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Avoid Liability Arising From an “Apparent Partnership”

A lawyer may have exposure to liability for the malpractice of lawyers not in his firm if he allows those lawyers to hold themselves out as if they were his partners. When sharing office space or other overhead with other lawyers who are not in your firm, neither you nor the other lawyers should hold yourselves out as partners, such as by using a law firm name that states or implies that you are partners. Lawyers should not permit the names of lawyers outside their firms from appearing on firm letterhead, signage, invoices, checks, directories, etc. unless the actual relationship is clearly disclosed. For example, a lawyer may be “of counsel” to another firm and may appear on that firm’s letterhead, but the “of counsel” relationship should be clearly identified. Giving the appearance of partnership can result in liability for another lawyer’s malpractice under the theory of partnership by estoppel—that a lawyer is estopped from denying partnership with another lawyer because he permitted the other lawyer to hold himself out as a partner to prospective clients.