

The Legal Ethics Year in Review: News You Can Use

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Today's Program

The Top 10 Developments of the Last Year (or so...) in Ethics and Lawyering

Today's Program

Materials available at:

<https://arwebserver.arlaw.com/pdf/ARHK.zip>

The Top 10 Developments of the Last Year

10. Talking 'bout a (r)evolution (NewLaw issues)

The Top 10 Developments of the Last Year

10. Talking 'bout a (r)evolution (NewLaw issues)

- Reform of rules on nonlawyer ownership, fee-sharing and UPL (*e.g.*, Arizona, Utah, D.C.)
 - Plus paraprofessional licensing
- Expansion of law firms from these jurisdictions
- Two-company law firms
- New capital in litigation funding, lead generation, law firm service companies

The Top 10 Developments of the Last Year

9. Possibly a brother in Abilene (Witness preparation)

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- ABA Formal Opinion 508, *The Ethics of Witness Preparation* (Aug. 5, 2023) (available [here](#))

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9. Possibly a brother in Abilene (Witness preparation)

- ABA Formal Opinion 508, *The Ethics of Witness Preparation* (Aug. 5, 2023) (available [here](#))

The Top 10 Developments of the Last Year

**8. Just a few questions before I connect you to Mr.
Mason...
(Client intake supervision)**

The Top 10 Developments of the Last Year

8. Just a few questions before I connect you to Mr. Mason... (Client intake supervision)

- ABA Formal Opinion 506, *Responsibilities Regarding Nonlawyer Assistants* (June 7, 2023) (available [here](#))

The Top 10 Developments of the Last Year

**7. A toddler, a teenager, and a jaded vaudeville actor
(Advance waivers)**

The Top 10 Developments of the Last Year

7. A toddler, a teenager, and a jaded vaudeville actor (Advance waivers)

- *SuperCooler Techs., Inc. v. Coca Cola Co.*, Order, No. 6:23-cv-00187-CEM-RMN, 2023 WL 5284850 (M.D. Fla. July 17, 2023)
- *IBM Corporation v. Micro Focus (US), Inc.*, No. 22 CV 9910 (VB), 2023 WL 3902955 (S.D.N.Y. June 8, 2023)

The Top 10 Developments of the Last Year

6. Mission: Impossible – Plant-Based Food Edition (Deception in investigations)

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- *Impossible Foods Inc. v. Motif Foodworks, Inc.*, No. CV 22-311-WCB, 2023 WL 3790729 (D. Del. May 31, 2023)

The Top 10 Developments of the Last Year

IMPOSSIBLE™

MISSION ▾ PRODUCTS ▾ RECIPES ▾ BUY ▾ SELL ▾

MEET OUR NEWEST, BIGGEST, BEEFIEST, JUICIEST BURGERS

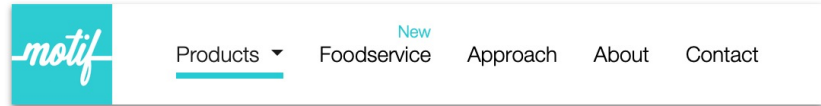
Indulge your taste buds with our beefier, thicker, and juicier burger patties, Impossible™ Indulgent Burger Patties Made From Plants. Like premium animal beef, our newest burger patties are great for special occasions where high quality, taste, and indulgence take priority. Try them in addition to our original quarter-pound burger patties.

82% of consumers thought that Impossible Indulgent Burger Patties Made From Plants tasted as good as or better than ground beef from cows.¹

1. Based on a blind taste test of naked patties by 205 consumers in February 2023

[Screenshot](#)

The Top 10 Developments of the Last Year



Motif BeefWorks™

Versatile plant-based alternatives that offer the same meaty, umami flavor and juicy texture as the real thing.



Motif ChickenWorks™

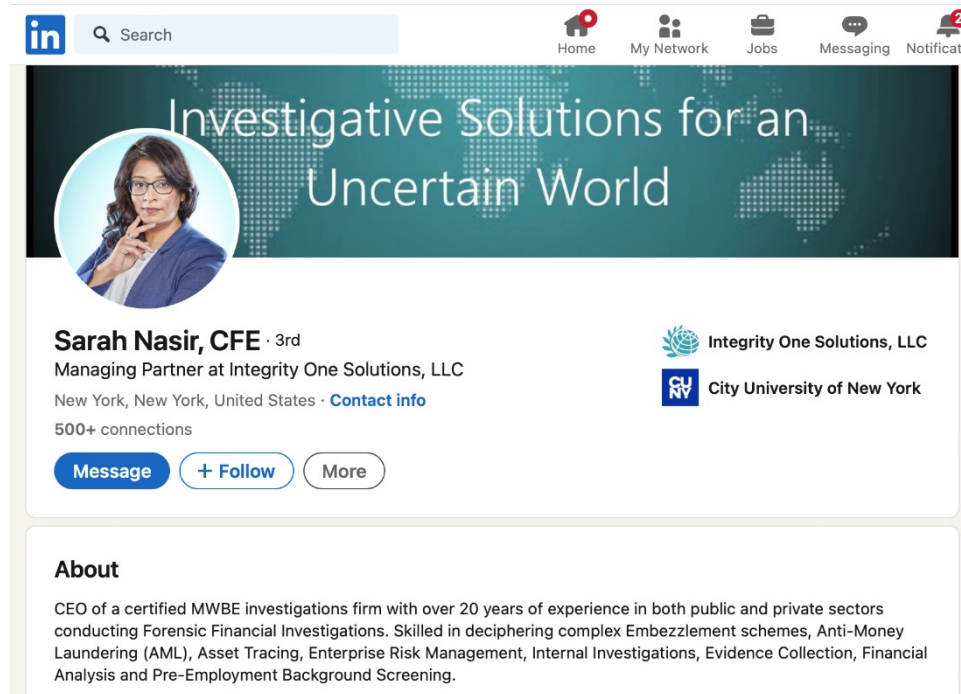
Versatile plant-based alternatives that offer the same meaty, umami flavor and juicy texture as the real thing.



