

# What Not to Do: Ethics Lessons Learned from Fictional Lawyers



Tuesday, June 21, 2022  
WEBCAST

Joanna L. Storey, *Esq.*

Matthew R. Henderson, *Partner, Hinshaw & Culbertson LLP*

Robert M. Buchholz, *Partner, Hinshaw & Culbertson LLP*

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**NEBRASKA**  
*State Bar Association*

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## SPEAKER BIOS

### **Joanna L. Storey, Esq.**

As a frequent speaker and author, Joanna L. Storey offers practical tips to help lawyers navigate effective communication strategies and technology competence. While at Hinshaw & Culbertson, Joanna focused her practice on professional liability and risk management for lawyers. During Summer 2022, Joanna will be on a career pause to refresh and take a few adventures with her family.

### **Matthew R. Henderson, Partner, Hinshaw & Culbertson LLP**

Matthew Henderson concentrates his practice in the representation of attorneys in all aspects of professional liability and ethics including the defense of legal malpractice and breach of fiduciary duty actions, providing risk management and legal ethics advice, defending lawyer disciplinary proceedings, and litigating attorney fee disputes and sanctions motions.

Mr. Henderson's practice also includes representing employers in litigated matters, including the defense of discrimination and wage withholding claims. He regularly represents real estate professionals, accountants, and technology companies in negligence cases. He likewise has extensive experience in consumer class action cases, including actions brought under the Fair Debt Collection Practices Act.

### *Professional Background*

Mr. Henderson regularly speaks and writes on attorney malpractice, legal ethics, attorney discipline, and risk management. He serves on the Chicago Bar Association Committee on Attorney Malpractice and also on the Professional Responsibility Committee. Mr. Henderson is also a member of the Illinois State Bar Association.

Mr. Henderson was an author of the American Bar Association's Amicus Curiae Brief filed in the United States Supreme Court case, *Williams-Yulee v. the Florida Bar*, 135 S.Ct. 1656 (2015). The brief, which argued the ABA Model Rule prohibiting judicial candidates from personally soliciting campaign contributions does not violate the First Amendment, was cited twice in the decision.

He appeared on the "Law & Murder" episode of *People Magazine Investigates* which was nationally televised on the Investigation Discovery ("ID") Channel, Season 4, Episode 7, December 16, 2019. This episode depicted investigation surrounding the murder of Judge Joan Lefkow's husband and mother in 2005, and featured Mr. Henderson's account of litigating against the murderer in federal court prior to the crime.

Mr. Henderson appeared on NBC Channel 5 news and was quoted in the *Chicago Tribune* and *Chicago Sun Times* regarding his representation of Trinity Services, Inc. in a lawsuit filed by the parents of a patient seeking the entry of an injunction requiring Trinity to administer electric shocks to prevent the patient from injuring himself and others.

He joined Hinshaw & Culbertson LLP in March 1998.

### *Professional Affiliations*

- Chicago Bar Association
  - o Committee on Attorney Malpractice, Member
  - o Professional Responsibility Committee, Member
- Illinois State Bar Association

### *Honors & Awards*

- Recognized by his peers as a Leading Lawyer in the areas of Commercial Litigation and Professional Malpractice Defense Law
- Holds the AV® Peer Review Rating from Martindale-Hubbell, its highest rating for ethics and legal ability

### **Robert M. Buchholz, Partner, Hinshaw & Culbertson LLP**

Robert Buchholz concentrates his practice in the areas of professional and general liability defense, commercial litigation, risk management, insurance coverage and appellate advocacy. His representative clients include law firms, accountants, financial services professionals, insurance companies, private equity funds, and mortgage servicers, lenders and trustees of securitized mortgage trusts. Well-versed in all phases of litigation, Robert's clients rely on his counsel when facing claims of malpractice, negligence, bad faith, defamation, breach of contract, breach of fiduciary duty, fraud and violations of SEC Rule 10b-5.

### *Professional Background*

Before joining Hinshaw, Robert practiced at a major Boston law firm. While there, he counseled governments and quasi-public authorities on the issuance of tax-exempt and taxable debt, as well as institutional investors and indenture trustees in workouts and restructurings. Prior to entering private practice, he clerked for the Honorable Robert J. Cordy on the Massachusetts Supreme Judicial Court.

During law school, Robert interned for the Honorable Peter M. Lauriat and the Honorable Dennis J. Curran on the Massachusetts Superior Court and was the Editor-in-Chief of the *New England Law Review*. In addition to being the valedictorian of his law school class, Robert was the recipient of the Dean Arthur E. MacLean Award for Academic Excellence, the Dean's Award and the New England Scholar Award.

Prior to his legal career, Robert was the Assistant Senate Clerk in the New Hampshire State Senate. He also worked as the Deputy Director of a New Hampshire state-level political action committee.

