

## **HINSHAW & CULBERTSON, LLP**

### **RISK MANAGEMENT E-MAIL REMINDERS**

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#### **Do you “dabble” in matters outside your practice area?**

Dabbling is risky. Pressed by economic forces or perhaps the unreasonable expectations of clients, the "dabbler" disregards common sense and strays into areas of the law in which he or she has little or no experience. For the dabbler, loss prevention is particularly troublesome. Statistically, up to 59% of all losses occur outside a lawyer's or law firm's primary area of practice. But the dabbler risks more than an unsatisfying result or a potential malpractice claim. He also puts his law license at risk.

What does a lawyer do when confronted with an engagement that requires legal knowledge, skill and thoroughness beyond the lawyer's competence? First, the dabbler must recognize his limitations. Once this is accomplished, he has four options. He may either refuse the case, refer the case, associate with competent counsel, or become competent.

In terms of loss prevention and ethical standards, a lawyer who strays from his area of knowledge and skill clearly accepts greater risk potential. This may be a sufficient reason for a lawyer to decline to take a case outside of his or her area of expertise.

If you decide to take a case outside of your area, there are a few tips to consider. First, simply disclosing your lack of expertise to the client does not limit your liability if he or she agrees to retain you anyway. Second, such a disclosure, followed by your mishandling of the case, will probably enhance a dissatisfied client's malpractice claim against you. Third, if you have disclosed your lack of expertise to your client and he or she still insists on your handling the matter, you should be suspicious of the client's motives. Ask yourself, "why would a client retain a self-confessed incompetent counsel?" Finally, if you decide to accept new business outside of your firm's area of expertise, and you wish to avoid the unfortunate consequences, you will have to do a competent job and you should consider associating experienced counsel at the outset to overcome your lack of skill and knowledge.

The lawyers' risk management web site, <http://www.lawyerinlaw.com>, provided to you by Westport as a value added service, contains articles related to the topic of office sharing and apparent partnership, such as “A Loss Prevention Primer for the Dabbler” and “Rules Show a Little Knowledge Is Indeed a Dangerous Thing.”

Also, if you would like confidential advice in connection with concerns about dabbling, you may wish to use the Risk Management Hot Line, also provided to you by Westport at no cost to you. The hot line can be accessed by calling Hinshaw & Culbertson LLP at 1-866-609-5827.