

EXHIBIT A



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PRACTICE TECHNOLOGY

UpCounsel website for freelance lawyers shuts down after litigation opponent becomes 'significant shareholder'

BY DEBRA CASSENS WEISS ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/4/](http://www.abajournal.com/authors/4/))

FEBRUARY 3, 2020, 4:09 PM CST

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An online marketplace that links freelance lawyers (<http://www.abajournal.com/magazine/article/law-practice-freelance-attorney-demand>) with small businesses and other would-be clients has announced it is shutting down March 4.

UpCounsel did not provide a reason for the decision in an announcement (<https://www.upcounsel.com/blog/we-thank-you-for-your-support>) sent to users and posted on its website, report LawSites (<https://www.lawsitesblog.com/2020/02/upcounsel-to-shut-down-was-marketplace-for-freelance-lawyers.html>), Bloomberg Law (<https://biglawbusiness.com/online-lawyer-marketplace-upcounsel-to-shut-down>) and Law360

Image from Shutterstock.com.

(<https://www.law360.com/articles/1239958/online-legal-marketplace-upcounsel-to-shut-down>). The decision

was made by the company's board of directors and shareholders.

The announcement comes about a year after a litigation opponent obtained the right to buy "a significant number of shares in UpCounsel" in an apparent settlement of a lawsuit. Federal court records revealed the stock agreement

(<http://www.abajournal.com/files/UpCounselDismissalNot.pdf>).

The lawsuit against UpCounsel had alleged false advertising and unfair competition by UpCounsel. The plaintiff was patent and trademark law firm LegalForce RAPC.

LegalForce RAPC's founder and CEO Raj Abhyanker tells the ABA Journal that he has become a "significant shareholder" in UpCounsel. (Abhyanker was named an ABA Journal Legal Rebel

(http://www.abajournal.com/legalrebels/article/2013_legal_rebel_profile_raj_abhyanker) in 2013).

Abhyanker says UpCounsel needs "retooling to be compliant with the law," but he doesn't think people have seen the last of the company.

"I don't think I'm content with UpCounsel just going off into the sunset," Abhyanker tells the ABA Journal. "My plan and my hope is that we will retool it and bring it back in a form that will allow it to continue thriving and doing the good work that it does."

Abhyanker obtained his stake in the company in a settlement reached after a federal judge "threw a scare" into UpCounsel by rejecting part of its motion to dismiss Abhyanker's suit, Abhyanker said in a previous blog post

(<https://rajthelawyer.com/ceasing-hostilities-cozying-up-to-upcounsel/>).

U.S. District Judge Yvonne Gonzalez Rogers of Oakland, California, allowed some of Abhyanker's claims and dismissed others in her January 2019 decision

(<https://casetext.com/case/legalforce-rapc-worldwide-pc-v-upcounsel-inc>), covered by Law360

(<https://www.law360.com/articles/1117506>).

Rogers allowed claims in which Abhyanker alleged:

- UpCounsel manipulates search engine results to display fabricated ratings for its lawyers.
- UpCounsel misrepresents its fee structure.



Raj Abhyanker. Photo by Tony Avelar/ABA Journal.

- UpCounsel “brazenly ignored law, ethics, and common sense in defiance of healthy competition.”

Rogers had tossed an unfair advertising claim relating to UpCounsel’s assertion that it was the “world’s largest virtual law firm.” She also tossed a claim that UpCounsel was operating as a lawyer referral service that is not generally allowed under California’s ethics code.



UpCounsel co-founders Mason Blake (left) and Matthew Faustman. Photo courtesy of UpCounsel.

Abhyanker referred to his allegations about unfair competition and fake star ratings in his interview with the ABA Journal. Asked whether UpCounsel’s founders are still involved with the company, Abhyanker said their conduct led to the situation today.

“I don’t think I want them involved in the company any more,” Abhyanker says. “I hope they are not moving forward, but it is not completely my decision.”

“This isn’t the last you will hear of UpCounsel,” Abhyanker adds. “I think UpCounsel has a bright future ahead. I think the regulatory framework will allow that to happen.”

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EXHIBIT B



In-House



The San Francisco skyline shown in 2015.

Photographer: David Paul Morris/Bloomberg via Getty Images

Online Lawyer Marketplace UpCounsel to Shut Down (1)

Sam Skolnik - Bloomberg Law

Feb. 3, 2020



- *Site raised \$26 million from investors that included Uber backer*
- *Co-founders concede end was "abrupt"*

UpCounsel, an online marketplace for lawyers that raised \$26 million from investors, will shut down next month, according to an email to site users.

The San Francisco-based company provided freelance attorneys for brief consultations, full-time legal department staff positions, and everything in between.

The site was co-founded by CEO Matt Faustman, an attorney who previously

represented Silicon Valley startups, and Mason Blake, an engineer who was the company's chief technical officer.

UpCounsel's board and its shareholders decided to shut down the site permanently on March 4, Blake and Faustman wrote in a [Feb. 3 email](#) to site users.

"We want to thank you for your continued support since we first started UpCounsel in 2012. It has been a delight to work with each of you along the way, building innovative products to make the legal experience better," Blake and Faustman wrote. "It is with a heavy heart that we deliver this news and understand that this abrupt announcement will come as a shock to some of you that have come to rely on UpCounsel."

In a 2018 lawsuit, UpCounsel was accused of flouting ethics rules and competition laws. Specifically, it had been accused of "brazenly" violating the California bar rule that prohibits lawyers from sharing legal fees with nonlawyers.

UpCounsel denied the claim and accused the plaintiffs of "lashing out in frustration" because they were unable to compete. The case settled in February 2019.

UpCounsel had been touted as being akin to a type of Uber for legal services. That moniker may have stuck in part because its investors included [Menlo Ventures](#), an early Uber backer.

(New sentence in seventh paragraph notes how the lawsuit resolved.)

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EXHIBIT C



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Online Legal Marketplace UpCounsel To Shut Down

By **Emma Cueto**

Law360 (February 3, 2020, 12:43 PM EST) -- UpCounsel, a platform dedicated to connecting startups and small businesses with attorneys, announced Monday that the company will be shutting down in March.

In a blog post on its website, UpCounsel co-founder Mason Blake said the decision to close was approved by the company's board and shareholders, and that it would be deleting all user data as part of the shutdown.

"It is with a heavy heart that we deliver this news and understand that this abrupt announcement will come as a shock to some of you that have come to rely on UpCounsel," Blake wrote in the announcement.

He also thanked the people who have supported UpCounsel since it first launched in 2012.

"It has been a delight to work with each of you along the way, building innovative products to make the legal experience better," he wrote. "Pursuing our mission of creating a remarkable legal experience was made possible because of you."

The post did not provide the reasons behind the decision to close. UpCounsel did not respond Monday to a request for comment.

UpCounsel presented its mission as "revolutionizing the way legal work gets done." The platform allowed companies to post a job or legal need on the site and receive proposals from attorneys who fit the specifications. The company advertised that all attorneys on the site were vetted by UpCounsel.

It also promised attorneys guaranteed payments for all work performed for clients connected through the platform, since UpCounsel handled billing.

UpCounsel said on its website that thousands of companies have found legal help through the site.

The company is currently facing a **legal challenge** from competitor LegalForce RAPC, which focuses on intellectual property work. LegalForce claimed in a false advertising suit that UpCounsel posts included fake star ratings, used unethical means to manipulate search engine results and violated rules around referrals and fee sharing.

--Editing by Alyssa Miller.

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EXHIBIT D

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5 1580 W. El Camino Real, Suite 10
6 Mountain View, CA 94040
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OCT 09 2019

CLERK OF THE COURT
BY: Angelina Smyth
Deputy Clerk

8 Attorneys for Plaintiffs,
9 The Raj and Sonal Abhyanker Family Trust
10 and Ryan Bethell

11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN FRANCISCO

CGC -19-579885

14 THE RAJ AND SONAL ABHYANKER
15 FAMILY TRUST and RYAN BETHELL,

COMPLAINT FOR:

16 Plaintiffs,

1. BREACH OF FIDUCIARY DUTY AND AIDING AND ABETTING BREACH OF FIDUCIARY DUTY, INCLUDING SELF DEALING;
2. BREACH OF FIDUCIARY DUTY TO THE COMPANY;
3. FRAUD IN THE INDUCEMENT;
4. VIOLATIONS OF THE DELAWARE CORPORATE SECURITIES LAWS;
5. UNFAIR BUSINESS ACTS AND PRACTICES IN VIOLATION OF BUSINESS AND PROFESSIONS CODE § 17200 *ET SEQ.*;
6. BREACH OF CONTRACT;
7. UNJUST ENRICHMENT; AND
8. PRAYER FOR INJUNCTIVE RELIEF.

17 v.

18 MASON BLAKE; MATTHEW
19 FAUSTMAN; GARY RUDIN; MENLO
20 VENTURES MANAGEMENT, L.P.;
21 UPCOUNSEL, INC. and
22 DOES 1-20, INCLUSIVE,

22 Defendants.

JURY TRIAL DEMANDED

BY FAX

27
28

1 1. The Raj and Sonal Abhyanker Family Trust (“Trust”) is a substantial shareholder of
2 UpCounsel, Inc. (“Company”), a Delaware C Corporation. Raj Abhyanker (“Trustee” or
3 “Abhyanker”) is a trustee of the Trust. Trust is one of the Company’s largest individual
4 shareholders besides the two founding employees. Ryan Bethell (“Bethell”) is a common
5 shareholder of Company (Bethell together with Trust referred to as “Plaintiffs”). Mason Blake
6 (“Blake”) is the chief executive officer of the Company as of February 2019. (Exhibit D).
7 Matthew Faustman (“Faustman”) is the executive chairman of the Company and a former chief
8 executive officer of the Company between January 2013 until at least February 2019.¹ Gary
9 Rudin (“Rudin”) is an investor of UpCounsel, Inc. and was the interim Chief Executive Officer
10 of Company in February 2019 for about a week, upon information and belief. Menlo Ventures
11 Management, L.P. (“Menlo”) is a venture capital firm, is a Series A shareholder of Company,
12 and holds a position on the board of directors. Collectively, Blake, Faustman, Rudin, Menlo,
13 and Company are together referred to as Defendants. Plaintiffs complain and allege as follows:

14 NATURE OF ACTION

15 2. Company is a venture backed company. Company has raised more than \$20 million
16 dollars in venture capital from leading investors including Menlo, the backers of Uber
17 (NASDAQ: UBER). Company advertises that it is “[t]he modern way to get legal work done.”
18 Company has a “network of over 5,000 experienced lawyers” and is “[t]rustee by 10,000+
19 Businesses From small businesses to the Fortune 1000.” Attorneys on the company’s website
20 have “an average of 14 years of experience” and profiles of online attorneys display client
21 ratings and reviews of recent work. (Exhibit B)

22 3. Company’s website permits users to manage their legal work, and offers free document
23 management, e-signature services, and quick and secure online payments. *Id.* In addition, the
24 Company provides through its website thousands of legal documents, forms and legal news
25 articles. *Id.* Company represented to shareholders that it has grown rapidly. In the year 2017,
26

27
28 ¹ Despite representing to Trustee that Faustman is no longer the chief executive officer of the
Corporation, Faustman continues to market himself as the chief executive officer on his LinkedIn
profile, as October 7, 2019 and has made no public pronouncement of his relinquishing of that title.
(Exhibit A).

