

Hinderks Examines Ethical Quandaries of Intimate Attorney-Client Relationships in *The Legal Intelligencer*

In the News
08.09.2023

Stinson LLP's [Mark Hinderks](#) authored a column for *The Legal Intelligencer*, "When May a Lawyer Have an Intimate Relationship With a Constituent of an Organizational Client?"

Hinderks examines ABA Model Rule 1.8(j), which prohibits an attorney from having sexual relations with a client unless a consensual sexual relationship between them existed prior to the attorney-client relationship, and uses additional Model Rules to further support his commentary.

"Comment 17 to the rule explains that the lawyer-client relationship is a fiduciary one, involving the need for the highest trust and confidence of the client," Hinderks states. "Comment 18 states that these concerns are diminished in the case of a consensual intimate relationship already established before the legal representation, justifying the exception to the rule, but that the lawyer must always also consider whether, in the context of the representation, there would be a 'material limitation' because of the lawyer's own interests or emotions."

Hinderks explores whether an attorney can pursue an intimate relationship with someone who works within the legal department of its firm's top client or is the attorney required to cease the relationship until the attorney's firm is no longer representing the client. In this particular attorney-client relationship, Hinderks states the representation of the client came before the dating relationship, so the timing is not an exception to the rule. He asks if the individual an attorney is dating, while now a constituent of a corporate client, is considered to be 'the client' for purposes of the ethics rules.

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"Your ability to proceed to intimacy with your dating partner without an ethical issue will depend upon whether their new role will involve regular interaction with you in your representation of the organizational client. If not, then there is no issue," Hinderks answers. "In this regard, a potential issue could be avoided with disclosure and structuring of the representation from the outset so that the two of you are not involved together in the same matters for the organization."

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

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