

PROFESSIONAL RESPONSIBILITY INSIGHT — SATISFY THE COURT AND YOUR ETHICAL OBLIGATIONS

This week, the State Bar's Committee on Professional Responsibility and Conduct (COPRAC) issued Formal Opinion No. 2015-192, addressing what information an attorney may ethically disclose to the court when moving to be relieved as counsel. The opinion addresses the hypothetical situation where the court orders a withdrawing attorney to submit to the court, in camera, confidential client information pertaining to counsel's withdrawal.

COPRAC's formal opinion provides that an attorney must exhaust all reasonable efforts before complying with a court order to disclose confidential client information. (Of course, the alternative — disobeying a court order — is also problematic). Such efforts may include seeking appropriate relief from the court's order, including filing a writ petition, or further seeking a compromise with the client and the court to withdraw. In the event these efforts are unsuccessful, an attorney must evaluate the relevant legal authorities given the case's particular circumstances, and proceed in a fashion so as to minimize the negative impact to the client.

The opinion provides helpful guidance to lawyers seeking to withdraw but caught in between dueling obligations to comply with a court order and to maintain client confidences. Remember: when moving to be relieved as counsel, comply with Rule 8.36 of the Rules of Court and use the mandatory Judicial Council Forms. Keep your motion simple, with generic statements like, "ethical considerations require withdrawal," or "there has been an irreconcilable breakdown in the attorney-client relationship." **And finally, consult with an ethics professional if you find yourself in a situation where the court insists you reveal more information than you deem appropriate.**

Read about our Ethics and Professional Liability practice.

Alison P. Buchanan

Alison Buchanan is a shareholder in the firm's San Jose office, where her practice focuses on business litigation and professional liability. Alison is a certified specialist in legal malpractice law and recently completed a three-year term serving as a member of the State Bar's Standing Committee on Professional Responsibility and Conduct.

Martin J. Kopp

An associate in Hoge Fenton's litigation practice group, Martin has diverse experience in business and law and represents clients in a wide range of disputes. He has experience litigating professional liability matters, personal and commercial tort claims, and breach of contract and bad faith claims.

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The Fine Print.

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