

## CHAPTER 6

### RULE 1.10: IMPUTED DISQUALIFICATION; GENERAL RULE

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#### **RULE 1.10 IMPUTED DISQUALIFICATION; GENERAL RULE**

(a) Except as provided in section (b), while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by rules 1.7, 1.8(c), 1.9, or 2.2.

(b) When a lawyer becomes associated with a firm, the firm may not knowingly represent a person in the same or a substantially related matter in which that lawyer ("the personally disqualified lawyer"), or a firm with which the lawyer was associated, had previously represented a client whose interests are materially adverse to that person and about whom the lawyer had acquired confidences or secrets protected by rules 1.6 and 1.9(b) that are material to the matter; provided that the prohibition on the firm shall not apply if:

(1) The personally disqualified lawyer is screened by effective means from participation in the matter and is apportioned no part of the fee therefrom;

(2) The former client of the personally disqualified lawyer receives notice of the conflict and the screening mechanism used to prohibit dissemination of confidential or secret information;

(3) The firm is able to demonstrate by convincing evidence that no confidences or secrets that are material were transmitted by the personally disqualified lawyer before implementation of the screening mechanism and notice to the former client.

Any presumption that confidences or secrets of the former client have been or will be transmitted may be rebutted if the personally disqualified lawyer serves on his or her former law firm and former client an affidavit attesting that the personally disqualified lawyer will not participate in the matter and will not discuss the matter or the representation with any other lawyer or employee of his or her current law firm, and attesting that during the period of the lawyer's personal disqualification those lawyers or employees who do participate in the matter will be apprised that the personally disqualified lawyer is screened from participating in or discussing the matter. Such affidavit shall describe the procedures being used effectively to screen the personally disqualified lawyer. Upon request of the former client, such affidavit shall be updated periodically to show actual compliance with the screening procedures. The law firm, the personally disqualified lawyer, or the former client may seek judicial review in a court of general jurisdiction of the screening mechanism used, or may seek court supervision to ensure that implementation of the screening procedures has occurred and that effective actual compliance has been achieved.

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**(c) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer unless:**

**(1) The matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and**

**(2) Any lawyer remaining in the firm has acquired confidences or secrets protected by rules 1.6 and 1.9(b) that are material to the matter.**

**(d) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in rule 1.7.**

### **§6.1 IMPUTED DISQUALIFICATION GENERALLY**

Under the Washington Rules of Professional Conduct (“WRPC” or “rules”), imputed disqualification generally occurs when an entire firm (private law firm, corporate/organization legal department, or legal services organization) is barred from representing a client because one or more of its lawyers is personally disqualified from representing that client because of a conflict of interest. *See* WRPC 1.10; and WRPC Terminology, definition of “firm” or “law firm.” A firm’s imputed disqualification typically occurs because one of the firm’s current members became disqualified while associated with the firm. *See* WRPC 1.10(a); §6.2. However, an individual lawyer’s disqualification may at times be imputed to a firm when the personally disqualified lawyer is new to the firm. *See* WRPC 1.10(b); §6.3. Also, imputed disqualification may arise even after the personally disqualified lawyer has left the firm. *See* WRPC 1.10(c); §6.5. Although only the affected client’s consent can cure imputed disqualification that arises within a continuing association of lawyers, *see* WRPC 1.10(d), a firm newly hiring a personally disqualified lawyer may avoid imputed disqualification by erecting an “ethical screen” to prevent the exchange of client confidences between the new lawyer and the rest of the firm. *See* WRPC 1.10(b); §6.3. Such “ethical screens” have traditionally been allowed with new lawyers joining a firm from government service, *see* WRPC 1.11, or from work in the judiciary, *see* WRPC 1.12. Similarly, a firm left by a personally disqualified lawyer may avoid imputed disqualification by proving that no protected client confidences were exchanged between the departed lawyer and any of the lawyers remaining with the firm. *See* WRPC 1.10(c); §6.5. The imputation principle embodied in rules 1.10, 1.11 and 1.12 is also evident in other Washington Rules of Professional Conduct—for example, the rule concerning the lawyer as witness, WRPC 3.7; the rule concerning responsibilities of a partner or supervising lawyer, WRPC 5.1(c); and the rule concerning responsibilities regarding the non-lawyer assistant, WRPC 5.3(c).