1 Faustman and Blake represented to shareholders that the Company had a revenue run rate of
2 \$17,500,000 with gross merchandising value of 2.4x, with net revenue of 2.9x. In addition,
3 Faustman and Blake represented to shareholders that the Company had 24% gross profit margin
4 to new customers, and 18% profit margin across its 5,000+ customer base. Moreover, Faustman
5 and Blake represented to shareholders that the Company possessed a unit economics ratio of 4
6 to 1 with respect to revenue versus customer acquisition costs as most of the Company's web
7 traffic was represented to be organic and word of mouth. Based on these representations,
8 Company raised a series B funding of approximately \$12 million to connect lawyers to
9 businesses on April 4, 2018 (Exhibit C).

10 4. In 2019, Trustee made numerous offers to assist the company in turning it around.
11 Trustee informed the Defendants numerous times of his desire to purchase assets of the
12 Company in the event of a wind-down. Trustee even offered to resign from his role as
13 shareholder of his law firm LegalForce RAPC Worldwide P.C. ("RAPC"), and dedicate his
14 considerable relevant skills to become the interim Chief Executive Officer of the Company with
15 a nominal \$1 year salary. Menlo's counsel communicated with Trustee that it had passed its
16 message onto the venture fund on January 17, 2019 and said to Trustee that it "will let you
17 know if they have any updates." (Exhibit E).

18 5. From February 2019 onward, Trustee reached out to Blake and Menlo's counsel
19 numerous times to ask for updates. Blake refused to meet with Trustee or provide any updates
20 as to the Company's financial health, and represented to Trustee in writing that he needs
21 "space" to help rebuild Company in March 2019. Menlo's counsel did not return Trustee's
22 phone calls. In response, Trustee informed Blake in March 2019 that "I will be watching from
23 the sidelines and will be hoping as a shareholder for a brighter future for UpCounsel" and that
24 Trustee was always available to the Company in case Blake wanted to discuss strategies moving
25 forward or wanted to sell assets to Trustee.

26 6. No updates were provided by Defendants until October 1, 2019. On that date, Blake
27 informed Trustee that "UpCounsel reached a deal to join LinkedIn" and that "[o]ver the next 3-4
28 months, UpCounsel will be migrating certain assets, clients, lawyers and demand over to

1 LinkedIn. Also, some UpCounsel employees accepted job offers to join LinkedIn.” Moreover,
2 Blake informed Plaintiffs that “[a]t the end of this 3-4 month migration window, UpCounsel
3 will be winding down and dissolving the business.” In addition, Blake represented that “[a]fter
4 paying the company’s liabilities, the remaining assets of the company will be well below the
5 liquidation preference payable the company’s Series A Preferred Stock stockholders pursuant to
6 the certificate of incorporation. The holders of Series A Preferred Stock will receive pennies on
7 the dollar for their investment. As a result, there will be no assets remaining to distribute to the
8 holders of Series Seed Stock and Common Stock.”

9 7. In addition, Blake stated that “[I]t’s important to note that this transaction with LinkedIn
10 was the culmination of an extensive process we went through with our board and investors and
11 many potential acquirers to determine the best outcome for UpCounsel.” Blake requested that
12 Trustee keep this information confidential. Trustee declined Blake’s request to keep this
13 communication confidential in light of the harm Defendants caused to Trustee.

14 8. When asked by Trustee for more details, Blake falsely stated on October 3, 2019 that
15 “[t]hroughout our search for the best home for UpCounsel, we contacted over 100 companies
16 and meaningfully engaged with about a dozen.” However, Trustee nor his company LegalForce
17 RAPC Worldwide P.C. was among those “over 100 companies” despite Defendants being
18 keenly aware of the Trustee’s status as significant shareholder of Company, and despite
19 representations by the Menlo that they would keep Trustee abreast of any such action through
20 updates. Upon information and belief, there are not even twenty companies who might be
21 interested in UpCounsel assets, much less over one hundred. Trustee was never given the
22 opportunity to bid for the assets, trade secrets, and goodwill allegedly encumbered, transferred,
23 or contemplated to be transferred to LinkedIn. Upon information and belief, Company’s
24 transaction with LinkedIn was *prima facie* self-dealing to secure employment for Blake,
25 Faustman and other employees at the expense of Trust, Bethell and other common shareholders
26 of Company.

27 THE PARTIES

28 The Plaintiffs

1 9. Trust is a family trust, of which Trustee is a trustee, and which has a principle place of
2 business at 1580 W. El Camino Real Suite 10, Mountain View California 94040. Trustee is an
3 Internet entrepreneur and attorney. Trust is a substantial shareholder of Company, with a
4 principal place of business at 1580 West El Camino Real Suite 10 Mountain View California
5 94040. Trust has considerable operational skills in online legal marketplaces and internet
6 websites such as the Company. Trustee is the founder and Chief Executive Officer of
7 Trademarkia.com, an online legal search engine for trademarks. Trustee is a winner of the 2013
8 Legal Rebel award by the American Bar Association. Trustee is an inventor of more than 25
9 issued U.S. utility patents in software engineering, robotics, and electrical engineering, some of
10 which were sold and assigned to Google, Inc. In addition, Trustee is the inventor and former
11 Chief Executive Officer of a venture backed Internet company that raised seed, Series A, and
12 Series B venture funding.

13 10. Bethell is an Arizona licensed attorney and a common shareholder of Company, with a
14 principal place of business at 446 E. Southern Road, Tempe Arizona 85282. Bethell is the
15 attorney manager of RAPC.

16 **The Defendants**

17 11. Blake, Co-Founder, CEO, and former CTO of Company, with a principal place of
18 business at 580 Market Street, 5th Floor, San Francisco, CA 94104.

19 12. Faustman, Co-Founder, Chairman, and former CTO of Company, with a principal place
20 of business at 580 Market Street, 5th Floor, San Francisco, CA 94104.

21 13. Rudin, former interim CEO of Company, with a principal place of business at 580
22 Market Street, 5th Floor, San Francisco, CA 94104.

23 14. Menlo is a venture capital firm with a principal place of business at 2884 Sand Hill Rd,
24 #100, Menlo Park, CA 94026. Menlo is a Series A investor of Company.

25 15. Company is a Delaware corporation with a principal place of business at 580 Market
26 Street, 5th Floor, San Francisco, CA 94104.

27 16. DOES 1-20 are not yet defined, but this complaint will be amended at a later time if
28 needed to add them.

1 JURISDICTION AND VENUE

2 17. This Court has general personal jurisdiction over each of the Defendants because they
3 all reside in California.

4 18. This Court also has general personal jurisdiction over UpCounsel and Menlo because
5 their principal places of business are in California.

6 19. Alternatively, this Court has specific personal jurisdiction over each of the Defendants
7 because the discussions, misrepresentations and conveyance of warrants for shares took place in
8 California and caused harm to Plaintiffs. Thus they have minimum contacts with California and
9 those contacts are related to this lawsuit.

10 20. Venue is proper in the County of San Francisco pursuant to Code Civ. Proc. § 395(a)
11 because at least some Defendants reside in this county.

12 GENERAL FACTUAL ALLEGATIONS

13 21. On September 17, 2019 Blake surreptitiously took the following two actions without
14 disclosing them to common shareholders including Bethell and Trust (through its Trustee) :

- 15 a. Approval of the terms of a Waiver, Release and License Agreement between
16 the Company and LinkedIn Corporation (“LinkedIn”) pursuant to which, in
17 exchange for certain consideration from LinkedIn, (a) the Company releases
18 potential claims against LinkedIn and certain of its affiliates; (b) the Company
19 licenses certain intellectual property of the Company to LinkedIn; (c) the
20 Company transfers certain assets to LinkedIn; (d) the Company will
21 wind-down and dissolve within 120 days of the consummation of the
22 transaction with LinkedIn; and (e) LinkedIn hires certain employees of the
23 Company.
24 b. Approval of the terms of an Acknowledgement, Joinder and Release signed by
25 certain stockholders of the Company.

26 (Exhibit G)

27 22. Blake never asked common shareholders including Bethell or Trust (through Trustee) for
28 consent to the actions taken on September 17, 2019. Two weeks later on October 1, 2019, Blake
29 notified Trustee and Bethell of this business terminating action *after the fact* claiming to be a
30 notice pursuant to Section 228(e) of the Delaware General Corporation Law. (Exhibit F).

31 23. Blake falsely claimed through the notice that “written consent of stockholders” was
32 received in issuing the 228(e) notice (Exhibit G). However, no notice was provided to common

1 shareholders including Bethell and Trust (through its Trustee). Blake informed Trustee about
2 additional details, saying:

- 3 a. Over the next 3-4 months, UpCounsel will be migrating certain assets, clients,
4 lawyers and demand over to LinkedIn. Also, some UpCounsel employees
5 accepted job offers to join LinkedIn. At the end of this 3-4 month migration
6 window, UpCounsel will be winding down and dissolving the business.
7 b. After paying the company's liabilities, the remaining assets of the company
8 will be well below the liquidation preference payable the company's Series A
9 Preferred Stock stockholders pursuant to the certificate of incorporation. The
10 holders of Series A Preferred Stock will receive pennies on the dollar for their
11 investment. As a result, there will be no assets remaining to distribute to the
12 holders of Series Seed Stock and Common Stock.
13 c. It's important to note that this transaction with LinkedIn was the culmination of
14 an extensive process we went through with our board and investors and many
15 potential acquirers to determine the best outcome for UpCounsel.

16 (Exhibit F)

17 24. Blake provided little additional information about the transaction other than a phone
18 number for "questions concerning this notice" that was defunct. Specifically, the notice
19 indicated that "If you have questions concerning this notice, please contact Matt Faustman at
20 805-234-2960." *Id.* Trustee called the phone number as listed on the 228(e) notice for Faustman.
21 *Id.* However there was no answer, and the voice mailbox was full. When Trustee inquired about
22 this to Blake and Faustman, no excuse or explanation was provided.

23 25. Trustee sent Blake an email expressing disappointment. Trustee lamented to Blake and
24 Faustman that Trustee was not provided an opportunity to vote, not approached as a potential
25 acquirer, and not given a chance to bid for any of the assets or licenses. Trustee also objected
26 that it appeared the transaction was the result of the Defendants unjustly enriching themselves
27 through jobs at LinkedIn while stripping the Company of the value of its assets and leaving
28 common shareholders including former employees of Company and Plaintiffs with nothing.

