

Tip of the Month

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Make Record of Client's Direction to Take Action

In most states, the Rules of Professional Conduct require that lawyers abide by their clients' decisions concerning the objectives of representation. Lawyers who violate these rules face exposure to disciplinary proceedings and to claims by clients that the attorney's unauthorized action caused some financial harm. Lawyers should be reluctant to take significant action without a client's knowledge and consent, especially when there is a settlement offer to be accepted or rejected, or when some other important decision needs to be made. Good communication with clients generally, and about major decisions particularly, is almost certain to reduce the risk of Bar grievances and civil claims. It is prudent to memorialize or confirm important client decisions and other communications with some kind of writing. Even a brief email confirmation of a client's direction or consent to take action is often sufficient.