### **§6.2 IMPUTED DISQUALIFICATION WHEN LAWYERS ARE IN A CONTINUING ASSOCIATION**

The imputed disqualification rule applies when a personally disqualified lawyer has an ongoing association with a firm and the individual lawyer’s disqualification arose during this ongoing association. For as long as an individual lawyer is associated with a firm, all lawyers in that firm will share the same strict duties of loyalty to the clients whom the individual lawyer represents or represented while that lawyer was associated with the firm. ANNOTATED MODEL RULES OF PROFESSIONAL CONDUCT at 158 (ABA 4th ed. 1999) (hereafter “ABA MODEL RULES”). Under WRPC

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1.10(a), accordingly, an irrebuttable imputation of disqualification attaches to every lawyer in a firm when any lawyer currently working for that firm has become personally disqualified, under rules 1.7, 1.8(c), 1.9, or 2.2, while working for that firm. Because a lawyer's disqualification in non-conflict situations does not implicate his or her duty of loyalty, an individual lawyer's disqualification under rules other than 1.7, 1.8(c), 1.9, or 2.2 will not require the imputed disqualification of the entire firm. *See, e.g., Federal Deposit Ins. Corp. v. U.S. Fire Ins. Co.*, 50 F.3d 1304 (5th Cir. 1995) (firm not disqualified from representing claimant even though two members of firm were personally disqualified due to probability they would be called as witnesses). Note that under Washington's rule 3.7, if a lawyer is likely to be a necessary witness, then that lawyer and other lawyers in the same firm are disqualified, with limited exceptions.

Traditionally, an additional justification for application of the imputed-disqualification rule in the context of a continuing association has been the presumption that client confidences would be shared between lawyers in a firm. *See* ABA MODEL RULES at 161. Because there is no presumption that confidences will be shared between lawyers in different firms, by contrast, the disqualification of one firm's lawyers generally will not be imputed to a different firm acting as co-counsel. *See, e.g., First Small Business Inv. Co. v. Intercapital Corp.*, 108 Wn.2d 324, 738 P.2d 263 (1987); *Richers v. Marsh & McLennan Group Assocs.*, 459 N.W.2d 478 (Iowa 1990). Although generally there is no rule of imputation between different firms acting as co-counsel, the nature of the working relationship between unrelated firms must be carefully scrutinized. When firms are working closely together to represent a common client, one firm will not be permitted through the participation of another firm to do indirectly what it is ethically prohibited from doing directly. *See, e.g., Fund of Funds, Ltd. v. Arthur Anderson & Co.*, 567 F.2d 225, 229 (2nd Cir. 1977) (disqualifying counsel). *But see Essex Chemical Corp. v. Hartford Acc. & Indem. Co.*, 993 F. Supp. 241 (D.N.J. 1998) (not disqualifying counsel). Imputed disqualification can, however, be avoided by waiver by the affected client. *See* §6.6.

In certain instances, the literal terms of WRPC 1.10(a) must be read in the context of their practical application. WRPC 1.10(a) requires lawyers in a firm to refrain from "knowingly" representing a client whom any one of the firm attorneys would be barred from representing. The term "knowingly" is defined to mean "actual knowledge." *See* WRPC, Terminology. However, the ABA Model Rule has thus far been interpreted to bar such representation whether the lawyers in the firm knew or should have known of the imputed conflict. *See* Ethics 2000 Comm. Draft for Public Comment, ABA Model Rule 1.10—Reporter's Explanation of Changes, Text: 1 (March 23, 1999) (recommending change to "knows or reasonably should know" to conform to actual practice) (hereafter "Ethics 2000—Explanation"); *Nelson v. Green Builders, Inc.*, 823 F. Supp. 1439, 1451 (E.D. Wis. 1993) (disqualifying law firm on the grounds that it should have known, although it did not, that a newly hired lawyer was personally disqualified). If lawyers in a firm undertake a representation and subsequently discover that one of the firm attorneys is personally disqualified, then, as soon as the situation becomes apparent, the representation should be discontinued and the case relinquished to other counsel.

