



Withdrawals Must Be Handled With Care: ABA Op. 519

Just in time for year-end, the ABA Standing Committee on Ethics and Professional Responsibility published a new opinion entitled “[Disclosure of Information Relating to the Representation in a Motion to Withdraw From a Representation](#).” This is a topic that we frequently discuss with our lawyer clients as part of the risk management consultations offered by Attorneys Risk Management.

When the attorney-client relationship breaks down to an extent permitting or requiring termination, the lawyer’s instinct is often to explain to the court exactly why withdrawal should be granted. Similarly, judges often seek description of facts that would permit granting the requested termination under [Model Rule 1.16](#). With the focus on the elements of termination, it’s too easy for judges and lawyers to forget that Model Rule 1.6 confidentiality still governs to the representation.

The Opinion clarifies that:

When moving to withdraw from a representation, a lawyer’s disclosure to the tribunal is limited by the duty of confidentiality established by Rule 1.6(a) of the ABA Model Rules of Professional Conduct. Unless an explicit exception to the duty of confidentiality applies or the client provides informed consent, the lawyer may not reveal “information relating to the representation” in support of a withdrawal motion. Disclosure of information relating to the representation is not “impliedly authorized in order to carry out the representation” under Rule 1.6(a) or otherwise impliedly authorized even when Rule 1.16(a) requires the lawyer to seek to withdraw. If disclosure is permitted by an exception to the duty of confidentiality, such as when disclosure is required by a court order, it must be strictly limited to the extent reasonably necessary and, whenever possible, made through measures that protect confidentiality such as by making submissions in camera or under seal.

The Model Rules require that any disclosure in support of withdrawal be narrowly tailored, protective of the client’s interests, and undertaken only within the scope of an applicable exception. When the client does not give informed consent to disclosing information relating to the representation in support of a motion to withdraw, and there is no applicable exception to the duty of confidentiality, lawyers should proceed in stages: begin with a motion citing only “professional considerations” or employing similar language to justify the motion; if the court seeks further information, assert all non-frivolous claims for maintaining confidentiality consistent with Rule 1.6(a); and, if ordered to disclose additional information relating to the representation, do so in the narrowest possible manner. Ultimately, the lawyer’s paramount duty is to preserve client confidentiality, even at the risk that the tribunal may deny the motion to withdraw.

**Confidential advice from experienced risk management counsel.
Visit www.attorneysriskmanagement.com or call: 262-272-1822.**



The opinion helpfully lists steps to be taken to ensure compliance with the Rules during withdrawal events.

This is a must-read Opinion. If you're a lawyer, you have clients, and if you have clients, you will at some point have to withdraw from representation of one of those clients. Be safe when you do so.

It is also important to note that withdrawal obligations can vary by jurisdiction depending on case law. If you are in an attorney-client relationship from which you are permitted or required to withdraw, always check your jurisdiction's case law to ensure compliance. If you have questions about the application of this Opinion, or need assistance withdrawing from an attorney-client relationship, contact our senior risk management attorneys.

For further or more specific guidance on this topic, don't hesitate to get in touch with our senior risk management attorneys. To obtain a consultation, you should log in to [Attorneys Risk Management](#), and click on the "Request a Risk Management Consultation" button.



Confidential advice from experienced risk management counsel.
Visit www.attorneysriskmanagement.com or call: 262-272-1822.