FIRST CLAIM FOR RELIEF

**BREACH OF FIDUCIARY DUTY AND AIDING AND ABETTING BREACH OF
FIDUCIARY DUTY, INCLUDING SELF DEALING**

(Against Defendants Blake, Faustman, Rudin, Menlo and DOES 1-20)

26 26. Plaintiffs repeat each and every allegation contained in the paragraphs above and
27 incorporates by reference each preceding paragraph as though fully set forth herein.
28

1 27. There is a “strong public interest in assuring that corporate officers, directors, majority
2 shareholders and others are faithful to their fiduciary obligations to minority shareholders.”

3 28. Defendants Blake, Faustman and Rudin owe a fiduciary duty to Plaintiffs because they
4 are current and/or former corporate officers and directors of the Company. Defendants Blake,
5 Faustman, and Menlo owe fiduciary duty to Plaintiffs because collectively, they constitute the
6 majority shareholders of the Company.

7 29. Additionally, upon information and belief, Defendants Blake, Faustman, and Menlo are
8 majority and/or controlling shareholders and owe a fiduciary duty to minority shareholders.

9 30. Defendants had a fiduciary duty to keep Plaintiffs reasonably informed about actions
10 that would destroy the value of Plaintiffs’ stock as Trust was a substantial shareholder, and
11 Bethell was a common shareholder.

12 31. Defendants had a fiduciary duty to not self deal and recuse themselves from votes that
13 would enrich themselves at the detriment of Plaintiffs and other common shareholders.

14 32. Defendants had a fiduciary duty to seek the best available price and to secure the
15 transaction offering the best value reasonably available for all shareholders. Instead, they self
16 dealt. Particularly, Defendants orchestrated an insider transaction with LinkedIn that made stock
17 of all common shareholders including former employees and Plaintiffs worth \$0. Upon
18 information and belief, benefits of the transaction went to the officers and directors and Series A
19 investor Menlo, while the shareholders were left with nothing.²

20 33. Each individual defendant, and collectively, all Defendants, breached their fiduciary
21 duties to Plaintiffs.

22 34. As a direct and proximate result of Defendants’ breach of fiduciary duty, Plaintiffs have
23 suffered significant financial damages to be determined at trial.

24 **SECOND CLAIM FOR RELIEF**
25 **BREACH OF FIDUCIARY DUTY TO THE COMPANY**
26 **(Against Defendants Blake, Faustman, Rudin, Menlo and DOES 1-20)**

27 35. Plaintiffs repeats each and every allegation contained in the paragraphs above and

28 ² Mason stated that “UpCounsel will be migrating certain assets, clients, lawyers and demand over to LinkedIn. Also, some UpCounsel employees accepted job offers to join LinkedIn. At the end of this 3-4 month migration window, UpCounsel will be winding down and dissolving the business.” (Exhibit F).

1 incorporates by reference each preceding paragraph as though fully set forth herein.

2 36. Defendants Blake and Faustman are also directors who owe a fiduciary duty to
3 Plaintiffs.

4 37. Trust has been a substantial shareholder of the Company since March 2019 and is still a
5 substantial shareholder of the Company at the time of the filing of this action.

6 38. Bethell has been a shareholder of the Company since March 2019 and is still a
7 shareholder of the Company at the time of the filing of this action.

8 39. Defendants Blake and Faustman approved a plan to wind down and dissolve the
9 Company in 3-5 months rather than pursue more profitable options that would enable the
10 continued operation of the Company.

11 40. Upon information and belief, Defendants Blake and Faustman took this action because it
12 would provide them personal benefits even though it was against the interests of the Company.

13 41. Furthermore, upon information and belief, Defendants Blake and Faustman managed
14 and operated the Company for their own personal enrichment and benefit, squandering tens of
15 millions in funding to provide themselves outsized salaries and benefits that imperiled the future
16 of the Company.

17 42. Upon information and belief, Defendants Blake and Faustman misrepresented their
18 revenues, gross margins, and growth rates to investors, employees and shareholders.

19 43. Neither the decision to wind down and dissolve the Company nor the decisions on
20 personal compensation to the Defendants were entirely fair.

21 44. Upon information and belief, the Defendants structured the recent transaction with
22 LinkedIn to intentionally circumvent common shareholders and Plaintiffs and to provide
23 common shareholders and Plaintiffs with the least amount of compensation and/or value as
24 possible to funnel all benefits to the Defendants.

25 45. Moreover, upon information and belief, the Defendants structured the recent transaction
26 with LinkedIn to craft a false narrative in which they can boast that they “exited” to LinkedIn,
27 sold UpCounsel to LinkedIn, and were successful entrepreneurs when in fact they are failed
28 entrepreneurs who cheated their common shareholders, acted unethically, and breached their

1 fiduciary duty by self dealing against the interests of common shareholders and deceived former
2 employees and Plaintiffs who bestowed their trust, time, and money into them and the
3 Company.

4 **THIRD CLAIM FOR RELIEF**
5 **FRAUD IN THE INDUCEMENT**

6 (Against Defendants Blake, Faustman, Rudin, the Company and DOES 1-20)

7 46. Plaintiffs repeat each and every allegation contained in the paragraphs above and
8 incorporates by reference each preceding paragraph as though fully set forth herein.

9 47. Defendants made several misrepresentations to Trustee to become a significant
10 shareholder.

11 48. Trustee relied on those material misrepresentations about UpCounsel and its financial
12 performance to have Trust pay to become a significant shareholder.

13 49. Bethell relied on those material misrepresentations about UpCounsel and its financial
14 performance to have Bethell pay to become a shareholder.

15 50. Those representations were clearly false considering that just over six months after
16 Plaintiffs became shareholders, Blake now claims that the Company must wind down and
17 dissolve and that it will not be able to compensate any common shareholders.

18 51. Those financial information and figures were known uniquely and solely to Defendants
19 and Plaintiffs justifiably relied on representations that such were true.

20 52. If Plaintiffs would have known or been disclosed the true financial health and outlook of
21 the Company, Plaintiffs would not have entered into contracts to become shareholders or paid
22 any money for the common shares.

23 **FOURTH CLAIM FOR RELIEF**
24 **VIOLATIONS OF THE DELAWARE CORPORATE SECURITIES LAWS**

25 8 Del.C. § 275

26 (Against all Defendants and DOES 1-20)

27 53. Plaintiffs repeat each and every allegation contained in the paragraphs above and
28 incorporates by reference each preceding paragraph as though fully set forth herein.

54. Under Section 39 of the Delaware Corporation Law two methods of corporate
dissolution are provided: (1) the adoption of a plan by action of the Board of Directors followed

1 by a meeting of shareholders upon three weeks published notice and a vote in favor of such plan
2 by a two-thirds majority of stockholders there present; or (2) in lieu of such notice the written
3 consent of one hundred per cent of the shareholders.

4 55. Plaintiffs were never notified a meeting to vote on any dissolution plan before he
5 received a notice from Blake that such a plan had already been approved and was being carried
6 out, to result in the Company winding down and dissolving in three to five months.

7 56. Plaintiffs and several other common shareholders never provided written consent for a
8 plan to dissolve the Company, so there was not 100% shareholder written approval of such plan
9 before Blake informed Plaintiffs that a plan had already been approved and was being carried
10 out, to result in the Company winding down and dissolving in three to five months.

11 **FIFTH CLAIM FOR RELIEF**
12 **UNFAIR BUSINESS ACTS AND PRACTICES IN VIOLATION OF BUSINESS AND**
13 **PROFESSIONS CODE § 17200 ET SEQ**
14 **(Against all Defendants and DOES 1-20)**

15 57. Plaintiffs repeat each and every allegation contained in the paragraphs above and
16 incorporates by reference each preceding paragraph as though fully set forth herein.

17 58. Defendants have violated, Section 17200 of California's Business and Professions
18 Code—California's Unfair Competition Law ("UCL")—by acting unfairly and unlawfully.

19 59. Defendants' unlawful behavior includes failing to comply with 8 Delaware Code § 275
20 in adopting and executing a wind up and dissolution plan for the Company.

21 60. Upon information and belief, Defendants unfair behavior includes compensating
22 themselves at unsustainable amounts that imperiled the Company and have left Plaintiffs and
23 other common shareholders with no value or compensation for their investment in the
24 Company.

25 61. Upon information and belief, Defendants use of the Company to enrich themselves and
26 obtain other employment after deciding to wind down the company are completely unfair to the
27 other employees of the Company and to Plaintiffs as a common shareholder and investor in the
28 Company.

SIXTH CLAIM FOR RELIEF
BREACH OF CONTRACT

1 (Against Defendants Blake, Faustman, Rudin, the Company and DOES 1-20)

2 62. Plaintiffs repeat each and every allegation contained in the paragraphs above and
3 incorporate by reference each preceding paragraph as though fully set forth herein.

4 63. Defendants Blake, Faustman, Rudin, and the Company have breached the settlement
5 agreement entered into with LegalForce, Inc. LegalForce RAPC Worldwide, P.C. for various
6 actions that must be filed under seal due to the confidentiality of the settlement agreement and
7 communications leading to that settlement.

8 **SEVENTH CLAIM FOR RELIEF**

9 **UNJUST ENRICHMENT**

10 (Against all Defendants and DOES 1-20)

11 64. Plaintiffs repeat each and every allegation contained in the paragraphs above and
12 incorporates by reference each preceding paragraph as though fully set forth herein.

13 65. Upon information and belief, Defendants used their positions of control and
14 management at the Company to get a deal approved that would provide unfair and unjust
15 compensation to each of them at the expense of the Company and its other shareholders.

16 66. Additionally, Director Defendants Blake and Faustman's decision to wind down and
17 dissolve the Company will result in preferred shareholders receiving only pennies on the dollar
18 and common stockholders not receiving any benefit.

19 67. Upon information and belief, majority and/or controlling shareholder Blake, Faustman,
20 Rudin, and Menlo approved the proposed winding down and dissolution of the company.

21 68. Upon information and belief, Defendants all worked together to approve the wind down
22 plan and take the action in that plan which will result in benefitting only Defendants with
23 salaries, bonuses, or compensation for preferred Series A shares. This benefit is at the expense
24 of Plaintiffs, former employees, and other common shareholders not receiving any benefit or
25 monetary compensation.

26 69. Furthermore, upon information and belief, Defendants have unfairly given themselves
27 higher compensation than the Company could reasonably afford, at the expense of preserving
28 value that would otherwise have flowed through to Plaintiffs as shareholders upon any wind up
and dissolution of the Company.

1 70. Due to the Defendants enriching themselves at the expense of the Company and other
2 shareholders, the Company is now being dissolved and Plaintiffs and other shareholders have
3 lost all the money that was invested into the common stock. If none of the causes of action in
4 this complaint succeed, then Plaintiffs are unable to prevent the unjust enrichment to
5 Defendants or to recover anything for his investment in the Company.