Motif PorkWorks™

Versatile plant-based alternatives that offer the same meaty, umami flavor and juicy texture as the real thing.

The Top 10 Developments of the Last Year



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About

CEO of a certified MWBE investigations firm with over 20 years of experience in both public and private sectors conducting Forensic Financial Investigations. Skilled in deciphering complex Embezzlement schemes, Anti-Money Laundering (AML), Asset Tracing, Enterprise Risk Management, Internal Investigations, Evidence Collection, Financial Analysis and Pre-Employment Background Screening.

The Top 10 Developments of the Last Year

6. Mission: Impossible – Plant-Based Food Edition (Deception in investigations)

- *Impossible Foods Inc. v. Motif Foodworks, Inc.*, No. CV 22-311-WCB, 2023 WL 3790729 (D. Del. May 31, 2023)

The Top 10 Developments of the Last Year

**5. So, here are your talking points...
(Advising clients on communications
with represented opponents)**

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- D.C. Bar Legal Ethics Cte. Op. 385, *Advising Clients About Communications with Represented Opponents* (Apr. 28, 2023)

The Top 10 Developments of the Last Year

**4. You won't believe the documents we got!
(Hot documents)**

The Top 10 Developments of the Last Year

4. You won't believe the documents we got! (Hot documents)

- *Hur v. Lloyd & Williams, LLC*, 25 Wash. App. 2d 644, 523 P.3d 861 (2023) (use of inadvertently disclosed electronic discovery did not require disqualification)
- *Cruse v. Cruse*, No. CIV-22-181-G, 2023 U.S. Dist. LEXIS 37651, 2023 WL 2392737 (W.D. Okla. Mar. 7, 2023) (lawyer disqualified after using hacked materials)
- *Militello v. VFARM 1509*, 89 Cal. App. 5th 602, 306 Cal. Rptr. 3d 200 (Cal. Ct. App. 2023) (lawyer disqualification upheld where lawyer improperly used privileged emails)

The Top 10 Developments of the Last Year

**3. Just one small change to the instructions...
(Ethical obligations concerning wire transfer scams)**

The Top 10 Developments of the Last Year

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- Three public reprimands
 - *In the Matter of Jeremy C. King*, No. 22G0098, North Carolina State Bar Grievance Committee (Feb. 20, 2023)
 - *In the Matter of Richard H. Morgan*, No. 22G0281, North Carolina State Bar Grievance Committee (Feb. 20, 2023)
 - *In the Matter of William H. Morgan*, No. 22G0710, North Carolina State Bar Grievance Committee (Feb. 20, 2023)
- First known instances of lawyer discipline for failing to verify wire transfer instructions leading to loss of funds.

The Top 10 Developments of the Last Year

**2. I'm sorry, Dave. I'm afraid I can't do that.
(AI)**

The Top 10 Developments of the Last Year



The Top 10 Developments of the Last Year

2. I'm sorry, Dave. I'm afraid I can't do that. (AI)

- Nov. 30, 2022: ChatGPT debuts
May 2023: 1.8 Billion users
- *And the lawyer hijinks begin...*
 - *Mata v. Avianca, Inc.*, No. 22-CV-1461 (PKC), 2023 WL 4114965 (S.D.N.Y. June 22, 2023)
 - *U.S. v. Michel* (motion filed Oct. 16, 2023)

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2. I'm sorry, Dave. I'm afraid I can't do that. (AI)

- Ethics rules
 - Competence (Rule 1.1)
 - Diligence (Rule 1.3)
 - Client Communications (Rule 1.4)
 - Confidentiality (Rules 1.6 and 1.9)
 - Supervision (Rules 5.1 and 5.3)
 - Unauthorized Practice of Law (Rule 5.5)
- New court rules and standing orders

The Top 10 Developments of the Last Year

- 1. If Kirkland & Ellis can't avoid cyberattacks, who can?
(Cybersecurity)**

The Top 10 Developments of the Last Year

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ANALYSIS

If Kirkland & Ellis Can't Avoid Cyberattacks, Who Can?

Kirkland and Am Law 50 peers K&L Gates and Proskauer Rose are among the latest victims of a sweeping cyber breach. “It proves that nobody is immune,” said Zach Olsen, president of communications firm Infinite Global.

July 05, 2023 at 05:00 AM

The Top 10 Developments of the Last Year

1. If Kirkland & Ellis can't avoid cyberattacks, who can? (*Cybersecurity*)

- Phishing
- Increased client demands (outside counsel guidelines, questionnaires, audits)
- Regular independent security assessments
- Insurance
- The value of the cloud (e.g., MS 365)
- From passwords to password managers to passkeys or biometric
- Add your Tech Guru to your Christmas list

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Questions?



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