

FORMAL OPINION NO 2005-120

[REVISED 2015]

Conflicts of Interest, Former Clients: Lawyer Changing Firms, Former Prosecutor or Judge, Disqualification, Screening

Facts:

The *ABC* law partnership does criminal defense work. Lawyer *A* proposes to leave the partnership and go to work as a deputy district attorney for the state.

Deputy District Attorney *D* proposes to leave the district attorney's office and join with Lawyer *E* and Lawyer *F* to form the *DEF* law partnership. The *DEF* law partnership proposes to represent criminal defendants in criminal cases that would be brought by the district attorney's office.

Circuit Court Judge *G* proposes to leave the bench and join with Lawyer *H* and Lawyer *I* to form the *GHI* law partnership. The *GHI* law partnership proposes to represent or oppose clients who had matters pending before Lawyer *G* while Lawyer *G* was a judge.

Questions:

1. To what extent may Lawyer *A* or other lawyers in the district attorney's office prosecute clients of the *ABC* law partnership?
2. To what extent may Lawyer *D* or other lawyers in the *DEF* law partnership represent criminal defendants in criminal matters?
3. To what extent may Lawyer *G* or other lawyers in the *GHI* law partnership represent or oppose parties who had matters pending before Lawyer *G* when Lawyer *G* was on the bench?

Conclusions:

1. With respect to Lawyer *A*, who is leaving private criminal defense practice to become a deputy district attorney, a three-part answer is appropriate:

a. Lawyer *A* cannot prosecute a person who was formerly represented by Lawyer *A* in the same or a substantially related matter, unless the former client and the state give informed consent, confirmed in writing.

b. Lawyer *A* cannot prosecute a former client of the *ABC* firm about whom Lawyer *A* obtained confidential information that is material to the matter without the informed consent of the *ABC* firm's former client and the state, confirmed in writing.

c. Lawyer *A*'s disqualification is not imputed to the other lawyers in the district attorney's office under Oregon RPC 1.11(d).

2. With respect to Lawyer *D*, who is leaving the district attorney's office for private criminal defense practice, a similar three-part answer is appropriate:

a. Lawyer *D* cannot defend clients in matters that are the same or substantially related to matters that Lawyer *D* handled at the district attorney's office, unless the client and the state give informed consent, confirmed in writing.

b. Lawyer *D* cannot defend a client on a matter that was prosecuted by other deputy district attorneys during Lawyer *D*'s tenure in the office if Lawyer *D* obtained confidential information that is material to the matter, except with the informed consent of the client and the state, confirmed in writing.

c. Lawyer *D*'s disqualification will be imputed to the other lawyers in the *DEF* firm, unless Lawyer *D* is screened from participating in the matter pursuant to Oregon RPC 1.10(c).

3. With respect to Lawyer *G*, who is leaving the bench for private practice, a three-part answer also is appropriate:

a. If Lawyer *G* did not participate personally and substantially as a judge in a matter in which Lawyer *G* or the *GHI* firm proposes to represent a party, neither Lawyer *G* nor other lawyers in the *GHI* firm would be prohibited from handling the matter.

b. If Lawyer *G* participated personally or substantially in a matter as a judge, Lawyer *G* cannot work on that matter in private practice without the informed consent of all parties, confirmed in writing.

c. Lawyer *G*'s disqualification will be imputed to the other lawyers in the *GHI* firm, unless Lawyer *G* is screened from participating in the matter pursuant to Oregon RPC 1.10(c).

Discussion:

I. *Question No. 1 (Private Practice to Government Service).*

A. *Introduction.*

When Lawyer *A* leaves the *ABC* firm, Lawyer *A* will have a “former client” relationship with the firm’s clients for purposes of Oregon RPC 1.9.¹ See *In re Brandsness*, 299 Or 420, 427–28, 702 P2d

¹ Oregon RPC 1.9 provides:

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless each affected client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client:

(1) whose interests are materially adverse to that person; and

(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter, unless each affected client gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or

1098 (1985). Pursuant to Oregon RPC 1.9(a), a lawyer is prohibited from acting adversely to a former client if the current and former matters are the same or substantially related. Matters are “substantially related” if they involve the same transaction or legal dispute or if there is a substantial risk that confidential factual information obtained in the prior representation would materially advance the current client’s position in the new matter. Oregon RPC 1.9(d); ABA Model RPC 1.9 cmt [3]. A lawyer also will have a conflict with a client of the lawyer’s former law firm, even if the lawyer did no work on the client’s matters at the former firm, if the lawyer acquired confidential information material to the current client’s matter. Oregon RPC 1.9(b); OSB Formal Ethics Op No 2005-11; OSB Formal Ethics Op No 2005-17.

