

Popular Threads on Solosez

Staff And Confidentiality

Does anyone have a standard confidentiality statement for new employees to sign?

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There are some bare bones free forms at www.cch.com

Having said that, they are trying to sell more thorough versions. An example of problems with their free forms: they have a barebones noncompete agreement. It is flawed, however, as the document fails to mention a necessary element of such an agreement (in most states): consideration. There is a disclaimer or sorts at the bottom of the free form. What bugs me is these forms sellers have no professional liability when the sloppiness comes back to haunt the user.

The www.cch.com site is sort of hard to navigate as each page has an enormous number of links...web pages on steroids

On the home page, on the left, click on "CCH Business Owner's Toolkit." At the toolkit page notice "Table of Contents in the middle of the page and click on it. You can mine around and find a great deal of material and lots of skimpy forms.

Another site worth bookmarking is www.ceoexpress. It is truly a great index of sites and has lots of forms.

Rob Robertson, Austin, Texas

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I am in the process of creating the "office manual" and here is the blurb on confidentiality that I have to date. Comments are welcome:

ACCESS TO CONFIDENTIAL INFORMATION All employees will, in the performance of their duties, gain access to information pertaining to clients or to an attorney. Such information is strictly privileged and confidential. Under no circumstances should this information be given to others, nor should it be discussed with anyone outside this office. All client information, including telephone number and address are considered confidential. If there is ever question as to whether information should be released, employees are to check with management first. Absent the client's prior consent, this includes answering questions as to whether a particular person is our client.

When asked to call someone, it is imperative that employees remember the attorney-client relationship and the strict rule of confidentiality that exists between the two. When an employee speaks directly with a client, he/she is expected to convey all information as instructed by the attorney. However, if the employee speaks with somebody else in the client's household or the client's place of employment, the only thing he/she is permitted to do is leave a message for the client to return our call. Under no circumstance should one tell the person on the other end of the line the information intended for the client, or even that he/she is calling from the client's attorney's office. Those kinds of disclosures would break our rule of confidentiality. If asked what the call is in reference to, one should say "it's a personal matter."

Every piece of information concerning our clients, written or unwritten, must be treated with utmost

confidentiality. The following is a list of some examples of inadvertent disclosures all employees must be careful: Discussing matters over lunch with a person working for a firm adverse to our client; accidentally mailing confidential information to the wrong person; mentioning something about a case to someone who knows someone adverse; complying with an official-sounding request of someone on a telephone and release confidential information; releasing confidential information to third parties who come into the office, claiming they have to pick something up for the client, or discussing the case with your spouse, who repeats it to someone. Any instance of disclosing client information without attorney approval is prohibited.

The Utah Lawyer's Rules of Professional Conduct establishes very strict rules with respect to client information, and a violation of these rules will result in severe disciplinary consequences to the attorneys.

Randy Birch, Salt Lake City, Utah

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Every so often, a third party would call my office asking for a particular client (who happened to be there or just have been there). One would think that the client must have told this person he or she would be at my office, but it is still a breach of confidentiality to answer the question. It seemed to be a hard concept to get through to employees, so while your language probably covers it, I doubt some employees will think that far. Then again, it probably happens a lot less now that most people carry cell phones. Veronica Schnidrig, Portland, Oregon

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Why is the whereabouts of your client confidential?

John Page, Tampa, Florida

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I may be wrong, but I think the "confidentiality" issue is the disclosure that client is seeing an attorney.

Robert J. Strupp, Baltimore, Maryland

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Absolutely.

What if the inquiring person is the client's soon to be ex and she asks (cause she was wondering if he is thinking about a divorce) and your staff says "he was just here". Wife cleans out accounts and leaves with kids before he gets home. Ethical violation - absolutely! and look at the potential liability!!!!

Randy Birch, Salt Lake City, Utah

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I can't think why the mere fact that you are at an attorney's office is confidential. Is it confidential that you visit a shrink's office? Some businesses--like a good bar--as a matter of discretion may choose not to disclose relationships with their client. That does not arise out of a duty of confidentiality.

John P. Page, Tampa, Florida

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I think that it is revealing that a particular person is a client. This usually happened on initial consultations or with new clients and we had no idea who these callers were. Veronica Schnidrig, Portland, Oregon

===== I was careless. My intended point was that the fact that someone walked into your office is public and can't be protected by the attorney/client privilege. Beyond that, attorneys like other businesses may incur duties to respect confidences. On that, basis I would agree that you should be careful about confirming the presence of the person.

I admit that all sorts of unfortunate inferences, consequences may flow from the fact of the visit to a law office. The question is, what duty does an attorney have when the fact of the person's visit is public?

That's as far as I got in my thinking, but I'm very skeptical?

John Page, Tampa, Florida

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If, for instance, the spouse is trying to confirm whether the other is presently consulting seeking a divorce, this revelation could be a final dynamite charge. If, for instance, business competitors know that a particular company uses a specific attorney for transactions, and is willing to pay up on an identified acquisition candidate. If, for instance, any client desires the fact that he or she is consulting you remain confidential, for any of hundreds of scenarios.

My staff better not confirm who is here or not, without being 100% certain of the caller's identity and legitimacy. Training is to test for legitimacy and then consult with me BEFORE telling a caller anything. Training is to err on the side of nondisclosure, and occasionally that creates a delay.

These are core privilege and confidentiality issues. Clients are free to bring up their location and status to third parties. Lawyers are not without some careful checking. Staff are bound by lawyer rules.

Darrell G. Stewart, San Antonio, Texas

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I agree with Darrell about the "final dynamite charge". In addition to a written policy on confidentiality, I have at least one telephone line that is "private" so that the caller ID screen of the telephone receiving the call from my office will not show my law office number. My staff are instructed to use the private line when calling clients with sensitive issues, especially in divorce cases or any case when a client may want the attorney-client issues to be kept confidential and not disclosed to household members. This applies especially when we are calling a home or office telephone, not the client's personal cell phone --- although suspicious spouses sometimes check the "calls received" screen of their spouse's cell phone.

I understand that the phone call recipient can press certain keys on the phone (I think it's star-69) to find out the number which placed the call, but there are limits to that tool.

Joyce Maughan, Salt Lake City, Utah

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