



News

Anthony Davis Speaks to *The American Lawyer* About the Growing Problem of "Objectively Outrageous" Outside Counsel Guidelines

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Hinshaw partner Anthony Davis spoke to Miriam Rozen of *The American Lawyer* for her story about the growing problem of outside counsel guidelines which make demands that are "so extreme that they are or ought to be unpalatable."

Davis notes that some of the demands clients are making of their outside counsel are so over-broad that they are "objectively outrageous." Among the issues he cites: some guidelines broaden the definition of what constitutes a client to include all of a company's affiliates or "everything we own." Some insist, "if you represent us, you may not represent any of our competitors." Some seek to prevent firms from taking opposing positions on issues in ways that could force the firms to violate their own ethical and fiduciary obligations to other clients in unrelated matters.

"The relationship of law firms and their clients is unstable. Where once it was a seller's market, today the leverage is entirely on the client side," Davis said. The result, he suggested, is a threat to a core value of the legal profession—namely, lawyers' independence.

Read "[Some Lawyers Chafe as Clients Expand Outside Counsel Guidelines](#)" (*subscription required*)

The story references a paper that Davis and Noah Fiedler [presented in 2017](#) that proposed changing Rule 5.6 to explicitly prohibit law firms from agreeing to client guidelines that exceed the Model Rules.