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

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Disqualification — Substantially Related Matters — Waiver of Conflict by Lack of Diligence in Seeking Disqualification

State of Minnesota, et al v. 3M Company, Hennepin County (Minn.), Court File No. 27-CV-10-28862 (Feb. 5, 2016)

Risk Management Issue: Does a client waive its former attorney's conflict of interest by failing to promptly seek disqualification after the conflicted attorney undertakes representation of a party adverse to the former client?

Right to Withdraw — Nonpayment of Fees

Sanford v. Maid-Rite Corp., 816 F.3d 546 (8th Cir. 2016)

Risk Management Issue: May a law firm withdraw from representing a client due to the client's failure to pay fees?

Conflicts-Checking Systems — What Constitutes a Sufficient Conflicts Check?

New York State Bar Association Committee on Professional Ethics Opinion 1085 (2/16/2016)

Risk Management Issues: What are law firms' obligations in operating conflicts checking systems? What must firms do in order to determine whether their lawyers previously represented an adverse party? What

are law firms' continuing obligations to perform new conflict checks if or when new information relating to conflicts becomes available?

In-Firm Attorney-Client Privilege Revisited Under Federal (Ninth Circuit) Law

Loop AI Labs, Inc. v. Gatti, No. 15cv00798HSG (DMR), 2016 BL 53774 (N.D. Cal. Feb. 24, 2016)

Risk Management Issues: Are communications between a law firm's in-house chief legal officer and claims counsel and the firm's attorneys relating to a current client matter covered by the attorney-client privilege?

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