In addition, the proposed revision to the ABA Model Rules extends the potential for imputation of disqualification to all paragraphs in ABA Model Rule 1.8 rather than just 1.8(c), while simultaneously eliminating the potential for imputation where the only conflict that exists is between the individual lawyer's personal interests and the interests of the client. Ethics 2000—Explanation, Text: 2, 3. ABA Model Rule 1.8 and WRPC 1.8 are similar. The proposed revision tracks the rationale behind, and perhaps the practical effect of, ABA Model Rule 1.10(a). All of the

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paragraphs of ABA Model Rule 1.8 (except the limitations in rule 1.8(i) on representations by lawyer-relatives in different firms) potentially implicate duties of loyalty shared by associated lawyers, while a lawyer's personal inability to represent a client does not limit the professional loyalties of the other lawyers with whom that lawyer is associated. *See, e.g.*, ABA MODEL RULES at 119 (the personal disqualification of lawyer-relatives in different firms is not imputed to their firms).

The Washington rule's strict provision for the imputed disqualification of all the lawyers in a firm applies only when the personally disqualified lawyer became disqualified while associated with that firm and remains associated with the firm. WRPC 1.10(a). Lawyers in a firm do not share an individual lawyer's strict duty of loyalty when the individual lawyer's representation of a client ended before the individual lawyer joined the firm, nor do they retain such a duty after the individual lawyer has ended an association with the firm. Accordingly, when the personally disqualified lawyer is either new to the firm or gone from the firm, the firm's other lawyers may be able to avoid imputed disqualification under the provisions of WRPC 1.10(b) and (c) respectively. *See* §§6.3 and 6.4.

### **§6.3 IMPUTED DISQUALIFICATION WHEN A NEW LAWYER JOINS A FIRM**

When a new lawyer joins a firm, other lawyers associated with the firm do not assume a full-fledged duty of loyalty towards former clients of the new lawyer or former or current clients of the new lawyer's former firm. The new lawyer may be presumed, however, to have acquired confidential information about all the clients of that lawyer's former firm, even if that lawyer did not represent them personally. *See, e.g.*, *Silver Chrysler Plymouth, Inc. v. Chrysler Motors Corp.*, 518 F.2d 751 (2nd Cir. 1975) (not disqualifying counsel); *U.S. Football League v. National Football League*, 605 F. Supp. 1448 (S.D.N.Y. 1985) (disqualifying counsel). It may also be presumed, moreover, that those confidences will be shared between the new lawyer and the lawyers with whom that lawyer has become associated. *See, e.g.*, *Schiessle v. Stephens*, 717 F.2d 417 (7th Cir. 1983). These presumptions however, may be rebutted under the circumstances described below. In hiring a personally disqualified lawyer, a firm thus risks imputed disqualification on the basis of the "double presumption" that the new lawyer learned confidential information while the lawyer was with his or her former firm, and that the lawyer shared that information after joining the current firm.

Because the new lawyer's disqualification, by hypothesis, is not due to representation of a current client, the new lawyer will not be personally disqualified unless the lawyer seeks to represent a client with interests materially adverse to a former client of the lawyer, or the lawyer's former firm, in the same or a substantially related matter. *See* WRPC 1.9. If the new lawyer is personally disqualified, however, that disqualification will be imputed to the firm if the new lawyer had acquired material confidences or secrets protected by rules 1.6 and 1.9(b), unless the firm rebuts the presumption that those confidences have been, or will be, shared with the other lawyers in the firm. *See* WRPC 1.10(b).

Although the new lawyer is presumed to have acquired confidential information about all of the clients of that lawyer's former firm, that presumption can be rebutted at least with regard to clients whom the new lawyer did not personally represent. *See, e.g.*, *Silver Chrysler Plymouth Inc. v. Chrysler Motor Corp.*, 518 F.2d 751 (2nd Cir. 1975) (distinction drawn between young associates

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with limited information and responsibility at large firms, and partners who are more directly involved with representing clients). If the new lawyer did acquire confidential information, the presumption that the client's secrets *will* be shared among lawyers in the new firm can be rebutted if the firm effectively screens the new lawyer from participation in the matter, does not apportion the new lawyer any portion of the firm's fee for the matter, and gives the new lawyer's former client notice of the conflict and the screening mechanism erected. *See* WRPC 1.10(b)(1), (2); *See also* Washington State Bar Association Committee on Professional Conduct, Opinion 190, September 24, 1993 (regarding fees). Similarly, the presumption that the former client's confidences *have* been shared among lawyers in the new firm can be rebutted if the firm demonstrates by convincing evidence that the new lawyer did not transfer any material confidences or secrets before the ethical screen was implemented and notice given to the former client. *See* WRPC 1.10(b)(3).

