

Office Sharing: Drawing a Line in the Sand

By JoAnn L. Hathaway

A common question State Bar members ask advisors in the Practice Management Resource Center is, “I plan to start a law firm. How can I get started with minimal resources?”

Sometimes the question is posed by a lawyer new to the practice of law, while other times it's a lawyer moving from “big law” to “small law” or a corporate lawyer deciding to enter the world of private practice after a layoff. Regardless of the reason for the transition or the experience a lawyer brings to the table, careful planning is necessary before moving forward.

Given the current precarious state of the economy, lawyers aren't as confident as they were a few years ago that they can rely on a steady stream of clients when first setting up practice. Treading with caution, lawyers are now more reluctant than ever to invest in significant capital outlays for equipment and other amenities when opening their doors. A viable alternative is the growing trend of office sharing.

Yours, Mine, and Ours

Can it work? Certainly! There are many benefits to reap from sharing office space.

Law Practice Solutions is a regular feature brought to you by the Practice Management Resource Center (PMRC) of the State Bar of Michigan, featuring articles on practice and risk management for lawyers and their staff. For more resources offered by the PMRC, visit our website at <http://www.michbar.org/pmrc/content.cfm> or call our Helpline at (800) 341-9715 to speak with a practice management advisor.

—JoAnn Hathaway and Diane Ebersole,
Practice Management Advisors

However, there are inherent risks, too, making careful planning a must.

The Benefits

- Payment for facilities can be daunting. Sharing significant capital outlays for equipment and other amenities can streamline an already taxed budget.
- Potential sharing of staff and reception functions can help budget for wages, benefits, and more.
- An added nonmonetary benefit of office sharing is having the ability to gain helpful information and insight from peers. In the traditional solo arrangement, lawyers aren't as easily afforded the “bounce-off” benefit of getting another's opinion.

If approached appropriately, these benefits can be easily attained. However, don't overlook common office-sharing pitfalls. Identify and reduce your office-sharing risks to help protect your practice against ethical violations, grievances, and claims of malpractice.

Recognizing, Minimizing, and Managing the Risks

Self-Evaluation: Carefully evaluate your work style, needs, personality, and long-

term goals. Are you really a good candidate for office sharing? Are you able to compromise and be flexible with your suitemates? If not, this may not be the arrangement best suited for you.

Steer Clear of Adversaries: Target office-sharing partners who are least likely to work on matters of an adversarial nature to others in the arrangement. Consider this: You are an insurance defense lawyer who routinely defends automobile negligence claims. A lawyer who wants to share office space with you primarily represents automobile accident victims as party plaintiffs. It's clearly not in anyone's best interest for you and this lawyer to share office space.

The Agreement: If, after careful evaluation, you decide you are an office-sharing candidate, insist upon a *written* office-sharing agreement and make sure everyone is compliant with it. Have a system in place to monitor compliance on a regular basis and appoint someone to oversee the agreement. This helps alleviate the possibility of someone creating a liability scenario that goes unnoticed until after damage is done.

Solo and Only Solo: Ensure that everything in print lists only your name and your firm name, not the names of others with whom you share space. Make sure this applies to business cards, advertising, letterhead, and signage. Do not share a website

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Signage: Place a sign that indicates “Not a Partnership” where lawyers’ names and their respective firm names are posted. Consider including “Sole Practitioner” after each lawyer’s name.

Engagement Practices: Require all involved in the sharing arrangement to use engagement letters or retainer agreements that include clear language indicating that the retained lawyer is a sole practitioner and not in partnership with the other office-sharing lawyers.

Safeguarding of Records: Implement watertight record and file-storage policies that safeguard client information and protect confidentiality. Ideally, each lawyer should have his or her own filing cabinet that can be securely locked. Protocol should be in place as to who, if anyone, other than the lawyer can access the records. Also, files actively being worked on should not be left in shared areas; this increases the possibility that another lawyer or staff could inadvertently pick up a suitemate’s file.

Client Confidentiality: Maintain an area where clients and others involved in a matter can meet in private, away from others involved in the office-sharing arrangement.

Telephone Handling: If a common telephone system and receptionist are used, the receptionist should answer the respective phone line in accordance with the lawyer to whom it is assigned. For example, the specific name of the firm (“Law Office of John Smith”) should be part of the greeting. An individual answering a phone in a shared office arrangement should never answer the phone with a greeting of “Law Offices.”

Support Staff: All support staff working onsite or offsite, shared or not, should sign a confidentiality agreement. Staff should be clearly instructed how to respond to inquiries to ensure that they don’t make representations that could create the impression that the office-sharing lawyers are in partnership.

Mail Handling: Mail should be opened only by the lawyer for whom it was intended or his or her dedicated support staff. It should not be opened by a shared staff member.

Facsimile Handling: Ideally, lawyers and staff should have the ability to send and receive faxes directly from their computers. If a dedicated fax machine is used, a system must be in place to ensure the confidentiality of the information being provided.

LPL Insurance: Each lawyer sharing office space should be required to have his or her own professional liability insurance policy. Lawyers new to the sharing arrangement who already have policies of insurance should put their existing carrier on notice of the new sharing arrangement.

Conclusion

Whether you are new to the practice of law or a seasoned lawyer wanting to cut overhead, sharing office space with others can be a welcome solution in tough economic times. Before you take the leap, however, identify the pitfalls and put procedures in place to minimize your risk and ensure a smooth and enjoyable transition to the increasingly popular world of shared workspace. ■

JoAnn L. Hathaway is a practice management advisor for the State Bar Practice Management Resource Center. Previously, she worked in the field of professional liability insurance, focusing on law firm risk management and legal malpractice claims. She is a registered professional liability underwriter, a Michigan licensed insurance producer, and a certified independent consultant for LexisNexis Time Matters and Total Practice Advantage.