

ATTORNEY/CLIENT PRIVILEGE

As a general proposition, **everything** discussed between this office and any client, or even potential client, is and will be treated as confidential information, protected by the “attorney-client privilege” against disclosure.

The idea behind the attorney/client privilege is that society benefits when a client is permitted to be completely honest with an attorney, since we really cannot do our job without knowing the facts of client’s situation. So the privilege guards all communications to us, or from us, against being divulged – voluntarily or otherwise – by the lawyer.

There are certain rare exceptions. For example, we might be required to reveal information necessary to prevent death or substantial bodily harm. Additionally, information provided by someone who is not an actual or prospective client – such as someone pretending to seek legal advice for the purpose of disqualifying this firm, is generally considered non-confidential.

While the attorney/client privilege covers the lawyers and staff of this office, if the client shares privileged information with virtually anyone **else** it loses that protection – the “third party” (even relatives or financial backers) can be deposed or examined at trial as to what they know and why they know it. Additionally, the applicable ethics rules **prohibit** us from taking direction from, or giving confidential information to, a third party just because that person happens to be supporting the client, or paying the client’s legal costs. This has a couple of real-world ramifications.

First, as a general rule, the client should **not** have any third parties attend the initial consultation or any other meeting with the lawyers and staff of this office. Every time a third party is present presents a possibility that the attorney/client privilege could be found (or at least alleged) to have been waived, and we would rather not take the risk – or spend the time and money defending against claims – that the privilege had been waived.

Second, persons other than the client should generally **not** be used as conduits for information between the client and this office. In certain **extremely** rare circumstances, we permit contact by, and either taking information from, or giving information to, such third parties, at our sole discretion. The normal rule, however, is that we will not respond to inquiries from any third party, no matter how trusted they might be by the client, and third parties may not be the conduit for the passing of confidential information to, or from, the client.

If any client, or prospective client, has any questions about the attorney/client privilege – what it does and does not protect, how or why – those questions should be asked as early as possible, in the original consultation or at any other time. The WILLICK LAW GROUP is well versed in matters relating to the attorney/client privilege. Mr. Willick was a member of the “Ethics 2000” committee that re-wrote the ethics rules governing lawyers, which went into effect in May, 2006.