

Welcome to

De Novo Review

Your On Demand Legal Research Branch



DENOVO
— REVIEW —

A Globalized Economy Sparks An Outsourcing Trend of Attorneys Serving Attorneys

By: Genny Castellanos, Esq.

1. Overview

For decades, many lawyers have engaged other lawyers as independent contractors, directly or through intermediaries on a temporary basis to provide a variety of legal support services. Although these lawyers may not have identified this process as outsourcing, that is essentially the effect. Services provided by these attorneys include, but are not limited to, performing legal research and drafting briefs and motions.

The legal community uses different labels for outsourcing, from "of counsel," "temporary attorney," "contract attorney," "ghostwriting," or "remote associate," to "project attorney" selected by staffing agencies. Regardless of the label, if the attorney is working offsite and on a project or hourly basis, these roles all boil down to essentially the same type of relationship.

Outsourcing is rather prevalent and increasingly in use. It enables a small firm to represent its clients effectively and efficiently by engaging additional attorneys with specific skill and knowledge in the matter to perform a task. It also affords lawyers the ability to reduce their costs, provide better services, and develop more business. As noted in Formal Opinion 08-451, "[t]here is nothing unethical about a lawyer outsourcing legal . . . services, provided the outsourcing lawyer renders legal services to the client with the 'legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation,' as required by Rule 1.1."

2. Benefits

The benefits of hiring a flex time or contract attorney are endless. Lawyers can benefit tremendously from distributing their current workload to highly skilled but affordable outside lawyers on a project-by-project basis. The work, oftentimes consisting of backlogged work,

research issues, and briefs, can be completed quickly, cost-effectively, and at a higher quality using this alternative method. Offsite lawyers also benefit from the flexible work environment.

The benefits of hiring a De Novo Review LLC flex-time lawyer include:

1. **Become a Full Service Law Firm.** Your firm can become a full-service firm and take on cases outside of the firm's area of specialty. This is especially important because client retention is almost more important than attracting and retaining new clients. Clients are the best referral source of new business for your law firm.
2. **Compete with Large Law Firms.** You have the ability to compete with larger firms in handling cases, such as commercial litigation cases, when litigating big cases and not jeopardize the best interests of your client but being unable to keep up with a larger law firm that is well-staffed.
3. **Win more cases.** You have the ability to produce better outcomes for your clients with additional help.
4. **Have Time for Business Development.** If you are a small or medium size law firm, you can take time to work on growing your practice and still have a timekeeper billing hours to generate revenues for the firm.
5. **Minimize hiring training.** This is a good way to vet for permanent help in the event that what might be a temporary increase in business actually becomes sustainable for the next 6 to 9 months.
6. **Scalable on Demand.** Working with flex-time allows you to *always* have the extra help available in the event of a sudden departure or illness on the part of a lawyer who is a permanent part of your staff.
7. **Decrease yearly hiring costs.** A flex-time or contract lawyer is less expensive from the hourly rate to providing no benefits for someone who is not a permanent part of your staff.

3. Adding a Surcharge

The hiring lawyer may generally charge reasonable fees for the work performed by the outside attorney. The hiring attorney should review their local State bar to confirm. For those states authorizing surcharges, the hiring lawyer may add a surcharge to the cost paid by the hiring lawyer just as a law firm bills for the services of its lawyers. In this situation, the hiring lawyer should inform the client of the offsite attorney's billable rate and obtain consent through the retainer

agreement or by other means. Notably, there is no obligation to inform the client what the offsite attorney is being paid. If no consent is obtained, then the hiring attorney should charge the actual costs plus reasonable cost of supervising those services and associated overhead costs (the latter will likely be minimal if the outsourced work is performed off-site and requires minimal need for infrastructure support). The hiring attorney may also charge a reasonable rate for any additional time he/she spends revising the work product of the offsite attorney. However, if the hiring lawyer decides to pass the costs to the client as a disbursement, no markup is permitted.