6 71. Defendants acted willfully and with reckless disregard for ethics and law. Specifically,
7 Defendants know about duties of shareholders and officers. For example, the Company's
8 website has a free legal help article which defines fiduciary duty as including:

9 As the director of a corporation who is expected to fulfill their duties as a
10 manager, they are charged with specific fiduciary responsibilities. Their
11 main concern is the duty of loyalty and care. The duty of Care means that
12 before making any kind of decision for the company, that they must
13 inform themselves of all available information.

14 The accuracy of the decision made will be affected by the amount of
15 information, whether or not there was ample time to gather sufficient
16 information before a decision had to be made, and what advice was
17 available. All information cannot simply be accepted as is, but it must be
18 looked at critically in order to protect the corporation's assets and
19 stockholders.

20 The term Duty of Loyalty, the Delaware Supreme Court explains, states
21 that the **directors and officers are not allowed to use their office and
22 confidence others place in them to promote their own personal
23 interests.**

(Exhibit H, *emphasis added*)

24 72. In addition, Company's website has on its free legal help page it says that officers and
25 directors of corporations shall "[n]ot deprive the corporation of possible profit by not using their
26 best skills, or not enabling it to make the most profit possible." (Exhibit I). By entering a
27 transaction with LinkedIn without disclosure to common shareholders while stripping Company
28 of the value of its assets, trade secrets and employees through encumbrances and jobs at
LinkedIn, Defendants violated the very duty the describe on their own legal help website.

73. In addition the Company's website even gives a specific example of a breach of
fiduciary duty that mimics the conduct of the Defendants:

One specific instance to further explain a breach would be a CEO who
strikes a deal to buy his friend's struggling company. While this is a great

1 way to help his friend, it could be considered a **breach of fiduciary duty**
2 **if the CEO's company has a drop in share price.** If this happened, the
3 shareholders could file a lawsuit to help recoup some of their losses.

4 (Exhibit I, *emphasis added*)

5 74. Given the Defendants sophistication and prior knowledge as expressed above,
6 Defendants acted willfully, with malice, and in bad faith.

7 **PRAYER FOR INJUNCTIVE RELIEF**

8 (Against Company and DOES 1-20)

9 75. Plaintiffs repeat each and every allegation contained in the paragraphs above and
10 incorporates by reference each preceding paragraph as though fully set forth herein.

11 76. LinkedIn informed Plaintiffs through Michelle Leung (Senior Director, Legal -
12 Corporate) on October 1, 2019, that "LinkedIn did not acquire UpCounsel, nor has UpCounsel
13 sold any of its assets to LinkedIn." This is materially different than what was represented in the
14 228(e) notice (Exhibit G). To the extent that the referenced transaction with LinkedIn is not yet
15 consummated as of the filing of this Complaint, Plaintiffs ask that the court award an injunction
16 preventing the transaction from occurring without transparent disclosure to all shareholders
17 about the assets of the Company, and provide equal access to all shareholders to vote on a
18 transaction prior to such a contemplated transaction taking place.

19 77. An announcement of a sale or encumbrance of assets to LinkedIn would materially harm
20 the value of the assets of Company because it would devalue the standalone value of assets of
21 Company. Therefore, Plaintiffs also requests injunctive relief preventing Defendants from any
22 further public announcement regarding a sale or encumbrance of assets to LinkedIn, and from
23 further pursuing or completing such sale or encumbrance of assets to LinkedIn.

24 78. A preliminary injunction is necessary to prevent irreparable harm to Plaintiffs, his
25 investment in the Company, and to all other shareholders' interests in the value and future of the
26 Company.

27 **REQUEST FOR RELIEF**

28 WHEREFORE, Plaintiffs requests that this Court:

1. Enter judgment against Defendants;

2. Award Plaintiffs their fees and costs of this action against Defendants;
3. Award Plaintiffs pre- and post-judgment interest at the applicable rates on all amounts awarded;
4. Grant permanent injunctive relief to prevent the recurrence of the violations for which redress is sought in this complaint;
5. Restitution;
6. Plaintiffs prays for extraordinary relief and exemplary damages, including denying the fee in its entirety as well as punitive damages against Defendants;
7. Plaintiffs prays for economic damages including, but not limited to, compensatory and consequential damages incurred in lost time, attorney's fees, and expenses in uncovering breaches of fiduciary duty.
8. Preliminary injunction preventing Defendants from taking adverse action towards the Company and Plaintiffs by making any further announcement or further pursuing any sale or encumbrance of assets to LinkedIn;
9. That the Court grant Plaintiffs any other remedy to which it may be entitled under state laws and federal securities law; and
10. Order any other such relief as the Court deems appropriate.

Respectfully submitted this Tuesday, October 8, 2019.

LegalForce RAPC Worldwide P.C.



Raj V. Abhyanker
Attorneys for Plaintiffs:
The Raj and Sonal Abhyanker Family Trust, and
Ryan Bethell

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JURY TRIAL DEMAND

Plaintiffs request a jury trial for all causes of action in which a jury trial is available as alleged in this Complaint.

Respectfully submitted this Tuesday, October 8, 2019.

LegalForce RAPC Worldwide P.C.



Raj V. Abhyanker
Attorneys for Plaintiffs:
The Raj and Sonal Abhyanker Family Trust, and
Ryan Bethell

EXHIBIT A



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Matt Faustman 1st

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Highlights



99 mutual connections

You and Matt both know Victoria Silchenko, PhD, Lora



You both work at UpCounsel, Inc.

Kolodny, and 97 others

Matt started at UpCounsel, Inc. 6 years and 2 months before you did

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When General Counsel Should Expand the In-House Team


Matt Faustman

Published on LinkedIn

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Experience



CEO and Co-Founder

UpCounsel, Inc.

Jan 2013 – Present6 yrs 10 mos

San Francisco

UpCounsel accelerates businesses by revolutionizing the way legal work gets done. We help growing companies build their own custom legal teams through the world's first legal platform, combining the world's largest network of specialized, independent lawyers with technology that makes it extraordinarily easy to work with them.



Associate (Tech, Biotech, Startups, Venture, and M&A)

Latham & Watkins

Jul 2010 – Jul 2012 2 yrs 1 mo

Menlo Park/Boston

Practice focuses on transactional matters, with a particular focus on emerging companies (start-ups), technology transactions, mergers & acquisitions, and venture capital. Have worked primarily with consumer internet and enterprise solution companies. I love technology--it fits. Pro Bono matters focus primarily on providing services to social entrepreneurial organizations... [See more](#)



Summer Associate

Simpson Thacher & Bartlett LLP

May 2009 – Aug 2009 4 mos

Palo Alto

Focus in Corporate Law and Financing.



Summer Associate

Bamrung Suvicha Apisakdi Law Associates

May 2007 – Aug 2007 4 mos

Bangkok, Thailand

Worked primarily with Australian and British Virgin Island corporations conducting business operations in Thailand. Advised clients on various legal matters including patent infringement claims, company formation, and business regulation compliance.

Education



California Polytechnic State University-San Luis

Obispo

Biochemistry w/ minor in physical chemistry (quantum mechanics) Biotechnology, Immunology, and Drug Development

2001 – 2005



Santa Clara University School of Law

JD / MBATech, Biotech, and Venture Capital Cum laude

2006 – 2009

Skills & Endorsements

+ Start-ups⁹⁷

 Endorsed by Rich Waldron and 12 others who are highly skilled at this

 Endorsed by Saad Enam and 1 other mutual connection

+ Entrepreneurship⁷⁷

 Endorsed by Arjun Dev Arora and 11 others who are highly skilled at this

 Endorsed by Alex Dao (mutual connection)

+ Corporate Law⁵³

 Endorsed by Brian Savage and 1 other who is highly skilled at this

 Endorsed by Saad Enam and 1 other mutual connection

Show more 

Recommendations

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Stephanie Ryan
Senior Product Manager
September 28, 2019, Matt managed Stephanie directly

Stephanie is an extremely thoughtful and talented product management leader. I've enjoyed partnering with her on a number of amazing products adding a lot of value to customers. Stephanie brings to the table a great balance of user empathy and curiosity, quantitative skills, technical knowledge, communication... [See more](#)



Hilal Haider
Sales Operations at Headnote
January 30, 2019, Matt managed Hilal directly

It was a pleasure to work alongside Hilal and I look forward to working with him again in the future. He is an intelligent and highly capable individual contributor across multiple dimensions -- not only in sales but also tangential disciplines. His capacity to learn matches his multi-tool capabilities. It also made his deb... [See more](#)



Matthew Scyoc
Head of Digital Marketing at Hearst Autos
January 22, 2019, Matt was senior to Matthew but didn't manage directly

I've worked with Matt for years crafting our digital strategy across multiple business units. On top of being the best SEO manager I've ever worked with, Matt possess a broad skill set across all digital channels that he can conjure depending on the customer target. He is capable of flexing from the micro experimentation... [See more](#)

Jean is incredible when it comes to digital marketing. While at UpCounsel



Jean Yoon

Customer
Acquisition &
Conversion
Optimization

August 15, 2016, Matt was senior to Jean but didn't manage directly

she excelled at building out and optimizing ouradwords accounts while experimenting with other paid channels aswell. Very fortunate to have worked with her.



Erik Sandie

Command, Control,
and Instant
Visibility of
Endpoints

June 19, 2012, Matt worked with Erik but at different companies

Erik was a pleasure to work with and was always on when it cameto business development and client relationships. He has a greatmix of friendly and professional repport that will take him far.



Michael J. Fern

Associate Chair,
Professor of the
Practice of
Entrepreneurship,
UNC Department
of Computer
Science

September 15, 2010, Matt worked with Michael J. but at different companies

I was very fortunate to have had Professor Fern while receiving myMBA. He has an uncanny ability to effectively communicatecomplex strategy concepts and direct groups toward a commongoal. I constantly found myself having those "ah-ha" moments withhim at the helm which I have applied to my own start-u... [See more](#)

Accomplishments

1 Language

Spanish



1 Publication

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Sylvia V. ^{2nd}
Data-oriented revenue/user
growth strategy &
execution.



