

ADVERTISER SPONSORED FEATURE

Mitigating the Challenges of Managing Your Practice

a referral is many times in a client's best interest. It makes an attorney more likely to refer a case to a more competent attorney or one who is more capable of handling the large costs required by larger cases.²⁰ Consequently, the current rule is that a referring attorney does not need to accept any responsibility for a referred matter; he or she must only ensure compliance with Rule 2-200.²¹

Fee-sharing arrangements among attorneys are commonplace. Attorneys often associate with other counsel for many reasons. An attorney might not have the time or the resources to handle a matter. Or a case might involve an area of law that requires specific expertise. In most instances, the fee-splitting arrangement works to the benefit of the attorneys and to the client who receives better legal representation because of the association of the new counsel. Both attorneys should ensure compliance with Rule 2-200. However, as a practical matter, the newly associated attorney (the one without the signed retainer agreement with the client) should be the most concerned about ensuring proper compliance. Without compliance with the disclosure and consent requirements, the newly associated attorney will lose the benefit of the agreed-upon split of the fee. At best, the attorney will be left with a quantum meruit recovery that is usually much less than the agreed-upon fee division. ❖

Law school did not prepare you for some of the most daunting challenges you will face as a new attorney. Building your practice can be a terrifying experience, especially if you are doing it solo or with a small team. As you uncover these new challenges, you will soon realize something you didn't learn in law school—how to run a business. Don't panic or go running for the hills. Tools exist to keep your business running efficiently while allowing you to focus on what you do best—practice law. The solution? A practice management tool like LexisNexis® Firm Manager™.

Designed specifically for independent attorneys, the LexisNexis Firm Manager application enables you to optimize your practice and also provide superior services to your clients with all the features and benefits you need to run your practice smoothly anywhere, anytime.

BE CONNECTED. Renowned for busy schedules and hectic lifestyles, attorneys need to be connected no matter where they are. LexisNexis Firm Manager has addressed this by making sure all your information is available to you—anywhere, anytime. With a specially designed user interface for your mobile devices, you can access all your information whether you are in the office or on the go. With instant access to all your information, you no longer need to carry around piles of paper or worry whether you have everything you need.

Running late? No problem. Your associates and staff can update and upload new documents, contacts, and appointments into LexisNexis Firm Manager, and you will still have instant access to them. LexisNexis is so confident that you can rely on LexisNexis Firm Manager applications anywhere, anytime, that it provides a 99.9 percent applica-

tion availability guarantee (excluding planned outages). You will never find yourself stranded because you will always have your important records at your fingertips whether you are mobile or at your desk.

INCREASE PROFITS. While not everyone will readily admit it, one of the reasons that you work so hard is to receive a return on your investment of time and energy. One of the most obvious benefits of your hard work is profit, which you want to maximize whenever and wherever you can. To do so, you must work efficiently and effectively and at the same time continue to grow your business by meeting your clients' needs. LexisNexis Firm Manager allows you to run your practice anywhere on any mobile device, turning downtime into uptime. You can focus on the more important parts of your business—practicing law and attracting new clients—and less time managing the business. You can maximize your billable hours and make the most of your time, every time, with LexisNexis Firm Manager.

STAY FOCUSED. Your days are busy, and sometimes you need help targeting the most critical tasks and appointments to handle each day. LexisNexis Firm Manager offers a variety of tools and features to help keep you on track with centralized views and automatic updates concerning your calendar and other matters.

Fears of missing a filing deadline or a court appearance are a thing of the past with tools like the Case and Matter Dashboard and the Daily Digest e-mails. Don't waste your most valuable asset—time—by spending it on determining your priorities or your next crucial step. Let LexisNexis Firm Manager help.

REDUCE RISK. No one understands risk the way attorneys do. LexisNexis works side by side every day with attorneys like you and

¹ McIntosh v. Mills, 121 Cal. App. 4th 333, 343-46 (2004).

² Hildebrand v. State Bar, 18 Cal. 2d 816 (1941).

³ Crawford v. State Bar, 54 Cal. 2d 659, 665 (1960).

⁴ Lyons v. Swope, 154 Cal. App. 2d 598 (1957). Yet, if the investigator was found to be in pari delicto, or in equal fault, such as when he or she had knowledge of the illegality of the agreement and participated in the scheme, a court would likely refuse to enforce the agreement. McIntosh, 121 Cal. App. 4th 333.

⁵ Chambers v. Kay, 29 Cal. 4th 142, 157 (2002).