### *Professional Affiliations*

- Law Clerk's Society of the Supreme Judicial Court, Board of Directors, 2015–Present

### *Honors & Awards*

- Selected by his peers for inclusion in *Best Lawyers: Ones to Watch* for Commercial Litigation, 2021 – 2022

# What Not to Do: Ethics Lessons Learned from Fictional Attorneys

Nebraska State Bar Association

June 21, 2022



## Presenters



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Joanna Storey  
Former Hinshaw Attorney  
*On Summer Career Pause*  
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# Preview

The Set Up

Issue Spot in Chat

Rules of Professional Conduct

Ethics Opinions

Practical Tips

Repeat

## SPOILER ALERT!

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*If you will be watching this presentation live*

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*Do not read past this slide*

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*Wait for us to advance the slides*

# Better Call Saul

Mijo

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## Better Call Saul - Mijo

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3-501.2. Scope of representation and allocation of authority

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3-501.4. Communications

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3-504.1. Truthfulness in statements to others

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3-508.4. Misconduct

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ABA 491 Avoid Counseling or Assisting in a Crime or Fraud

# The Good Wife

Raw Deal

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## The Good Wife – Raw Deal

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3-501.1 Competence

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Comment [6] on Technology Competence

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3-501.6. Confidentiality of information

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ABA Opinion 477R Securing Communication of Protected Client Information

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California Opinion 2020-203 Data Breach



# The Lincoln Lawyer

(2011 Film)

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## The Lincoln Lawyer

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3-501.2. Scope of representation and allocation of authority

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3-501.6. Confidentiality of information

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3-501.8. Conflict of interest; current clients; specific rules

---

3-501.16. Declining or terminating representation

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3-508.4. Misconduct

# A Civil Action

(1998 Film)

12

## A Civil Action

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3-504.2. Communication with person represented by counsel

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3-504.3. Dealing with unrepresented person

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Colorado Opinion 69

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D.C. Opinion 287

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Oregon Opinion 2005-80 [Revised 2016]

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Virginia Opinion 1890

# Magnum P.I.

Lie, Cheat, Steal, Kill

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## Magnum P.I. – Lie, Cheat, Steal, Kill

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3-501.6. Confidentiality of information

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3-501.7. Conflict of interest; current clients

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3-501.8. Conflict of interest; specific rules (loyalty)

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3-508.4. Misconduct

# Parenthood

There's Something I Need to Tell You

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## Parenthood There's Something I Need to Tell You

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3-501.2. Scope of representation and allocation of authority

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3-501.3. Diligence

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3-501.4. Communications

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3-503.3. Candor toward the tribunal

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3-505.1. Responsibilities of a partner or supervisory lawyer

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ABA Formal Opinion 481 Duty to Inform of Material Error

## *Wellness Moment*



Photo by [Denys Nevozhai](#) on [Unsplash](#)

# Suits

Identity Crisis

# Suits – Identity Crisis (The Settlement)

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3-501.2. Scope of representation and allocation of authority

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3-501.4. Communications

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3-501.7. Conflict of interest; current clients

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3-508.4. Misconduct

## Class Action

(1991 Film)

# Class Action

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3-501.6. Confidentiality of information

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3-503.4. Fairness to opposing party and counsel

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3-508.4. Misconduct

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ABA Formal Opinion 494 Conflicts Arising Out of a Lawyer's Personal Relationship with Opposing Counsel



# A Million Little Things

Non-Essential

# A Million Little Things - Non-Essential

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3-501.2. Scope of representation and allocation of authority

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3-501.4. Communications

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3-501.7. Conflict of interest; current clients

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3-501.8. Conflict of interest; current clients; specific rules

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3-508.4. Misconduct

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ABA Formal Opinion 481 Duty to Inform of Material Error

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## Suits

Identity Criss (Revisited)



# Suits – Identity Crisis (The Wrongdoer)

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3-501.7. Conflict of interest; current clients

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3-501.13. Organization as client

**A Million Little Things**

Justice

# A Million Little Things - Justice

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3-501.6. Confidentiality of information

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3-508.4. Misconduct

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ABA Formal Opinion 494 Conflicts Arising Out of a  
Lawyer's Personal Relationship with Opposing Counsel



**All Rise**

Leap of Faith

# All Rise – Leap of Faith

3-501.2. Scope of representation and allocation of authority

3-501.6. Confidentiality of information

3-503.3. Candor toward the tribunal

3-503.4. Fairness to opposing party and counsel



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  - E-library of risk management resources, forms, checklists, rules, guides and articles
  - Complimentary on-demand ethics CLE courses

# Thank You

**The views expressed are the speakers' own, represent only a sampling of ethical issues that might arise, and do not constitute legal advice or suggest the outcome of any pending or future proceeding.**

