

## Independent Contractors / Legal Secretary

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I want to hire someone to help me on an occasional basis with some legal secretary tasks. Should I have her sign a confidentiality agreement? Do I need client authorization. Any other technical/tax issues with independent contractors that I should consider? If it matters, for the first few months, I will probably only need her to help me for less than 10 hours per month.

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Do you have the person in mind? We are not as easy to find as you would think. While there are lots of "virtual assistants" out there - I say all you need is an internet connection and dream to call yourself a VA - as many treat it as a part time gig; a some day biz or a hobby. (Note: not those on this list!!!) Additionally, many VAs do not specialize in legal - and many only specialize in the tech/web stuff and not the day to day workflow of a law firm.

Whoever you find, that person will need to provide you with a contact for signature; and that contract should include terms regarding confidentiality. This is virtual assistance 101 - so if anyone you contact says they don't have an agreement or will sign whatever YOU give THEM - I would be leery. The last thing you want is for a governmental agency to look at the relationship several years down the road and determine you were an employer (and had control over the terms).

You will need to speak with the person and make sure they not only know what the word confidentiality means, but how it applies in the real world. That is true of anyone you entrust with your firm's work product.

Another consideration - there is no duty (as far as I understand) for those providing secretarial or administrative assistance to do conflict checking. That may not be so with a freelance paralegal that also does admin work.

I'm always happy to talk to Solosezers - so if you have questions or want to pick my brain - give me a call.

Happy Thursday Everyone!!

--- NotanAtty--  
Andrea Cannavina

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Many paralegals seem to get indoctrinated in school that they are to expect what can be described as significant salaries. I ask job applicants for salary requirements. Many newly minted paralegals put themselves out of my compensation range.

Deb Matthews, Virginia

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To add to what Andrea said, be alert that there are many, many paralegal school grads, young and old, with newly minted paralegal certificate in hand now looking for full-time legal work. They have no legal background other than school and because they have run into an empty job market for the inexperienced, they are building websites and are marketing themselves as a freelance paralegals/VAs. This is NOT to say that they will not do a fine job with training, but make sure you understand what you are getting. Ask for and check references and if you do not have the time or ability to train the hiree, pass.

As was also stated before, the professional will have a professionally drafted Terms of Service Agreement that spells out their fees and payments, services, to whom they are to report, responsibilities, term and termination, confidentiality/non-disclosure, governing law/jurisdiction(s), disclaimers and warranties, limitations and liabilities, and other miscellaneous issues that might relate to one or more particular practice specialties. Those are just a few in our agreement. The professional Para/VA will have their business in order just as you have the business side of your practice in order.

Beware of the Temp calling him/herself a Freelance Pro.

Lyza Sandgren, Paralegal, Georgia

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Often very true.

In my discussions with the newbies, it is apparent that they are experiencing the same BS about job opportunities from their schools as are law school candidates/graduates.

Schools are in the business of selling schooling; they are not employment agencies. Yet they advertise employment figures and expected salaries from 10-15 years ago to get the student to sign up. Every time I read about a paralegal student joining one of the LinkedIn or Yahoo paralegal group lists, they are beyond excited; it's almost as if they believe they will

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end up on Easy Street in an environment similar to what they see on "L.A. Law" or "Law & Order." I don't know what the schools are telling them but it ain't about reality. They graduate with a huge debt and when they do the math for their rent, expenses, student loan payments, and spending money, they come up with an unrealistic idea of what they should ask for in salary. Add to that how many of the young ones feel the entitlement of their generation, and you have a person with "unemployable" stamped all over their forehead.

The older grads are usually trying to change careers or get back into the work force and see legal work as more exciting than what they were doing or they just burned out at the former career. They already have lives and families and need a salary and benefits to make it work. And NO ONE wants to start out at the bottom salary-wise. They will take entry level positions but won't accept entry-level salaries. I hear the rant all the time that they didn't spend years in school getting their paralegal studies bachelors/masters/LLM etc. only to accept less than \$80K a year or a receptionist position, or they didn't already spend 20 years as the manager/trainer/sales person/yadayada to go back to the ground floor. Those are the hard ones to reach because they keep harping about real world experience and won't listen when I say that it is a plus but not an incentive when they have no LEGAL experience and are competing against experienced pros who were downsized.

The other problem is that law firms don't want to take the time to train a newbie so the entry level jobs are few and far between or non-existent. So many are getting discouraged and bitter and you eventually find them applying at Starbucks. It's a vicious circle.

An experienced professional has worked in a law firm for a number of years and knows as much or more about procedures in their practice area than does the attorney. They can work on their own and operate efficiently and accurately without an attorney standing over them. They will be self-starters and have an outstanding work ethic and attitude and they ARE out there. You just have to look and advertise.

I highly recommend the ParalegalNetwork and ParalegalGateway LinkedIn lists for anyone wanting to get in touch with paralegals and VA looking for jobs. Both groups have job boards as well and there are others specifically geared to VAs. Hope this helped.

Lyza Sandgren

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On a related point, I shouldn't charge for a secretary's time unless she is performing services akin to a paralegal, right?

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I have all of my attorney clients sign a Contract for Services and a Confidentiality Agreement. It protects both of you and I have not encountered a client who would not sign them. In fact, my attorneys appreciate that I offer those documents to them because it is one less thing they have to worry about in terms of our working relationship.

Good luck!  
Valerie

Valerie Nowotnick, Paralegal

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Non-disclosure agreement is a definite must.

Is this on-site or to be done on a remote basis? My advice is on-site if you have never had a legal secretary. I have had more than one person tell me that they sense they are being billed for time not actually spent working. That is only one of many reasons I would recommend an on-site secretary.