If a conflict exists under either Oregon RPC 1.9(a) or (b), the lawyer may proceed with the representation if all affected clients give their informed consent, confirmed in writing.² The duties owed to former

(2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.

(d) For purposes of this rule, matters are “substantially related” if (1) the lawyer’s representation of the current client will injure or damage the former client in connection with the same transaction or legal dispute in which the lawyer previously represented the former client; or (2) there is a substantial risk that confidential factual information as would normally have been obtained in the prior representation of the former client would materially advance the current client’s position in the subsequent matter.

² Oregon RPC 1.0(b) and (g) provide:

(b) “Confirmed in writing,” when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. . . . If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

. . . .

(g) “Informed consent” denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated

clients under ORS 9.460(3) and Oregon RPC 1.6³ are coextensive with the duties under Oregon RPC 1.9. OSB Formal Ethics Op No 2005-17.

It follows that, unless a particular prosecution would result in Lawyer A's being adverse to one of Lawyer A's former clients in a matter that is the same or substantially related to Lawyer A's prior

adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. When informed consent is required by these Rules to be confirmed in writing or to be given in a writing signed by the client, the lawyer shall give and the writing shall reflect a recommendation that the client seek independent legal advice to determine if consent should be given.

³ Oregon RPC 1.6 provides, in pertinent part:

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to disclose the intention of the lawyer's client to commit a crime and the information necessary to prevent the crime;

(2) to prevent reasonably certain death or substantial bodily harm;

(3) to secure legal advice about the lawyer's compliance with these Rules;

(4) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(5) to comply with other law, court order, or as permitted by these Rules; . . .[.]

ORS 9.460(3) requires a lawyer to “[m]aintain the confidences and secrets of the attorney's clients consistent with the rules of professional conduct established pursuant to ORS 9.490.”

representation of the client, or unless Lawyer A acquired confidential information about a client represented by another member of Lawyer A's former firm, neither Lawyer A nor any other lawyer in the district attorney's office would be disqualified from handling the matter. Even if such a conflict existed, on obtaining informed consent, confirmed in writing, Lawyer A and the other lawyers in the office could proceed.⁴ Oregon RPC 1.9(a)–(b).

B. *Determining When a Conflict Exists.*

1. *Former-Client Conflicts.*

For purposes of the Oregon Rules of Professional Conduct (RPCs), a “matter” includes “any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties[.]” Oregon RPC 1.0(i). The scope of a matter and the degree of a lawyer's involvement in it depend on the facts of the particular situation or transaction.

⁴ Although all district attorneys' offices represent one client in criminal matters, that is, the state, each district attorney's office is a separate “firm” for purposes of Oregon RPC 1.7 to 1.10. The relationship between district attorneys' offices is unlike that between branch offices of a private law firm. *See* ORS 8.610 (governing district attorneys' offices). *Compare Westinghouse Elec. Corp. v. Kerr-McGee Corp.*, 580 F2d 1311, 1318 (7th Cir 1978) (branch offices of private firms constitute one “firm” for conflict-of-interest purposes), *with First Small Bus. Inv. Co. of California v. Intercapital Corp. of Oregon*, 108 Wash 2d 324, 738 P2d 263, 267 (1987) (disqualification of one firm on conflict-of-interest grounds would not result *per se* in disqualification of a separate firm acting as co-counsel).

See also Oregon RPC 1.0(d):

“Firm” or “law firm” denotes a lawyer or lawyers, including “Of Counsel” lawyers, in a law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a private or public legal aid or public defender organization, a legal services organization or the legal department of a corporation or other public or private organization. Any other lawyer, including an office sharer or a lawyer working for or with a firm on a limited basis, is not a member of a firm absent indicia sufficient to establish a *de facto* law firm among the lawyers involved.

