

Hinderks Examines Lawyer's Duty to Review Client's Intentions in *Legal Intelligencer* Column

In the News

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Stinson LLP's [Mark Hinderks](#) authored a column for *The Legal Intelligencer*, "Does a Lawyer Have a Duty to Inquire Into a Client's Intentions, Purpose Prior to an Engagement?" that examines Model Rule 1.16(a).

For many years, this rule has barred an attorney from representing a client if such representation "would result in violation of the Model Rules or other law and has required withdrawal from the representation if it has already begun," Hinderks writes. In August 2023, the ABA adopted amendments to the rule with the new version.

In applicable jurisdictions, the new rule requires an attorney to "inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation."

"The new language is noteworthy in that the duty of inquiry is not tied to a 'red flag' event or information; it applies to and exists at the outset of each representation, no matter how routine or business-like," Hinderks writes. "It also frames a continuing obligation for the duty of inquiry, an ongoing assessment of facts and circumstances to determine whether the representation should continue."

Hinderks urges legal professionals to check the current status of Model Rule 1.16(a) if adopted in one's state. "It would also be advisable to educate your firm's lawyers on both red flag indicators of problematic clients, as well as some simple points of inquiry about the client's goals and purposes in the representation," he writes. "Law firms and their insurance can be attractive targets for those attempting to find a deep pocket in retrospect following client involvement in a fraud or crime."

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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 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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