
APPENDIX Y

RELEVANT EXCERPTS FROM THE CPLR AND JUDICIARY LAW

CPLR § 321. Attorney withdrawal

(b) Change or withdrawal of attorney

1. Unless the party is a person specified in section 1201, an attorney of record may be changed, by filing with the clerk, a consent to the change signed by the retiring attorney and signed and acknowledged by the party. Notice of such change of attorney shall be given to the attorneys for all parties in the action or, if a party appears without an attorney, to the party.

2. An attorney of record may withdraw or be changed by order of the court in which the action is pending, upon motion on such notice to the client of the withdrawing attorney, to the attorneys of all other parties in the action or, if a party appears without an attorney, to the party, and to any other person, as the court may direct.

(c) Death, removal or disability of attorney. If an attorney dies, becomes physically or mentally incapacitated, or is removed, suspended or otherwise becomes disabled at any time before judgment, no further proceeding shall be taken in the action against the party for whom he appeared, without leave of the court, until thirty days after notice to appoint another attorney has been served upon that party either personally or in such manner as the court directs.

CPLR § 4503. Attorney-client privilege

(a) 1. Confidential communication privileged. Unless the client waives the privilege, an attorney or his or her employee, or any person who obtains without the knowledge of the client evidence of a confidential communication made between the attorney or his or her employee and the client in the course of professional employment, shall not disclose, or be allowed to disclose such communication, nor shall the client be compelled to disclose such communication, in any action, disciplinary trial or hearing, or administrative action, proceeding or hearing conducted by or on behalf of any state, municipal or local governmental agency or by the legislature or any committee or body thereof. Evidence of any such communication obtained by any such person, and evidence resulting there from, shall not be disclosed by any state, municipal or local governmental agency or by the legislature or any committee or body thereof. The relationship of an attorney and client shall exist between a professional service corporation organized under article fifteen of the business corporation law to practice as an attorney and counselor-at-law and the clients to whom it renders legal services.

CPLR § 5514. Extension of time to take appeal or to move for permission to appeal

(b) Disability of attorney. If the attorney for an aggrieved party dies, is removed or suspended, or becomes physically or mentally incapacitated or otherwise disabled before the expiration of the time limited for taking an appeal or moving for permission to appeal without having done so, such appeal may be taken or such motion for permission to appeal may be served within sixty days from the date of death, removal or suspension, or commencement of such incapacity or disability.

(c) Other extensions of time; substitutions or omissions. No extension of time shall be granted for taking an appeal or for moving for permission to appeal except as provided in this section, section 1022, or section 5520.

Judiciary Law § 499. Lawyer assistance committees

1. Confidential information privileged. The confidential relations and communications between a member or authorized agent of a lawyer assistance committee sponsored by a state or local bar association and any person, firm or corporation communicating with such committee, its members or authorized agents shall be deemed to be privileged on the same basis as those provided by law between attorney and client. Such privilege may be waived only by the person, firm or corporation which has furnished information to the committee.

2. Immunity from liability. Any person, firm or corporation in good faith providing information to, or in any other way participating in the affairs of, any of the committees referred to in subdivision one of this section shall be immune from civil liability that might otherwise result by reason of such conduct. For the purpose of any proceeding, the good faith of any such person, firm or corporation shall be presumed.

22 NYCRR § 1200.19 [DR 4-101]. Preservation of Confidences and Secrets of a Client

(a) “Confidence” refers to information protected by the attorney-client privilege under applicable law, and “secret” refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(b) Except when permitted under section 1200.19(c) of this Part, a lawyer shall not knowingly:

(1) Reveal a confidence or secret of a client.

(2) Use a confidence or secret of a client to the disadvantage of the client.

(3) Use a confidence or secret of a client for the advantage of the lawyer or of a third person, unless the client consents after full disclosure.

(c) A lawyer may reveal:

(1) Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.

(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.

(3) The intention of a client to commit a crime and the information necessary to prevent the crime.

(4) Confidences or secrets necessary to establish or collect the lawyer’s fee or to defend the lawyer or his or her employees or associates against an accusation of wrongful conduct.

(5) Confidences or secrets to the extent implicit in withdrawing a written or oral opinion or representation previously given by the lawyer and believed by the lawyer still to be relied upon by a third person where the lawyer has discovered that the opinion or representation was based on materially inaccurate information or is being used to further a crime or fraud.

(d) A lawyer shall exercise reasonable care to prevent his or her employees, associates, and others whose services are utilized by the lawyer from disclosing or using confidences or secrets of a client,

except that a lawyer may reveal the information allowed by subdivision (c) of this section through an employee.

22 NYCRR § 1200.15 [DR 2-110]. Withdrawal from Employment

(a) In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) Even when withdrawal is otherwise permitted or required under section 1200.15(a)(1), (b) or (c) of this Part, a lawyer shall not withdraw from employment until the lawyer has taken steps to the extent reasonably practicable to avoid foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled and complying with applicable laws and rules.

(3) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned.

(b) Mandatory withdrawal. A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

(3) The lawyer's mental or physical condition renders it unreasonably difficult to carry out the employment effectively.

(4) The lawyer is discharged by his or her client.

(c) Permissive withdrawal. Except as stated in section 1200.15(a) of this Part, a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(2) The lawyer's continued employment is likely to result in a violation of a Disciplinary Rule.

(4) The lawyer's mental or physical condition renders it difficult for the lawyer to carry out the employment effectively.

(5) The lawyer's client knowingly and freely assents to termination of the employment.