Jamie Shannon ^{2nd}
Co-Active Coach | People
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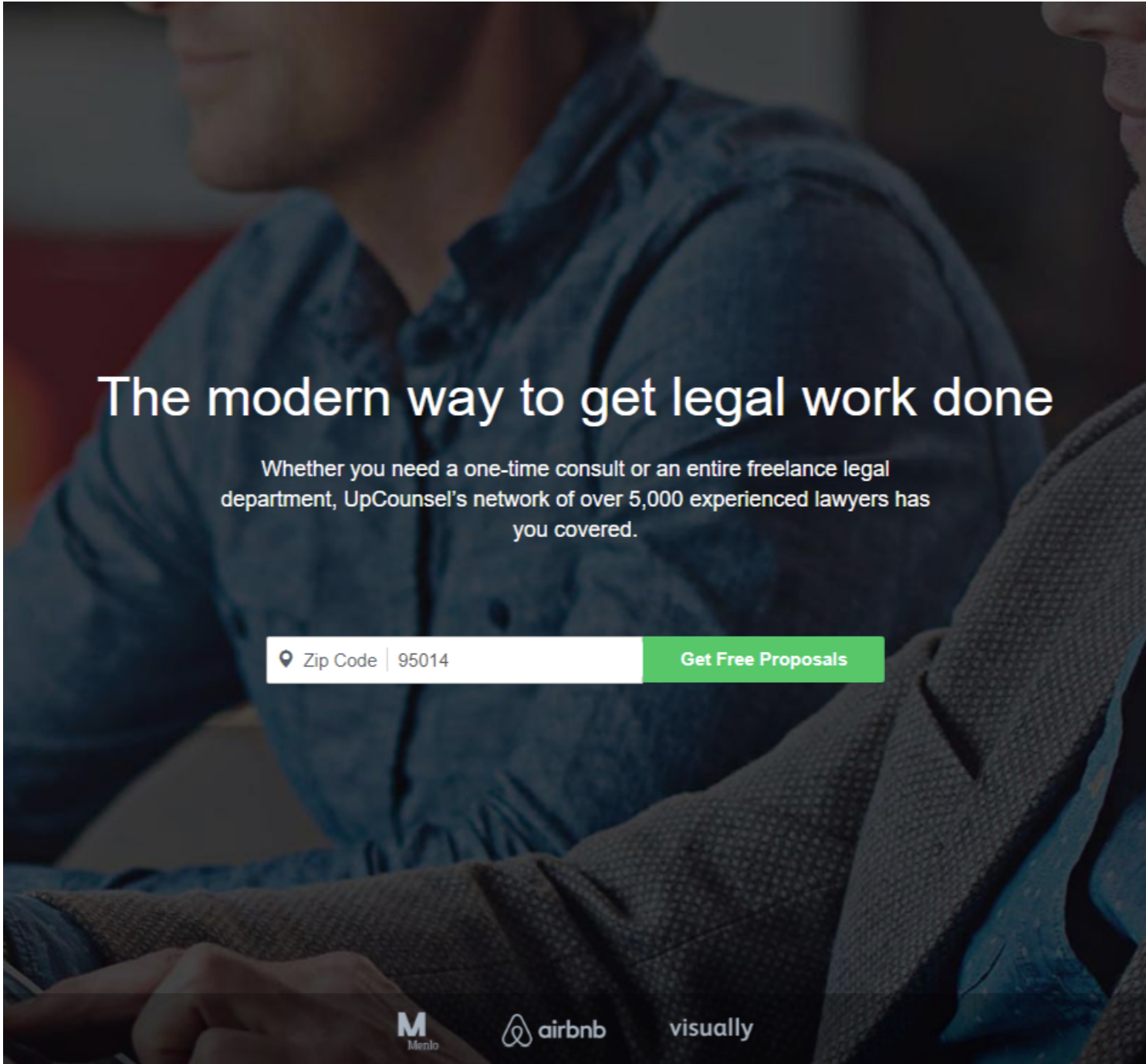


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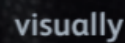
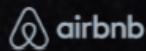
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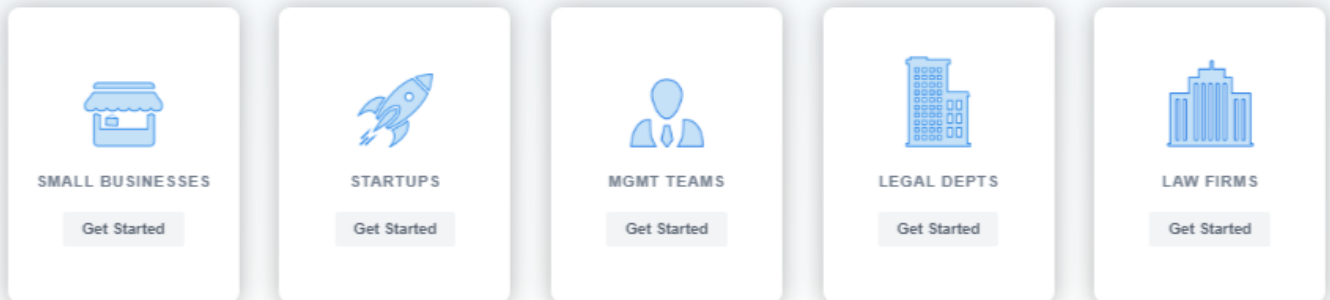
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Alejandro Maher
★★★★★

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Business, Finance and Technology Lawyer



Neeta Toprani
★★★★★
Harvard Law School
Transactional Lawyer

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EXHIBIT C

The Securities and Exchange Commission has not necessarily reviewed the information in this filing and has not determined if it is accurate and complete.
The reader should not assume that the information is accurate and complete.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM D

OMB APPROVAL

OMB Number: 3235-0076
Estimated average burden hours per response: 4.00

Notice of Exempt Offering of Securities

1. Issuer's Identity

CIK (Filer ID Number)

[0001649919](#)

Name of Issuer

[UpCounsel, Inc.](#)

Jurisdiction of Incorporation/Organization

[DELAWARE](#)

Year of Incorporation/Organization

Over Five Years Ago

Within Last Five Years (Specify Year)

Yet to Be Formed

Previous Names

None

Entity Type

Corporation

Limited Partnership

Limited Liability Company

General Partnership

Business Trust

Other (Specify)

2. Principal Place of Business and Contact Information

Name of Issuer

[UpCounsel, Inc.](#)

Street Address 1

[580 Market Street](#)

Street Address 2

[5th Floor](#)

City

[SAN FRANCISCO](#)

State/Province/Country

[CALIFORNIA](#)

ZIP/PostalCode

[94104](#)

Phone Number of Issuer

[415-686-7116](#)

3. Related Persons

Last Name

[Faustman](#)

First Name

[Matthew](#)

Middle Name

Street Address 1

[580 Market Street](#)

Street Address 2

[5th Floor](#)

City

[San Francisco](#)

State/Province/Country

[CALIFORNIA](#)

ZIP/PostalCode

[94104](#)

Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

Last Name

[Blake](#)

First Name

[Mason](#)

Middle Name

Street Address 1

Street Address 2

580 Market Street
 City San Francisco
 5th Floor
 State/Province/Country CALIFORNIA
 ZIP/PostalCode 94104
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

Last Name Ganesan
 Street Address 1 580 Market Street
 City San Francisco
 First Name Venky
 Street Address 2 5th Floor
 State/Province/Country CALIFORNIA
 ZIP/PostalCode 94104
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

Last Name Lauchengco
 Street Address 1 580 Market Street
 City San Francisco
 First Name Martina
 Street Address 2 5th Floor
 State/Province/Country CALIFORNIA
 ZIP/PostalCode 94104
 Relationship: Executive Officer Director Promoter

Clarification of Response (if Necessary):

4. Industry Group

- | | | |
|---|---|--|
| <input type="checkbox"/> Agriculture | Health Care | <input type="checkbox"/> Retailing |
| <input type="checkbox"/> Banking & Financial Services | <input type="checkbox"/> Biotechnology | <input type="checkbox"/> Restaurants |
| <input type="checkbox"/> Commercial Banking | <input type="checkbox"/> Health Insurance | Technology |
| <input type="checkbox"/> Insurance | <input type="checkbox"/> Hospitals & Physicians | <input type="checkbox"/> Computers |
| <input type="checkbox"/> Investing | <input type="checkbox"/> Pharmaceuticals | <input type="checkbox"/> Telecommunications |
| <input type="checkbox"/> Investment Banking | <input type="checkbox"/> Other Health Care | <input checked="" type="checkbox"/> Other Technology |
| <input type="checkbox"/> Pooled Investment Fund | <input type="checkbox"/> Manufacturing | Travel |
| Is the issuer registered as an investment company under the Investment Company Act of 1940? | Real Estate | <input type="checkbox"/> Airlines & Airports |
| <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Commercial | <input type="checkbox"/> Lodging & Conventions |
| <input type="checkbox"/> Other Banking & Financial Services | <input type="checkbox"/> Construction | <input type="checkbox"/> Tourism & Travel Services |
| <input type="checkbox"/> Business Services | <input type="checkbox"/> REITS & Finance | <input type="checkbox"/> Other Travel |
| Energy | <input type="checkbox"/> Residential | <input type="checkbox"/> Other |
| <input type="checkbox"/> Coal Mining | <input type="checkbox"/> Other Real Estate | |
| <input type="checkbox"/> Electric Utilities | | |
| <input type="checkbox"/> Energy Conservation | | |

-
- Environmental Services
- Oil & Gas
- Other Energy

5. Issuer Size

Revenue Range	OR	Aggregate Net Asset Value Range
<input type="checkbox"/> No Revenues		<input type="checkbox"/> No Aggregate Net Asset Value
<input type="checkbox"/> \$1 - \$1,000,000		<input type="checkbox"/> \$1 - \$5,000,000
<input type="checkbox"/> \$1,000,001 - \$5,000,000		<input type="checkbox"/> \$5,000,001 - \$25,000,000
<input type="checkbox"/> \$5,000,001 - \$25,000,000		<input type="checkbox"/> \$25,000,001 - \$50,000,000
<input type="checkbox"/> \$25,000,001 - \$100,000,000		<input type="checkbox"/> \$50,000,001 - \$100,000,000
<input type="checkbox"/> Over \$100,000,000		<input type="checkbox"/> Over \$100,000,000
<input checked="" type="checkbox"/> Decline to Disclose		<input type="checkbox"/> Decline to Disclose
<input type="checkbox"/> Not Applicable		<input type="checkbox"/> Not Applicable

6. Federal Exemption(s) and Exclusion(s) Claimed (select all that apply)

- | | | |
|--|--|---|
| <input type="checkbox"/> Rule 504(b)(1) (not (i), (ii) or (iii)) | <input type="checkbox"/> Investment Company Act Section 3(c) | |
| <input type="checkbox"/> Rule 504 (b)(1)(i) | <input type="checkbox"/> Section 3(c)(1) | <input type="checkbox"/> Section 3(c)(9) |
| <input type="checkbox"/> Rule 504 (b)(1)(ii) | <input type="checkbox"/> Section 3(c)(2) | <input type="checkbox"/> Section 3(c)(10) |
| <input type="checkbox"/> Rule 504 (b)(1)(iii) | <input type="checkbox"/> Section 3(c)(3) | <input type="checkbox"/> Section 3(c)(11) |
| <input checked="" type="checkbox"/> Rule 506(b) | <input type="checkbox"/> Section 3(c)(4) | <input type="checkbox"/> Section 3(c)(12) |
| <input type="checkbox"/> Rule 506(c) | <input type="checkbox"/> Section 3(c)(5) | <input type="checkbox"/> Section 3(c)(13) |
| <input type="checkbox"/> Securities Act Section 4(a)(5) | <input type="checkbox"/> Section 3(c)(6) | <input type="checkbox"/> Section 3(c)(14) |
| | <input type="checkbox"/> Section 3(c)(7) | |