⁶ Huskinson & Brown, LLP v. Wolf, 32 Cal. 4th 453 (2004).

⁷ CAL. R. OF PROF'L CONDUCT R. 2-200(A)(2).

⁸ In a class action, the fee-splitting agreement must also be disclosed to the court. CAL. R. CT. 3.769(b).

⁹ CAL. R. OF PROF'L CONDUCT R. 3-500.

¹⁰ CAL. R. OF PROF'L CONDUCT R. 2-200(A)(1).

¹¹ Mink v. Maccabee, 121 Cal. App. 4th 835, 838 (2004).

¹² *Id.*

¹³ CAL. R. OF PROF'L CONDUCT R. 3-500; BUS. & PROF. CODE §6068(m).

¹⁴ Chambers v. Kay, 29 Cal. 4th 142, 156-61 (2002).

¹⁵ Huskinson & Brown, LLP v. Wolf, 32 Cal. 4th 453, 459 (2004).

¹⁶ *Id.*

¹⁷ Strong v. Beydoun, 166 Cal. App. 4th 1398, 1404 (2008).

¹⁸ CAL. R. OF PROF'L CONDUCT R. 2-200(A).

¹⁹ Los Angeles County Bar Ass'n, Prof'l Responsibility & Ethics Comm., Formal Op. No. 470.

²⁰ Moran v. Harris, 131 Cal. App. 3d 913, 921-22 (1982).

²¹ *Id.*

Christopher T. Anderson, previously a managing partner of an eight-attorney full-service law firm, is now the product manager for the LexisNexis Firm Manager application.

knows what you are up against. You want a practice management solution that works for you from a company you can trust.

The LexisNexis Firm Manager application is your product. It provides the confidential-

You will soon realize something you didn't learn in law school—how to run a business. Don't panic or go running for the hills. Tools exist to keep your business running efficiently while allowing you to focus on what you do best—practice law.

ity that you and your clients need. Any data you input into LexisNexis Firm Manager will be kept private and stored in a secure environment in SAS 70 Type II attested world-class data centers located exclusively in the United States.

LexisNexis Firm Manager never owns or accesses your information, unlike some other practice management solutions. With exclusive features like a global conflict of interest search, LexisNexis Firm Manager has you covered in more ways to help minimize your risk in every way. Have questions? Don't be afraid to ask. Your security is the first priority of LexisNexis Firm Manager.

Still not sure LexisNexis Firm Manager is right for you? Try it now free for 30 days at <http://www.myfirmmanager.com/try-it-now/> and see the difference. ❖

PRACTICE BASICS

By Michael L. Cohen and Heather M. McKeon

Triggering General Liability Insurance Coverage for a Third-Party Claim



Insurance policies help clients hedge against risks, including the risk of litigation. When a client is sued for bodily injuries or property damage or other claims specifically listed in a policy, such as malicious prosecution, the client's insurance policy can be the key to a satisfactory resolution to the case. The policy may require the insurer to pay for the client's defense in the case. It also may require the insurer to pay to settle the case and avoid the potential that the client may be found liable for a judgment in excess of policy limits. Additionally, the plaintiff will want to review the policy to explore, among other things, the assets against which it might execute a potential judgment. Therefore, whether an attorney is on the plaintiff side or the defense side, it is critical to know the basics of what must be done to trigger coverage under an insurance policy—that is, the steps an insured must take to obligate an insurance company to fulfill its promises made in the policy.

TENDERING A CLAIM. A "tender" of the claim to the insurer commonly refers to a

request that an insurer provide a defense and indemnity under a policy. The first basic rule of a tender is that it should comply with the provisions of the insurance policy. Insurance policies are contracts. Before tendering the claim, make sure that the parties named in the lawsuit are the same ones listed on the declarations page of the insurance policy as an insured or fall within the "Who Is an Insured" provision of the policy. For instance, a lawsuit filed against a business and its owner as an individual may trigger coverage only for the business if the business is the only named insured and the owner does not fall within the policy's definition of who is an insured. If there is any question regarding who is an insured under the policy, provide information to the carrier at the time of tender explaining why all named defendants should be covered under the insurance policy.

Most policies include provisions that instruct the policyholder on how to make a claim. Read the policy carefully, and follow the steps for notifying the company about the claim.

Michael L. Cohen and Heather M. McKeon, principals in Cohen McKeon LLP, represent policyholders in insurance-related matters and plaintiffs in other civil matters.