



Dear Ethics Lawyer™

The Legal Ethics Project. Supporting professionalism with information.

Q: Dear Ethics Lawyer,

I am representing a client in a transaction. The client is extraordinarily difficult and wants to argue about everything, but he is not doing anything illegal or fraudulent and has not asked me to do anything unethical. He has also fallen three months behind on paying his bills and routinely asserts, without basis, that we are not doing a very good job of representing him. Life's too short—can we just withdraw?

A: Life sometimes does seem short when dealing with difficult clients. Model Rule 1.16 contains two lists of circumstances concerning withdrawal. Rule 1.16(a) defines conditions when a lawyer *must withdraw*. Rule 1.16(b) lists other conditions in which the lawyer *may withdraw*. Several of the latter may apply here, including: when withdrawal can be accomplished without material adverse effect on the client's interests; when the client fails substantially to fulfill an obligation to the lawyer and has been given reasonable warning that the lawyer will withdraw if that obligation is not fulfilled; when the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; and when "other good cause for withdrawal exists."

Under Rule 1.16(d), the lawyer must take steps reasonably practicable to protect the client's interest upon termination of the representation, such as reasonable notice, opportunity to secure replacement counsel, transition of materials, etc. In this transactional representation, court approval is not needed as it would be in litigation, however, the timing issue is still important. For example, it would normally be inappropriate for the lawyer to abruptly terminate the relationship on the cusp of closing a transaction or at a time when the withdrawal would otherwise harm the client's interests (except perhaps in certain circumstances relating to Rule 1.16(a) mandatory termination conditions). Consider whether the matter is at a stage when it can be transitioned to another law firm without harm to the client; if not, you may have to defer the withdrawal until this transaction is closed.

The Ethics Lawyer

About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 125 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to mark.hinderks@stinson.com.

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.