

Our Ethical Obligations During the Coronavirus Shutdown

On March 20, 2020, Illinois Governor J.B. Pritzker issued a statewide stay-at-home order aimed at stopping the spread of coronavirus. All **non-essential** businesses in the state were ordered to close their doors effective March 21, 2020, at 5:00 p.m., and remain closed through April 7, 2020.

The [executive order](#) specifically lists 23 different kinds of businesses that are “encouraged to remain open”, including “professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services).”

In compliance with Governor Pritzker’s Stay-at-Home order, the ARDC’s Chicago and Springfield offices are closed; however, the ARDC is operating during this period with staff working remotely. While there may be some delays, we are committed to seeing that our operations continue.

During this time of uncertainty, what can lawyers do to continue to ethically serve their clients while taking the steps necessary to protect the health and welfare of staff, clients, themselves and the community?

Below are a few suggestions to help navigate thru this challenging time:

- **Communicate with Clients**

Communicate with clients about how recent events impact the representation and how your firm will handle their matters during the stay-at-home order. Lawyers have a duty to keep clients reasonably informed about the status of their legal matters, and to explain matters to the extent reasonably necessary to permit clients to make informed decisions regarding representation. RPC 1.4.

Explain to clients how your response to the stay-at-home order will change the manner of your representation. For instance, will you need to meet with clients via teleconference instead of in-person? Will you need to continue or delay matters? Will another attorney need to help with the case?

Consider whether you can continue to provide competent, diligent representation to your clients particularly if you become sick. RPC 1.1; 1.3. If a client might be harmed by delay or you will be unable to adequately prepare for matters, then you may need to withdraw. RPC 1.16(a)(1).

If you have a succession plan in place, consider whether to initiate the plan. If you are relying on representation by a lawyer outside of your firm, you should seek client consent. (Some lawyers include language that allows assistance by lawyers outside of their firm in their engagement agreements.)

If withdrawal is necessary, lawyers must take all reasonably necessary steps to protect clients' interests upon withdrawal. RPC 1.16(d). Upon withdrawal, RPC 1.16(d) requires that the lawyer take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fees or expenses that have not been earned or incurred.

- **Calendaring Dates and Deadlines**

Ensure your calendar is up-to-date and complete and that you have a backup copy of your calendar available both at home and at work. If your primary calendar is electronic, keep a backup paper copy in both locations and keep it up to date.

Immediately review upcoming deadlines for the next 60 days and consider how you will meet those deadlines should you be quarantined.

For litigation matters, Illinois Supreme Court's March 20, 2020 Order M.R. 30370, *In re: Illinois Courts Response to COVID-19 Emergency/Impact on Trials*, ordered that the Chief Judges of each circuit may continue trials for the next 60 days and until further order of the Court.

<https://courts.illinois.gov/SupremeCourt/Announce/2020/032020-1.pdf>.

Administrative orders entered by the Chief Judge in the circuits are updated on the Illinois Supreme Court's website at: <http://www.illinoiscourts.gov/Administrative/covid-19.asp>.

See also ISBA Covid-19 Judicial Information at: <https://www.isba.org/covid19/judicialinfo>.

- **Electronic Filing**

If you've never filed electronically from your home, then you should promptly test your capability to do so. If you are unable to file, take reasonable steps to correct the situation. Keep your filing credentials available at home and at the office.

If you rely on someone else to electronically file for you, notify that person well in advance of the filing due date.

- **Mail Delivery or Other Deliveries**

Consider arrangements to have mail delivered to your home or scanned and sent to you if you are out of the office. If necessary, have one person (and a backup) designated to go into the office to process physical mail, accept packages, and check to see if everything is running.

- **Working Remotely**

If you have not worked remotely recently or do not frequently work remotely, immediately test your ability to do so.

Take your laptop, power cords, and whatever paper calendar backups you have, home with you every day. If for any reason you feel ill, go home, but take your laptop (and your power cord) with you.

- **Data Security and Privacy**

Review and consider the privacy and security of any client records and documents. Is client information protected from breach? Consider the data security protocols that you have in place for your firm. Do those protections extend to the devices and internets of your staff who are now working from home?

Questions?

If you have an ethics inquiry, you may continue to use the ARDC Ethics Inquiry phone number at 312/565-2600 or 800/826-8625. The Commission does not respond to ethics inquiries by written email but you may request a call back via mail and a staff lawyer will contact you by telephone to respond to your inquiry as soon as possible,

Inquiries regarding attorney registration may be made by email to registration@iadc.org. All other inquiries may be made by email to information@iadc.org. We may not be able to respond immediately to all inquiries. We thank you for your patience.