

I Need Some Advice: The Status of Internal Law Firm Privilege in Oregon

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DUTY TO DISCLOSE CONFLICTS

REGARDLESS

- ▶ **Conflicts: RPC 1.7(a)(2)**
- ▶ **Informed Consent: RPC 1.0(g)**
- ▶ **Communication: RPC 1.4**
- ▶ **“Firm Unit Rule”:** RPC 1.10(a)

DUTY TO DISCLOSE CONFLICTS

REGARDLESS

- ▶ **Ethical Duties Remain Regardless of the Approach Taken on Privilege**
- ▶ **ABA Formal Ethics Op. 08-453 (2008)**
- ▶ **New York State Bar Op. 789 (2005)**

DUTY TO DISCLOSE CONFLICTS REGARDLESS

▶ Telling Clients about Mistakes:

- ◆ *In re Knappenberger*,
337 Or 15, 90 P3d 614 (2004)
- ◆ *In re Obert*,
336 Or 640, 89 P3d 1173 (2004)

DUTY TO DISCLOSE CONFLICTS REGARDLESS

- ▶ **Fact of Consultation Generally
Not Considered Privileged**
 - ◆ **Laird C. Kilpatrick**
Oregon Evidence at 354-55
(6th ed 2013)

DUTY TO DISCLOSE CONFLICTS REGARDLESS

▶ Other resources:

- ◆ “The Double-Edged Sword: Internal Law Firm Privilege and the ‘Fiduciary Exception’”
76 Defense Counsel Journal 313 (2009)
- ◆ “Difficult Conversations: Telling Clients about Mistakes,”
67 Oregon State Bar Bulletin 32 (2007)