necessary to provide monthly reports or as requested by the County. Since the information entered into the system comes from the case files, all attorneys will be required to keep accurate and updated file notes. The Supervising Attorneys will monitor this process.

The firm enjoys a well-deserved reputation for delivering its services at the compensation agreed upon and for generally capping costs.⁹ The firm has always been fiscally responsive to its contract partners, particularly in these challenging fiscal times. The firm believes this business model will provide superior service, responsiveness, and cost control to its clients, the courts, and the County. We sincerely hope the County considers this option.

3. Indigent Defense Provider Provides Quality Services as Tasked

This business model assures continual oversight of its attorneys and support personnel. It provides for oversight and continuity of training of its professional staff. Further, the staff is dedicated solely to servicing its clients and the Lake County Superior Court. It will excel in doing that job.

In the nearly thirty (30) years that the firm has provided indigent defense services, the firm has developed several firm-wide policies/strategies to assure that our services exceed the expectations of the multiple counties where we contract, the guidelines and benchmarks by which we measure ourselves and expect to be measured are set forth above.

⁹ Exceptions with regard to the latter may arise when to do so is in the interest of the client or necessary to avoid violating applicable case law; however, the County will still be able to predict its cost with adequate specificity

4.2.7. APPROACH

- Competency: The firm, Richard A. Ciummo & Associates, has been accredited to MCLE provider for nearly twenty years. The firm conducts a minimum of four (4) MCLE seminars per year, totaling twelve (12) hours. Over a three year period this provides thirty-six (36) hours of training. The State Bar requires a minimum of twenty-five (25) hours over a three (3) year period.

The seminars cover a variety of issues in the criminal justice area, including use of scientific evidence, search and seizure, substance abuse, ethics and prevention of bias in the work place.

The firm also sends attorney to outside seminars presented by the California Public Defender's Association ("CDPA"). These seminars include homicide defense, handling sex crimes, driving under the influence and trial practice. Death penalty certified attorneys will also attend the death penalty training that is presented by CDPA/CACJ each year and training specific to handling death penalty cases.

The firm also required all its offices to conduct a training concerning the implementation of AB109. We also require attorneys handling Juvenile Court to attend training specific to the representation of minors pursuant to AB 703, as discussed above.¹⁰

The firm also requires attorneys to have specific levels of experience in order to handle the various levels of cases.

D. INDIGENT DEFENSE PROVIDER PARTICIPATES IN COMMUNITY

1. Indigent Defense Provider Acts as Community Partner

¹⁰ As referenced in Section 3.3.9 of the RFP.

4.2.7. APPROACH

Our administrative and management models are tried and true and our performance over the past 25 years speaks for itself. We have always fulfilled our contractual obligations and pride ourselves in developing first-rate attorneys. We have successfully adapted to such dramatic changes as the "Three Strikes" law, realignment pursuant to AB 109, and Proposition 47.

It is our firm's position that the indigent defense provider's ultimate and overriding obligation is to properly represent each individual client. Hence all other loyalties and concerns are subordinate to the best interests of each client. In committing to this, our firm must guard against political influence, as an attorney representing an indigent criminal defendant owes allegiance, first and foremost to his or her client. Since county government funds assigned counsel programs in California, care must be taken by our firm to assiduously avoid any conflict with the unequivocal duty of loyalty owed to each individual client. Decisions about what resources are reasonable and necessary to properly prepare a client's case, for example, must be made without regard to political pressure exerted by county government that may threaten the administrator's livelihood or the continued existence of the organization itself. Failure of our firm to act to protect this core obligation to the client could result in the suspension of the right to practice law or disbarment, for which no indemnification could be effective. Faithful adherence to the independence guideline may also compel our firm to challenge court practices that interfere with the duty of client loyalty.

Still, we work collaboratively with our criminal justice partners to the extent we can without compromising our client's interests. In the counties where we have contracts, we have been actively involved in the design and implementation of Drug Courts (both adult and juvenile), Behavioral/Mental Health Court, Veteran's Court, and other specialty courts by participating in multi-agency organization efforts, (i.e. "Justice Partners"). We work

4.2.7. APPROACH

collaboratively with other agencies when possible to resolve issues and suggest improvements to the justice delivery system.

2. Indigent Defense Provider Engages in Volunteer/Education Efforts

Our firm's commitment to our indigent clients goes beyond our contractual obligations. Our firm strongly encourages our employees' participation in community, volunteer, and education efforts because we know that it fosters social competence and awareness, and improves the quality of our staff, which in turn, helps our firm excel in fulfilling our contractual obligations. Last year, our firm partnered with the Fresno Veteran's Center and One Justice Program to offer free legal clinics to the underserved veteran community in Fresno. In August of 2016, the Fresno Bar Association presented our firm the Pro-Bono Special Recognition Award for our community service efforts.

Firm-wide, (and with our encouragement and support) our exceptional staff has been involved with organizations like Rotary International, Lions Club International, Leadership Fresno, and served on community boards and bar associations throughout Fresno, Madera, Modoc, Amador and Calaveras Counties.

To ensure that we fulfill the duties and responsibilities as both a contractor¹¹ and competent and effective counsel, our firm has put in place a quality assurance plan based on a set of benchmarks our firm designed, based on state and national indigent standards. A summary of those benchmarks is included here in Attachment 6, the firm's quality assurance plan and other performance standards are discussed below.

¹¹ As set forth on pg. 11, of RFP No. 1012-0217, and hereby incorporated by reference.

4.2.7. APPROACH

E. OTHER PERFORMANCE STANDARDS

The firm shall represent clients according to performance standards set forth in the California Rules of Professional Conduct and all standards mandated by law. The firm will take into consideration standards that are set forth as advisory opinions by the American Bar Association Standards on Ethics, The State Bar of California Standards of Representation for Indigent Defense Services (Guidelines on Indigent Defense Services Delivery Systems, 2006, <http://calbar.ca.gov>), the California State Bar Act (Business & Professions Code section 6000, et. seq.), and the Performance Guidelines for Criminal Defense Representation of The National Legal Aid and Defender Association.

- a. Compliance with Applicable Laws: As discussed above, the firm shall comply with Federal, State and Local laws, as well as with all applicable regulations and ordinances for the provision of indigent defense under any resulting contract. This includes, but not limited to, licensing requirements, employment laws, and in compliance with federal and state laws prohibiting discrimination, harassment and retaliations.
- b. Prohibition against Outside Compensation/Client Conversion: The firm, which already administers contracts to five (5) counties, has a policy in place concerning outside compensation. No attorney is permitted to accept payment on any case in which the firm or one of its subcontractors has already been appointed.

Under no circumstances can attorneys accept compensation from indigent clients they represent pursuant to contract. Attorneys working in the Contract Public Defender Office will be full-time employees of the firm. Their first and primary priority will be to represent indigent clients appointed pursuant to the contract with Lake County. They will be allowed to accept privately retained work to the extent it does not interfere with or create a conflict of interest with contractually appointed cases.

“Wheel” attorneys will not be full-time and will be able to maintain a private practice. As part of their contract with the firm, they will not be able to accept

4.2.7. APPROACH

compensation from clients already appointed an attorney pursuant to the contract with Lake County.

