

# INTRODUCTION TO THE CLIENT IDENTIFICATION AND VERIFICATION RULES

Before you begin to read the Rules, it is helpful to have several key concepts in mind. The Rules create several obligations as follows:

1. To record the identity of clients and, when dealing with funds, to verify the identity of clients;
2. To retain identification and verification records;
3. To withdraw in certain circumstances.

## 1. IDENTIFY OR VERIFY IDENTITY

It is important to distinguish between two different duties in the Rules. The first is identification of clients. The second is verification of identity. Both duties apply to any new retainers after July 1<sup>st</sup> 2009 (Rule 1027).

### IDENTIFICATION OF CLIENTS (Rule 1022)

Identification of all clients is simply good practice and is common in most law firms.

Rule 1022 requires **lawyers** (the only exception is for in-house counsel or duty counsel, Rule 1021) to identify all clients when **retained to provide legal services** (retained does not include summary advice, notarizing documents, etc.).

The type of information you are required to collect is set forth in Rule 1022 and the sample forms.

### VERIFICATION OF IDENTITY (Rules 1023 - 1025)

Verification is more complicated than identification, but is only required when a lawyer pays or receives funds on behalf of a client.

Rule 1023 requires that a lawyer (once again excluding in-house counsel, Rule 1021) receiving or paying **funds** (defined in Rule 1020), must also verify the identity of the client. This means that the lawyer must review reliable documents validating the identity of the client.

There are significant exceptions to the requirement to verify for certain types of clients (Rule 1024(1)) and certain types of funds (Rule 1024(2)).

The type of information required for the most common clients is set forth in Rule 1025(2) and (3) and the sample forms.

Rules for verifying the identity of clients that the lawyer cannot meet in person are set forth in Rule 1025. For clients in Canada, the verification can be made by an attestation from either a commissioner of oaths or a guarantor (Rule 1025(4) - (6)). For clients outside of Canada, the lawyer may use an agent provided there is an agreement in writing (Rule 1025(7) – (8)).

The time for verifying the identity of a client is set forth in Rule 1025(9) - (12).

## **2. RETENTION**

The lawyer must retain all information and documents for at least six years **after the completion of work** (Rule 1026).

## **3. WITHDRAWAL**

Lawyers have an obligation to withdraw if at any time they become aware that they may be assisting their client in any fraud or illegal conduct (Rules 1028 -1029).