A firm can rebut the presumption that confidences have been or will be shared after implementation of an ethical screen by having the new lawyer serve an affidavit on the lawyer's former law firm and former client attesting that the lawyer will not participate in the matter or discuss the matter or the representation with anyone in the law firm, attesting that everyone in the law firm participating in the matter will be told that the new lawyer is screened from participating in or discussing it, and describing the law firm's screening procedure. *See* WRPC 1.10(b). The law firm's screening procedures will be subject to judicial review. *See* WRPC 1.10(b).

Although an affidavit will remove the presumption that confidences have been or will be shared *after* the ethical screen was implemented, and serves in practice to give notice of the ethical screen's implementation, it does not prevent an argument that confidences may have been shared *before* the screen was in place. *See* WRPC 1.10(b)(3). As a result, a firm that does not implement an ethical screen before hiring a new lawyer must at a minimum prove by "convincing evidence" that no confidences were shared between the new lawyer and the other lawyers in the firm. *See* WRPC 1.10(b)(3). *Cf. Nelson v. Green Builders, Inc.*, 823 F. Supp. 1439, 1451 (E.D. Wis. 1993) (construction of ethical screen did not cure the presumption that confidences had been shared because it was not put into place until more than two years after the personally disqualified attorney joined the firm). *See, e.g., State v. Stenger*, 111 Wn.2d 516, 760 P.2d 357 (1988) (untimely, ineffective ethical screening attempt fails to prevent disqualification of entire prosecuting attorney's office).

In determining whether or not confidences actually have been shared, the following factors have typically been considered:

(1) The size and structural divisions of the law firm and the likelihood of contact between the personally disqualified attorney and the attorneys responsible for the present representation. *See, e.g., U.S. ex rel. Lord Elec. Co. v. Titan Pacific Constr. Co.*, 637 F. Supp. 1556, 1566 (W.D. Wash. 1986) (ethical screen effective despite the small size of firm, given the personally disqualified attorney's peripheral involvement in the firm as a non-participating attorney).

(2) The implementation of rules to prevent the new attorney from having access to relevant files and other information pertaining to the matter, possibly including the physical segregation of case files or their placement under lock and key and restrictions on access to computer files. *See, e.g., Nemours Foundation v. Gilbane*, 632 F. Supp. 418 (D. Del. 1986) (ethical screen effectively isolated personally disqualified attorney from relevant case files).

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(3) The promulgation of policies to prevent the lawyer from sharing in the fees derived from the matter. *See* Washington State Bar Association Formal Opinion 190 (1993) (under WRPC 1.10(b), personally disqualified equity-holding lawyers should receive no portion of the profits of a matter from which they are personally disqualified, and associates should not receive any bonus tied directly to such a matter).

In permitting the use of an ethical screen to rebut the presumption of shared confidences resulting from a new hire in a non-governmental context, Washington is joined by only nine other states. *See* WRPC 1.10(b); Illinois Rule of Professional Conduct 1.10(b)(2), (e); Kentucky Rule of Professional Conduct 1.10(d); Maryland Rule of Professional Conduct 1.10(b); Massachusetts Rule of Professional Conduct 1.10(d)(2); Michigan Rule of Professional Conduct 1.10(b)(1); Minnesota Rule of Professional Conduct 1.10(b); Oregon Code of Professional Responsibility 5-105(I); Pennsylvania Rule of Professional Conduct 1.10(b)(1), (2); Tennessee Code of Professional Responsibility 5-105(D), Tennessee Proposed Rule of Professional Conduct 1.10(c). The terms of these screening rules vary.

The rules of professional conduct in the majority of states follow the ABA Model Rules (and its predecessor, the ABA Model Code) and do not include any provision for rebutting the presumption of shared confidences through the use of an ethical screen. Although not all of these states bar the use of ethical screens to remove the presumption of shared confidences, the vast majority do. *Compare Kala v. Aluminum Smelting & Refining Co.*, 81 Ohio St. 3d 1, 688 N.E.2d 258 (Ohio 1998) (permitting the use of an ethical screen) *with Kassis v. Teacher's Ins. and Annuity Assoc.*, 717 N.E.2d 674 (1999) (ethical screening is useless where newly hired, personally disqualified lawyer had acquired material confidences of the affected client while with the lawyer's former firm) *and Henriksen v. Great American Sav. and Loan*, 11 Cal. App. 4th 109, 14 Cal. Rptr. 2d 184 (1992) (same).

