



# Dear Ethics Lawyer™

**The Legal Ethics Project.** Supporting professionalism with information.

**Q:** Dear Ethics Lawyer,

I am mid-level partner at a firm with an active litigation practice. I use paralegals a fair amount for various tasks and have always had pretty good experiences with them, but I am not responsible for hiring and firing them, and am not in management at the firm. Recently I used a new paralegal for some work, who happens to be a distant relative of one of our practice leaders and had a bad experience. He didn't seem to know what he was doing as to a fairly standard task, and I felt like he told me he had completed tasks that he had not done. I don't want to rock the boat, so I plan to not use this paralegal again, and let other people form their own opinions. Given my role at the firm, this isn't a problem is it?

**A:** That's potentially a fine approach to take, so long as the paralegal doesn't commit malpractice or do something incompatible with the obligations of the firm's lawyers under the Rules of Professional Conduct. If that happens, you may be responsible under Rule 5.3, Responsibilities Regarding Nonlawyer Assistance. Rule 5.3(a) imposes a duty on partners of a firm and those with managerial authority to make reasonable efforts to ensure that the firm has in effect "measures giving reasonable assurance that...the conduct [of a nonlawyer employed or retained] is compatible with the professional obligations of the lawyer." Rule 5.3(b) imposes a similar obligation on any lawyer having direct supervisory authority over a non-lawyer. Finally, Rule 5.3(c) makes a lawyer "responsible" for conduct of the nonlawyer that would violate the Rules, if the lawyer (1) orders it or knows about it and ratifies it, i.e., does nothing to correct it; or (2) is a partner of the firm or person with managerial authority or direct supervisory authority over the person in question who knows of the conduct and fails to take reasonable remedial action.

If you have knowledge of dishonesty and poor performance by a paralegal, your best approach is to report it to the person in charge of paralegals or otherwise to firm leadership, so that appropriate evaluation and action may occur.

*The Ethics Lawyer*

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## About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 132 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to [mark.hinderks@stinson.com](mailto:mark.hinderks@stinson.com).

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.