7. Type of Filing

- New Notice Date of First Sale [2018-03-26](#) First Sale Yet to Occur
- Amendment

8. Duration of Offering

Does the Issuer intend this offering to last more than one year? Yes No

9. Type(s) of Securities Offered (select all that apply)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Equity | <input type="checkbox"/> Pooled Investment Fund Interests |
| <input type="checkbox"/> Debt | <input type="checkbox"/> Tenant-in-Common Securities |
| <input type="checkbox"/> Option, Warrant or Other Right to Acquire Another Security | <input type="checkbox"/> Mineral Property Securities |

Security to be Acquired Upon Exercise of Option, Warrant or Other Right to Acquire Security Other (describe)

Series A Preferred stock and the Common stock into which it is convertible

10. Business Combination Transaction

Is this offering being made in connection with a business combination transaction, such as a merger, acquisition or exchange offer? Yes No

Clarification of Response (if Necessary):

11. Minimum Investment

Minimum investment accepted from any outside investor \$0 USD

12. Sales Compensation

Recipient	Recipient CRD Number <input checked="" type="checkbox"/> None	
(Associated) Broker or Dealer <input checked="" type="checkbox"/> None	(Associated) Broker or Dealer CRD Number <input checked="" type="checkbox"/> None	
Street Address 1	Street Address 2	ZIP/Postal Code
City	State/Province/Country	
State(s) of Solicitation (select all that apply) Check "All States" or check individual States	<input type="checkbox"/> All States <input type="checkbox"/> Foreign/non-US	

13. Offering and Sales Amounts

Total Offering Amount \$11,999,996 USD or Indefinite
 Total Amount Sold \$11,999,996 USD
 Total Remaining to be Sold \$0 USD or Indefinite

Clarification of Response (if Necessary):

14. Investors

Select if securities in the offering have been or may be sold to persons who do not qualify as accredited investors, and enter the number of such non-accredited investors who already have invested in the offering. _____

Regardless of whether securities in the offering have been or may be sold to persons who do not qualify as accredited investors, enter the total number of investors who already have invested in the offering:

15. Sales Commissions & Finder's Fees Expenses

Provide separately the amounts of sales commissions and finders fees expenses, if any. If the amount of an expenditure is not known, provide an estimate and check the box next to the amount.

Sales Commissions \$0 USD Estimate

Finders' Fees \$0 USD Estimate

Clarification of Response (if Necessary):

16. Use of Proceeds

Provide the amount of the gross proceeds of the offering that has been or is proposed to be used for payments to any of the persons required to be named as executive officers, directors or promoters in response to Item 3 above. If the amount is unknown, provide an estimate and check the box next to the amount.

\$0 USD Estimate

Clarification of Response (if Necessary):

Signature and Submission

Please verify the information you have entered and review the Terms of Submission below before signing and clicking SUBMIT below to file this notice.

Terms of Submission

In submitting this notice, each issuer named above is:

- Notifying the SEC and/or each State in which this notice is filed of the offering of securities described and undertaking to furnish them, upon written request, in the accordance with applicable law, the information furnished to offerees.*
- Irrevocably appointing each of the Secretary of the SEC and, the Securities Administrator or other legally designated officer of the State in which the issuer maintains its principal place of business and any State in which this notice is filed, as its agents for service of process, and agreeing that these persons may accept service on its behalf, of any notice, process or pleading, and further agreeing that such service may be made by registered or certified mail, in any Federal or state action, administrative proceeding, or arbitration brought against the issuer in any place subject to the jurisdiction of the United States, if the action, proceeding or arbitration (a) arises out of any activity in connection with the offering of securities that is the subject of this notice, and (b) is founded, directly or indirectly, upon the provisions of: (i) the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any rule or regulation under any of these statutes, or (ii) the laws of the State in which the issuer maintains its principal place of business or any State in which this notice is filed.
- Certifying that, if the issuer is claiming a Regulation D exemption for the offering, the issuer is not disqualified from relying on Rule 504 or Rule 506 for one of the reasons stated in Rule 504(b)(3) or Rule 506(d).

Each Issuer identified above has read this notice, knows the contents to be true, and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

For signature, type in the signer's name or other letters or characters adopted or authorized as the signer's signature.

Issuer	Signature	Name of Signer	Title	Date
UpCounsel, Inc.	Mason Blake	Mason Blake	CTO	2018-04-04

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number.

* This undertaking does not affect any limits Section 102(a) of the National Securities Markets Improvement Act of 1996 ("NSMIA") [Pub. L. No. 104-290, 110 Stat. 3416 (Oct. 11, 1996)] imposes on the ability of States to require information. As a result, if the securities that are the subject of this Form D are "covered securities" for purposes of NSMIA, whether in all instances or due to the nature of the offering that is the subject of this Form D, States cannot routinely require offering materials under this undertaking or otherwise and can require offering materials only to the extent NSMIA permits them to do so under NSMIA's preservation of their anti-fraud authority.

EXHIBIT D

Are You an Attorney? - Apply for membership to expand your business, get more valuable

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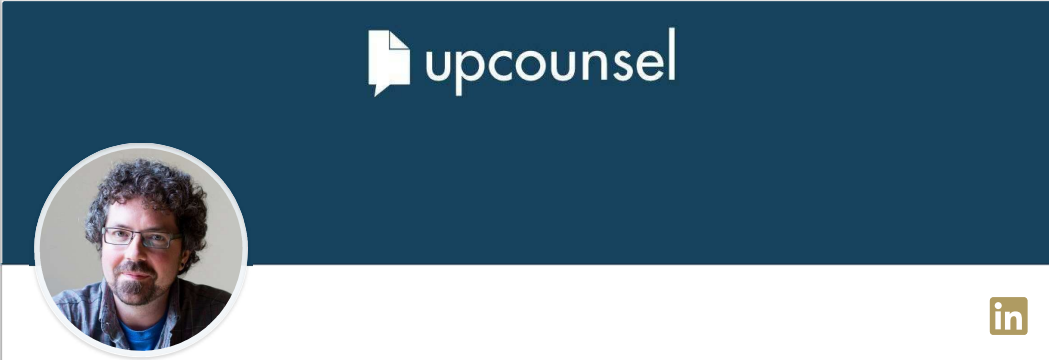
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Mason Blake • 2nd


Co-Founder & CTO at UpCounsel - We're hiring!
 San Francisco, California

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 UpCounsel, Inc.

 AngelPad

 See contact info


 500+ connections

I'm the co-founder and CTO at UpCounsel.com, a leader in legal technology companies. We are always hiring and looking to expand our extremely talented team. If you think you have what it takes, see our open positions available here: <http://goo.gl/73vQsZ>

Follow UpCounsel on LinkedIn
<http://www.linkedin.com/company/2450634?trk=tyah>

I'm not an attorney, but if you're looking for a business lawyer, look no further! Hire great business attorneys over at www.upcounsel.com. Post a Job, describe your legal needs, get free proposals, hire the best lawyer for your needs, and manage the entire relationship online through UpCounsel.com.

















I'm an experienced technologist, entrepreneur, engineer, product manager and team leader in web development, product development, internet engineering and database administration. I'm interested in strategic planning, value add services, product development and customer engagement. I've spent my entire career working with startups and small companies wearing many hats including lead developer, architect, product manager, development manager and more. I love constructing highly scalable solutions that solve real world problems. I have a passion for building world-class teams that feel part of something greater and have fun doing it.





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VP of Growth at UpCounsel, Inc. We're hiring!
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-  **Hector Angulo** • 3rd
B2B/Marketplace SaaS Product Executive (I'm Hiring!)

Learn the skills Mason has

-  **PHP: Object-Oriented Programming**
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● Messaging 


Highlights

 **2 Mutual Connections**
 You and Mason both know Brandon Redlinger and Raj Abhyanker

Activity

1,575 followers

 **Damn! Congratulations!**
 Mason commented
 67 Likes • 9 Comments

 **So proud of the folks at UpCounsel. They are an incredible group! Lots of...**
 Mason shared this

**startups should be mindful of**Mason shared this
6 Likes[See all](#)**Experience****Co-Founder & CTO**

UpCounsel, Inc.

Nov 2011 – Present · 7 yrs 1 mo
San Francisco Bay Area

UpCounsel accelerates businesses by revolutionizing the way legal work gets done. We help growing companies build their own custom legal teams through the world's first legal platform, combining the world's largest network of specialized, independent lawyers with technology that makes it extraordinarily easy to work with them.

**Getting Started on
UpCounsel****A Quick Intro to
UpCounsel****Mentor**

Tradecraft

Mar 2015 – Jun 2016 · 1 yr 4 mos
San Francisco, CA**Freelance Software Developer // Consultant**

WallFly, LLC

Feb 2007 – Apr 2012 · 5 yrs 3 mos
San Francisco Bay Area

Custom software solutions, web development, architecture, internet consulting, web performance and optimization, project management, offshore software development.

**Lead Software Engineer**

JamBase, Inc

Oct 2006 – May 2010 · 3 yrs 8 mos
San Francisco Bay Area

- Led a complete rebuild of JamBase.com from classic ASP to ASP.NET 2.0 using SQL Server and the CSLA framework.
- Hired and managed a high quality software development firm to augmentation our staff to launch on time.... See more

**Lead Technology Developer**

Better World Books

Nov 2004 – Oct 2006 · 2 yrs
San Francisco Bay Area & South Bend, IN

Hired as one of the first in-house software engineers, I was responsible for expanding the Better World Books online presence through the blog, corporate website and e-commerce bookstore. Helped design and craft technology to help streamline and track the shipping and receiving processes through a complex Salesforce integration.

[Show 1 more experience](#) **Education****AngelPad**

Startup / Entrepreneurial Studies

2012 – 2012

**Dakota State University**

BSCS, Computer Science

1998 – 2002

Activities and Societies: SHAPE / Friday Night Live (FNL) - started & hosted campus

Open Mic that still runs today

SHAPE / FNL Scholarship, 2001 - 2002
 Mastering Adobe Photoshop Training Certification, 2000
 Sarah-n-Dippity Music Scholarship, 1998
 Jan Linde Memorial Scholarship, 1998
 DSU Kingsman Music Scholarship, 1998

Skills & Endorsements**Product Management** · 7

Alex Hughes Scott, M.A. and 6 connections have given endorsements for this skill

Software Engineering · 1

Endorsed by Jay Walters and 1 other who is highly skilled at this

Agile Methodologies · 31

Endorsed by Jay Walters and 1 other who is highly skilled at this



Endorsed by 2 of Mason's colleagues at UpCounsel, Inc.

