



How to: Freelance gigs catch on for local attorneys

By: Nancy Crotti July 10, 2014 0

Freelance attorneys can swoop in when solos or law firms need experienced lawyers to take up the slack. They're not baby lawyers, nor do they work for an agency. They market themselves, hire themselves out, negotiate their own pay, sign their own contracts and can choose when, how much and for whom they will work.

Freelancing works for Emerald Gratz, who has been practicing law for nine years. She clerked for U.S. District Judge Richard Kyle and spent five years as a prosecutor for the Minnesota Attorney General's Office before a layoff in 2011. Gratz didn't have a natural segue into solo practice, and said she kind of fell into freelancing. She writes many

appellate briefs — including some for county attorneys and criminal defense attorneys — and does discovery work and trial preparation for civil litigation.

Gratz has been freelancing exclusively for three years. She limits her work schedule to 25 hours, plus five hours for marketing. She contracts with large firms and small, and won't sign up for a new case until a few weeks before the current one appears likely to wrap up. Freelancing allows Gratz, of St. Paul, to spend two days a week with her daughters, ages 1 and 4.

Karin Ciano worked as a career clerk for U.S. District Judge James Rosenbaum, since retired, and other federal judges before going out on her own in September 2011. An attorney for 19 years, she splits her practice between working as a solo practitioner and freelancing for others. Because her solo practice focuses on civil rights and employment law, Ciano said she rarely has repeat business there. Freelance is another story.

"I like having both, because when one slows down the other one heats up," Ciano said. "Once a trial ends, I can pick up other projects."

Not as isolated

Ciano uses her experience as an associate at a New York City law firm from 1995 to 2000 to her advantage as a freelancer.

"I kind of came up knowing how to work with other lawyers," she said. "I was trained that way. I can take direction well. I know how to be a good associate."

She doesn't feel isolated as a solo, and enjoys working with other attorneys, particularly on researching and writing motions and "quirky federal trial stuff."

"It just lets me use some of the skills that I have right out of the box," Ciano said.

Last year, Gratz and Ciano started the Minnesota Freelance Attorney Network, a support and networking group that has 40 members and meets regularly at MoreLaw in Minneapolis, where Ciano offices.

"We have a blog and we have people and we have meetings," Gratz said. "I think it's been going great."

"Lots of good interest," Ciano added.

Ciano was careful to clarify that MFAN is not a referral or placement service. Some freelancers, including Ciano, belong to Custom Counsel, which does connect freelancers with hiring attorneys.

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To drum up interest among their peers and increase understanding of their work choices, the women have presented several CLEs on how to freelance, how to work with freelancers, and the ethical considerations to contracting with a freelancer.

Minneapolis attorney and legal ethics expert Eric Cooperstein doesn't see a problem with it as long as the hiring attorneys tell their clients in the retainer letter that they may bring in some outside attorneys. Hiring attorneys should also let clients know how they will compensate the freelancer, Cooperstein said. He believes Ciano and Gratz do a good job of explaining their work and dealing with possible ethical dilemmas.

The ethical rules don't spell out much about freelance lawyers, who are neither part of a firm nor of counsel. The American Bar Association has issued formal opinions addressing temporary or contract attorneys, which interpret the ABA Model Rules.

"They generally discuss what info a hiring attorney should disclose to a client, what need not be disclosed, and how to bill for a freelancer's services," Ciano said. "It's not as gray of an area as it looks at first."

Indeed, freelance attorneys need many of the same things that solos and firm attorneys need: legal forms, written agreements, malpractice insurance, a list of rates, proof of operation as a legal entity, and explanations of how they market their work, Ciano said. They also must have a conflict-checking system, a good filing system and technology skills.

"The only thing you don't need as a freelancer is a trust account," she added.

Client's consent

Craig Trepanier needed a freelance attorney to research and help write a motion to dismiss on short notice when one of the three associates at his firm was on maternity leave.

His firm, Trepanier, MacGillis and Battina, Minneapolis, has a paragraph in its standard legal services agreement stating that it may use freelance or independent contract attorneys who are not employed by the firm. Because they decided to file the motion on short notice, Trepanier obtained his client's consent before bringing Ciano in to do the work over a weekend.

"She did the research and wrote portions of the brief and she did a great job," he said. "I had a very good experience working with her and it was great to have someone who was more seasoned and experienced and who could definitely step in and help."

Trepanier also passed along Ciano's fee without adding to it, because his firm was short-staffed.

"I think the client perceived it actually as a good thing," said Trepanier, who practices corporate law, commercial

litigation and employment law.

Ciano and Gratz are considering putting on a boot camp for freelance attorneys. They also want to make sure there's no confusion between freelancers and contract attorneys (not that they have a problem with contract attorneys.)

Freelancers are independent contractors, Ciano said.

"Historically, a contract attorney works for an agency and doesn't go out and get their own work and works for a low wage doing traditionally just document review," Gratz added. "That's why we're trying to make the terminology 'freelance attorney' more widespread."