Attorneys will be advised that a knowing violation of this policy can result in sanctions up to and including termination. In order to prevent these situations from occurring, attorneys, both employees and subcontractors, will be required to check with the firm to confirm that neither the Contract Public Defender's Office nor any of the firm's subcontractors were previously appointed to represent the defendants.

c. Licensed Attorneys:

1. **Reporting of Pending Disciplinary Matters:** The firm acknowledges that it shall, during the term of the contract, report to the county administrative office any pending disciplinary matters within twenty-four (24) hours of becoming aware of it.

F. QUALITY ASSURANCE PLAN

- i. Independent Oversight: Richard A Ciummo & Associates will be ultimately responsible for overseeing all employees and subcontractors to assure compliance with legal representation at the firm's Quality Assurance. Mr. Ciummo and his administrative staff will be responsible for many of the administrative and business responsibilities. This allows the Chief Defense Attorney to focus on the delivery of legal services.

Mr. Ciummo's two primary areas of responsibility are (a) business tasks and (2) other administrative tasks.

Business Tasks: Payroll, receivables, payables. Administration of ancillary services and payment for said services, benefits administration, filing of taxes and maintenance of equipment, coordination of outside legal and accounting services, and other similar duties and responsibilities.

Other Administrative Tasks: Develop, implement and assure compliance with training program, assure and monitor regular performance evaluation of all staff, liaison with the County and Court officials regarding performance, human

4.2.7. APPROACH

grievance procedure, assure compliance with firms' policies as set forth in employee handbook, develop and administer continuing education programs, examine and evaluate internal firm procedures, and other similar responsibilities.

Mr. Ciummo and Mr. Fitzgerald will always be available to advise the Chief Defense Attorney on all matters regarding operational and legal policy.

- ii. Case Management: The firm has extensive experience in case management and tracking systems. The firm as a whole handles in excess of twenty thousand (20,000) cases per year between our several offices. Each office has its own file management system. The firm utilizes two (2) file management systems. Our Fresno offices uses JCATS.

Any case management and tracking system is only as good as the information that is inputted. Attorneys will be trained and monitored concerning file management. They will be required to enter all pertinent information in the file, including all court dates, type of hearing, motions filed and record of client and witness contacts. Clerical staff will be responsible for inputting all pertinent information in the file management system.

The overall procedure is as follows: When a case is initially assigned, clerical staff will open the files and input client information into the system. The CDA and staff shall then review the file to ensure it has no conflict of interest. The file will then be assigned to the appropriate attorney.

Whenever the file is taken out for court it will be returned to the clerical staff for updating. Files shall be maintained in the active file storage area unless the attorney or investigator is actively working on it. All files shall be accessible to clerical support staff at all times.

Upon final disposition of the case, all pertinent information will be put into the case management system. The file would then be removed to a closed file storage area. These files will be maintained for an appropriate period of time. It is possible the firm will institute electronic storage of closed files.

4.2.7. APPROACH

It will be the responsibility of subcontractors to maintain their own file management system. They will be responsible for submitting monthly reports to the firm concerning their cases. These reports should include the total number of cases assigned, estimated time spent on the case and final disposition information. They shall also report the number of cases, if any, in which they have a conflict. The firm shall monitor compliance with these requirements.

- iii. Individualized Assessment: The firm has a comprehensive place to assess and evaluate its attorneys. The Chief Defense Attorneys will be responsible for monitoring subordinate attorneys.

With rare exceptions, Chief Defense Attorneys carry a caseload. This puts the supervisors “in the field” with his or her subordinates. Thus they will be in constant contact with the judges, other attorneys in the system and they will be able to actually observe their subordinates in action.

The Chief Defense Attorney will also be responsible for the equitable distribution of cases to assure no attorney has an excessive caseload. Cases will be assigned to attorneys based on their level of experience. For instance, more experienced attorneys will be assigned more complex or serious cases, but will have a lower overall caseload.

Reviewing the current caseload of Lake County we anticipate no single attorney will have a caseload in excess of ADA standards and California State Bar recommendations.

- Client Guidelines: Upon Appointment every effort will be made to see in-custody clients within 48-72 hours of notification of appointment.

4.2.7. APPROACH

An attorney from the contract Public Defender's office will always be present in Court at time of appointment. The attorney will see to it that contact information is provided to all clients at the time of appointment. As discussed above, clients who are out-of-custody will be provided contact information and advised to contact our office at their earliest convenience to schedule an appointment before their next court date. Hopefully, the Court will also instruct the client to do so. If a client does not make an appointment, the assigned attorney or their staff will make an effort to contact the out-of-custody clients before their court date. However, the firm believes that out-of-custody clients are primarily responsible for making and keeping appointments.

The Lake County Office of the firm shall be open during normal business hours. It will also have an answering machine or voice mail system in use when the office is closed.

- Court Accountability: We feel that our proposal will assure prompt appearances and be responsive to the Lake County Court System.

Establishing a contract Public Defender's Office provides stable coverage at the first level of conflict. This office will capture the vast majority of cases. This office will provide eight (8) full time attorneys, dedicated to servicing the Lake County Courts. They will be available in the courtroom to accept appointments as they occur.

We will also work with the courts and the four (4) subcontractors to institute procedures to see that they are promptly notified when they will be needed in court to accept appointments on cases that go beyond the first level of conflict. We have experience in administering such a system. It is our ultimate goal that a contract Public Defender staff attorney and subcontractors are present in courts when court appointments occur.

4.2.8. PROPOSER'S QUALIFICATIONS

4.2.8. Proposer's Qualifications

Since 1988, Richard A. Ciummo & Associates has been providing contractual indigent legal defense services to county governments throughout California. Indigent defense is our business and specialty; as of today, we provide primary or secondary legal representation in five counties, (Amador, Calaveras, Fresno, Madera, Modoc,).¹² We have also fulfilled contracts in Trinity, Napa and Sonoma counties. In Madera, we have been the only indigent defense contractor since 1988. In Fresno, we have been the only indigent defense contractor since 1992. In both counties, our contracts have been renewed continuously since the contract's origin, and on several occasions, our firm's contract was expanded to provide additional levels of services after the initial contract was fulfilled. The firm has contracted with Amador and Modoc counties for close to twenty (20) years.

Our mission is to ensure quality legal representation for indigent defendants at every stage of the case, for each defendant, while safeguarding the Constitutional rights of each client we represent. Our administrative and management models are tried and true and our performance over the nearly thirty (30) year history of our firm's contracts speaks for itself. We have always fulfilled our contractual obligations and pride ourselves in developing first-rate attorneys.¹³

¹² We currently provide "public defender" services in Madera, Amador, Calaveras and Modoc counties. We provide "conflict defense" services in Fresno, Madera, Amador and Modoc counties. Pursuant to contract with the Fresno County Superior Court we provide legal representation in juvenile dependency proceedings for minors and parents. We also provide these services in Madera and Calaveras counties.

¹³ Our firm prides itself on the quality and development of our attorneys. For more information about the accomplishments of our staff, and the traditions and culture of our firm, please visit our website at <http://www.ciummolaw.com>, (under the "News" and "Our Work" sections).