## **§6.4 IMPUTED DISQUALIFICATION WHEN A NON-LAWYER JOINS A FIRM**

Although the ABA Model Rules, by their terms, apply to lawyers, a firm may be disqualified if it fails to prevent, through an effective ethical screen, a newly hired non-lawyer (e.g. paralegal or secretary) from sharing confidences about a client of the non-lawyer's former firm. *Compare Grant v. Thirteenth Court of Appeals*, 888 S.W.2d 466 (Tex. 1994) (disqualifying firm that failed to screen legal secretary); *In re Complex Asbestos Litig.*, 232 Cal. App. 3d 572, 283 Cal. Rptr. 732 (1991) (disqualifying firm that failed to effectively screen paralegal who switched sides); *and Lackow v. Walter E. Heller & Co. Southeast, Inc.*, 466 So. 2d 1120 (Fla. Dist. Ct. App. 1985) (disqualifying firm) *with Arzate v. Hayes*, 915 S.W.2d 616 (Tex. App. 1996) (sufficient precautions taken to screen legal assistant) *and Apopka v. All Corners, Inc.*, 701 So. 2d 641 (Fla. Dist. Ct. App. 1997) (no disqualification; secretary screened). *See* Ethics 2000—Explanation, Draft Comment 7 (non-lawyers must be screened to avoid communication of confidential information that both non-lawyers and firm have a duty to protect).

As a general matter, however, the presumption that client confidences will be revealed may be weaker when a non-lawyer is hired, and so the strength of the screen may not need to be as great. *See, e.g., Esquire Care, Inc. v. Maguire*, 532 So. 2d 740 (Fla. App. 1988). However, a distinct minority of courts have concluded that, far from being any weaker, the presumption that client confidences will be revealed by non-lawyers is irrebuttable, and thus have ruled that screens will

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not serve to prevent a law firm's imputed disqualification when hiring a non-lawyer with confidential information. *See, e.g., Koullisis v. Rivers*, 730 So. 2d 289 (Fla. Dist. Ct. App. 1999), *certified for appeal; accord State ex rel. Creighton University v. Hickman*, 245 Neb. 247, 512 N.W.2d 374 (1994). Those jurisdictions did not, however, have rules such as Washington's that allowed lawyers to be screened.

### **§6.5 IMPUTED DISQUALIFICATION OF A LAWYER'S FORMER FIRM**

When a lawyer leaves a firm and takes clients, lawyers remaining with the firm, who did not represent the former client themselves, are bound only by the obligation to respect the confidences of the firm's former client. Because no one at the firm, by hypothesis, continues to represent the departed lawyer's former clients, the personal disqualification of the departed attorney will not be imputed to the firm unless it seeks to represent a client with interests materially adverse to a client of the departed lawyer in the same or a substantially related matter. *See* WRPC 1.10(c). Even in such a case, the firm can still avoid imputed disqualification if it can prove that no lawyer remaining with the firm acquired material confidences or secrets that would be protected by rules 1.6 and 1.9(b). *See* WRPC 1.10(c). Proving that no lawyer remaining with the firm acquired such protected material confidences or secrets may in practice require establishing that the firm relinquished without reviewing the files of the subject former client and purged its electronic records of all computer-based information about the subject former client. Imputed disqualification can be avoided by waiver by the affected client. *See* §6.6.

### **§6.6 IMPUTED DISQUALIFICATION CURED THROUGH CONSENT**

Imputed disqualification may be waived by the affected client. *See* WRPC 1.10(d). Simple consent by a client to a firm's representation of an adverse party will not, however, be deemed consent to the firm's adverse use of the client's confidential information in subsequent litigation. *See Westinghouse Elec. Corp. v. Gulf Oil Corp.*, 588 F.2d 221 (7th Cir. 1978). Also, consent by a client must meet the rigorous standards prescribed by the Washington Rules of Professional Conduct. *See, e.g.*, WRPC 1.7(a)(2), and WRPC Terminology, definitions for "consents in writing" or "written consent," and "consult" or "consultation."

