

Tip of the Month

Brought to you by:

XL Group
Insurance



*As provided by Hinshaw & Culbertson, LLP—
leaders in risk management*

AHERN Insurance Brokerage, the Endorsed Professional Liability Insurance Broker for LACBA, is pleased to offer LACBA members an exclusive Professional Liability Program with XL Insurance. Call 1.800.282.9786 to speak with a professional.

DECEMBER 2014

Preserve Confidential Information when Withdrawing from Representation

When a lawyer finds it necessary (or desirable) to withdraw from representing a client in a matter that is pending before a tribunal, a motion for leave to withdraw is usually required (unless the client has another lawyer substituting as counsel). Although lawyers need to state some reason or basis for the withdrawal, especially if the client will object, CRC 3.1362(c) states that an attorney's declaration in support of a withdrawal motion cannot compromise attorney-client confidentiality. Thus, the lawyer should only provide general reasons for needing to withdraw, keeping in mind CRPC Rule 3-700, which states that an attorney needs to take reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client.

If the client makes accusations about the lawyer in an objection to the motion or at a hearing on the motion, the lawyer is permitted to disclose confidential information necessary to defend the lawyer against those allegations, but such disclosures should be made in camera, and consideration should be given to having the confidential disclosures heard by motion in front of a different judge.