We offer different options and services for every situation in which you may need an experienced appellate attorney at a cost-effective rate. A lead project attorney will work with you by telephone or email to discuss your needs and provide you with the best service solution. Service options include [hourly or flat rates](#). See [Our Services](#) below.

[Watch this video](#) for an overview. To learn how you can make a profit by using our services, read [this published article](#) (on page 2).

4. Check List for Hiring Attorney

The parameters of what these attorneys can do for other attorneys and how they can be billed out to that attorney's client are functionally no different than law associates working onsite. While The Florida Bar has only generally discussed attorneys for temporary assignment to other attorneys, law firms, or legal departments, the American Bar Association provides specific guidance in its Formal Opinion 08451, "Lawyer's Obligations When Outsourcing Legal and Nonlegal Support Services," addressing the ethical implications that might arise when working with an offsite attorney.

The Hiring Attorney's Obligations: "The 4 C's" An attorney or law firm outsourcing legal work to another attorney may adopt the work product prepared by another attorney as his/ her own work. Because the hiring attorney is ultimately responsible for the work product, he/she should therefore keep in mind the "4 C's:" (1) Competency; (2) Client Information, (3) Charges; and (4) Conflict Checks.

- (1) **Competency.** Rule 1.1 of the Model Rules of Professional Conduct does not require that tasks outsourced to another attorney be accomplished in a special way or performed under direct supervision of the hiring attorney. The rule only requires that the hiring attorney satisfy his/her obligation to "render legal services competently." Therefore, the hiring attorney should ensure that the tasks are delegated to competent individuals and should review the work product before providing it to the client.
- (2) **Client Information.** Two considerations arise with regard to client information: informing the client of services by another attorney and confidentiality of client information. If the attorney performs the delegated task without the close supervision of the hiring attorney,

then the client should be informed and consent obtained (for example in the retainer agreement). As for client information to safeguard inadvertent or unauthorized disclosure of client information, written confidentiality agreements are strongly advisable.

- (3) **Charges.** The hiring lawyer may charge reasonable fees for the work performed by the outside attorney. This includes adding a surcharge to the cost paid by the hiring lawyer just as a law firm bills for the services of its lawyers. In this situation, the hiring lawyer should inform the client of the offsite attorney's billable rate and obtain consent through the retainer agreement or by other means. Notably, there is no obligation to inform the client what the offsite attorney is being paid. If no consent is obtained, then the hiring attorney should charge the actual costs plus reasonable cost of supervising those services and associated overhead costs (the latter will likely be minimal if the outsourced work is performed off-site and requires minimal need for infrastructure support). The hiring attorney may also charge a reasonable rate for any additional time he/she spends revising the work product of the offsite attorney. However, if the hiring lawyer decides to pass the costs to the client as a disbursement, no markup is permitted.
- (4) **Conflict.** The offsite attorney should confirm that he/she does not work for adversaries of the client on the same or substantially related matters. Often, hiring attorneys outsource work that does not involve client identification and when they do, it is good practice that the offsite attorney's contract imposes a requirement separate and apart from the Florida Rules of Professional Conduct to immediately verify and confirm that no conflict exists.

The economics of running a law firm show that it makes good business sense to hire flex-time or contract lawyer. Even the largest firms have down-sized or right-sized attorney staff as part of their agenda to reduce overhead expenses. What firms cannot afford to compromise on, however, is their ability to provide clients with the best possible, competent and efficient legal representation. This is essential to building a strong foundation for an attorney-client relationship that will extend far into the foreseeable future.

Our mission is to help your firm
“Get quality help when you need it, in the exact amount you need it.”

Call our office at 786-251-5814 or
visit our website at: <http://www.denovoreview.com> or
email us at genny@denovoreview.com

About the Author: Genny Castellanos is an attorney, licensed to practice law in Florida. She practices in the areas of appellate, commercial, real estate, and intellectual property matters. Ms. Castellanos founded De Novo Review, LLC to provide solo practitioners and small law firms with highly qualified and experienced attorneys on an “as needed basis.” Ms. Castellanos can be reached at genny@denovoreview.com.

