

The Ethics of Parting Ways

- Rule 1.16 – Declining or Terminating Representation
- • Rule 1.5 – Fees
- • Rule 1.15 – Safekeeping Property
- • Rule 1.6 – Confidentiality
- • Rule 4.3 – Dealing with Unrepresented Persons
- • Rule 4.4 – Respect for Rights of Third Persons
- • Rule 6.2 – Court-Appointed Counsel
- • Rule 8.1 – Bar Cooperation • Rule 8.4 – Misconduct

Hypothetical 1: The Ghost Who Paid

Facts: You are retained for a divorce matter. The client pays a \$15,000 flat fee, marked as "earned upon receipt." You deposit the funds directly into your operating account. Two weeks later, the client stops responding to calls, emails, and court scheduling orders. You've only completed the initial filing and served discovery. Trial is 45 days away. You want to withdraw.

- **Discussion Questions:**

- • Are you permitted to withdraw under Rule 1.16(b)?
- • Do you need court approval to withdraw?
- • Was the flat fee handled properly under Rule 1.15?
- • Are you obligated to refund any portion of the fee under Rule 1.5 or 1.16(d)?
- • What steps must you take to avoid material harm to the client?

Hypothetical 2: TikTok Justice

- **Facts:**
- Your client begins secretly recording your calls and posting clips on
- TikTok. One video is titled “My Lawyer is Clueless” and another
- includes your strategy notes. The client demands that you subpoena the
- judge, the court reporter, and the opposing party’s therapist. They also
- threaten to “expose your failures” if you don’t win. You're concerned
- about reputation, safety, and ethical risk.

- **Discussion Questions:**

- • Can or must you withdraw under Rule 1.16(a) or (b)?
- • Are there confidentiality concerns under Rule 1.6 related to the
- social media posts?
- • Can you reference client behavior in a motion to withdraw?
- • Do you have to continue representing the client if the court denies
- your motion?
- • What if the client files a bar complaint?

Hypothetical 3: The Flat Fee Surprise

Facts:

You are hired for a criminal matter and charge a \$10,000 flat fee, “earned on receipt.” After filing a single motion, the client terminates your representation and demands a refund. You decline, citing the fee agreement. The client demands a copy of their file. You provide court

- filings, but decline to provide internal memos, notes, and legal research.

- **Discussion Questions:**

- • Is the flat fee non-refundable under Rule 1.5 and LEO 1812?
- • Was it proper to place the fee directly in the operating account?
- • Is the client entitled to your internal work product?•
- If there is a fee dispute, can you condition the file transfer on
- payment?

Hypothetical 4: The GAL No One Wants

Facts:

You are appointed GAL in a custody case. After filing an adverse report, the parent accuses you of corruption, files a bar complaint, and refuses to allow contact with the child. You file a motion to withdraw. The judge denies the motion and orders you to stay on through trial.

- **Discussion Questions:**

- • Can you ethically remain in the case?
- • Does the VIDC Standard of Practice permit withdrawal based
- solely on hostility?
- • What is your duty to the court vs. to the child?
- • Does a bar complaint disqualify you?

Hypothetical 5: The PTA Mole

Facts:

You represent a husband in a custody case. Years ago, you volunteered with the wife on a PTA. You use private info learned there to attack her credibility in discovery and pleadings. Then, using a fake online identity, you post her secrets on a community forum where potential witnesses may be reading. Meanwhile, opposing counsel falls ill, withdraws, and refuses to return the client's file until she pays the full.

- **Discussion Questions:**

- • Did the husband's lawyer violate Rules 8.4(c), 4.3, or 4.4?
- • Did the use of prior personal knowledge create a conflict under Rule 1.9 or 1.6?
- • Did the withdrawing lawyer violate Rule 1.15 or 1.16 by withholding the file?
- • How should file and fee disputes be resolved ethically?