Absent the required consents, a lawyer who has been directly involved in a client's specific legal proceeding or transaction cannot subsequently represent other clients with materially adverse interests in that same proceeding or transaction. On the other hand, a lawyer who has handled several matters of a type for a client is not thereafter precluded from representing another client in a factually distinct matter of the same type, even if the subsequent client's interests are adverse to the interests of the former client. The underlying question is whether the lawyer's involvement in the matter was such that subsequent representation of another client constitutes a changing of sides in the matter in question. ABA Model RPC 1.9 cmt [2].

Matters are "substantially related" within the meaning of Oregon RPC 1.9 if they involve the same matter or transaction or if there "otherwise is a substantial risk that confidential factual information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter." ABA Model RPC 1.9 cmt [3]. Under *former* DR 5-105(C), the first of these was referred to as a "matter-specific" conflict, and the latter was referred to as an "information-specific" conflict.

In *Brandsness*, which was decided under *former* DR 5-105, the court concluded that lawyer Brandsness had both a matter-specific and an information-specific former-client conflict when he represented a husband in dissolution proceedings that included an effort to prevent the wife from continuing to participate in what had been the family business. The court held that, because Brandsness had previously represented both the wife and the husband in the formation and operation of the business, his attempt to preclude her from participating in its operation was sufficiently related to his earlier representation as to constitute a conflict. The court held, however, that the case was at the periphery of such a conflict. *Brandsness*, 299 Or at 433. *See also* OSB Formal Ethics Op No 2005-11.

In the situation presented here, if Lawyer A endeavored to bring a robbery prosecution against a former client and the robbery appeared to be part of a pattern of robberies, and if Lawyer A had previously participated in the defense of the former client in one of those robberies,

the new prosecution would be substantially related to Lawyer A's prior defense of the former client and would constitute a former-client conflict under Oregon RPC 1.9(a). Conversely, if the robbery defendant previously had been defended by Lawyer A in a DUII matter, there would be a conflict only if Lawyer A acquired confidential information while representing the former client that could materially advance the prosecution of the robbery case.⁵

2. *Former-Firm Conflicts.*

Former-client conflicts can arise not only from being formally assigned to work on a matter, but also from less formal contacts. Suppose, for example, that while Lawyer A was still at the ABC firm, Lawyer B had informally sought and obtained Lawyer A's advice with respect to a matter that Lawyer B was otherwise handling. Upon Lawyer A's subsequent departure from the ABC firm, Lawyer A would be prohibited from representing a new client in a matter that is the same or substantially related to the matter Lawyer B consulted about if the interests of the former-firm's client and Lawyer A's new client are adverse and if Lawyer A acquired confidential information material to the new matter. Oregon RPC 1.9(b).

No exhaustive description of what constitutes confidential client information can be given. *Cf.* OSB Formal Ethics Op No 2005-17. Nevertheless, several illustrations may be helpful, and lawyers should be mindful that former-client conflicts based on the acquisition of material confidential information can arise from informal exchanges within a firm. If Lawyer A was assigned to prosecute a DUII charge against a defendant who had previously been represented by another lawyer at the ABC firm, during the course of which representation Lawyer A acquired actual knowledge about the defendant's drinking problems, Lawyer A would

⁵ Confidential information is "information relating to the representation of a client," and includes both information protected by the attorney-client privilege under applicable law and "other information gained in a current or former professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client." Oregon RPC 1.0(f).

have a former-client conflict based on possession of that material information. But if Lawyer A had never discussed the details of the ABC firm's representation of the defendant and acquired no confidential information material to the DUII prosecution, the fact that Lawyer A's former firm had such information does not disqualify Lawyer A from prosecuting the new charge.

C. *Representation with Informed Consent, Confirmed in Writing.*

If a conflict exists with respect to a former client, a lawyer may not proceed without informed consent, confirmed in writing, from both the former client and the current client. Oregon RPC 1.9; Oregon RPC 1.11(d)(2)(v); OSB Formal Ethics Op No 2005-11; OSB Formal Ethics Op No 2005-17. *See also In re Balocca*, 342 Or 279, 296, 151 P3d 154 (2007). This means that, in the absence of informed consent of the former client and the state, Lawyer A could not do any work on a matter—even preliminary discovery or legal research.