5. Support Staff

Our [staff associates](#) have [prior experience](#) with [district court of appeal\(s\)](#) and/or have worked with trial attorneys in providing appellate support. Different levels of experience are available depending on the attorney's need, but all available appellate associates have a minimum of three (3) years of experience and excellent references. [Credential summary, resume, and writing samples are available upon request](#). De Novo Review trains all its appellate associates on De Novo Review's [legal research protocols and procedures](#). Each associate is also required to follow a core workflow process in preparing an appeal or conducting research. Below is a credential summary of one of our Appellate Associates.

6. Quality Control

Unlike a traditional staffing company, all completed projects are reviewed by a Lead Project Attorney, who has over five years of experience. This follows the same model of a law firm where a partner reviews the associates work. This is our standardized protocol, [developed and refined](#) throughout the years and [customized to fit our individual clients' needs](#) allowing them to [focus their valuable time](#) on other important matters, such as developing their practice of spending more time with their family.

Kelly B., "Appellate Associate"

Kelly is a talented attorney with a tremendous amount of appellate experience. She graduated from the University of New Mexico School of law in 1993 and acquired her LLM from the University of Miami School of Law. While in law school, Kelly was the Symposium Editor of Law Review. After law school, she clerked for the Honorable Oliver Seth of the Tenth Circuit Court of Appeals. For several years while at a Commercial Litigation Firm, Kelly represented lenders in civil actions enforcing the terms and conditions of commercial loan documents. She has also represented the Miccosukee Tribe of Indians in litigation and appellate matters, both state and federal, involving environmental, administrative, and Indian law matters. Kelly is a member of the State Bar of Florida, New Mexico (inactive), U.S. District Court, Southern District of Florida, and the U.S. Court of Appeal, Eleventh Circuit.

Kelly has excellent litigation and appellate support skills. Her writing and analytical skills are top notch. She has worked on several appellate matters for our clients and they have raved about her thoroughness, research ability, and drafting skills.

Managed Services: Our model is designed to **maximize quality** of the project work at **the lowest costs** of any provider in the marketplace providing appellate services. Below is a summary of credentials of one of our Lead Project Attorneys:

7. Enjoy the Read

When an appeal or other related project is completed, **a copy of the work with highlighted case law and attorney notes will be provided to our client.** We recommend that our client use the Read Mode in Microsoft Word and enable **track changes** so that we can later view your markers indicating revisions or comments. Our model is to assist our client with any questions or revisions even after the work has been completed. **Facilitating simple collaboration to finalize the project is a key focus of De Novo Review.**

Genny C., "Lead Project Attorney"

Genny is an experienced litigator and appellate attorney. She graduated in the top 15 percent from Nova Southeastern University, Shepard Broad Law Center in 2008. During law school, Genny was a Notes and Comments Editor for Law Review and received an academic scholarship. Genny clerked for Chief Judge Robert M. Gross of the Fourth District Court of Appeal as a judicial clerk. While working at Rumberger, Kirk and Caldwell, Genny handled over 20 cases for national retailers and banks in appellate, commercial, and premise liability matters. Genny became the "go to" attorney for complex research projects and appeals and has also presented appellate oral arguments. She has a strong ability to identify issues to appeal as well as rebut or distinguish arguments presented by opposing counsel that may have some merit.

