

# Tip of the Month

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## Be Cautious When Seeking to Withdraw: Confidentiality Still Applies

Occasionally, lawyers find themselves in a situation in which withdrawal is required or permitted. These circumstances must be handled with great care in order to avoid adding additional risks to an otherwise already unfortunate situation.

Model Rule 1.6 protects "information relating to the representation," and prohibits disclosure of such information by a lawyer, unless the client gives informed consent, or disclosure is permitted by one of the Rule's exceptions. None of those exceptions is "when withdrawing from representation of the client." Note that different states may define confidential information differently, and may have slightly different exceptions, so you should consult your state's rules if you find yourself in this situation.

The mistake many lawyers make when withdrawing is sharing too much information. See, e.g., *In re Gonzalez*, 773 A.2d 1026 (2001) (lawyer disciplined for sharing too much information during withdrawal motion); ABA Formal Op. 476 (Confidentiality Issues When Moving to Withdraw for Nonpayment of Fees in Civil Litigation); California Formal Op. 2015-192 (discussing what information a lawyer may ethically disclose in a motion to withdraw).

So how much is too much? Oregon Formal Opinion 2011-185 lists four statements commonly found in motions to withdraw, all of which are likely "too much."

- My client will not listen to my advice.
- My client will not cooperate with me.
- My client has not paid my bills in a timely fashion.
- My client has been untimely and uncooperative in making discovery responses.

What lawyers should and should not disclose can vary by circumstance, and so should be considered very carefully. Strategy and the temperament of the client also play a part in the consideration. If you're in a situation where withdrawal is required or prudent, get in touch with the risk management counsel at Attorneys Risk Management for assistance.

If you need a risk management consultation, just log in to Attorneys Risk Management, and click on the "Request a Risk Management Consultation" button.

Have a risk management or ethics questions? We're here to help. To obtain a consultation, you should log in to [Attorneys Risk Management](#), and click on the "Request a Risk Management Consultation" button.