D. *No Imputation of Conflict to Other Members of the District Attorney's Office.*

Under Oregon RPC 1.10(c), “no lawyer associated in the firm shall knowingly represent a person in a matter in which that lawyer is disqualified under Rule 1.9, unless the personally disqualified lawyer is promptly screened from any form of participation or representation in the matter.” However, under Oregon RPC 1.10(e), “[t]he disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.” In a situation in which a lawyer becomes a government employee, such as Lawyer A's employment with the district attorney's office, Oregon RPC 1.11(d) controls the analysis regarding imputation of the conflict and screening, if Lawyer A is personally disqualified because consent to a conflict is not given.

Oregon RPC 1.11(d) provides, in pertinent part:

(d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee:

(1) is subject to Rules 1.7 and 1.9; and

(2) shall not:

...

(iv) either while in office or after leaving office use information the lawyer knows is confidential government information obtained while a public official to represent a private client.

(v) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the lawyer's former client and the appropriate government agency give informed consent, confirmed in writing[.]

Oregon RPC 1.11(d) contains no provision that imputes a conflict to other lawyers associated with the disqualified lawyer in a government law firm.⁶ Comment [2] to ABA Model RPC 1.11 explains:

Because of the special problems raised by imputation within a government agency, paragraph (d) does not impute the conflicts of a lawyer currently serving as an officer or employee of the government to other associated government officers or employees, although ordinarily it will be prudent to screen such lawyers.

See also Geoffrey C. Hazard, Jr., W. William Hodes & Peter R. Jarvis, 1 *The Law of Lawyering* § 16.03, at 16–10 (4th ed 2015) (supplemented periodically) (“woodenly applying the automatic imputation rule that usually governs private law firms would be impractical and against the public interest”).

Therefore, while the Oregon RPCs do not impute Lawyer A's conflicts to other members of the district attorney's office, and so screening is not required, it is prudent to screen Lawyer A from those matters in which Lawyer A is disqualified. Hazard, Hodes & Jarvis, 1 *The Law of Lawyering* § 16.09.

⁶ Under Oregon RPC 1.11(b), however, a conflict is imputed to other members of a former government employee's firm, as will be discussed in Question No. 2.

II. *Question No. 2 (Government Service to Private Practice).*

Oregon RPC 1.6, Oregon RPC 1.7,⁷ and Oregon RPC 1.9 apply to Lawyer *D* (who is transferring from government service to private practice), just as they apply to Lawyer *A* (who is transferring from private practice to government service). With respect to Lawyer *D*, as with Lawyer *A*, Oregon RPC 1.11 governs the disqualification and imputation analysis, pursuant to Oregon RPC 1.10(e).

Oregon RPC 1.11(a), (b), and (c), which relate to former government lawyers, provide:

⁷ Oregon RPC 1.7 provides:

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a current conflict of interest. A current conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client;

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer; or

(3) the lawyer is related to another lawyer, as parent, child, sibling, spouse or domestic partner, in a matter adverse to a person whom the lawyer knows is represented by the other lawyer in the same matter.

(b) Notwithstanding the existence of a current conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not obligate the lawyer to contend for something on behalf of one client that the lawyer has a duty to oppose on behalf of another client; and

(4) each affected client gives informed consent, confirmed in writing.

(a) Except as Rule 1.12 or law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9(c); and

(2) shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation.

(b) When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter substantially in accordance with the procedures set forth in Rule 1.10(c); and

(2) written notice is promptly given to the appropriate government agency to enable it to ascertain compliance with the provisions of this rule.

(c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term “confidential government information” means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter substantially in accordance with the procedures set forth in Rule 1.10(c).

Oregon RPC 1.11(a) prohibits Lawyer *D* from representing criminal defendants in matters in which Lawyer *D* “participated personally and substantially” while a government prosecutor. *See* ABA Formal

Ethics Op No 342 (1975) (“substantial responsibility’ . . . contemplates a responsibility requiring the official to become personally involved to an important, material degree”); *Cleary v. Dist. Court in & for Eighteenth Judicial Dist.*, 704 P2d 866, 870 (Colo 1985) (the critical test of improper conduct by former government employees is the requirement that the attorney have “substantial responsibility” in the matter while employed by the government). Thus, if Lawyer *D* did no work on a particular matter or acquired no material confidential information from Lawyer *D*’s “former client” (i.e., the state)⁸ while at the district attorney’s office, neither Lawyer *D* nor the *DEF* law partnership would be limited in the subsequent handling of the matter. If, however, Lawyer *D* worked on a matter or acquired information protected by Oregon RPC 1.6 that is sufficiently capable of adverse use, Oregon RPC 1.6, Oregon RPC 1.7, Oregon RPC 1.9, and Oregon RPC 1.11 would prohibit Lawyer *D* from handling the matter absent informed consent, confirmed in writing.

