



SHARING OFFICE SPACE

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I am frequently contacted on the Pennsylvania Bar Association Hot Line by attorneys requesting information on setting up a solo practice. In addition, many of those who call also want information on office sharing arrangements.

There are many good reasons to share offices. As a practical matter, a solo practitioner may not be able to afford additional space for “back office” necessities such as supply/file storage, library, or conference room. By sharing with one or more other attorneys, the relative cost of that additional space may be significantly reduced to an affordable level. A solo practitioner may not be able to afford staff to answer phones, type and do filing. However, with more than one attorney sharing the associated costs, it may become affordable.

The library is the backbone of the attorney practice. No matter how committed the attorney is to using the local law library, or on-line services for research, it will likely be decided that there are some “essentials” which must be kept at the office. The library can be one of the most significant start-up expenses, and a significant part of each year’s budget. Sharing that cost with one or more practitioners makes it economically feasible.

Office equipment is a financially daunting need for new solo practitioners. Copier, fax, postage meter, computer, printer(s), scanner, telephones etc. are all considered essential elements of today’s office. Even a solo needs more than one telephone line and a telephone which has some “advanced” features such as hold, conference and speed dial. In an office sharing environment, these costs can be split, making all of them more affordable.

Notwithstanding the numerous benefits that an office sharing arrangement can produce, there are many pitfalls to avoid. Following are some of the many issues to consider before embarking on a sharing arrangement.

CLIENT CONFIDENTIALITY

Extra precautions must be made to safeguard and preserve client confidentiality. Files must be kept in a secure, preferably locked, location which is separate and distinct from any other attorneys in the office who are not part of your firm. If you are using a centralized file room, this can be accomplished by clearly marking the file cabinets, and keeping them locked when you are not in the office. If you tend to use your floor as your file room, you should lock your office door when you are not in the office.

If you have a staff person who answers phones, greets clients, and/or works on documents, there will be additional requirements. It will be vitally important that the staff member know she/he cannot discuss any information regarding work for one attorney with another attorney in the office who is not part of the same firm. Separate telephone message books should be used, clearly marked on the cover, so as to preserve anonymity of the client if you must look back to retrieve some information from the duplicate message contained in the book. Separate directories should be created on computer to separate all documents. If the staff member does not control access to documents by a password (one for each practitioner/firm), documents should be archived onto separate floppies and deleted from the hard drive. Forms can remain on the computer.

Mail and faxes should be separated and delivered upon receipt to a specific secured office, not left out where they might be inadvertently viewed. Papers should not be left in the library or conference room. Care must be taken when consulting with a client, whether over the telephone or in the office, to ensure that the conversation is not overheard. These are just some of the issues associated with confidentiality.

VICARIOUS LIABILITY

Your malpractice insurance broker will tell you that there are exposure issues to consider when your name appears on the office door along with another practitioner. It may be clear to you that you are separate and distinct entities, but that may not be clear to a client of the other practitioner, who includes you in a malpractice suit. And while you may ultimately be dismissed from the suit, you must still put your carrier on notice, and spend time and money extricating yourself from the suit.

Be sure that it is as clear as possible, wherever your name is mentioned, that you are not connected with attorneys not part of your firm. Signage should be separate and distinct. Telephones should be answered with either your name alone (if you have your own line) or "law offices" if not; definitely *not* with your name and that of any attorney not part of your firm.

Another good idea is to place a statement in your engagement agreement to the effect that you are not in practice with attorneys who share your office, and that you have and will take additional precautions to preserve confidentiality under the sharing arrangement.

Business liability is another area in which there is vicarious exposure. If your shared secretary accidentally spills hot coffee on a client of the other attorney, chances are good that your insurance company will also need to respond. Be sure your carrier knows you are in a sharing arrangement, so there is no likelihood they will deny coverage downstream when benefits must be coordinated efficiently with another insured's carrier. While we're on the subject, employment practices liability exposure is on the rise. You may be held liable if the secretary is harassed or discriminated against by the other attorney, at the least you will be drawn into the proceedings at great inconvenience and expense to you.



There are many other areas of concern too numerous to include in a brief article. For example, it is wise to be sure that any leases that are executed are done in one name only, with a private agreement to share the expenses. Otherwise, the lease could be used as evidence you are actually a partnership.

It is a very smart move to have a written agreement establishing the sharing arrangement, and detailing how expenses will be shared, what notice requirements will be necessary to change the arrangement, and what the responsibilities of each party would be in the event the sharing arrangement were discontinued. You should specify a minimal requirement for professional liability and business liability insurance coverage, with proof of continued coverage each year. You may want to include language regarding the sharing arrangement which will be required to be placed in the engagement agreement of each practitioner. And you might want to consider setting forth any issues related to future tax audits or liabilities resulting from any shared staff.

Office sharing arrangements often make sense. They enable a solo practitioner to enjoy some of the benefits normally encountered only at larger firms. But there are potential problems in a shared office environment. With some forethought and planning, the downside exposures can be eliminated or minimized.

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