4.2.8. PROPOSER'S QUALIFICATIONS

We provide representation in adult criminal matters (felonies and misdemeanors), juvenile matters (both delinquency and dependency), and in contempt proceedings. In some counties we also provide services on special circumstances cases. As such, we have experience with numerous court organizations, differing legal cultures, and counties and courts with different fiscal landscapes. Our firm is mindful of the finite nature of resources available to accomplish its mission and prudently allocates those resources. We always work collaboratively to accomplish our mission with these differing conditions in mind.

A. HISTORY AND STATEMENT OF QUALIFICATIONS AND EXPERIENCE

John A. Barker & Associates has been providing indigent defense services for over twenty-five (25) years. The firm's first contract in 1988 was with Madera County, providing primary public defender services. Since that time the firm has expanded and currently has contracts in five (5) counties throughout Central and Northern California.

In 2004, Mr. Ciummo purchased all of the stock of the firm and has acted as President and Chief Executive Officer since then (until August of 2016). Mr. Richard A. Ciummo graduated from the University of California, Davis, School of Law in 1979. He was admitted to the California bar in that same year. He received his undergraduate degree from San Diego State University. After a few years in civil practice, Mr. Ciummo joined the Fresno County District Attorney's office for a brief period of time. Thereafter, he commenced criminal defense practice. He has tried over one hundred criminal cases including over a half dozen homicides. Mr. Ciummo started his employment with Barker and Associates in 1988. He became the supervising attorney for the firm's Fresno office from 1992 until approximately

4.2.8. PROPOSER'S QUALIFICATIONS

2002 when he became the Chief Executive Officer of the firm. Mr. Ciummo has resided in Fresno County since 1979.

In 2014, Mr. Michael Fitzgerald (The Chief Defense Attorney of the main Madera office) acquired a minority interest in the firm during the time he was the supervising attorney of the Madera Main office. Mr. Fitzgerald is an experienced trial attorney and a very capable manager. He has been with our firm since 1991, and in August of 2016, Mr. Fitzgerald became the CEO of Richard A. Ciummo and Associates. Mr. Fitzgerald resides in Madera, CA.

B. BACKGROUND AND EXPERIENCE

The firm maintains a total of thirteen (13) offices and employs or contracts with a total of seventy-seven (77) attorneys (fifty-eight (58) are employees), nine (9) investigators, a clerical staff of eighteen (18), and an administrative staff of five (5). Multiple contracts provide the firm with the financial resources and personnel to assist each office within the firm should the need arise. Should any office be short on staff due to vacation, illness, trials, etc., the firm has the personnel available to temporarily reassign from one county office to another to fill any vacancy, thereby ensuring a continuity of services.

The firm's qualifications speak for themselves. The firm has been providing similar services for almost thirty (30) years and has developed administrative and management models that have been tried and tested in various indigent defense delivery systems. The firm has always fulfilled its contractual obligations. As to the quality of our service, we encourage you to discuss our demonstrated capability with representatives of Fresno and Madera County as our operations in these two counties are the most similar to our proposal for Lake County.

4.2.8. PROPOSER'S QUALIFICATIONS

C. REFERENCES

Attached hereto as Attachment "3" and incorporated herein are a list of references and a description of the various contracts of the firm with pertinent information including contact people with whom we deal in each county. We encourage you to contact these representatives and inquire about the quality of our attorneys' work and the responsiveness and effectiveness of our firm.

D. STAFF ASSIGNMENT¹⁴

The firm has several experienced attorneys that is considering as a candidate for the Chief Defense Attorney position in Lake County. The biographies of those attorneys are included as follows:

Scott Kinney is being considered for the number one, "CDA" position in the office. Scott Kinney graduated from California State University, Fresno in 1992. He graduated from McGeorge School of Law with his Juris Doctor, and in 2000, was admitted to the California State Bar. He began working for Ciummo and Associates in 2000. He's tried well over fifty-five felony cases, including seven homicide cases and is death penalty qualified.

In addition to being one of the firm's most accomplished trial attorneys, Mr. Kinney has managerial experience as he has been in charge of a felony trial team, making him responsible for assigning cases, as well as providing training and guidance to his subordinate attorneys. His resume is in Attachment "2."

Martin Jones is also being considered for the number one, "CDA" position in the office. Martin Jones graduated from California State University, Fullerton in 1997 with a B.S. degree in Biochemistry. He graduated from Western State University College of Law in 2004. He began working for Ciummo and Associates in Madera County in 2007. In 2014,

¹⁴ As referenced in section 4.2.9(d) of the RFP.

4.2.8. PROPOSER'S QUALIFICATIONS

he was made Assistant Chief Defense Attorney in our office in Placer County where he stayed until the completion of the contract. He's completed over forty-five felony and misdemeanor jury trials, including three murder trials.

4.2.9. COST PROPOSAL

4.2.9. Cost Proposal

A. COMPENSATION¹⁵

Timing of Compensation: Richard A. Ciummo agrees to be compensated for payments on a monthly basis in arrears.

Ancillary Services: The firm suggests that a mutually agreed amount of funding for Ancillary Services be provided up front. These funds would be maintained in a trust account for Ancillary Services and be available for use in the event expedited funds are needed. The remaining expenses will be submitted on a monthly basis in arrears.

Performance Assurance: Richard A. Ciummo & Associates has the financial ability to operate under the provisions of the agreement and meet its financial obligations without any assistance. It can do so due to (1) cash flow of Richard A. Ciummo & Associates (annual gross revenue of 13,750,000) and (2) to the extent cash flow does not permit the foregoing, the remainder will be financed out of the existing credit lines available to Richard A. Ciummo & Associates.

Richard A Ciummo & Associates has an existing line of credit with Central Valley Community Bank in the amount of \$250,000.

Richard A. Ciummo & Associates has a twelve-year track record of paying its obligations on time and is current on all of its obligations including taxes. Furthermore, it has demonstrated a capability of operating even when certain contract partners have been behind in their payments. For example, in 2010 due to the state budget impasse, the Administrative Office of the Courts was approximately five (5) months behind in payments due to Richard A. Ciummo & Associates for services; nevertheless, services continued uninterrupted and all obligations remained current.

¹⁵ As referenced in Section 3.4 of the RFP.

4.2.9. COST PROPOSAL

B. GENERAL COMPENSATION:

1. Elements of Services to be considered in quoting compensation for legal services: Attorney services, paralegal services, attorney training, office overhead such as phone, rent, routine in-house photocopying, office staff, interviewers, social workers, employment related expenses, office equipment and supplies, books or other research materials, and all other elements of cost not clearly included in the trust account funds.

Year 1	\$1,446,597.00
Year 2	\$1,504,461.00
Year 3	\$1,564,639.00
TOTAL	\$4,515,697.00

2. Administrative Cost: Administrative Cost include, but are not limited to, travel, telephones, law library, including electronic legal research, financial accounting, case management systems, computers, and software, office space and supplies, training, meeting and reposting requirements imposed by the contract, and other cost necessarily incurred in the day-to- day management of the contract.

Year 1	\$148,324.00
Year 2	\$154,257.00

4.2.9. COST PROPOSAL

Year 3	\$160,428.00
TOTAL	\$463,009.00

3. Contract Administration: The firm shall also provide the specific dollar amount of the cost and also indicate what percentage of the total cost of the contract will be spent on administrative fees and overhead charges allocated for the administration of services being proposed.

