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A portrait of Mitchell M. Tarighati, a middle-aged man with grey hair and a beard, smiling. He is wearing a grey suit jacket, a light blue dress shirt, and a pink and dark blue striped tie. He is standing in front of a blurred cityscape background.

## Mitchell M. Tarighati

Attorney of the Month

**Constangy,  
Brooks, Smith  
& Prophete LLP**

Law Firm of the Month







# Constangy, Brooks, Smith Prophete LLP

## *Law in Living Color*

Written By Sarah Torres  
Photographed By Byron Motley

**T**housands migrate to California every year with dreams of stardom and success. For labor and employment firm Constangy, Brooks, Smith & Prophete LLP, those dreams came true in a very short time.

Already thriving in 21 cities around the country and headquartered in Atlanta, Constangy has built three California offices, a total attorney staff of 35 and a list of corporate clients that looks like a Fortune 100 list in just under four years. The California partners credit its solid national reputation, a commitment to diversity and smart recruitment for its rapid growth.

"It's a great group of people we've brought to the firm, and the clients have really responded," says Ken Sulzer, who signed on to lead the practice in California, starting in Los Angeles in 2016. The L.A. office is now made up of 25 lawyers. Eight attorneys in the San Francisco office and two attorneys in the Orange County office round out the rest of the firm's California presence.

Sulzer says the California presence was needed both to serve Constangy clients from across the country with operations in California and to tap into the growing needs of California employers, who face significantly more regulation and oversight in labor and employment law than those in other states. To date, these employers include clients like NCAA, NASCAR, Taco Bell, Anthem Blue Cross, Bristol Farms, Albertsons, The Cheesecake Factory Inc., Cantor Fitzgerald, Tenex, National Hot Rod Association, Swissport, Ryder Truck, Ready Pac, Annapurna Pictures and Target.

Sulzer was formerly co-head of Class Action Labor and Employment at Proskauer and prior to that the head of California Labor and Employment at Seyfarth. He says that he was attracted to Constangy by Denver partner Steven Moore (who had been co-counsel on a large class action case) as well as executive committee chair Neil Wasser and Kansas City partner Don Prophete. Moore persuaded Sulzer to help start and lead the firm's California labor and employment practice, particularly in the area of defending class actions and claims under the California Private Attorneys General Act.



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with whom  
I spend a lot  
of time with  
each day.”

“We talked for six months,” says Sulzer, who brought another former Seyfarth partner and former Stanford Law faculty member Steven Katz into the discussions, as well as Richard Bromley from Nixon Peabody, who had already been on the ground with Constangy for about a year in a small office in Encino. “We made a deal and the three of us started this California venture for Constangy in February 2016.”

With an agenda for growth, the firm wasted no time bringing in more attorneys to its star-studded team. One of the first and most important hires was Kimberly Talley, fellow Harvard Law alum and one of the top single-plaintiff defense lawyers in the market. She joined the firm in June 2016, bringing some high-profile, marquee clients and a stellar reputation, particularly in the African-American business community.

“Kim really has an amazing set of contacts and relationships; she is a great lawyer, particularly in trying arbitration cases, and one of the nicest people I have ever met,” says Sulzer.

According to Talley, Constangy is a very special place to practice law.

“What sets Constangy apart is the camaraderie that exists among its attorneys,” says Talley. “There is a mutual trust and genuine friendship that exists among my colleagues with whom I spend a lot of time with each day.”

Since joining the firm in June 2016, Talley personally recruited Nestor Barrero, Thy Bui and Denica Anderson, all of whom came to Constangy with a varied assortment of experiences and have flourished at the firm.

“There is a firm-wide culture to work to ensure that everyone succeeds,” she explains. “We help each other.”

Nestor Barrero arrived in 2017 after a 19-year run as in-house senior labor and employment counsel at NBC Universal and Union Bank. Although he had spent several years practicing labor and employment law at Shepard Mullin early in his career, Barrero found himself typecast as an in-house lawyer without a litigation background or “book of business.” Taking the “reverse commute” later in a career by going back to a law firm is relatively uncommon and a road that most in-house lawyers don’t often take.

“Many of the boutique L&E law firms that I had known and worked with over the years

were polite enough when I left NBC Universal, and they were all very nice and expressed some interest, but none could figure out how to monetize my skill set effectively,” explains Barrero. “And then Kim Talley, whom I had first met when she was a young associate I had retained while at Union Bank in the ‘90s called and said, ‘Nestor, you need to come talk to these people at Constangy because it’s a great place.’”

“I spent the bulk of my career as an in-house lawyer and brought a real client’s perspective, having advised large employers for so many years,” he says, adding that his work often put him in both business and legal settings sometimes working through situations involving senior executives, producers, talent and difficult personalities. “Working as a quasi-in-house counsel for Constangy’s existing clients and developing my own was a niche I thought I could really sell.”

And sell he did. His 35-year history working with legal and HR departments, along with dozens of cultivated relationships, brought in clients that the firm had never worked with before. The list includes NBC Universal, CBS, Showtime Networks, Fox Corp., Lionsgate Entertainment, the Motion Picture & Television Fund, Uber Technologies, City National Bank, Union Bank, Lemonade Restaurant Group, Bolthouse Farms, Instacart and PETCO Animal Supplies.

“Nestor is a specialist,” says Sulzer. “He’s the best advice and counsel lawyer I have seen and he’s available to all of Constangy’s clients and partners, who rely on his skill in handling compliance issues surrounding hiring and layoffs, updating policies and handbooks, advising on new legislation, drafting employment agreements, investigating employee misconduct, training managers in the #MeToo era and advising on sensitive situations, particularly in the C-suite.