[Show more](#) ▾**Recommendations**[Received \(7\)](#)[Given \(7\)](#)**Kevin Rohling**

CTO/Product Guy

August 20, 2014, Kevin worked with Mason but at different companies

I met Mason during the AngelPad incubator program back in Fall 2012. At the time I was truly impressed by the depth of his technical abilities and since then I've seen him grow into an excellent CTO at UpCounsel. He operates as an excellent people manager and has built an efficient engineering team, tasks that many engineers struggle with when put into leadership positions. Furthermore, his laid back personality and sense of humor makes him a genuinely great guy to work with. Mason is a scrappy, tenacious founder and has shown himself to be an outstanding leader as well.

**Jorge Cotillo**

Senior Software Dev - Microsoft (AzureCAT - VDC)

November 8, 2012, Jorge reported directly to Mason

Mason is an excellent professional, he is always willing to teach and mentor the people he has in charge. I had a high benefit by being managed by Mason, most of the technical details I learned were because of him. He is a really easy person to work with, if I'll have the pleasure to work with him again I would not hesitate to do it again.

**David Rosenheim**

Founder at JobsWithImpact

May 20, 2010, David was senior to Mason but didn't manage directly

Mason is one of the sharpest web developers I have ever worked with. He combines a deep skill set with an intense curiosity and both an aptitude and eagerness to learn. Mason is an excellent communicator, which can be a rare trait in a good engineer. He is



Sergio Calvo
Regional Business Solutions,
Data & AI at GBM
May 16, 2010, Mason was a client
of Sergio's

It's been a pleasure to have Mason as part of our customer's team. His technical knowledge and experience are always available. A very well focused manager, he has also the ability to be flexible when the circumstances require it, which is an outstanding combination for a successful business relationship. I look forward to work with him again.



Nikita Akatyev
Senior System Architect at
WaveAccess
May 10, 2010, Nikita worked with
Mason but at different companies

I have worked with Mason on two projects and I always had a the GREATEST technical documentation, good technical advices and perfect project manager - I always was wondered how Mason can do these different tasks and do all these tasks very-very-very good!



Bill Ravdin
Senior Software Engineer at
zulily
April 15, 2010, Mason was a client
of Bill's

Mason is highly conscientious and detail oriented. He's effective at juggling several priorities at the same time. In short, he's an excellent technical lead.



Andy Warzon
Co-Founder & CTO at Trek10
- AWS Consulting & Support
November 3, 2009, Andy
managed Mason directly

Back in our company's early days, Mason was the one-and-only developer, and he did an admirable job holding down the fort. He built many applications on his own, including our partner portal and the company website, with very minimal guidance and direction, that were critical to the early growth of our company. Mason is a good developer who enjoys the technology and enjoys new challenges, and is very self-directed.

Accomplishments

1 **Certification**
Scrum Master

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Oracle
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Microsoft
6,282,449 followers



Bill Gates
Co-chair, Bill & Melinda Gates Foundation
18,858,871 followers



LinkedIn
4,757,589 followers



Deepak Chopra MD (official)
Founder, Chopra Foundation
5,519,469 followers

[See all](#)



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Go to your Settings.

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English (English)



6



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EXHIBIT E

----- Forwarded message -----

From: **Grosswendt, Will** <wgrosswendt@cooley.com>

Date: Thu, Jan 17, 2019 at 12:52 PM

Subject: RE: [REDACTED]

To: Raj Abhyanker <raj@legalforcelaw.com>

Hi Raj,

I've passed along your message and will let you know if I have any updates.

Will

William Grosswendt

Cooley LLP

+1 650 843 5820 office

+1 808 218 0856 mobile

-----Original Message-----

From: Raj Abhyanker <raj@legalforcelaw.com>

Sent: Thursday, January 17, 2019 7:19 AM

To: Grosswendt, Will <wgrosswendt@cooley.com>

Subject: Re: [REDACTED]

Will,

[REDACTED] Would Menlo/the Board support me being the new CEO of UpCounsel.

I infer that likely Gary Rudin is being considered/may have been appointed, however, he has no operational skills running a business like UpCounsel in the complex legal field. Mr. Rudin's angel investing skills and business development/sales skills at Groupon won't help turn UpCounsel around.

If Menlo/the UpCounsel board would consider me as the full-time CEO of UpCounsel, I would be willing to resign from my RAPC, and dedicate myself to 100% as a fiduciary making UpCounsel work for all shareholders and the Board, and survive through the next phase. I am confident that I can make UpCounsel into a profitable company with revenues over \$10M a year.

[REDACTED] Since then, I have built Trademarkia into one the world's largest legal websites and RAPC/Trademarkia revenues fully self funded to over \$10M a year. [REDACTED]

In other words, I uniquely understand internet marketplaces, legal opportunities, and know how to operationally grow and scale a business like UpCounsel ethically and within the framework of the law.

[REDACTED]

If they don't like what I bring to the company, they can terminate me. I would only require \$1 a year salary, and equity (even restricted or options) commensurate with the value I bring to UpCounsel as decided by the Board.

There is really little risk, and a lot of upside for UpCounsel.

Let me know.

Raj

EXHIBIT F



Raj Abhyanker <raj@legalforcelaw.com>

228(e) Notice to Stockholders of UpCounsel

Mason Blake <mason@upcounsel.com>

Tue, Oct 1, 2019 at 8:34 AM

To: Raj Abhyanker <raj@legalforcelaw.com>

Cc: Mary Piciocchi <mary@redwood-legal.com>, Jennifer Wang <jennifer@redwood-legal.com>, Matthew Faustman <mfaustman@upcounsel.com>, Julie Gleason <julie@redwood-legal.com>

Hi Raj,

As a shareholder at UpCounsel, I'm reaching out to provide you this official 228(e) notice. In this notice you'll find that UpCounsel reached a deal to join LinkedIn.

Over the next 3-4 months, UpCounsel will be migrating certain assets, clients, lawyers and demand over to LinkedIn. Also, some UpCounsel employees accepted job offers to join LinkedIn. At the end of this 3-4 month migration window, UpCounsel will be winding down and dissolving the business.

After paying the company's liabilities, the remaining assets of the company will be well below the liquidation preference payable the company's Series A Preferred Stock stockholders pursuant to the certificate of incorporation. The holders of Series A Preferred Stock will receive pennies on the dollar for their investment. As a result, there will be no assets remaining to distribute to the holders of Series Seed Stock and Common Stock.

It's important to note that this transaction with LinkedIn was the culmination of an extensive process we went through with our board and investors and many potential acquirers to determine the best outcome for UpCounsel.

We kindly request that you keep this information confidential. Please let me know if you have any questions.

Regards,

Mason Blakewww.upcounsel.com**UpCounsel - 228e Notice.docx**

14K

EXHIBIT G

UPCOUNSEL, INC.

**NOTICE TO STOCKHOLDERS OF UPCOUNSEL, INC.
(THE "COMPANY")**

Notice is hereby given pursuant to Section 228(e) of the Delaware General Corporation Law that on September 17, 2019, the following actions were approved pursuant to that certain Action by Written Consent the Stockholders of the Company (the "Written Consent").

NO RESPONSE IS REQUIRED ON YOUR PART.

Actions Taken
Approval of the terms of a Waiver, Release and License Agreement between the Company and LinkedIn Corporation (" <u>LinkedIn</u> ") pursuant to which, in exchange for certain consideration from LinkedIn, (a) the Company releases potential claims against LinkedIn and certain of its affiliates; (b) the Company licenses certain intellectual property of the Company to LinkedIn; (c) the Company transfers certain assets to LinkedIn; (d) the Company will wind-down and dissolve within 120 days of the consummation of the transaction with LinkedIn; and (e) LinkedIn hires certain employees of the Company.
Approval of the terms of an Acknowledgement, Joinder and Release signed by certain stockholders of the Company.

If you have questions concerning this notice, please contact Matt Faustman at 805-234-2960.

EXHIBIT H



Fiduciary Responsibility: Everything You Need to Know

Fiduciary responsibility refers to the obligation that one party has in relationship with another one to act entirely on the other party's behalf and best interest. 8 min read

What is Fiduciary Responsibility?

Fiduciary responsibility refers to the obligation that one party has in relationship with another one to act entirely on the other party's behalf and best interest. It is considered to be the standard of the highest care.

The individual who has the responsibility of being a fiduciary is referred to as the fiduciary. The individual that the duty of a fiduciary is owed, is usually designated the principal or beneficiary.

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The fiduciary is given a legal responsibility to the beneficiary, and it must be ensured that there is no conflict of interest between them. Most situations provide no profit to the fiduciary unless agreed upon from the outset.

If fiduciary duties are breached, an accounting would be required for the profit. The beneficiaries would also be entitled to various damages, even if no harm was done.

Fiduciary duties have been created to encourage people to specialize and to take up fiduciary responsibilities. The various laws were created to reduce beneficiaries from being abused. They will also give beneficiaries greater assurance of that protection.

A fiduciary who handles investments manages someone else's money for them. They are given a position of responsibility and they will face consequences if they betray that trust.

This type of relationship is generally only given when the beneficiary trusts the other person. It generally is not enough for mere respect of the other person's character or judgment.

A fiduciary is responsible to be loyal and provide reasonable care to the assets under their control. Every action performed with the beneficiary's assets is entirely for the beneficiary's advantage.

It is expected that a potential fiduciary has more knowledge and actual expertise in the assets being controlled. In all matters, such as in the purchase of a [piece of property](#) or in a business venture, the focus must always be on the best interest of the principal. This requires that the fiduciary be absolutely candid with the beneficiary.

Corporations and fiduciary duties

Where the duties of a corporate fiduciary are concerned, it is generally a good idea to refer to the corporate laws of Delaware. This is because more than half of all companies that are publicly traded are incorporated in that State. Different rules may apply if a company is incorporated in another State.

As the director of a corporation who is expected to fulfill their duties as a manager, they are charged with specific fiduciary responsibilities. Their main concern is the duty of loyalty and care. The duty of Care means that before making any kind of decision for the company, that they must inform themselves of all available information.

The accuracy of the decision made will be affected by the amount of information, whether or not there was ample time to gather sufficient information before a decision had to be made, and what advice was available. All information cannot simply be accepted as is, but it must be looked at critically in order to protect the corporation's assets and stockholders.

The term Duty of Loyalty, the Delaware Supreme Court explains, states that the directors and officers are not allowed to use their office and confidence others place in them to promote their own personal interests.

Public policy that has existed for many years, established rules that places a demand on corporate officers, that they give the best possible attention to their duties to:

- Protect the general interests of the corporation.
- Avoid doing anything that would bring harm to the corporation.
- Not deprive the corporation of possible profit by not using their best skills, or not enabling it to make the most profit possible.

