

There is one question. In answering it, remember that **I do not want, and will not give credit for, a general discussion of the law.** Rather, **your exam should reflect a discussion of the relevant rules and principles in the context of the given facts and instructions.** Restrict yourself, to the extent possible, to the facts given. If additional facts are needed to resolve the existing issues, state what they are and why, but do not change the facts.

Please write or type legibly. If you type, please double space and use an 11 or 12 point font. You do not need to use a blue-book. **Make sure that only your final exam number (and not your name) appears on your exam and answer.**

Turn in your question sheet along with your answer. Number the pages of your answer, and if available, include a printout from your computer of the number of words in your answer. **Turn in your declaration of compliance along with your exam.** Items should be submitted in the following order: **Exam answer on top, declaration of compliance next, exam question sheet last.**

Alexandra (Alex) Brown, Chris Wallace, Elena Fernandez and Gregory House share office space in a renovated building on Township Square, which is at the center of Mokansa City, a small city located about forty miles north of the largest city in Mokans. The four attorneys are involved in an office sharing agreement. The building is owned by Alexandra Brown, and she rents space to the other attorneys, all of whom practice as solo practitioners. Each attorney has his or her own large office. The four attorneys share two conference rooms, a file room, a small library, two small offices used by law clerks and three secretarial stations (one of which is rarely used). Each attorney has his or her own computer system, but the office shares some accounting software, research software and a basic computer network that allows access to the internet and provides security, including firewalls and back-up services. The attorneys share a secure vault in which case files are kept. Each attorney and the staff have access to the vault. Each attorney has his or her own locked file cabinets both inside their offices and in the vault, but, for the most part, the cabinets remain unlocked during the day when staff need regular access.

The office sharing arrangement works well for all involved. By sharing costs, the attorneys are able to provide what they believe are high quality legal services at a reasonable cost. In addition, by having all four attorneys in one building, they are able to provide clients a larger range of services than they could provide alone as solo practitioners. This helps their clients who need a broader range of services as well as the attorneys, who can take on work that, if practicing alone, they might have to refer to outsiders or turn away.

The practice focus of the attorneys is quite complementary. Alex and Chris practice primarily in the area of family law, elder law and estates and trusts, but also do small business development and counseling. Elena is engaged in general civil practice, doing both personal injury and commercial litigation. She also likes work involving alternative dispute resolution. Greg does mostly criminal work, but handles civil trial work, including an occasional family law case, as well. Alex and Chris share a secretary and a paralegal, as do Elena and Greg. They all share a receptionist who answers the phone and forwards calls. Each attorney has a private line as well as a line linked to the receptionist. There is an after hours voice mail, but each staff member has his or her own password protected access to their private phone mailbox. The attorneys in the office also share the time of a student law clerk who works 20

hours each week.

Three of the four attorneys have been together for nearly five years. When the office began, Charles Donovan was one of the attorneys, but he left a little more than a year ago, taking his cases with him. Chris Wallace was happy to take over the space and has been working with the office for about a year. Alex and Chris's secretary (Shannon) and paralegal (Tina) have been hired within the last year, while Elena and Greg's secretary (Lorie) was there from the beginning (although initially she worked part time), and their paralegal (Mike) came shortly thereafter.

The lawyers in the office have done a good job of generating business and pool resources to place both listings and advertisements. While each lawyer has his or her own website, they do have a site, maintained by Greg, for the office as a whole, and each of them links their personal web site to the office site. Each lawyer uses the overall office logo and slogan on all their materials, and they all use the same letterhead, which they purchase jointly. The letterhead is as follows:

Law Office on the Square

1234 Township Square
Mokansa City, Mokans 33445

Ph: 555-555-4321 Fax: 555-555-9876

Alexandra Brown
Chris Wallace



Elena Fernandez
Gregory House

Quality Representation at a Reasonable Price

The attorneys in the office consult with each other on cases, providing additional expertise and a forum for bouncing off ideas. When they can't find the help they need in the office, some of the attorneys turn to the Solo and Small Firm discussion lists run by the Solo and Small Firm Committee of the state bar association. Those lists are broken into practice groups, and attorneys can sign on to the relevant groups. In order to sign on, an attorney has to certify that he or she practices a certain percentage of their time in that practice area and, if the group is plaintiff or defendant oriented, that the person only handles cases on that side. A "moderator" checks the initial submission for obvious problems, but for the most part, the list is operated on the honor system. Most attorneys who use the lists regularly get to know the other active members, and people are often cautious in their communications with new or unknown members. The certification also provides that, if a person changes practice areas or sides, he or she is expected to sign off the list.

