STATE OF WISCONSIN
SUPREME COURT

IN THE MATTER OF:

THE PETITION OF MICHAEL D. CICCHINI AND TERRY W. ROSE
TO MODIFY SCR 20:1.9(C)

MEMORANDUM IN SUPPORT OF PETITION TO MODIFY SCR 20:1.9(C)

To: The Justices of the Supreme Court

Attorneys Michael D. Cicchini and Terry W. Rose hereby submit this memorandum[1] in support of their petition to amend SCR 20:1.9(c) [hereafter "Rule 1.9"].

I. The proposed change to Rule 1.9

We propose the amended Rule 1.9, below. No language has been deleted from the existing rule; proposed additions have been underlined.

(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 do either of the following:

(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. "Generally known" information includes information that is publicly available or has been disclosed in a public forum.

(2) Reveal information relating to the representation except as these rules would permit or require with respect to a client. Information that is "generally known" has already been revealed.

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[1] Much of the language in this memorandum is taken directly from petitioner Michael Cicchini's article, *On the Absurdity of Model Rule 1.9*, 40 VERMONT LAW REVIEW ___ (forthcoming, January 2016). The language is reproduced here without quotation or citation *to* petitioner's article; instead, citations are made directly to sources cited *in* petitioner's article.

II. Rule 1.9's unlimited reach

The existing Rule 1.9 appears innocuous.[2] In fact, most attorneys confuse it with the evidentiary rule of attorney-client privilege, and assume that it merely prohibits the disclosure of confidential client communications (and perhaps other secret information). In reality, however, Rule 1.9 is unbelievably broad, irrational, and even harmful.

First, Rule 1.9 actually protects "information relating to the representation," which includes, quite literally, *everything*. An attorney is prevented from discussing, writing about, or otherwise disclosing information about his or her closed cases, even when that information did not come *from* the client,[3] and even when it is not *about* the client.[4] Instead, *all* information, including *public* information, is protected.[5] This includes public statements made in open court, facts asserted in publicly filed pleadings, and information contained in non-confidential discovery disclosures.[6] More surprisingly, this class of protected information includes not only information that is public in nature but would take a bit of effort to acquire (for example, by driving to the local courthouse), but also information that is widely and freely available on the Internet, including a former

[2] Rule 1.9 governs confidentiality regarding an attorney's *closed* cases, whereas Rule 1.6 governs confidentiality regarding an attorney's *open* cases. However, the relevant language is identical. Therefore, we will occasionally cite to Rule 1.6 and its commentary for guidance in interpreting Rule 1.9.

[3] *See* MODEL RULES OF PROF'L CONDUCT, R. 1.6 cmt. 3 [Hereafter "MODEL RULES"] (The rule protects "not only matters communicated in confidence by the client but also to *all* information relating to the representation, *what ever its source*.").

[4] *See* Edward W. Feldman, *Be Careful What You Reveal: Model Rule of Professional Conduct 1.6,* LITIGATION 38:4 (2014) (The rule protects all information, "regardless of whether the information is even specifically about the client at all."), *at* http://www.americanbar.org/publications/litigation_journal/2011_12/summerfall/model_rule_1point6.html.

[5] *See* Foster Cobbs Arnold, *The "Public Record / Third Party Rule" of the Duty of Confidentiality: Situations in Which the Rule Arises and Attitudes Toward its Application*, 23 J. LEGAL PROF. 399, 403 (1999) ("Courts . . . have consistently held that the duty of confidentiality is not nullified by the fact that information is part of the public record or by the fact that a third party is privy to it.").

[6] *See, e.g., Pallon v. Roggio*, 2006 U.S. Dist. LEXIS 59881, 24 ("The content of form pleadings, interrogatories and other discovery materials" falls within the class of protected information).

client's published appellate court decision.[7] And the timing of the attorney's receipt of the information is also irrelevant. Information acquired *before* the representation began, or even *after* it ended, is also considered protected and the attorney may not discuss, write about, or otherwise disclose it.[8]

Second, although Rule 1.9 appears to have a built-in exception to its initial, all-encompassing prohibition, it actually does not. That is, there appears to be more leeway if the attorney can fit his or her discussion or other disclosure of public information into part one of the rule (use) rather than part two (reveal). However, this exception is illusory. Virtually every imagined use of information—including use for purposes of commercial speech, political commentary, scholarly writing, or even presentation at a lawyer CLE seminar—will also fall within the much broader category of revealing information, thus invoking the reveal-prong of the rule.[9] In fact, few things could constitute use, but *not* revelation, of information; and even if an attorney could use information without revealing it, courts have simply ignored the distinction and analyzed the attorney's conduct under the more onerous reveal-prong of the rule.[10] As a result, part one of Rule 1.9—the use-prong—is of little value to the attorney.