The term Duty of Good Faith demands that the corporate director seeks to promote the corporation's interests, avoid breaking the law, and faithfully fulfills the duties of the office.

The term Duty of Confidentiality means that corporate directors must keep information belonging to the company confidential and not use it for their own profit.

The term Duty of Prudence means that a trustee administers a trust with caution, care and skill.

Duty of Disclosure requires that directors act with "complete candor." At times, this may mean revealing to the stockholders all circumstances and facts surrounding a decision made by the directors.

If the decision is questioned in a court, the court will typically presume that the corporate directors had acted from an informed basis with good faith and believing that it was in the company's best interests. This means that a court will often refrain from inquiring into the reason, assuming that the director thought it was in the best interest of the corporation.

In some cases, courts have allowed officers of a charity to operate by different rules. They may be permitted to make decisions that are personally advantageous. This has often been allowed as long as there was no cost to the charity. It does not grant permission to an officer to divert the earning potential of the charity into his own pocket.

In some cases, certain types of relationships automatically assume that a fiduciary responsibility is in place. This is true between a doctor and patient, a pastor and member of the congregation, a lawyer and a client, etc. It is also true in the case when a contract is made. This permits the one person to have some dominance over the other.

Although states look at fiduciary transactions differently, they do typically show favor toward the beneficiary. Transactions made between a fiduciary and a beneficiary can be voided, declared to be void, or a contract can be

canceled. If there is a problem and the matter is taken to court, the fiduciary needs to prove that the transaction had been fair.

Who is Considered as a Fiduciary?

If you are on an investment committee, some of your responsibility can be shared with the investment advisor on the committee. If the advisor is Registered Investment Advisor, then he does possess fiduciary responsibility along with other committee members. A broker does not have liberty to do this, which is why a number of brokerage firms will not permit their brokers to become fiduciaries.

Whether or not an advisor is a fiduciary depends on their actions. If they provide advice on an ongoing basis, then they are considered to be a fiduciary. If they merely sell products, they are not a fiduciary.

A Fiduciary's Responsibilities

The primary [responsibility of a fiduciary](#) is to be prudent in the investment process. Prudence is demonstrated in the process used concerning how they make investment decisions. They must have guidelines.

A fiduciary needs to demonstrate prudence by the process through which they make and manage their investment decisions. This means fiduciaries need to have a basic plan determining how they will go about their responsibilities. One group that has provided guidance for fiduciaries is the [nonprofit organization](#) Foundation for Fiduciary Studies.

They directed fiduciaries to follow several prudent practices while making investment choices. The first guideline is to self-educate concerning the laws that apply. Investment fiduciaries that deal with retirement plans need to familiarize themselves with the Employees Retirement and Income Security Act (ERISA) and the guidelines and laws in it. After understanding their own roles, they must provide the responsibilities and roles of everyone else who is involved. If they are going to use service providers for their investments, then service agreements will need to be in writing.

Once the laws and roles are understood, the next step is to create the goals and objectives of the investment program. The fiduciary then needs to identify various factors, such as:

- The investment horizon.
- The desired level of risk.
- The return on the investment.

After these things are determined, the fiduciary has the framework needed to evaluate various investment options.

Determining asset classes that lets them create a diversified portfolio can then be made by using some type of methodology. In most cases, a fiduciary will choose the asset classes by using modern portfolio theory (MPT) because it is the one most commonly used. It enables them to choose asset classes based on targeting specific risk and return levels.

Creating an investment policy statement should be made by formalizing the above steps. The statement will provide the details necessary to follow a specific strategy of investment.

Implementing the policy statement involves choosing selected investments or particular investment managers to obtain the requirements detailed in the statement. Evaluating any potential investment requires due diligence and a process must be developed for it. It should establish the criteria desired to evaluate and choose options for investment.

An investment advisor is often chosen to assist in implementing the policies because fiduciaries often do not have sufficient knowledge, skill, or resources to complete this step. Communication between the fiduciaries and advisors are essential in this step to ensure that due diligence is being applied when selecting the investments or the managers.

The last step is often ignored because it consumes the most time. A fiduciary, however, can be liable in any and all of these steps due to negligence if they ignore this part of their responsibility.

Monitoring of the investments properly requires that a fiduciary periodically reviews the reports that show a comparison between the performance of their investment with the correct index and peer group, and decide whether or not the objectives of the investment policy statement are being carried out.

Monitoring performance data is not sufficient. A fiduciary also needs to monitor the qualitative data. This includes when changes occur within an investment manager's organizational structure. When the management changes, or when others begin making the decisions, it becomes necessary to understand how this will affect the future performance.

Expenses also have to be reviewed in relation to implementing the process used. A fiduciary is responsible for how money is invested, and also how the funds are used.

Understanding how various fees affect the performance is important and the fiduciary needs to determine whether or not they are reasonable, as well as fair.

When the above steps are properly carried out, investment committee members and trustees can have confidence that they are fulfilling their duties in a faithful manner. The important thing is that they use prudence in each step.

Some Examples of Fiduciary Duty

The duties of a fiduciary come in various forms under the current legal system. This includes the duties of a principal and agent, a guardian and a ward, a trustee and a beneficiary, and a lawyer and the client.

A trust created from an estate involves a fiduciary duty between the trust and the designated beneficiary. The person who is designated as the trustee holds legal ownership of the property and assets that are under the trust. It is the responsibility of the trustee to make all decisions for the best benefit of the beneficiary, because the beneficiary has the equitable title on the [property](#). A comprehensive estate plan requires careful consideration of the individual who will become the trustee.

In a guardian/ward situation, the appointed adult has legal guardianship of the minor. The guardian position, as a fiduciary, is responsible to provide appropriate care for the child, including:

- Determining where the child goes to school.
- Receives quality medical care.
- Receives proper discipline.
- Is given adequate food and clothes, etc.

The state court assigns a guardian when parents cannot take care of the child. The relationship remains intact until the child reaches the age of majority in most states.

Another example of a fiduciary duty occurs between a principal and an agent. Many types of principals and agents can be made, as long as there is a legal ability to do it. This could be between an individual, a [partnership](#), a corporation, or a government agency. An agent is selected to act on the part of the principal, and there must not be a conflict of interest.

One example that demonstrates a principal and agent relationship that involves a fiduciary responsibility occurs when shareholders elect C-suite individuals or managers to act as their agents. Another example is when investors become principals when they choose a fund manager to manage their funds. The manager then acts as an agent.

One of the strictest fiduciary relationships occurs between an attorney and the client. The Supreme Court of the United States decided that there must be the highest amount of confidence and trust between the two. As a fiduciary, an attorney is required to act fairly, with loyalty and fidelity each time a client is represented and when dealing with a client. When that fiduciary duty is breached, the attorney is accountable to the court.

If you need help in understanding whether or not you have fiduciary responsibility, or need to know more clearly what those responsibilities are, you can [post your legal need](#) on the UpCounsel's marketplace. UpCounsel chooses to only use lawyers who have graduated in the top five percent of the top law schools such as Harvard Law and Yale Law, and who also have an average of at least 14 years of legal experience. Many of them have worked with or on behalf of such companies as Google, Menlo Ventures, and Airbnb.

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EXHIBIT I



Penalty for Breach of Fiduciary Duty

The penalty for breach of fiduciary duty is typically payment for the actual damages incurred. 3 min read

The penalty for breach of fiduciary duty is typically payment for the actual damages incurred, as well as any punitive damages if the breach of fiduciary duty involved fraud or malice.

What Is a Fiduciary Duty?

A fiduciary duty is when one party is obligated to act in the best interests of another party. An example is how a corporate board member must make the best decisions for a company's shareholders.

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Some more examples of fiduciary duties include:

- A lawyer and a client.
- A trustee and a beneficiary.
- A principal and an agent.

For a fiduciary duty to be legally enforceable in a court of law, it must have been created through the factual circumstances of the relationship or under a contract, statute, or legal proceeding.

What Is a Breach of Fiduciary Duty?

If the party fails to fulfill his legal obligations, it is a [breach of fiduciary duty](#) and can result in a lawsuit in civil court. Some factors that a court will use to determine if the duty was actually breached can include:

- Whether or not the two parties were actually in a fiduciary relationship when the problem occurred.
- Whether or not the failure of the offending party was covered in the scope of the two parties' relationship.

A few examples of a breach of fiduciary duty include:

- One party failing to disclose important information, like a conflict of interest.
- Acting in a way that's contrary to the interests of a client.



- Performing an action in one's own self-interest rather than that of a client.

One specific instance to further explain a breach would be a CEO who strikes a deal to buy his friend's struggling company. While this is a great way to help his friend, it could be considered a breach of fiduciary duty if the CEO's company has a drop in share price. If this happened, the shareholders could file a lawsuit to help recoup some of their losses.

Consequences of Breaching Fiduciary Duty

Calculating the damages owed in a breach of fiduciary duty case can be tricky. There are three main things that a court will consider.

1. [Compensatory damages](#). If the party who suffered damages decides to file litigation, then compensatory damages are one of the most common outcomes. These are payments to help compensate for whatever loss the victim has suffered because of the breach. An example of compensatory damages could be if shareholders file litigation after the director of the company makes a bad business decision that causes a big loss. To win their case, the shareholders will need to prove how the director breached their fiduciary duty and how much they lost because of it.
2. [Punitive damages](#). Instead of the offending party just having to pay back what he lost the other party, punitive damages are a means of punishing the offending party. This discourages the party from acting this way again and also sends a message to other leaders that such behavior is inappropriate. Usually, punitive damages are only paid when malice or fraud is involved.

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3. Professional consequences. While the above outcomes will hurt a person financially, professional consequences will affect the person's career as well. For example, if an attorney commits a breach of fiduciary duty, he or she may face a legal malpractice lawsuit. If the claims are serious enough, the attorney could even be disbarred and banned from practicing law. A person could lose professional accreditation, preventing him from working in his chosen profession for the rest of his life.

An Example of These Consequences

To see these consequences in action, take the example of [ICD Publications, Inc. v. Gittlitz](#). This case involved a corporate director who was liable for both compensatory and punitive damages. He also had to forfeit all the compensation he got while he was breaching his fiduciary duties. In all, the court demanded that the director pay back six years of his earnings, which amounted to more than \$5 million.

This specific case happened in Illinois, but it's not the only state to impose forfeiture penalties on those who violate fiduciary duty. New York, Missouri, and Delaware all have similar regulations if a person breaches his fiduciary duties.

If you need help with the penalty for breach of fiduciary duty, you can [post your legal need](#) on UpCounsel's marketplace. UpCounsel accepts only the top 5 percent of lawyers to its site. Lawyers on UpCounsel come from law schools such as Harvard Law and Yale Law and average 14 years of legal experience, including work with or on behalf of companies like Google, Menlo Ventures, and Airbnb.

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