

Independent Contractor Paralegal Contract

Hi Solosez,

I'm taking the plunge into working with a paralegal for a set number of hours per week for my office. This is in California. Does anyone have a sample agreement for an Independent contractor for their law firm that they would be willing to share?

Any recommendations / words of wisdom / warnings?

Thanks in advance,

Most of us (contract/freelance/virtual paralegals) have our own contracts that we send to our attorneys to execute. We've consider it to be standard practice. In all these years, only one attorney-client sent me a contract.

I
t reiterated the non-disclosure language that was in my contract.

Pamela (the Paralegal) J. Starr

I was just writing the same thing that Pamela said.

So, in support, if the paralegal is a contractor rather than a temp, she is a business owner and should have a services agreement to offer you that spells out what she can and will provide, which the two of you can discuss to reach an agreement. If she is operating more as a temp and does not have a services agreement, you should check California's codes to make sure that you are in compliance for hiring her on a part-time basis. Hope this helps.

Lyza L. Sandgren, paralegal, Georgia

Need to make sure that they are aware of applicable conflict and confidentiality requirements and your document retention policy. Also include any necessary language to ensure that they are treated as ICs.

Also in your retainer agreements with your clients, you should inform clients "Client understands and agrees that firm may use outside personnel subject to our supervision" - well something to that effect

Carolyn Elefant, Washington, D.C.

The California tax authorities are very strict and tough about treating contract service providers as employees thus extracting unpaid withholding and penalties etc. be careful and observe the guidelines about independent contractors. The written agreement between you and the contractor are some evidence but not much help if the EDD or tax people decide you actually were an employer-employee relationship.

Michael Boli, California

Carolyn's and Michael's comments are well taken. If the IC offers you her service contract, all those points should be covered in the IC's agreement.

Lyza L. Sandgren

Do you carry worker's compensation insurance? If yes, are independent contractors covered 'just in case' or do they treat that as an admission that independent contractors are employees?

If you have worker's compensation insurance are you and your lawyers covered?

If you are comfortable they are independent contractors do you ask for proof that they file the appropriate IRS (and maybe state) reports? This is important because if the 'contractor' is not filing and paying the IRS as he/she should, it will likely come back and bite you down the road.

My guess is that California is strict, for want of a better term, about waivers and disclaimers.

Independent contractors are self-directed. How much, if any 'direction' do you provide. Do they have a key to the office and the run of the office 24/7? Or, do they work from home or a private office?

If have not looked into this for a long time but I think the IRS has a definition for independent contractors. I have not thought about this before but I would probably track the IRS language in my law firm independent contractor contract.

Rob V. Robertson, Texas

Here are 3 helpful checklists:

http://www.edd.ca.gov/pdf_pub_ctr/de38.pdf

<https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>

https://www.dir.ca.gov/dlse/faq_independentcontractor.htm

Corrine Bielejeski, California

I was subjected to an EDD audit for when I had hired an independent contractor legal assistant, who did almost all of the work remotely using his own computer etc., (and who worked full time elsewhere this was a "nights and weekends" gig with me). The EDD decided the LA was an employee because I had the LA come to my office to meet with me once or twice over what was a several months long undertaking, to give the LA directions etc.

The person who conducted the audit had never audited any law office before and did not know or understand what "litigation" was or what a "legal assistant" did when working on litigation. I had a well-written independent contractor agreement and my LA had filed and paid estimated payments for income tax withholding based on the LA's revenue received from me.

Michael Boli