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[7] *See, e.g., id.* (even information that is "widely available to the public through the internet or another source" is not exempt from the class of protected information); Scott B. Garner, *Secrets in a Google World: Understanding the Differences between the Attorney-Client Privilege and the Duty of Confidentiality*, 35 ORANGE COUNTY LAWYER 42 (2013) (A lawyer may "wrongly assume that once a fact loses its secretive status—for example, by appearing on the Internet—he no longer must protect the fact against disclosure.").

[8] *See* RESTATEMENT (THIRD) OF LAW GOVERNING LAWYERS § 59 cmt. c (2000) [Hereafter "RESTATEMENT"] ("Information acquired during the representation or before or after the representation is confidential so long as it . . . relates to the representation.").

[9] *See, e.g., Sealed Party v. Sealed Party*, 2006 U.S. Dist. LEXIS 28392, *48 (rejecting the attorney's argument that his issuance of a press release constituted the "use" of information).

[10] For an example of a case where the lawyer used, but probably did not reveal, information, yet was disciplined for both using and revealing it, *see In Re Anonymous*, 654 N.E.2d 1128 (Ind. 1995).

Third, although Rule 1.9's reveal-prong appears to have an indirect exception, it actually does not. That is, most lawyers assume that if information is already "generally known," then they may discuss it, write about it, or otherwise disclose it under the reveal-prong of the rule. Why? Because it would be impossible to "reveal" what is already "generally known." As logical as this interpretation is, however, it is wrong. Instead, the word "reveal" takes on a meaning not provided by Rule 1.9, the dictionary, or even logic or reason. For example, the rule's annotation simply ignores the rule's plain language and replaces "reveal" with "disclosure," and then specifically states that disclosing even "generally known" information violates the rule.[11] Similarly, some secondary sources have replaced "reveal" with "volunteering,"[12] which can be defined as "to say, tell, or communicate voluntarily."[13] And certainly it is possible (and therefore would be prohibited) for a lawyer "to say, tell, or communicate" information that is "generally known."

Fourth and finally, the rule defines "generally known" in such a way that it would eliminate all of the above safe havens—even if those safe havens were not already illusory for other reasons. More specifically, in today's electronic age, "true secrets are becoming increasingly rare, and most people can learn just about anything with a few strokes on their keyboard."[14] Despite this, most states, including Wisconsin, have *refused* to include within the definition of "generally known" information that is publicly

[11] *See* MODEL RULES, R. 1.9 (c) annot. ("Rule 1.9(c)(2) prohibits any *disclosure* [as opposed to use] of former-client information . . . regardless of whether the information has become generally known.").

[12] *See* GEOFFREY C. HAZARD, JR. & W. WILLIAM HODES, THE LAW OF LAWYERING § 9.2 (3d ed., 2012).

[13] DICTIONARY.COM, at http://dictionary.reference.com/browse/volunteer?s=t.

[14] Garner, *supra* note 7, at 44.

available,[15] or even "*widely available* to the public through the internet[.]"[16] Instead, courts often define "generally known" in vague terminology, such as information "within the basic understanding and knowledge of the public."[17] But even if we ignore the questions of how we should define "the public" and how we should determine what is within this fictional group's "basic understanding," we are still left with this problem: in today's electronic age, if information that is "widely available . . . through the internet" is *not* "within the basic understanding and knowledge of the public," then nothing is.

III. Rule 1.9's unintended consequences

The existing Rule 1.9's unlimited reach has created several bizarre, irrational, and unintended consequences.

A. Rule 1.9 conflicts with other ethics rules and statutes

When an attorney's adversary commits professional misconduct, the non-offending attorney is required, in many situations, to report that misconduct to disciplinary authorities under Rule 8.3.[18] However, even when the non-offending attorney waits for the ethics violation to first become public, and *then* reports it as

[15] *See In re Harman*, 628 N.W.2d 351 (Wis. 2001) (disclosure of information previously filed in a court case constitutes a breach of confidentiality).

[16] *Pallon v. Roggio*, 2006 U.S. Dist. LEXIS 59881, *24 (emphasis added). For other cases where generally known information does not include publicly available information, *see*, *e.g.*, *La. Crisis Assistance Ctr. v. Marzano-Lesnevich*, 827 F. Supp. 2d 668, 686 (E.D. La. 2011) ("many courts have concluded that an attorney breaches his ethical duties by disclosing even information which is a matter of public record."); *Iowa Supreme Court Att'y Discipline Bd. V. Maren*, 779 N.W.2d 757 (Iowa 2010) (disclosure of publicly available information constitutes a breach of confidentiality); *In Re Anonymous*, 654 N.E.2d 1128 (Ind. 1995) (disciplining a lawyer for using information that was "readily available from public sources and not confidential in nature.").

[17] *Pallon v. Roggio*, 2006 U.S. Dist. LEXIS 59881, *24.

