

Hinderks Examines Addresses Inadvertent Conflict Issues, Joint Representation in *The Legal Intelligencer*

In the News

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Stinson LLP Senior Counsel [Mark Hinderks](#) authored a column for *The Legal Intelligencer*, "Avoiding Inadvertent Conflict Issues With Constituents When Representing Organizational Clients."

Hinderks addresses a situation in which a dilemma arises from competing obligations under the Model Rules. He highlights challenges attorneys face when representing both an organization and its employees. In this situation, the vice president of a company privately confessed facts that are material to an ongoing matter – and likely material to the company's continued employment of the vice president – and instructed the attorney not to reveal the facts to the company. Hinderks notes the attorney is in a bind because, at a minimum, the representation of the company is limited in a material way by the confidentiality responsibility to the vice president.

"Unless the vice-president relents and permits disclosure to the company, in the face of this conflict, you would be forced to withdraw from representing both clients under Rule 1.16(a)(1)," Hinderks writes. "Moreover, because of the conflict, you are likely unable to advise the vice president about whether he should relent and permit disclosure of the true facts to the company, although you could fairly advise him that if he does not you will have to withdraw from the representation."

When seeking to avoid being placed in unresolvable conflict situations, Hinderks emphasizes that a carefully crafted engagement letter should clearly outline what information can be shared with each client and what would happen in the event of a subsequent divergence of interests.

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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 135 programs on legal ethics over the past 30 years, has authored many articles and handbook chapters on legal ethics, and has been deeply involved in professional organizations with legal ethics and professional responsibility as their focus.

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