### **§6.7 RULE 1.10(b) IN PRACTICE (ILLUSTRATION AND ANALYSIS)**

Law Firm A currently represents Plaintiff, an individual, in his product liability claim against Defendant, a manufacturer of widgets. Lawyer previously worked as a litigation associate at Law Firm B, a small litigation boutique that had represented Defendant against other product liability claims related to its manufacture of widgets. Lawyer had written one research memorandum outlining the elements of a product liability claim and had sat in on a lunchroom conversation during which Defendant's litigation strategy was discussed by the partner in charge of the representation. Lawyer had since joined Law Firm A, a large but friendly firm, as a part-time associate in its business department, in the same branch office as the firm's litigation department, where his practice was limited to evaluating and drafting employment contracts. Law Firm A did not construct an ethical screen around Lawyer until six months after its representation of Plaintiff

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had begun, during which time a claim had been filed and Defendant's managers in charge of widget production and design had been deposed.

Immediately after discovering the conflict, Law Firm A instructed Lawyer not to participate in or discuss the matter with any other lawyer or non-lawyer in the firm, informed all other lawyers and non-lawyers in the firm that Lawyer was screened from participating in the matter, physically segregated the case files, and notified Lawyer that he would not receive any additional compensation from the firm's representation of Plaintiff. Law Firm A notified Defendant and Law Firm B of the conflict immediately after discovering it, asked Defendant if it would permit Law Firm A to continue to represent Plaintiff, and offered to make reasonable adjustments to its ethical screen if requested by Defendant. Defendant, however, asked the court to disqualify Law Firm A. Lawyer then served an affidavit on Defendant and Law Firm B attesting that Lawyer would respect the ethical screen, and detailing its provisions.

Law Firm A agrees that Lawyer is personally disqualified from representing Plaintiff, as the matters are substantially similar and Lawyer's participation in the lunchtime conversation gave him protected confidential information about Defendant.

Lawyer's affidavit serves to rebut the presumption that protected confidences would be shared after the screen was constructed, as well as giving the required notice about the screen to Defendant. Defendant would bear the burden of proof in attempting to show that the ethical screen was in fact ineffective. Law Firm A's prompt construction of an ethical screen, its early notice to Defendant, and its willingness to strengthen its ethical screen if requested would probably convince a court that the screen will be effective.

However, Law Firm A would still bear the burden of proving, by convincing evidence, that no protected confidences were in fact shared before the ethical screen was implemented. Law Firm A could point to its large size, the fact that Lawyer is an associate, Lawyer's part-time status, the fact that Lawyer served in the business department and no longer worked on litigation or products liability-related matters, and the limited extent of Lawyer's confidential knowledge as evidence supporting its claim that no confidences had been shared. The fact that Law Firm A is "friendly," however, would count against Law Firm A's proof that no confidences had been shared, as would Lawyer's employment in the same branch office as the lawyers involved in the case, Lawyer's previous experience as a litigator, and, most importantly, the fact that significant elements of the case had occurred before the ethical screen was implemented. A court's willingness to allow Firm A's continued representation might well turn on Lawyer's ability to prove that he had conscientiously refrained from sharing confidential information about previous clients with other attorneys.

## **§6.8 CARDINAL POINTS**

1. Imputed disqualification generally occurs when an entire firm (private law firm, corporate/organization legal department, or legal services organization) is barred from representing a client because one or more of its lawyers is personally disqualified from representing that client because of a conflict of interest.
2. Imputed disqualification occurs when a personally disqualified lawyer has an ongoing association with a firm and the individual lawyer's disqualification arose during this ongoing association.

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3. When a new lawyer joins a firm, it is presumed that he or she has acquired confidential information about all the clients of that lawyer's former firm, even if the new lawyer did not represent them personally, and it may also be presumed that those confidences will be shared between the new lawyer and the lawyers with whom he or she has become associated. These presumptions may be rebutted under certain circumstances.
4. When a lawyer leaves a firm and takes clients, lawyers remaining with the firm, who did not represent the former client themselves, are bound only by the obligation to respect the confidences of the firm's former client. Imputed disqualification of the former firm may be avoided under certain circumstances.
5. Imputed disqualification may be waived by the affected clients.

