

THE NATIONAL LAW REVIEW

The Legal Ethics of a Part-Time Lawyer

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As in any profession in which the scope is wide-ranging and the difficulty of the tasks at hand requires both skill and inordinate amounts of time, the practice of law often entails the employment by lawyers of non-lawyers on the behalf of a client. This outsourcing is not uncommon in the legal profession, which is why the term “Part-Time Lawyer” is employed, not to disparage but to call to attention the frequency of such outsourcing in the legal community. Outsourcing (and the ubiquity thereof) can engender rather contentious conversations around the ethical implications of such labor, however, and of those performing it.

The ABA and the Ethics of Outsourcing a Part-time Lawyer

Consider, for instance, [Formal Opinion 08-451](#) of the American Bar Association’s Standing Committee on Ethics and Professional Responsibility, in which they list but a few of the jobs that get outsourced by attorneys (paraphrased here for the sake of brevity): staff for making copies of documents, entire companies whose job it is to provide storage and protection and removal of documents, computer and other IT service needs, legal research teams, and many more besides.

The reasons for such outsourcing are varied, but in general, the decision is the lawyer’s (and his or her firm’s) to make. Often an attorney will cite expedience and cost-effectiveness as justifications, both of which are usually to the benefit of the client and are on this basis easily understood and highly valued. These, of course, are not the reasons for ethical consideration. Rather, ethical quandaries arise due to the utilization of such services on behalf of the client in which attorney privilege and confidentiality are paramount.

As the American Bar Association points out, [“There is nothing unethical about a lawyer outsourcing legal and nonlegal services, provided the outsourcing lawyer renders legal services to the client with the ‘legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.’”](#) The ABA does not have a guidebook or credential for supplying professional services to a legal team. They only stipulate that “the lawyer who is responsible to the client satisfies her obligation to render legal services competently.” Beyond this, nothing is excluded or prohibited as a matter of course.

As such, the primary task for an attorney seeking to outsource certain jobs or to just hire a “part-time lawyer” is only to make sure that they’re commissioned to a person or group of persons able to execute them properly and in accordance with the law. That being said, there will often exist a geographical distance between the two parties. In these cases, the electronic sharing of information will typically be necessary. Herein lies one of the primary considerations: attorneys must maintain the privacy of the client and his or her personal and legal information at all times, but email and other electronic forms of communication are notoriously difficult to keep under wraps. Once it’s written in ones and zeros and transmitted through computers and the Internet from one service or office to another, there is always the chance that someone leaks that information, whether purposefully or not.

The ABA does make a recommendation along these lines, as the ethical principle of confidentiality, privacy,



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and security of and for the client is arguably the most important of all. They write, “The lawyer should consider investigating the security of the provider’s premises, computer network, and perhaps even its recycling and refuse disposal procedures. In some instances, it may be prudent to pay a personal visit to the intermediary’s facility, regardless of its location or the difficulty of travel, to get a firsthand sense of its operation and the professionalism of the lawyers and nonlawyers it is procuring.”

While electronic data sharing is far from the only matter of ethical concern regarding the “part-time lawyer”, it is emblematic of the problems that may arise in such an environment. Information in many forms is shared, replicated, stored, reproduced, and destroyed with regularity in the legal field. Understanding exactly what implications such outsourcing brings to the job and how to handle it vis-a-vis an attorney’s obligations and responsibilities are, of course, vital. The evolution of such procedures and the manner in which lawyers utilize them remains to be seen, though the responsibility of attorneys never wavers, whether working on a case alone from start to finish or alongside a team of other lawyers or non-lawyers in the pursuit of one’s duty on behalf of the client.

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