

1           *(PROPOSED DRAFT - As approved by the Rule 4.2 Task Force 7-10-09;*  
2           *endorsed by the Standing Committee on Legal Ethics 7-23-09)*

3 **RULE 4.2      Communication With Persons Represented By Counsel**

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5           **In representing a client, a lawyer shall not communicate about the subject of the**  
6 **representation with a person the lawyer knows to be represented by another lawyer in the**  
7 **matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do**  
8 **so.**

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10 **COMMENT**

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14           [5] In circumstances where applicable judicial precedent has approved investigative  
15 contacts prior to attachment of the right to counsel in pre-indictment, non-custodial  
16 circumstances, and they are not prohibited by any provision of the United States Constitution or  
17 the Virginia Constitution, they should be considered to be authorized by law within the meaning  
18 of the Rule. Similarly, communications in civil matters may be considered authorized by law if  
19 they have been approved by judicial precedent. This Rule does not prohibit a lawyer from  
20 providing advice regarding the legality of an interrogation or the legality of other investigative  
21 conduct.

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