8. Our Services

Most firms earn significant profits by outsourcing complex legal work to our experienced attorneys. For more information on permissible fees charging read [this published article](#) (on page 2). The following is a list of services our clients favor:

A La Carte Services	Description of Services
Prepare Your Case	<ul style="list-style-type: none"> ✓ Draft complaints, motions, responses, discovery, orders, final judgments, and post-judgment motions
Prepare Your Brief(s)	<ul style="list-style-type: none"> ✓ Prepare letter identifying brief schedule and appellate deadlines ✓ Evaluate sufficiency of notice of appeal and appellate jurisdiction ✓ Review record on appeal and transcripts ✓ Identify factual support for appellate issue(s) (issues provided by client) ✓ Evaluate completeness of record on appeal ✓ Prepare motion to supplement the record (if applicable)

	<ul style="list-style-type: none"> ✓ Conduct research of case law and rules to find supporting case law on appellate issues ✓ Prepare Initial Brief ✓ Prepare Motions/Notices for Extension of Time (if applicable) ✓ Review Initial Brief and Answer Brief research case law and record cited by Appellee in order to Prepare Reply Brief (up to 15 pages). *Same services apply for preparation of answer brief.
Get a Second Opinion	<ul style="list-style-type: none"> ✓ Review any issues, motions, and briefs provided by client ✓ Conduct research of case law and rules on issues presented by client ✓ Prepare recommendations on issues ✓ Consult and strategize with client (includes email correspondence and telephone conferences)
Be Heard	<ul style="list-style-type: none"> ✓ Review Record on Appeal ✓ Review Appellate Briefs filed (Initial, Answer, and Reply Brief) ✓ Prepare Oral Argument Synopsis summarizing key matters from the Record on Appeal, Appellate Briefs, and Case law/ Rules (including necessary citations) ✓ Provide a list of potential questions that the Appellate Panel may ask during oral argument ✓ Provide recommended responses to those questions. *Record appearance and presentation of oral argument available upon request.
Get Paid Your Fees	<ul style="list-style-type: none"> ✓ Review relevant documents to determining entitlement to attorneys' fees. ✓ Research and analyze basis and entitlement to attorney's fees (including 57.105 motions, if applicable) ✓ Provide assessment of likelihood of success of Motion for Attorney's Fees ✓ Prepare Motion for Attorney's Fees.
Take the Weekend Off	<ul style="list-style-type: none"> ✓ Prepare and Complete any project provided by our client expeditiously (less than ten (10) days from date of delegation).

▲Hourly and Flat Fees Available▲

When estimating the total costs for our services, we always consider the type of case, the amount in controversy, and the complexity of the issues. This affords our client's a value proposition and an opportunity to make a profit or pass the savings along to their clients.

9. Creditability & Reputation

In one year, De Novo Review's team of attorneys have published articles, consulted numerous litigators, identified and preserved appellate issues, presented oral arguments in the District Court of Appeal, and secured favorable appellate opinions (including reversals) for our clients and their clients. [Read Client Testimonials:](#)

- ✓ "Clear development of legal issues, followed by thorough research of the law and application to the facts. A time saver!" [Alejandro Vilarello, Esq.](#)
- ✓ "Provided quality research and briefing of complex federal issues, allowed me as a busy small law firm attorney to provide big firm service to my clients." [Dorothy Negrin, Esq.](#)
- ✓ "Optimum service in preparing Appellate Briefs, Petitions, and Motions for Summary Judgment. Very accessible and prompt service." [Anthony Dieguez, Esq.](#)
- ✓ "De Novo Review offers affordable and reliable professional assistance. I know that when working with them I will get results! Thanks for all your help." [Richard Corey, Esq.](#)
- ✓ "De Novo Review should be your go-to resource for legal research, writing, and appellate support." [Ethan Wall, Esq.](#)
- ✓ See [Appellate Opinions](#).

De Novo Review provides attorneys and their law firms a transformative legal appellate branch model. This company was founded to provide a cost-effective solution to attorneys and law firms who need appellate support. [Get to know the Founder.](#)



Ready to get started?

We know you will enjoy working with De Novo Review!

[Getting Started with De Novo Review](#)

- Contact us by telephone at (786) 251-5814 or
- Email at genny@denovoreview.com.

Sincerely,

The De Novo Review Team