Greg is a regular participant in discussions on the Criminal Law list and often turns to list members for advice. This is especially helpful since none of the other attorneys at the office do criminal work. Greg has been working on a particularly difficult case that was an offshoot of one of his criminal matters. He decided he needed help and thought one of those on the Criminal Law list might be able to help him. Greg posted to the list, setting out the following hypothetical situation:

Let's suppose I have a client who is charged with embezzlement of funds from the company at which he works. He initially denies the embezzlement, but when the company provides the government with evidence that his computer was used for some of the fraudulent transactions, he agrees to plead guilty. But something just doesn't seem right.

Now let's say that the company is suing him civilly for the embezzlement. The money has not yet been found. And let's say that, from things I've seen and things that have been said, I begin to think that it wasn't the client, but the client's wife that was responsible for the embezzlement. What should I do about that? Can I let him go through with the plea? And can I represent him in the civil case? Suppose the plaintiff in the civil case has no idea the wife may be involved. Should I talk to the husband about this, or would it be appropriate for me to just file a general denial? Any advice would be appreciated.

Almost immediately, a return post was made by LlawLloyd (his screen name), which read as follows:

Hey, that's an interesting question. Before I respond, just one question for you. Do you think the husband knows that his wife may have been involved, or do you think she duped him?

Greg responded, believing the post to have been made by his friend and fellow criminal defense lawyer Lloyd Logan:

Hey Lloyd, how you doin? Thought you were out of touch during recovery from your surgery.

The poster, who was not Lloyd Logan, realized that Greg had mistaken him for someone else, but he really wanted the information, since he believed Greg was referring to a case in which he was actually involved as counsel. The poster then responded:

Thanks for asking about me. I'm actually doing better than expected.

Greg then responded:

Glad to hear it. I think she used his computer on her own, but I think he probably was aware of it. Do you really think that matters?

Greg received no response to his last post, and he figured that Lloyd needed to sign off.

A week later, Greg received an amended pleading in the case involving the embezzlement, adding the wife as a defendant. He was shocked at this development because he thought the company had no idea about the possible involvement of his client's wife. But then he remembered his internet list conversation. He went to look at his archived discussion and noticed for the first time that the person he was communicating with was LlawLloyd, and not LawLloyd (Lloyd Logan) as he believed. In fact, Larry L. Lloyd, who uses LlawLloyd, is a plaintiff's lawyer who had previously served as a criminal defense lawyer, but who discontinued that practice several years ago. He had signed onto the list when he did criminal work, but he never signed off when he changed his practice area. Larry had set the search feature on all his lists to notify him whenever there was a posting by any of the lawyers who were opposing him in cases, and that's how he came across Greg's posting. The amended pleading was filed based on the information he received from Greg and the follow-up investigation he did based on that information.

On the same day that Greg received the amended pleading, Alex received a visit from Mary Momm, a potential new client. Alex met with Mary in an initial consultation to determine the nature of the matter involved. Mary explained to Alex that she had given a child up for adoption a little over a year before. She recently heard that a new law had been passed that might make it easier to find where her child had been placed and that might even provide her an opportunity to challenge the adoption or obtain visitation with her child. Alex correctly explained that the law covered very limited situations, but, after listening to Mary, believed hers could possibly be one of those cases. After checking her personal conflict files, Alex agreed to undertake limited representation of Mary to determine whether Mary's case might fall within the new statute, Mary was quite pleased that Alex appeared willing to take the case and paid Alex a retainer to begin work. Neither Shannon nor Tina, Alex's regular staff members, were in the office that day, so Alex asked Lorie, the other secretary, to prepare a file for the new case. When she looked at the names involved, Lorie came back to Alex and expressed some concern. She indicated (correctly) that she thought Charles Donovan had handled the adoption for the adoptive parents when he was in the office a little more than a year ago, and she wondered whether that posed a problem.

Discuss all professional responsibility issues raised by these facts. In doing so, make sure to **advise** the attorneys involved about whether they have committed violations of the rules and on what they must, can and should do about the issues that have arisen.