

FILED
JUN - 7 2018
WASHINGTON STATE
SUPREME COURT

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED)
AMENDMENT TO RPC 1.7—CONFLICT OF)
INTEREST: CURRENT CLIENTS)
)
)
)
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_____)

ORDER

NO. 25700-A- 1228

The Washington State Bar Association, having recommended the adoption of the proposed amendment to RPC 1.7—Conflict of Interest: Current Clients, and the Court having considered the amendment and comments submitted thereto, and having determined that the proposed amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendment as attached hereto is adopted.

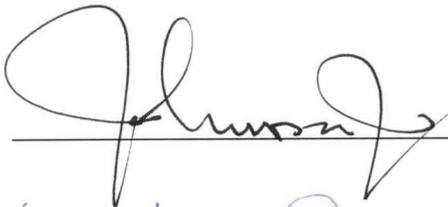
(b) That the proposed amendment will be published in the Washington Reports and

will become effective on September 1, 2018.

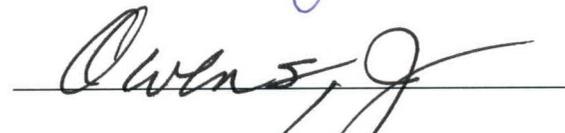
ORDER

IN THE MATTER OF THE PROPOSED AMENDMENT TO RPC 1.7—CONFLICT OF INTEREST: CURRENT CLIENTS

DATED at Olympia, Washington this 7th day of June, 2018.



Madsen, J.

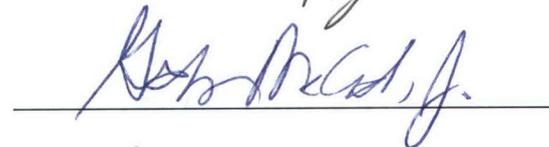


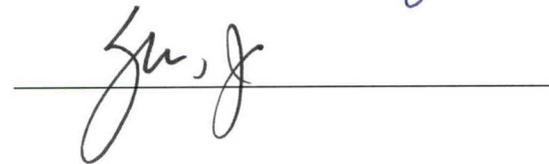


Fairhurst, C.J.



Coonster, J.





RPC 1.7

CONFLICT OF INTEREST: CURRENT CLIENTS

1
2 Comment

3 [1] to [21] unchanged.

4 *Consent to Future Conflict*

5 [22] ~~[Reserved.]~~ Whether a lawyer may properly request a client to waive conflicts that
6 might arise in the future is subject to the test of paragraph (b). The effectiveness of such
7 waivers is generally determined by the extent to which the client reasonably understands
8 the material risks that the waiver entails. The more comprehensive the explanation of the
9 types of future representations that might arise and the actual and reasonably foreseeable
10 adverse consequences of those representations, the greater the likelihood that the client will
11 have the requisite understanding. Thus, if the client agrees to consent to a particular type
12 of conflict with which the client is already familiar, then the consent ordinarily will be
13 effective with regard to that type of conflict. If the consent is general and open-ended, then
14 the consent ordinarily will be ineffective, because it is not reasonably likely that the client
15 will have understood the material risks involved. On the other hand, if the client is an
16 experienced user of the legal services involved and is reasonably informed regarding the
17 risk that a conflict may arise, such consent is more likely to be effective, particularly if,
18 e.g., the client is independently represented by other counsel in giving consent and the
19 consent is limited to future conflicts unrelated to the subject of the representation. In any
20 case, advance consent cannot be effective if the circumstances that materialize in the future
21 are such as would make the conflict nonconsentable under paragraph (b).
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