

The Lawyers' Lawyer Newsletter - Recent Developments in Risk Management - May 2016 Edition

Lawyers' Lawyer Newsletter | 1 min read

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Conflicts of Interest — Subject Matter Conflicts — Can IP Attorneys Simultaneously Represent Two Clients That Are Prosecuting Patents for Similar Inventions?

Maling v. Finnegan, Henderson, Farabow, Garrett & Dunner, LLP, 473 Mass. 336, 42 N.E.3d 199 (2015)

Risk Management Issue: What constitutes an adequate conflicts check where two clients may be pursuing intellectual property in similar inventions (sometimes referred to as a “subject matter conflict”)?

Disqualification — Obtaining Privileged Materials Outside of Discovery — Consultation With Former Employee of Opposing Party

In re RSR Corp., No. 13-0499, 2015 WL 7792871, at *3 (Tex. Dec. 4, 2015)

Risk Management Issue: What can law firms do to manage the risk of disqualification when they seek to consult with or engage a former employee of an opposing party?

Disqualification — Overly Broad Scope of Engagement Creates Concurrent Representation Conflicts

M'Guinness v. Johnson et al., 243 Cal. App. 4th 602 (2015)

Risk Management Issue: What can counsel for a closely held corporation do to avoid disqualification in the event of shareholder disputes?

Existence of Attorney-Client Relationship — Negotiations Affecting Client and Indemnifying Party

George Makhoul, etc. v. Watt, Tieder, Hoffar & Fitzgerald, LLP, et al., 11-CV-5108 (PKC) (E.D.N.Y. 2015)

Risk Management Issue: What must law firms do to avoid establishing attorney-client relationships when communicating during the course of an engagement with persons or entities that may be allied in interest to their actual clients?

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