Lawyer *D* also may be disqualified by the acquisition of “confidential government information” that does not constitute confidential client information. District attorneys and their deputies are public officials. ORS 8.610; ORS 8.760. The reference in Oregon RPC 1.11(c) to information that “the government . . . has a legal privilege not to disclose” may encompass information that would not otherwise constitute confidential client information under Oregon RPC 1.6, but which the government is not required to disclose. *See Hazard, Hodes & Jarvis, 1 The Law of Lawyering* § 16.11. Absent government consent in the case of government-privileged information, Lawyer *D* may not work on a matter in private practice in which Lawyer *D* had previously acquired “confidential government information.”

Even if Lawyer *D* must be disqualified for the reasons discussed above, imputing Lawyer *D*’s disqualification to the other members of the *DEF* firm can be avoided if Lawyer *D* is screened in accordance with Oregon RPC 1.10(c) and written notice is given promptly to the district attorney’s office as provided in Oregon RPC 1.11(b).

⁸ *See* OSB Formal Ethics Op No 2005-122.

III. *Question No. 3 (Judicial Service to Private Practice).*

Oregon RPC 1.6, Oregon RPC 1.7, and Oregon RPC 1.9 do not apply to Judge *G* (who is leaving judicial service for private practice) because the litigants who appeared before Judge *G* were not Judge *G*'s clients. Oregon RPC 1.11(a), (c), and (d) also do not apply for that reason. Lawyer *G*'s subsequent representation of litigants is limited, however, by Oregon RPC 1.12(a):

Except as stated in paragraph (d) and Rule 2.4(b), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

The personal-and-substantial-participation requirement means that Lawyer *G* must have become "personally involved to an important, material degree" before Lawyer *G* will be disqualified. *See* ABA Formal Ethics Op No 342 (1975). What is "important" or "material" varies with the circumstances. In the ordinary course, however, Lawyer *G* must have done something more than review the status of a matter in court or at docket call or permit the entry of a stipulated order before Lawyer *G*'s involvement will be deemed to have been personal and substantial. *See* ABA Model RPC 1.12 cmt [1] (personal and substantial participation does not include "remote or incidental administrative responsibility that did not affect the merits"). If Lawyer *G* did not participate personally and substantially in a matter as a judge, neither Lawyer *G* nor the other lawyers in the *GHI* firm would be limited in their handling of the matter.

Oregon RPC 1.12(a) provides, however, that if Lawyer *G* participated personally and substantially as a judge, Lawyer *G* may not work on a matter without the informed consent of all parties, confirmed in writing. Furthermore, Lawyer *G*'s disqualification is imputed to the other members of the firm under Oregon RPC 1.12(c), unless Lawyer *G* is screened from the matter.

Oregon RPC 1.12(c) provides:

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) the disqualified lawyer is timely screened from any participation in the matter substantially in accordance with the procedures set forth in Rule 1.10(c); and

(2) written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this rule.

Thus, if Lawyer *G* is screened in accordance with Oregon RPC 1.10(c) and written notice is provided in accordance with Oregon RPC 1.12(c)(2), the other lawyers in the *GHI* firm may proceed with the representation.

Approved by the Board of Governors, September 2015.

COMMENT: For additional information on this topic and other related subjects, see *The Ethical Oregon Lawyer* § 9.6 (informed consent), § 10.2 to § 10.2-1(b) (multiple-client conflicts rules), § 10.3-4 (application of conflicts rules when lawyers leave a firm), § 10.3-5 (motions to disqualify opposing counsel), § 11.4-5 (duties applicable to government lawyers), § 15.3-11(d) (Bar disciplinary boards) (OSB Legal Pubs 2015); *Restatement (Third) of the Law Governing Lawyers* §§ 121–124, 132–133 (2000) (supplemented periodically); and ABA Model RPC 1.9–1.12.

