

Lawyer as Employer:

The Business Decisions Involved With Getting Help for Your Firm

By Deborah Kaminetzky

Are you bringing work home every day or staying late every night and working weekends? Have administrative tasks like filing, bookkeeping and shredding piled up and become a “one day when I have time” project? Are you missing deadlines? These are all signs that you should consider getting help and delegating some tasks.

The first step in becoming an employer is recognizing that you need help. The next step is deciding which type of help you need, which will be determined by what you feel you can delegate. We solos tend to feel we can do it all. Just because you are capable of performing a task doesn't mean that is the best use of your time.

WHOM TO HIRE

There are several types of employees that might be helpful to the overworked solo.

The first type of employee you could hire is an associate attorney. There are pluses and minuses to hiring an associate. Some of the pros are that they can go to court and execute documents such as wills, and that they can supervise staff. Some of the cons, however, are that they may or may not bring in business, and they may even eventually decide to leave and set up shop right next door to you. A lateral attorney from a larger firm may

be used to having access to more expensive systems and software, relying on support staff, and may not have the “do whatever it takes to get it out the door” attitude that a solo or small firm needs.

Another type of employee you may want to consider is a bookkeeper, especially if you hate math or accounting. They can make sure your business accounts are properly documented, sometimes better than you can. This could be one of the more expensive hires per hour and, if not needed on a daily business, might be better off as an outsourced position. The rewards of having reliable books on which to base your business decisions and the ease of tax preparation come tax time can be well worth it.

Third, hiring a secretary, receptionist or paralegal can be immensely helpful. This type of employee can handle your calls in the first instance, manage your calendar, or screen callers out (such as solicitors) so they don't waste your time. These front desk staff can even handle initial client screening if you give them a script. Then you can call back the potential clients who seem promising. This is a major time saver for the typical solo who may get several inquiry calls per day. Some secretaries or administrative assistants who have been working at other law firms may also have some of the same skills and knowledge as a paralegal. Many paralegals can do mostly everything

Deborah Kaminetzky is the founding member of Kaminetzky Law & Mediation, P.C. in Cedarhurst, New York. Ms. Kaminetzky is a member of the American Bar Association, New York State Bar Association (Business Law, Dispute Resolution, Family Law, General Practice, and Trusts and Estates Sections and serves on the Law Practice Management Committee), Nassau County Bar Association (where she serves as Chair of the General, Solo and Small Law Practice Management Committee), National Association of Divorce Professionals, New York State Council on Divorce Mediation, Family and Divorce Mediation Council of Greater New York, and Nassau County Women's Bar Association. She serves on the Board of Directors of the Yashar Attorney and Judges Chapter of Hadassah as Treasurer. Deborah is a frequent speaker and published writer on topics including matrimonial law, estate planning law, small business law, fee arbitration, commercial leasing, technology and social media use, and legal ethics. Website: www.kaminetzkylaw.com. Blog: www.kaminetzkylaw.com/blog/. Facebook: www.facebook.com/KaminetzkyLawandMediationPC. LinkedIn: www.linkedin.com/in/deborah-kaminetzky-b35b446. Twitter: <https://twitter.com/kaminetzkylaw?lang=en>.



[We are hiring]



an attorney can do in terms of drafting paperwork. Although they can't give legal advice or appear for court, they are a great resource as the "point person" for clients, which will free up your time to do billable work.

Lastly, hiring a marketing assistant can be a useful delegation. They can perform an analysis of your advertising efforts, create ad copy and campaigns and send thank you correspondence. Some can even manage your social media and newsletter campaigns.

DO THE MATH!

Now that you have decided which tasks you want to delegate, the next step is deciding whether you need a full- or part-time person, an actual employee or an outsourced worker. To make that decision you need to calculate how many hours of work you would regularly need the person to do. If you are doing the work yourself, try to estimate how long it would take someone else. It might be more or less time than you are spending. For example, if someone else manages your social media it might take them an hour or two per month for focused marketing whereas you might end up spending extra time on sites beyond what is required for marketing. That might free up an enormous amount of time for you.

