

Speaking to the Media

3rd Annual Continuing Professional Development Event
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Presented by:
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Speaking to the Media

A practical guide for lawyers





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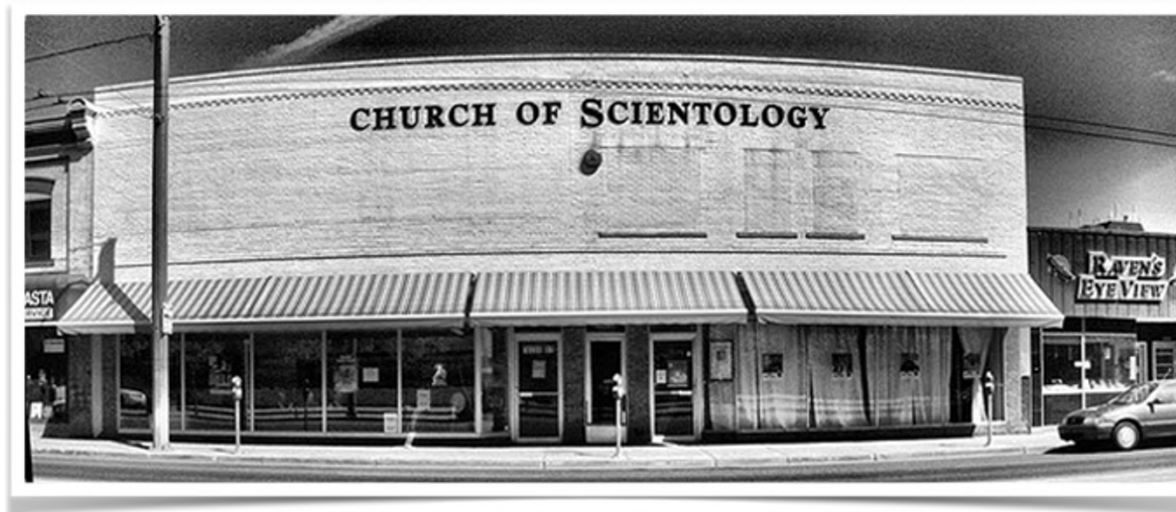
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Speech on the Courthouse Steps



Hill v. The Church of Scientology



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The Ikea Monkey



Not all media is good media



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The Scales of Justice



Stewart v. Canadian Broadcasting Corp.



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Stewart v. Canadian Broadcasting Corp.



- Lawyers and clients are in an intense fiduciary relationship
- The relationship extends beyond the length of the retainer
- The fiduciary relationship imposes a positive duty of loyalty



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Stewart v. Canadian Broadcasting Corp.



- Loyalty is not dependent on confidentiality; it is a larger, free-standing obligation
- Loyalty arises because of the vulnerability and dependency of clients vis-à-vis the lawyer



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Know the risks



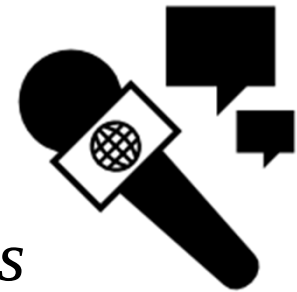
- breach of confidentiality
- conflicts of interest
- libel & slander
- aggravated damages
- compromising a case



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Public Appearances and Statements

Know the *Rules*





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Lawyers may *communicate with the media* or *make public appearances* as long as there is no violation of the lawyer's duties:

- to the client
- to the profession
- to the court
- to the administration of justice



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However

A lawyer is prohibited from such communications about a client matter that is before the court if he or she knows or ought to know that the information or statement will have a substantial likelihood of materially prejudicing a party's right to a fair trial or hearing.

Rules of Professional Conduct, 7.5-1 and 7.5-2



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Before Making any Public Statement

Evaluate whether the statement is likely to materially prejudice any party's right to a fair trial, including that of your client.

Rules of Professional Conduct, 3.3-1 and 3.4-1



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Before Making any Public Statement

Communication must be:

- in your client's best interest
- within the scope of your retainer

Rules of Professional Conduct, 3.3-1 and 3.4-1



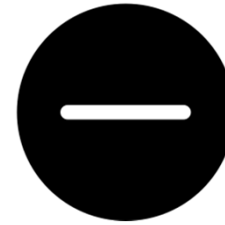
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Before Making any Public Statement

Inform the client



advantages



drawbacks



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Remember



You have no subsequent control of your statement

Commentary to *Rules*, 7.5-1[7]



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If You are Going to Make a Statement

Make sure you and your client agree
on the scope of your statement



- prepare a written statement
- review statement with client
- confirm client's instructions
in writing



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You cannot use information regarding your client:

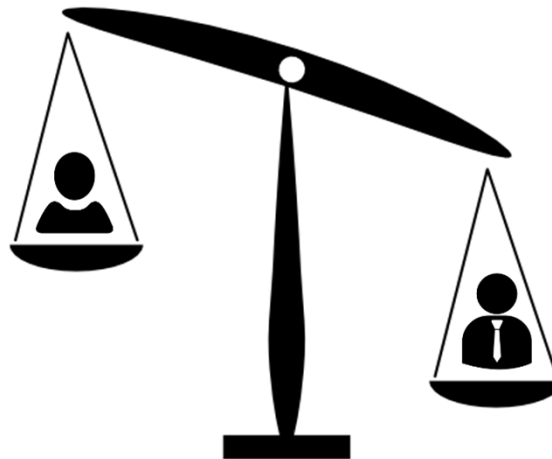
- for any purpose not authorized by the client
(even if the information is not confidential)

Rules of Professional Conduct, 3.3-1 and 3.4-1



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If you prefer your interests over your client's



you will be in a conflict of interest



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practicePRO's 10 tips

1. Obtain client's consent in advance
2. Do not discuss confidential or strategic information
3. Avoid taking questions in heat of the moment
4. Ask for a list of questions in advance
5. Try to control the interview



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practicePRO's 10 tips

6. Ensure you understand the question
7. Do not guess or speculate. If you don't know, say so
8. Keep your remarks brief
9. Ask to review a draft of the article to verify facts
10. Leave your emotions out of the interview



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More Resources from the Canadian Bar Association

- A Lawyer's Guide to Dealing with the Media
- Beyond Conflicts of Interest to the Duty of Loyalty