A. The cost of Contract administration represents 5% of the contract price in year one through year three.

Year 1	\$83,943.00
Year 2	\$87,301.00
Year 3	\$90,793.00
TOTAL	\$262,037.00

TOTAL COMPENSATION	
Year 1	\$1,678,864.00
Year 2	\$1,746,019.00
Year 3	\$1,815,860.00
TOTAL	\$5,240,743.00

4.2.9. COST PROPOSAL

4. Ancillary Services: Ancillary Services (not included in the cost set forth herein) shall be any service or goods not normally associated with the day- to-day operation of a law office. They shall include, but not limited to, expert reviews, reports, and testimony (medical, psychiatric, psychological, and forensic), reanalysis of blood sample (DUI) case and violation of probation for drug usage), transcripts of trials or other court proceedings not supplied to the defense free of charge, charges for discovery from law enforcement and the District Attorney, clothing for defendants to proceed to jury trial, and other services customarily outside of the responsibility of the firm and required for the effective representation of the firm's clients.

The following are projections, based upon our experience in other jurisdictions of the ancillary services for each annual contract term (excluding death penalty cases but including conflict counsel), itemized as indicated. Ancillary costs are estimates only. These costs can vary depending on the severity and complexity of the assigned cases.

Psychiatric/Psychological Services	
Year 1	\$20,000.00
Year 2	\$20,500.00
Year 3	\$21,000.00

4.2.9. COST PROPOSAL

Court Transcripts	
Year 1	\$5,000.00
Year 2	\$5,125.00
Year 3	\$5,250.00

Defendant Trial Clothes	
Year 1	\$5,000.00
Year 2	\$5,125.00
Year 3	\$5,250.00

Forensic Services	
Year 1	\$30,000.00
Year 2	\$30,750.00
Year 3	\$31,500.00

4.2.9. COST PROPOSAL

Other Experts (including DNA)	
Year 1	\$30,000.00
Year 2	\$30,750.00
Year 3	\$31,500.00

Discovery	
Year 1	\$10,000.00
Year 2	\$10,250.00
Year 3	\$10,500.00

Ancillary Services for Five Years	
Year 1	\$100,000.00
Year 2	\$102,500.00
Year 3	\$105,000.00

4.2.9. COST PROPOSAL

5. Recovery of Fees: The firm has experience in the recovery of fees as we are required to assist in several of the counties we currently have contracts with. We will cooperate in the preparation of Attorney's fee forms and see that they are submitted to the Court of the County. For instance, in Madera County (population 153,655) we are advised by the Madera County Revenue and Reimbursement office that in one year they collected approximately \$94,000 in reimbursement for our legal services and are at approximately double that pace this year.

OPTIONAL EXHIBITS AND ATTACHMENTS

Optional Exhibits and Attachments

See Tabs 11-17

Tab 11: Staff Qualifications and Duties

Tab 12: Staff Assignment and Resumes

Tab 13: References

Tab 14: Contact Information

Tab 15: Website

Tab 16: Firm Benchmarks

Tab 17: Special Circumstances Proposal

ATTACHMENT 1: STAFF QUALIFICATIONS/DUTIES

Attachment 1: Staff Qualifications/Duties

Attorney Qualifications/Duties:

Chief Defense Attorney ("CDA"): Membership in the State Bar of California; seven (7) years' experience in professional legal work including six (6) years with primary emphasis in criminal law and substantial criminal trial experience; supervises, trains, and advises lower level attorneys; consults with members of the criminal justice system regarding policies and procedures; supervises and advises investigators and other support staff; formulates and assists formulation of office policy; liaises with county agencies and the bench; responds to any complaints from clients, the County, or the bench.

Staff Attorney 3 ("SA3"): Membership in the State Bar of California; three (3) years' professional legal work with two (2) years with primary emphasis in criminal law; handles felony caseload; shall supervise, advise, and/or assist Attorneys 1 and 2 in professional work and training.

Staff Attorney 2 ("SA2"): Membership in the State Bar of California; two (2) years' experience in professional legal work with one (1) year with primary emphasis in criminal law; handles more difficult cases (including less complex felonies) with greater independence than Attorney 1.

Staff Attorney 1 ("SA1"): Membership in the State Bar of California; entry level position; upon assignment, an Attorney 1 will make court appearances generally in misdemeanor and less complex juvenile cases. Will be mentored and supervised by more experienced attorneys.

Non-Attorney Qualifications/Duties:

Senior Staff Investigator ("SSI"): Five (5) years' experience as investigator with defense, prosecution or law enforcement agency; locates and interviews accused persons and

ATTACHMENT 1: STAFF QUALIFICATIONS/DUTIES

witnesses, evaluates testimony; investigates crime scene and physical evidence and evaluates same; assembles and prepares evidence for presentation in court; may testify in court; may serve legal process; prepares written and/or oral reports for attorneys. (California Private Investigator license required.)

Staff Investigator ("SI"): Possesses qualifications less than Senior Investigator but has significant experience with defense, law enforcement, or prosecution agencies. (California Private Investigator license required.)

Legal Secretary/Office Manager ("LS/OM"): Minimum of five (5) years' experience with emphasis on office management, superior knowledge of the inner day-to-day operation of a law office oriented towards criminal law; shall report directly to Chief Defense Attorney but will also act with considerable independence with regard to subordinate clerical staff; shall assist management with interaction with representatives of the County and the bench; shall train and supervise subordinate clerical staff; shall possess computer/data entry skills and be responsible (with oversight) for input of relevant data and generation of required reports to the county; shall supervise maintenance of office calendar system.

Legal Secretary/Clerk ("LS/C"): Minimum of two (2) years as a legal secretary with emphasis in the criminal law field; shall possess computer/data entry and superior typing skills; responsible for all legal documents, motions, etc.; responsible for processing attorney written product; shall properly maintain calendar for office and attorneys; shall deal with clients on occasion; shall report directly to Office Manager.

Secretary/Receptionist ("S/R"): Entry level position; must possess excellent client contact and computer/data entry skills; responsible for communications and general typing.

ATTACHMENT 1: STAFF QUALIFICATIONS/DUTIES

Wheel Attorney Qualifications:

Wheel Attorneys: Wheel attorneys shall possess qualifications equivalent to Staff Attorney 3 attorneys as set forth above or otherwise demonstrate proficiency to handle a felony criminal practice.

ATTACHMENT 2: STAFF ASSIGNMENT RESUMES

Attachment 2: Staff Assignment Resumes

ERNEST SCOTT KINNEY

eskinneylaw@gmail.com

Summary

I became licensed with the State Bar of California in the year 2000. The sole focus of my legal career has been to defend people against criminal allegations.

Accomplishments

I have litigated over 55-felony trials. I have numerous jury trial acquittals involving Murder, Sexual Assault (including a Sexually Violent Predator trial), Rape, Robbery, Arson, Home Invasion and others. I aggressively defend all clients while maintaining heavy case-load assignments. I am Death Penalty qualified.

Experience

John Barker (Ciummo) & Associates

July 2000 to February 2008

Criminal Law Associate

Fresno, CA

In 2000, I handled all misdemeanor cases from arraignment to trial.