“Nestor has a stellar reputation in the entertainment, media and banking industries as well as with private equity clients such as Butterfly Equity,” he adds. “When this opportunity came along, we felt the quality of his experience and ease with clients was so high that it would work out, and it has.”

Practicing law at Constangy has also worked out for Thy Bui, who joined the firm in 2017 with a small base of clients, including the California State University system and na-



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tionwide property management firm Apartment Management Consultants.

“Constangy feels like home,” says Bui. “It provides an unbeatable platform for up-and-coming diverse attorneys to build and expand their practice.”

In her mid-thirties, Bui is the youngest of the Southern California partners, but brings an energy and passion to trial practice.

“She is one of those people who is everywhere, from bar associations to political events and industry associations,” says Sulzer of Bui. “And she spends significant time in both the L.A. and OC offices.”

Bui currently serves on the board of governors of the National Asian Pacific American Bar Association and is a past president of the Orange County Asian American Bar Association.

Similar experiences abound at Constangy. Sulzer relates how one of the female partners,

former Proskauer litigator Sarah Kroll-Rosenbaum, had taken a hiatus from practice and had a child before deciding to join the firm. Fifteen months later, she was made a partner and now presides over a substantial book of business principally in the health care staffing industry and she is considered a leading national expert on the issues facing that industry.

Another key senior attorney, Angela Rapko, he says, lives in Santa Barbara with her husband and young son. Remote work and flexible schedules are not issues for the firm, he says.

“We try to be a little more human in the way we approach our work life, while still focusing on quality premium services” Sulzer says.

Indeed, the firm has been recognized repeatedly for its commitment to its human capital. The Los Angeles Business Journal named Constangy a top law firm and one of





■ Constangy Los Angeles partners Nestor Barrero, Thy Bui, Kimberly Talley and Kenneth Sulzer

the top five workplaces in general to work for in the city of Los Angeles. And nationally, Constangy has made Working Mother magazine's list of 60 Best Law Firms for Women in the last two years.

Another important recognition: its diversity. The firm made history in 2015 as the first large law firm in the United States to have an African-American attorney as a "name on the

door" partner when well-known labor & employment partner Don Prophete joined the firm. Over the past 10 years, 55% of the firm's promotions have been women or minorities, and 62% of attorneys joining the firm have been women or minorities.

Women and people of color make up 53% of Constangy's attorney roster and 42% of its partner roster. On the firm's executive committee, 62%

are women and people of color, while 37% and 46% are office heads and practice industry group leaders, respectively.

The California offices mirror the firm's commitment to diversity with seven out of 10 partners being women, including three being women of color. Between its three California offices, the attorneys are 60% female and 40% minority. Not surprisingly,



Constangy's Bay Area and Orange County offices are also headed up by female partners Barbara Antonucci and Carolyn Sieve, respectively.

Was this an accident or a concerted effort? Sulzer says a little bit of both.

"We are a premium provider, looking for the best people to practice at a very premium level," he says. "Most of us are from top law schools and AmLaw100 firms. We are diverse, and we do things differently and better we think, in the both the marketplace and the workplace. The California clients expect nothing less."

One of the things the firm says it does differently is to keep its rates competitive.

"Even though we're a premium law firm, we don't have to charge premium rates," says Barrero, citing as an example a client who told him their small company was paying a firm over \$800-an-hour fees for basic employment law advice work. "That type of work does not need to be charged at those rates. It is a myth, especially for day-to-day advice and counseling that higher rates equate to better work or better lawyers. It's just not true and I can attest to it from more than two decades of hiring firms as an in house lawyer."

"Unlike some of the other places I could have ended up, there is much more flexibility at Constangy to accommodate the needs of clients that need high-quality attorneys and work but can't afford Wall Street rates, which are rarely justified for the bulk of their needs," he adds.

"Diversity and rates along with our premium practice are things that our leaders talked about as being values in the firm that allow us to distinguish ourselves from everyone else," agrees Sulzer.

No one says it's easy to make it big in California, but the state's ever-increasing regulation of the employment relationship and the gig and outsourced economy, have given Constangy plenty of opportunity to offer services to businesses, particularly those clients that outsource workers and don't keep supervisors on location.

"Companies in that niche are the ones that have come to us to us for guidance because

it's an area fraught with potential landmines," Sulzer says, explaining that at least 12 class action or PAGA cases are filed every day in the state—far more than any other state. "In California, almost every large – and mid-sized company has been hit by a PAGA or class action lawsuit, and we spend a great deal of time taking preventative action to lessen the risk they will be exposed to in a PAGA or class action case."

Another niche area for the firm in California is AB5, which Sulzer calls a crackdown on the use of independent contractors in the gig economy.

"That will likely result in much more business for employment temporary agencies that will bring these people on as employees, which is what the laws seem to be requiring," he explains. "A lot of such companies have sought us out for our knowledge in these matters."

Website access and cyber security is yet one more specialty for the firm, somewhat surprisingly, says Sulzer. Senior counsel Ronald Sarian, former vice president and general counsel for successful dating service eHarmony, is leading California in that effort.

Sulzer says getting all of its attorneys, even more junior ones, involved directly with the clients is critical to building the California team.

"What we do best is really working with associates and junior partners to integrate them into our client relationships and create opportunities for them," Sulzer says.

Building on Constangy's strong 73-year history helped, too, he says. For the firm, making the move to California has been nothing but positive.

"Our existing clients and new clients responded incredibly well to our coming to California," Sulzer says. "We have a great platform and a great national reputation and brand, and we will clearly have a great one in California as well".

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