

## Hinderks Explores Model Rule 1.18, Attorneys' Duties to Prospective Clients in *The Legal Intelligencer* Column

In the News  
04.30.2024

Stinson LLP Senior Counsel [Mark Hinderks](#) authored a column for *The Legal Intelligencer*, "When Does Unsolicited Receipt of Confidential Information From a Potential Client Create Duties?" The column examines Model Rule 1.18, which governs an attorney's duties to prospective clients, including confidentiality and conflicts of interest.

Hinderks says the determination of whether communications (electronic or oral) received by an attorney constitutes a consultation, therefore establishing the sender as a prospective client, hinges on numerous factors. These include whether the attorney or the law firm has invited the submission of information about the representation through advertising, website references, etc., without qualifying cautionary statements or warnings about the nature of the communications.

"If the advertising or other posting simply lists qualifications, experience and contact information and does not invite submissions, the unilateral communication of information by a potential client to the lawyer is not a triggering 'consultation,'" Hinderks writes. "Therefore, the lawyer and firm are free to be adverse, and to use the information that was communicated."

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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