In 2001-2004 I handled all phases of felony criminal cases, including Murder, Sexual Assault and other "life-top" cases. In 2004 I became head of the trial team and was responsible for distributing cases to other attorney's depending on their trial experience and case load.

CALFED LAW CORPORATION

April 2010 to December 2014

Criminal Law Attorney

Fresno, CA

Primarily in charge of all criminal defense cases. In addition I handled Federal, Family Law, and Bankruptcy cases as well. I was responsible for handling criminal cases in Sacramento, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, Kern and Los Angeles Counties.

Richard Ciummo & Associates

January 2015 to Current

Criminal Law Associate

Fresno, CA

Resumed Felony caseload and worked as trial team leader. I assist other attorney's with trial strategy and tactics. Communicate with colleagues to ensure all assignments and tasks are completed to meet the needs of all courtroom departments.

Education

Fresno State University

1992

Bachelor of Arts: Liberal Studies

Fresno, CA, USA

McGeorge School of Law

1996

J.D.: Law

Sacramento, CA, USA

MARTIN A. JONES

Attorney at Law, SBN 250598

WORK EXPERIENCE

Koukol & Associates January 2017 – Present

Attorney

- Felony team attorney
- Complex felony matters, homicides, special circumstance cases.

Richard A. Ciummo & Associates September 2014 – January 2017

Assistant Chief Defense Attorney – Placer County

- Assist Chief Defense Attorney supervise staff of 40, including 27 attorneys.
- Felony Even Team supervisor.
- Lead counsel on two (2) homicide trials, complex felony matters, termination of parental rights, writs of habeas corpus, SVP matters.
- Member of Community Justice Partnership Committee and Collaborative Courts Subcommittee.

Richard A. Ciummo & Associates January 2007 – September 2014

Defense Attorney; MCLE Coordinator – Madera County

- Appointed counsel for all criminal matters in the County of Madera, California.
- Lead counsel in more than 45 felony and misdemeanor jury trials, including three (3) homicide trials.
- Extensive motion and appellate work.
- Supervised and trained two associate attorneys in two criminal departments.
- Organization and state bar compliance for all Mandatory Continuing Legal Education seminars.

Law Offices of Hugh Douglas Whittemore January 2005 – January 2007

Clerk

▪

California Court of Appeal, 4th Dist., 3rd Div. January 2004 – May 2004

Extern to Justice William F. Rylaarsdam

EDUCATION

Western State University College of Law, Fullerton Grad. 2004

Juris Doctor – Cum Laude

▪

- Class Standing – Top 15%, Distinguished Honor Roll Fall 2002
- W. H. Taft Scholarship Recipient
- Witkin Award for Academic Excellence – Contracts
- Law Review, Note Editor

California State University, Fullerton Grad. 1997

BS, Biochemistry

- Winner 1996 National Science Foundation/Research Experience for Undergraduates Grant

LANGUAGES & COMPUTER SKILLS

-
- Fluent Spanish
- MS Office, WordPerfect
- Legal Solutions Plus
- LEXIS/NEXIS, Westlaw, Essential Forms
-

COMMUNITY OUTREACH

-
- Board of Directors, Governance Chair, Placer Food Bank
- Board of Directors, Madera County Food Bank

- 2016, 2017 Placer County Mock Trial Judge
- Attorney Coach, Madera High School Mock Trial Team, 4 years
POST OFFICE BOX 349 – FULLERTON, CA 92869-0349
PHONE: (714) 767-3609 – FACSIMILE: (714) 494-8085
majones.esq@sbcglobal.net

ATTACHMENT 3: REFERENCES

Attachment 3: References

Customer References

1. Madera County

Mr. Eric Fleming
County Administrative Officer
(559)675-7703
Current Contract
7/1/2013 – 6/30/2017 for \$9,131,829

2. Fresno County

Mr. Jean Rousseau
County Administrative Officer
(559)600-1710
Current Contract
7/1/2016 – 6/30/2017 for \$7,107,343

3. Amador County

Mr. John Hopkins
(209)223-6375
Director – General Service Administrator
Current Contract
7/1/2015 – 6/30/2018 for \$1,982,221

4. Calaveras County

Ms. Shirley Ryan
County Administrative Officer
(209)754-6025
Current Contract
7/1/2016-6/30/2018 for \$1,154,290

5. Modoc County

Mr. Chester Robertson
County Administrative Officer
(530)233-7660
Current Contract
7/1/2016 – 6/30/2017 for \$554,391

CONTACT LIST AND LETTERS OF REFERENCE

Fresno County

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Ms. Dawn Annino Managing Research Attorney B.F. Sisk Courthouse 1100 Van Ness Ave. Fresno, CA 93724	(559) 457-4903
Ms. Lisa Smittcamp District Attorney 2220 Tulare St., Suite 1000 Fresno, CA 93721	(559) 600-3232
Mr. John Navarrette County Administrative Officer (Retired) 2281 Tulare Street, Room 304 Fresno, California 93721	
Mr. Jean Rousseau County Administrative Officer 2281 Tulare Street, Room 304 Fresno, California 93721	(559) 600-1710
Ms. Samantha Buck Senior Administrative Analyst 2281 Tulare Street, Room 304 Fresno, California 93721	(559) 600-1231
Supervisor Brian Pacheco District 1 County Supervisor 2281 Tulare St., Room 300 Fresno, CA 93721	(559) 600-1000
Supervisor Buddy Mendes District 1 County Supervisor 2281 Tulare St., Room 300 Fresno, CA 93721	(559) 600-4000
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Madera County

The Honorable Ernest Licalsi
Presiding Judge
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200 S. G St.
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Mr. Eric Fleming
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Mr. Brett Frazier
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Mr. David Rogers
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(559) 662-6020

Mr. Stell Manfredi
Madera County Supervisor (Retired)
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Amador County

Mr. Jon Hopkins, Director
General Services Administration
12200 Airport Rd.
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Ms. Barbara Cockerham
Court Executive Officer
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The Honorable J.S. Hermanson
Presiding Judge
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Jackson, CA 95642

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Mr. Richard Forster
District 2 County Supervisor
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Jackson, CA 95642

(209) 223-6470

Mr. Louis Boitano
District 4 County Supervisor
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Jackson, CA 95642

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Calaveras County

The Honorable Timothy Healy
Presiding Judge
891 Mountain Ranch Rd.
San Andreas, CA 95249

(209) 754-9800

Mr. Dan Vrtis
Court Executive Officer
891 Mountain Ranch Rd.
San Andreas, CA 95249

(209) 754-6310

Ms. Shirley Ryan
County Administration Officer
891 Mountain Ranch Rd.
San Andreas, CA 95249

(209) 754-6025

Ms. Megan Stedtfeld
County Counsel
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San Andreas, CA 95249

(209) 754-6314

Modoc County

Mr. Chester Robertson
County Administrative Officer
204 S. Court St., Room 100
Alturas, CA 96101

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Placer County

Ms. Bekki Riggan
Principal Management Analyst
175 Fulweiler Ave.
Auburn, CA 95603

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ADMINISTRATIVE OFFICE
County Administrative Officer
559-675-7703

200 West 4th Street
Madera, CA 93637

Board of Supervisors

BRETT FRAZIER
District 1

DAVID ROGERS
District 2

RICK FARINELLI
District 3

MAX RODRIGUEZ
District 4

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District 5

Jim Brown, CEO
Merced County Administration
2222 M St.
Merced, CA 95340

Dear Jim,

As you may know, Ciummo & Associates is a private law firm that provides all of our Public Defender services here in Madera County. It has come to my attention that they are interested in providing the same services to Merced County and will be participating in the competitive process that you are currently conducting.

