

Hinderks Discusses Model Rule 3.3, "Candor Toward the Tribunal," in *The Legal Intelligencer*

In the News

01.13.2023

[Mark Hinderks](#), chair of Stinson LLP's Legal Ethics & Professional Responsibility practice group, authored a column for *The Legal Intelligencer*, "What to Do When Your Witness Tells a Different Story Under Oath," detailing an attorney's obligation to disclose the falsity of a client's testimony.

Hinderks asks, "If you conclude that you 'know' that your client's testimony in the deposition is false and material, what reasonable remedial measures must you undertake," while stating that, "This circumstance is one many litigation lawyers must face during their careers."

Hinderks notes there are preliminary matters to consider and/or investigate before action is required, including talking to the client privately to obtain an explanation to evaluate whether the deposition testimony is false. He also provides "reasonable remedial measures" an attorney must undertake if concluding the client's testimony in the deposition is false and material.

"Step one is to remonstrate with the client confidentially and warn them that you have an obligation to disclose the falsity of the testimony if uncorrected and the potential consequences of that," Hinderks writes. "If the client refuses to correct the answer, you may be obligated to withdraw under Rule 1.16. In addition, as a last step, if withdrawal 'will not undo the effect of the false evidence'—which is likely if you are the only one who knows it to be false—you must then disclose the matter to the tribunal 'as is reasonably necessary to remedy the situation.'"

Hinderks leads the firm's Legal Ethics & Professional Responsibility practice. He is the author of *Dear Ethics Lawyer*, a twice-monthly newsletter with questions and answers concerning legal ethics, and a co-founder and presenter of "Ethics for Good," a twice-annual stage show which uses humor, skits and real-world scenarios to teach legal ethics to lawyers. Hinderks has presented more than 125 programs on legal ethics over the past 30 years, has authored many articles and handbook chapters on legal ethics, and has

Hinderks Discusses Model Rule 3.3, "Candor Toward the Tribunal," in *The Legal Intelligencer*

been deeply involved in professional organizations with legal ethics and professional responsibility as their focus.

Sign in to *The Legal Intelligencer* to [read the full column](#).

CONTACT

Mark D. Hinderks

RELATED CAPABILITIES

Legal Ethics & Professional Responsibility

STINSON

STINSON LLP \ STINSON.COM