When determining how much you can pay the employee you need to understand that their salary is only one part of the picture. You also have to pay the other half of their

withholding and insurances. They will get some vacation time, and you may either need to hire a temp in their absence or do without them while they are away, and you will have to work harder that week. You may have to get a second computer and/or additional licenses for them to work. Some companies that provide cloud services charge for each person using the software. On the other hand, they also provide online training for your employee so you don't have to spend the time training them on that software. Figuring out what to offer in your advertisement can be challenging. There are websites that can give you an idea of what someone who meets the job description would earn in your area. When hiring an associate attorney, you also need to include the cost of malpractice insurance.

The next thing to think about is how long would it take for you to "onboard" the person – in other words, when would they be productive? You can send the new hire benefit enrollment forms, tax forms (W2 and I9) and your employee manual or policies prior to their start date so that they can come in on the first day with those tasks already completed. If the person has never worked in a law firm, or if you have a particular way you want everything done, you will be spending time in the beginning in which you could have done some billable legal work training that person, otherwise known as a "ramp up" period.

Have an idea and preferably a written document of what benchmarks you expect the person to meet within certain time frames. Sometimes if it is a finite project (for instance, you need to go through and cull cases for shredding or you need to scan and store files) you can get a summer intern such as a college student who is interested in law school, but keep in mind that you *do* have to pay them or they have to get college credit.

THE CLASSIFICATION OF HELP IS IMPORTANT!

When deciding on compensation for your hired help, be careful not to misclassify an employee as an independent contractor; the fines could potentially put you out of business. The basic rule of thumb is that if the employee works when you want them to, where you want them to using your tools or equipment, they are an employee. You also should become familiar with the laws and requirements for various insurances that are needed for your employee. These may vary depending on location – think New York City versus upstate. You also need to know that just because you are paying a salary doesn't mean that the employee is exempt from overtime.

Another idea is hiring a temp from an agency. A reputable agency should take care of all the employment taxes and insurance. One of the cons of this arrangement is if you really like the employee you may not be able to hire them away from the agency so easily. Another is that if they work for you long term through the temp agency there is a possibility that they will be considered a hybrid employee.

ONCE YOU HAVE DECIDED TO HIRE AN EMPLOYEE, HOW DO YOU FIND ONE?

Sometimes colleagues know of someone exceptional who wants to leave, so you can try asking around. Posting on a list-serve is also a popular option, however, you should be careful if you are replacing someone. You can try posting on the internet through various job sites; however, there are drawbacks. Posting a job on one of these may get a lot of interest, although not everyone who applies is actually qualified. You may get a lot of resumes and need a lot of time to read them. I once had more than 50 applications for a paralegal position and only found six of them interview-worthy. College or Law School Placement Offices can be useful and usually list the job for free.

THE INTERVIEWING PROCESS

When you have candidates come in for an interview, be careful what you ask on your application; make sure you are steering clear of unlawful questions. While an interview is important, giving applicants a test is a good way to compare them against one another using the same measuring stick. It is also objective. There are tests

for all types of clerical work, such as filing, proofreading and grammar, to name a few. Make sure if you test one applicant, you test them all; this can avoid even the appearance of discrimination.

You need to speak with the references provided and find out if they in fact worked with the candidate. References can also give you an idea of why the person is leaving their job or what their attitude is like. Are they habitually late, did they take pride in their work, or did they leave projects unfinished because it was time to leave at 5 p.m.? If you do hire an employee and you don't want to have to deal with the accompanying human resources issues, there are companies that act as outsourced human resources departments. Some of them will even conduct background checks during the recruitment process. They offer assistance in all areas

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of human resources administration, including recruitment, payroll, benefit administration, regulatory compliance, and risk management.

WHAT ABOUT OUTSOURCING?

There are many choices of outsourced help for lawyers – from live reception or virtual assistant services to calendaring options to document production. I know that artificial intelligence has been a concern in the legal community regarding our profession. However, we can benefit from it as well by using it to leverage our time without hiring an employee.

LETTING GO

Finally, what if the hire doesn't turn out the way you hoped for and you have to let them go? New York is an "at will" state – you can fire someone for any reason so long as it is non-discriminatory. Having documented policies, benchmark deadlines and frequent reviews all go a long way toward ensuring that you can easily let go of an employee who is not working out.