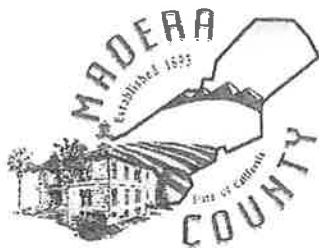
I am writing you today to let you know that I highly recommend this firm. My recommendation comes from firsthand experience in working with Ciummo & Associates for over 11-years.

As a fellow administrator, we likely share similar concerns when managing a service contract such as this one. My main concerns are typically whether they are reasonably priced, staying within budget and providing adequate service levels without my office having to be involved. I can tell you that I've never had an issue in any of these areas or any other area for that matter.

In general, I have found the firm and their management to be very responsive and easy to work with. If you would like to discuss our contract with Ciummo & Associates or their performance, please feel free to call me. Good luck in your decision making process.

Sincerely,

Eric Fleming,
County Administrative Officer



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
200 WEST FOURTH STREET / MADERA, CALIFORNIA 93637
(559) 675-7700 / FAX (559) 673-3302 / TDD (559) 675-8970

DAVID ROGERS
SUPERVISOR, DISTRICT 2
(559) 662-6020

September 14, 2016

CEO James L. Brown
2222 M Street
Merced, CA 95340

RE: Richard A. Ciummo and Associates

Dear CEO Brown:

It is with distinct pleasure that I offer my highest recommendation for Richard A. Ciummo and Associates. They have been providing indigent legal defense services for the County of Madera for many years and have done an outstanding job.

Richard A. Ciummo and Associates has provided excellent service to the clients they represent and the public of Madera County. The quality of legal service is always of the most professional standards.

If you have any questions, please do not hesitate to contact my office.

Sincerely,

David B. Rogers
Supervisor, District 2



SUPERIOR COURT OF CALIFORNIA COUNTY OF MADERA

200 SOUTH G STREET
MADERA, CA 93637
Phone: (559) 416-5599

Honorable Ernest J. LiCalsi – Presiding Judge
Honorable Joseph A. Soldani – Assistant Presiding Judge
Bonnie Thomas – Court Executive Officer

An Affirmative Action/Equal Opportunity Employer

James L. Brown
County Executive Officer
2222 M St.
Merced, CA 95340

September 14, 2016

RE: Richard A. Ciummo and Associates

Dear Mr. Brown:

I have been asked to provide a letter of reference for Richard A. Ciummo and Associates. I am the Presiding Judge of the Madera Superior Court. Prior to my becoming a judge, I was the elected District Attorney for Madera County for 17 years. I worked as a prosecutor in the Madera County District Attorney's Office from 1986 to 2009. Richard A. Ciummo and Associates has provided public defender services for Madera County since the mid-1980's. They are not only the primary public defender but also cover an additional six (6) levels of conflict representation.

Mr. Richard Ciummo acquired the firm in 2004. I have known Mr. Ciummo personally for much longer. Mr. Ciummo and I both handled a law and motion calendar for our respective offices for many years. Mr. Ciummo is one of the best criminal defense attorneys that I have ever encountered. In addition, his ethics are impeccable.

In 2014, Mr. Michael Fitzgerald acquired a minority interest in the firm. Until recently he was in charge of the firm's primary office in Madera. He has now been named the Chief Executive Officer for the firm. As such he will oversee all operations. I have known Mr. Fitzgerald since 1992. His ethics are also beyond reproach.

Not only does Richard A. Ciummo and Associates provide quality representation to their clients, they do so in a cost efficient manner. Madera County has always been able to predict its cost for these services and, in my opinion, the firm has been reasonable with regard to increases in the contract price. As District Attorney, the County Administrative Officer always asked me to weigh in on any increases of the contract price. Most of the increases that were requested were for additional staff. I was always in agreement with the firm's increase requests.

Our bench has received few, if any complaints about the firm's service. In fact, I believe many of its attorneys are of a far better quality than many of the private attorneys that appear before me.

I believe the firm to be a well respected partner in the criminal justice system. When it can, the firm cooperates with its partners to achieve efficiencies that benefit the Madera criminal justice system as a whole. In particular, although adversarial, the firm has always maintained a good working relationship with the Madera County District Attorney's Office.

Our bench has had many changes over the last several years. But what hasn't changed is Richard A. Ciummo and Associates' responsiveness in addressing and resolving any issues which have arisen over the past three decades. Regardless of what judges have been on the bench, our bench has always been supportive of the firm.

Mr. Ciummo and his firm have always enjoyed the unanimous support of Madera County's Board of Supervisors. Each contract for services has been unanimously approved. In addition, it has always been my understanding that the firm has always had an excellent relationship with the County's Administrative Officers over the years.

It is my pleasure to recommend that Richard A. Ciummo and Associates for Merced County's conflict public defender needs. I am sure that you enjoy the combination of service, reasonable cost, and responsiveness that Madera County has enjoyed for many years.

Sincerely,



Ernest J. McCalsi
Presiding Judge



Superior Court of the State of California

County of Madera

200 S. G Street
Phone: 559-416-5512

Madera CA 93637
Fax: 559-675-4947

Assistant Presiding Judge: Joseph A. Soldani

Presiding Judge: Ernest J. LiCalsi

Court Executive Officer: Bonnie Thomas

September 8, 2016

James L. Brown
County Executive Officer
County of Merced
2222 M St.
Merced, CA 95340

Re: Merced County Conflict Public Defender Contract

Dear Mr. Brown:

I write to offer my observations in light of the application of Ciummo & Associates to provide conflict public defender services to the citizens of Merced County.

I currently serve as a Superior Court judge in the County of Madera. For nearly four years, I have been assigned to a criminal department handling cases ranging from minor misdemeanor offenses to capital crimes. In this capacity, I have had the opportunity to work closely, and on a daily basis, with the attorneys from Ciummo & Associates.

It is my experience and observation that Ciummo & Associates employs dedicated and professional attorneys to represent its clients. Without exception I have been pleased and often surprised at how promptly the supervising attorneys at Ciummo & Associates respond to the concerns of the court. The single instance that I recall related to an issue involving a local attorney who was appointed in a case in which Ciummo and the alternate defense attorney both had a conflict of interest. The local attorney was appointed as conflict counsel. Chief Defense Attorney Michael Fitzgerald and Supervising Attorney Craig Collins were in my office literally within an hour of hearing of my concern. The issue was promptly resolved and the best interests of both the client and the court were met.

The attorneys from Ciummo & Associates are actively involved in initiating programs in our county that offer alternatives to incarceration. This results in obvious savings to Madera County on the front end, but the real benefit to Ciummo's clients and the county is on the back end by addressing and working to eliminate recidivism. Examples are our Behavioral Health and Veterans' Treatment courts. As the judge who presides over these important specialty courts, I can state with confidence that they would not have come into existence without the efforts and ongoing support of Ciummo & Associates and its attorneys.

