

A photograph showing the lower half of three people sitting on a ledge in an office setting. One person is holding a laptop. The background is a window with a view of a building.

# OFFICE-SHARING RISKS TO AVOID

With the combined expense of leasing, staff and equipment, many lawyers see office-sharing as an economical way to hang their shingle. Although there may be initial cost-saving benefits, there are disadvantages, such as increased exposure to bar grievances or malpractice claims, disqualification of motions, and imputed knowledge of confidential communications.

To reduce exposure when entering into an office-sharing agreement, the utmost care should be taken to ensure the following issues are avoided.

- **Appearance of partnership & vicarious liability** | Benefits of office sharing may be consulting or occasionally associating on a matter with other lawyers, arranging for reliable backup for absences, or referrals. These benefits can tempt lawyers to enhance their status by implying the association is like that of a partnership. This is conveyed by signs, letterhead, business cards, misuse of the term “of counsel,” use of the same telephone line, signage on the interior or exterior, or even office layout. Potential clients should be told lawyers are in an office-sharing arrangement and other lawyers in the office are not the client’s lawyer.
- **No office-sharing agreement** | Always use an office-sharing agreement, which can be evidence the lawyers are not partners and assist in defending a vicarious liability claim. Following procedures spelled out by the agreement can prevent clients from getting the impression lawyers are practicing as a firm or partnership. Items include defining individual and shared spaces and expenses, language prohibiting representation of the shared office as a partnership, as well as other language regarding insurance requirements, use of engagement letters, and a conflict system.
- **Lack of confidentiality** | Restricting access to communications, documents and evidence is crucial to confidentiality. Strictly separate files, accounts, computer systems and telephones. Shared printers, files in unlocked areas and incoming mail make it easy for anyone to see confidential information. Access to a shared network can also result in breaches. Shared staff is an accepted practice, but sharing paralegals or assistants is much more difficult and should be avoided.
- **Not taking measures to protect yourself** | Although the cost-savings or other perceived benefits can be enticing, do not let them overshadow your duty to protect yourself and your practice. As with any endeavor, be cautious and take appropriate measures to ensure you do not leave yourself exposed.

