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New Alaska Bar Opinion on Handling Confidential Information When Withdrawing

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Court rules vary widely on the mechanics of withdrawal. Some simply allow withdrawal by notice. Others, however, require a motion and court approval. The Alaska Bar in Ethics Opinion 2026-01 recently took-up the always difficult issue of what can be disclosed in public court filings and related public proceedings on withdrawal. The new opinion offers a clear roadmap for a situation that most lawyers don't encounter every day. The opinion is available on the Alaska Bar website at www.alaskabar.org.

Like its Washington counterpart, Alaska RPC 1.16(c) requires lawyers when withdrawing to follow any applicable court procedures. The new Alaska opinion notes by way of example that while Alaska Rule of Civil of Procedure 81(e) permits withdrawal through substitution or client consent, the rule requires court approval on "good cause" in other circumstances. Ethics Opinion 2026-01 assumes appropriate grounds for withdrawal exist and instead focuses on the boundaries involved in disclosing information to the court when withdrawing.

The new Alaska opinion begins by underscoring that the duty of confidentiality—RPC 1.6 in Alaska (as in Washington)—continues even when a lawyer is withdrawing. Therefore, Ethics Opinion 2026-01 borrows from the comments to Alaska RPC 1.16 (again, similar to Washington) in recommending

that a lawyer in the first instance simply tell the court that “professional considerations” require or permit (as the case may be) withdrawal. The opinion observes that in most circumstances the court will accept this shorthand as sufficient.

If the court orders a fuller explanation, however, Ethics Opinion 2026-01 finds that the exception to the confidentiality rule permitting disclosure if ordered by a court—Alaska RPC 1.6(b)(6)—comes into play. This exception allows a lawyer to give a fuller explanation to the court when withdrawing—subject to the general predicate to all exceptions to the confidentiality rule that the information provided be limited to that reasonably necessary under the circumstances. Ethics Opinion 2026-01 further counsels that a lawyer still needs to use available procedural mechanisms—such as *ex parte* sealed filings and *in camera* review—to meet the court’s directive without disclosing client confidential information to litigation opponents or the public more generally.

In overall approach, the new Alaska opinion generally mirrors WSBA Advisory Opinion 201701 (which is available in advisory opinion library on the WSBA website). Neither the Alaska nor the Washington opinions will make the often-difficult personal dynamics of withdrawal any easier. Both, however, offer

clear guidance to lawyers on navigating the sensitive issue of what can be disclosed to the court when withdrawing.

ABOUT THE AUTHOR

Mark J. Fucile of Fucile & Reising LLP advises lawyers, law firms and legal departments throughout the Northwest on professional responsibility and risk management. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark has served on the Oregon State Bar Legal Ethics Committee and is a member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the Ethics Focus column for the Multnomah (Portland) Bar's *Multnomah Lawyer*, the Ethics & the Law column for the WSBA *Bar News* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is a contributing author and the editor-in-chief for the WSBA *Legal Ethics Deskbook* and was a contributing author and principal editor for the OSB *Ethical Oregon Lawyer* and the WSBA *Law of Lawyering in Washington*. Before co-founding Fucile & Reising LLP in 2005, Mark was a partner and in-house ethics counsel for a large Northwest regional firm. He also taught legal ethics for over a decade as an adjunct for the University of Oregon School of Law. Mark is admitted in Oregon, Washington, Idaho, Alaska and the District of Columbia. He is a graduate of the UCLA School of Law. Mark's telephone and email are 503.860.2163 and Mark@frllp.com.