I also recommend what I called "working interviews." This is especially helpful if you are obtaining the assistance of someone not already working on an independent basis. If you obtained the help of an independent secretary or paralegal, it is understood that they work on what is assigned and if you are not happy with the work product you will not use their services again. With a person you interview in the typical manner, who may have spent a lot on an impressive looking resume, you then have to go through the process of finding out over time if they do or do not have the skills you need. A working interview is asking a person to come in and work with you for a day. This should be proposed with the understanding that it is helpful for both the attorney and the assistant. That person can also easily decide after spending time working with you, with a friendly understanding beforehand, that the "job" simply is not to his or her liking. Of course, you can also see if he or she is qualified and on more than the basis of an impressive resume that may not reflect actual skills or an interview where people can oversell themselves sometimes and then what they do does not meet what they've said.

I agree with the postings that you should be cautious about being sold on a person based on their ability to set up a website and present themselves as a paralegal or legal assistant.

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I also agree that someone will demonstrate professionalism and understanding of the need for confidentiality, without any explanation by you beforehand. It is Rules of Ethics 101. If the person needed an explanation, they are not right for you.

My last note is that before you look for an assistant, you sit and analyze your specific needs. Even if it is only for your own purposes, it will be a good way to hone in on people most likely to work out. Of course you can also put that in your ad if you are placing one.

Donna R. Ireland, New Jersey Paralegal

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I really don't have much to add to what my colleagues have said. An established VA/contract secretary/paralegal will have references that they are not shy about sharing. I highly recommend asking for 3-4 references and speaking to at least 2 of them to verify that the skills reflected on the resume are "real world" skills.

Anna D. Collins, Paralegal

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I have a clause in my retainer agreement that states that counsel may hire independent contractors to assist with work.

I am also looking for a part-time independent contractor to assist with pending cases. There are a number of VA/Paralegal websites, but I am extremely cautious and not likely to contact a random person. Please update the list once you make a selection.

Jameika W. Mangum, Illinois

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I am in full agreement with all of my peers. In fact, Lyza is my mentor and I set up my company based upon her suggestions and recommendations. My contracts contain all the appropriate disclaimers, along with non-compete/non-disclosure agreements - and were vetted by an attorney.

As for choosing a VA/Paralegal to assist any of you, Solosez is host to a variety of service providers. All of whom have earned distinction in their various practice areas and who take great pride in the product they produce. It might be worth your time to speak to one of us about your needs rather than go out to the interwebs and take your chances.

I know when I need legal advice, I turn to the attorney members of this fine firm for guidance.

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Just my 2 cents ....

Pamela the Paralegal  
Pamela J. Starr

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Thanks for this post. I am currently revising my engagement letter and wonder if you'd be willing to share the text you include in yours relating to independent contractors.  
Thanks and best regards, Bill Richards

William B. Richards

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I'm not Jameika, but in case you care, the relevant portions of my fee agreement (including tangentially) are as follows. I do not expressly state that I may be using contractors or clerical staff, but I think the following is adequate:

From the Engagement Letter:

"As always, you can be assured that your communication with me and my staff is covered by attorney-client privilege, and potentially damaging information will be managed in accordance with the law and the rules of ethics for lawyers in North Carolina."

From the Fee Agreement:

"Attorney of Record / Other Attorneys: The attorney of record on this matter will be Rick Rutledge. From time to time, the Firm may engage the assistance of one or more other attorneys who have particular experience or expertise in pursuing such claims (or particular aspects of the claim). The Client will be informed whenever anyone may be involved when the issue arises. Any fees to other attorneys will come out of fees paid to the Firm, unless the Client expressly agrees in writing to pay for such services outside this agreement. Fees paid will be based on the amount of work contributed to the case. (This is required by the North Carolina ethics rules for attorneys.)"

"Other Professionals: If resolution of the Matter requires (or would substantively benefit from) the association of other professionals (doctors, accountants, etc.), the Firm agrees to notify the Client of this need before those professionals are hired, and to provide a reasonable estimate of the anticipated costs of that association. The attorney of record on the case will explain to the Client the benefits of associating the professional(s), and the potential risks of not doing so. The Client will have the option of

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declining the association. If the Client consents and the professional is associated with the Matter, the Client agrees to pay the fees and expenses associated with retaining any such professionals above and beyond the Fees arising out of this agreement."

YMMV,  
-Rick

Richard J. Rutledge, Jr., North Carolina

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Thanks Rick. Great text!

William B. Richards

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Well, I hired my first part-time assistant. I knew it was necessary because I have a lot of billable work that I just haven't been able to get to because I am very busy handling administrative level work. Plus, a number of my matters are flat fee, so it makes sense to have an assistant help me handle those cases as efficiently as possible.

I ended up hiring an acquaintance who lives nearby. She is college educated, but she is not interested in working full-time because she has a little one at home and she is very busy volunteering. We will see how it goes. I have already thought of a bunch of things that I would like her to do, but I want to be careful and make sure not to overwhelm her all at once.

I really would like her to help me with bookkeeping, which is a weakness of mine, but I am hesitant to have her help with that work until I get a better sense regarding whether this will be a long-term relationship. It kind of sounds like dating.

Thanks for your advice.

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Hello all,

Here is the section that I use in regards to independent contractors:

\_\_\_\_\_ will be primarily responsible for handling your case. However, from time to time, other attorneys, paralegal assistants and support staff employed by the firm, or attorneys affiliated with the firm in an of counsel or independent-contractor capacity will perform certain delegated services in connection with the Matter, under the direct

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supervision of \_\_\_\_\_. Attorneys affiliated with the firm are billed at the Associates rate, unless otherwise specified in the Agreement or by subsequent addendum.

Jameika Mangum

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