ATTACHMENT 4: CONTACT INFORMATION

Attachment 4: Contact Information

RICHARD A. CIUMMO
OWNER

MICHAEL FITZGERALD
CHIEF EXECUTIVE OFFIC ER

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Madera, CA.

Tel 559.673.7227

Fax 559.673.6135

www.ciummolaw.com

ATTACHMENT 5: WEBSITE

Attachment 5: Website

1/25/2017

clummo-law

Richard A. Clummo & Associates

A Professional Law Corporation

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- Our Work
- News
- Careers
- Contact Us



Featured News



"The verdict is in: Not guilty of murder. Not guilty of involuntary manslaughter. Not guilty of felony killer abuse." -- Los Angeles Times, June 5, 2012.

[READ MORE >](#)



"Murder charges dropped against a Fresno man." -- ABC 20 Action News, December 4, 2012.

[READ MORE >](#)



"DHP shooter found not guilty on all counts." -- Fresno Democrat, July 20, 2011.

[READ MORE >](#)

Richard A. Clummo & Associates have been providing indigent legal defense services since 1988. Our mission is to ensure that our clients receive high quality legal representation and that their constitutional rights are safeguarded throughout their legal proceedings. We currently provide such legal services in six counties in California. We provide representation in adult criminal matters (felonies and misdemeanors), juvenile matters (both delinquency and dependency) and in contempt proceedings.

[READ MORE >](#)

"During the time that Madera County has contracted with Mr. Clummo he and his entire firm has provided an excellent service to the clients they represent and to the public that is paying for this service. The quality of legal representation that the Clummo Firm has displayed has been professional and most adequate in representing indigent legal services for their clients."

—Stell Manfred,
Former Chief Administrative Officer of Madera County

[Contact Us](#)

123 Fourth Street - Madera, California 93637
Phone: 559.673-7227 - Fax: 559.673-6155

<https://www.clummolaw.com/>

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ATTACHMENT 5: WEBSITE

1/25/2017

ciummo-law | News

Richard A. Ciummo & Associates

A Professional Law Corporation

login

In the News

Us

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Just a little over a week before Christmas, Linden Lindahl (an employee of Richard A. Ciummo and Assoc.) made his closing argument in an LWOP (life without parole) homicide case to a jury in Kings County. After only five hours of deliberation, the jury returned an acquittal—not guilty on all counts. Lindahl said his client testified in his trial that he was a friend of the victim and had no reason to kill him. "He's glad it's over," Lindahl said after the verdict. "He's planning on moving away from Hanford." [Read more here](#)

Eric Castillon of the Fresno office of Richard A. Ciummo and Associates successfully defended a highly publicized "shaken baby" case when the jury voted unanimously on December 16th, 2016 in support of a not guilty verdict as to the child endangerment charges. [Read more](#)

Every year, Olga Lopez (Office Manager for the Fresno office of Richard Ciummo and Assoc.) organizes the "Share the Warmth" project to help provide warm clothing, gloves, shoes, etc. to the homeless population in downtown Fresno. With the assistance of the firm, Richard A. Ciummo (owner) and Mike Fitzgerald (CEO), as well as attorneys and staff throughout multiple offices, Olga takes on the immense task of collecting donations to support the project that she created. This year, the deliveries were made just a few days before Christmas on December 23rd. The firm would like to thank Olga for her hard work and effort, as well as those attorneys, staff and others supported the project by providing assistance and/or donations to support the project.



On August 24th, 2016, the Fresno County Bar Association's Criminal Law and Pro Bono section presented Ciummo and Associates with the "Pro Bono Special Recognition Award" for the volunteer work our firm employees have committed to the Veterans Legal Clinic, (helping to expunge veterans' criminal records). Firm employees pictured from right to left: Richard A. Ciummo, (owner), Richard Esquivel, Emily Takao, Polly Sieler, Linden Lindahl, Jeremy Snell, Dennis Yamada.



On March 12th-13th, 2016 attorneys Emily Takao, Polly Sieler and Richard Esquivel from Richard Ciummo & Associates volunteered their time to staff an expungement/Prop 47 clinic for the area's veterans alongside the Fresno Vet Center and the One Justice Bus Project. This is the third clinic the attorneys have volunteered to participate in.

For more information, or to read what the clinic's participants had to say about the experience, please click [here](#).

As it has in past years, the Placer office of Richard A. Ciummo & Associates, (Placer County Public Defender's Office) sponsored the Placer County Bar Association's Charity Golf Tournament, an event which benefits Legal Services of Northern California (LSNC). The mission of LSNC is to provide legal services to empower the poor to identify and defeat the effects of poverty within their community utilizing all available

<https://www.ciummo-law.com/news>

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ATTACHMENT 5: WEBSITE

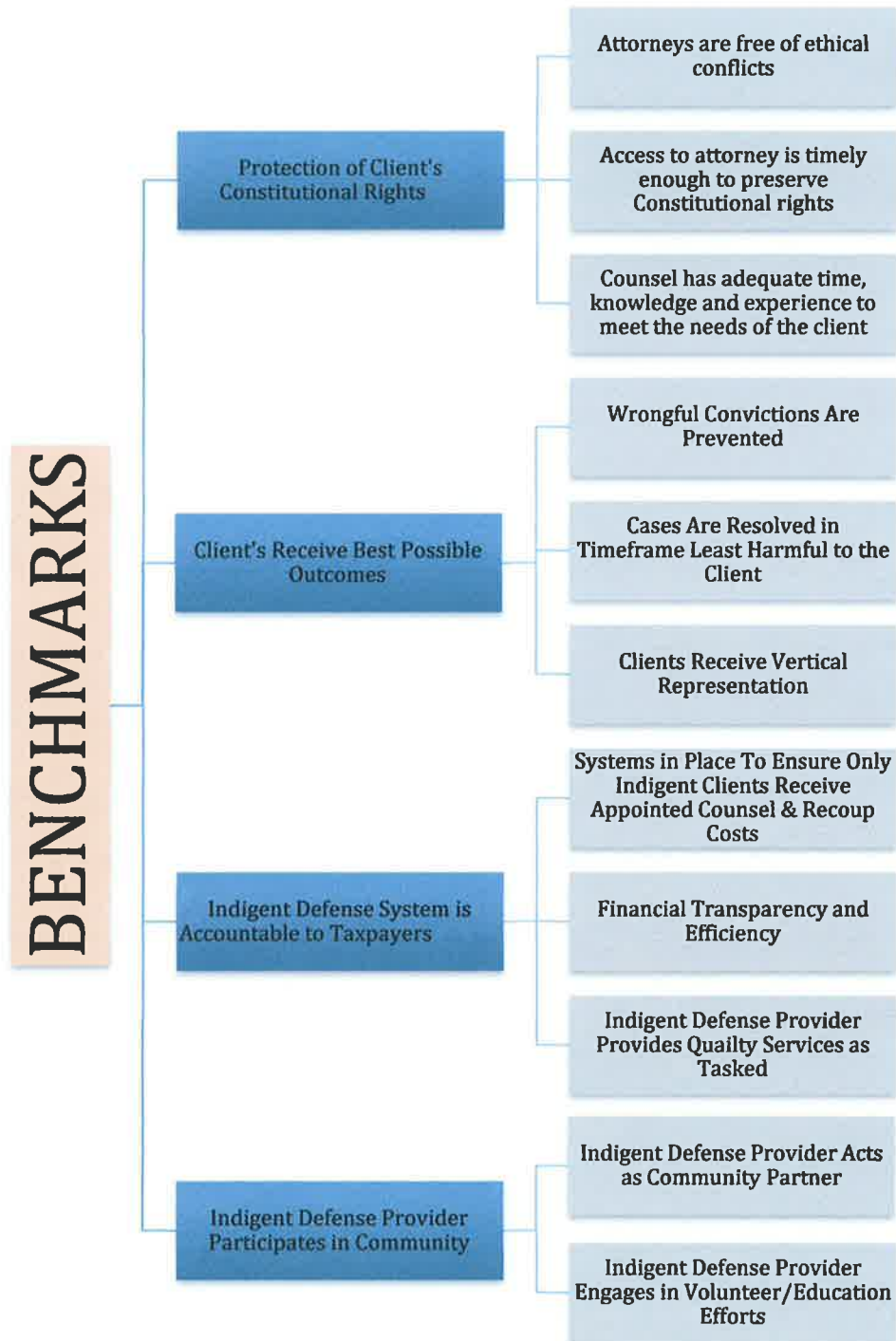
RECENT MEDIA COVERAGE

1. Mark Siegel, attorney at the Fresno office of Richard A. Ciummo and Associates, successfully defended a highly publicized murder case when the jury, on September 2nd, 2015, voted unanimously in support of a not guilty verdict as to the murder count.
<http://www.fresnobee.com/news/local/crime/article33588126.html>
2. On August 25th, 2015, Scott Kinney, attorney at the Fresno office of Richard A. Ciummo and Associates, was granted a mistrial after a jury voted 10-2 of and 11-1 in favor of a not guilty verdict. <http://www.fresnobee.com/news/local/crime/article32475357.html>
3. In an effort to establish his client's alibi, Doug Foster (attorney at the Fresno office of Richard A. Ciummo and Associates) presented the testimony of expert witness Manfred Schenk, who had once worked on the Apollo 11 space mission and was an expert in radio frequency waves. Read more at: Fresno gang member's trial begins in killing of innocent victim. The Fresno Bee, July 18, 2015.
<http://www.fresnobee.com/news/local/crime/article24914872.html>
4. Richard Esquivel of the Fresno office of Richard A. Ciummo and Associates and Amy K. Guerra, Chief Defense Attorney at the Alternate Defense Office (a conflict defense office under Richard A. Ciummo and Associates) successfully argued for mistrial in officer-shooting case. The Fresno Bee, July 9, 2015.
<http://www.fresnobee.com/news/local/crime/article26885833.html>
5. Antonio Alvarez, Chief Defense Attorney of the Fresno office Richard A. Ciummo and Associates, negotiates a 16 month sentence for his client Tex McDonald on the highly publicized Chukchansi case in Madera. ABC 30 Action News, July 2, 2015.
<http://abc30.com/news/tex-mcdonald-sentenced-for-armed-takeover-of-chukchansi-casino/824158/>
6. After thirteen months and one trial, Franz Criego, attorney at the Fresno office of Richard Ciummo and Associates, received a dismissal on his client's contentious murder case before it could proceed to trial a second time. The Fresno Bee, May 22, 2015.
<http://www.fresnobee.com/news/local/article21699846.html>
7. On August 19th, 2016, Irene Luna of the Fresno Alternate Defense Office obtained a not guilty verdict on a case involving assault allegations. "Pimp and Gang Member Found Not Guilty of Pointing Gun at Girlfriend, Baby." Fresno Bee, August 19, 2016
<http://www.fresnobee.com/news/local/crime/article96797012.html>

For more media coverage, please see our website at www.ciummolaw.com.

ATTACHMENT 6: FIRM BENCHMARKS

Attachment 6: Firm Benchmarks



ATTACHMENT 7: SPECIAL CIRC. PROPOSAL

Attachment 7: Special Circ. Proposal

CAPITAL CASES

Capital cases present unique and difficult challenges for all concerned including the County and the service provider. These challenges include:

- A. The difficulty in predicting with any certainty how many such cases will occur in any given period;
- B. The Necessity of the service provider, even before an election is made to seek the death penalty or not, to commence investigation into mitigating factors effecting the penalty phase. This investigation incurs the expenses which may not exist in a homicide in which the death penalty is not sought;
- C. The Fact that the decision to seek death rest solely with the District Attorney;
- D. The Fact that there is often a significant delay in the election as to whether to seek the death penalty or not.

The firm understands the county's desire to cap its cost for such cases. However this presents both business and ethical problems for the service provider.

From a business standpoint, if the number of such cases exceeds the prediction or proves particularly complex, then the service provider faces fiscal issues.

From the ethical standpoint, capitation of fees leads to the temptation to cut corners in cases in which a client's life is literally at stake. This is a situation which can lead to improprieties or at least the appearance of impropriety.¹

Fortunately, there are means by which a county can recoup expenditures for investigation and expert services in such cases; this mitigates the County's liability to some extent (Penal Code 987.9).

In light of the foregoing, the firm is proposing (separate and apart from the remainder of this proposal) a hybrid system to handle capital cases. We Propose that:

- 1) The Firm's office (which would have sufficient death penalty qualified staff) would accept a limited number of special circumstance homicides per contract year and handle them to completion (regardless of whether the death penalty or life without parole is sought). These services, including investigation and second counsel (if necessary) would be included in the cost set forth in section 4.2.10 of

¹ All of the contracts the firm has for criminal defense excludes these cases from the scope of services entirely, limit the number to be handled by The Firm, or handle the cases through a separate compensation scheme. We submit this because of the issues described above.

this proposal. The firm would retain records of time expended on investigation and the County could seek reimbursements for those services. Expert witnesses would be retained upon Court approval and the county could similarly seek reimbursement for those services pursuant to Penal Code Section 987. If the District Attorney elects initially not to seek the death penalty in a special circumstance homicide (life without parole or LWOP), The Firm would accept appointment in such matter and it would not count toward any agreed upon limitation as negotiated pursuant to this paragraph.

- 2) Any Capital Cases in excess of those handled by the firm pursuant to Paragraph 1 herein would be assigned to a death penalty qualified attorney from a list maintained by The Firm. A multi-tier, capitated fee structure would be developed by the firm and the County and any attorney on the list would agree to accept appointment for that compensation. Investigation and experts would be retained upon court approval and reimbursement sought for those expenses pursuant to Penal Code 987.²

The details of such a proposal could be discussed as part of the contract negotiation.

The firm believed that this system would (1) provide quality representation to the firm's clients in such cases, (2) protect The Firm from financial calamity and the temptation to cut corners, (3) provide the County with some measure of predictability of expenses in these matters and means for reimbursement of a substantial part of the expense.

Further, it is wise to handle these competently in the first case. Reversals and retrials on such matters eventually end up costing more in the long run.

² Such a fee structure is in place in Fresno (by order of the design of the Fresno County Superior Court) and in Madera County (in which the firm maintains the list of attorneys). Each system provides numerous options regarding the set compensation, payments schedule, appointment of second counsel, and final selection of attorney.