[18] MODEL RULES, R. 8.3 ("A lawyer who knows that another lawyer has committed a violation . . . shall inform the appropriate professional authority.").

required under Rule 8.3, he or she can still be disciplined for disclosing information relating to the representation, contrary to Rule 1.9.[19]

On the other hand, when Rule 1.9 conflicts with other ethics rules, attorneys can be disciplined for *complying with* Rule 1.9. For example, one lawyer was found to have violated a different ethics rule—Rule 4.1 requiring the disclosure of material facts—for *not* disclosing information relating to the representation of the client. The court's reasoning: the document that the attorney supposedly should have disclosed "was filed in the public record" and therefore was *not* protected by Rule 1.9.[20] This, of course, is irreconcilable with Rule 1.9's mandate that confidential information must include "information received from the client *or any other source, even public sources*,"[21] and leaves the attorney guessing at which ethics rule should be followed, and which must be disregarded.

And Rule 1.9's conflicts are not just limited to other ethics rules. For example, in Wisconsin, when filing a notice of limited representation under sec. 802.045(2)(e) and (4)(d), Stats., the attorney is required to provide the client's address. However, providing a client's address to the court and opposing counsel, even when that address is publicly available, would *clearly* violate Rule 1.9 (and Rule 1.6 relating to existing clients).[22]

B. Rule 1.9 prevents effective lawyer CLE

[19] MODEL RULES, R. 1.6 (a) annot. (discussing Pa. Ethics Op. 2009-10 (2009)).

[20] *In Re Sellers*, 669 So. 2d 1204, 1206 (La. 1996).

[21] MODEL RULES, R. 1.6 (a) annot. (emphasis added).

[22] For a case where the lawyer was disciplined for disclosing a client's address, *see In Re Goebel*, 703 N.E.2d 1045 (Ind. 1998). Even the disclosure of *publicly available addresses* violates the rule. *See* Arnold, *supra* note 5 at 406 ("While addresses are readily available through directories and various other means, ethical committees have held that an attorney may not release the address of a client.").

The prohibition against discussing, writing about, or otherwise disclosing information in any way related to the representation of a former client prevents an attorney from training other lawyers, including at CLE conferences. Some states have recognized the absurdity of Rule 1.9. Alaska, for example, made an exception to the rule, concluding that the legal profession must "educate new lawyers [and] circulate information about important developments in the law . . . Literal application of Rule [1.9] would ban these valuable routes of intra-professional communication."[23]

No such CLE or scholarly-article exception exists in Wisconsin. Yet, the education of Wisconsin lawyers remains especially important given the state of legal education. That is, law schools have developed the rather bizarre practice of purposely hiring law professors with very little legal experience.[24] Often, these professors have no experience at all.[25] Not surprisingly, this results in law graduates who are unable to effectively practice law. The State Bar of Wisconsin's own study has demonstrated that new lawyers feel grossly unprepared and, worse yet, live in fear of being disbarred before their careers even develop.[26] The failure of our law schools is on full display; therefore, lawyer CLE and lawyer-written articles take on even greater importance.

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[23] *See* Arnold, *supra* note 5, at 409-10 (citing Alaska's exception to Rules 1.6 and 1.9 for the purpose of providing lawyer CLE); *see also* RESTATEMENT § 60 cmt. h (2000) ("When no material risk to a client is entailed, a lawyer may disclose information . . . for purposes of providing professional assistance to other lawyers, whether informally . . . or more formally, as in continuing-legal-education lectures.").

[24] *See* Paul Campos, *Legal Academia and the Blindness of the Elites*, 37 HARVARD J. L. & PUB. POL. 179, 180 (2014) ("the average amount of experience in the practice of law among new hires at top twenty-five law schools, *among those hires who had any such experience*, was 1.4 years.").

[25] *See id*. *See also* David Segal, *What They Don't Teach Law Students: Lawyering*, THE NEW YORK TIMES (November 19, 2011) ("the academy wants people who are not sullied by the practice of law"), at http://www.nytimes.com/2011/11/20/business/after-law-school-associates-learn-to-be-lawyers.html?pagewanted=all&_r=0.

[26] *See, e.g.*, STATE BAR OF WISCONSIN, *Challenges Facing New Lawyers: Task Force Report and Recommendations* (November, 2013), at http://taxprof.typepad.com/files/challenges-facing-new-lawyers-task-force-report.pdf.

C. Rule 1.9 contradicts the public interest

The existing Rule 1.9 also runs contrary to the public's right to receive critical and accurate commentary about the legal system.[27] "The judicial system, and in particular our criminal justice courts, play a vital part in a democratic state, and the public has a legitimate interest in their operations."[28] More specifically, "It would be difficult to single out any aspect of government of higher concern and importance to the people than the manner in which criminal trials are conducted."[29]

Despite the importance of competent reporting on legal matters, news media coverage is often so inaccurate or superficial that "[i]t is no wonder that the average American is so confused by the laws that govern him."[30] By contrast, a lawyer who is directly involved in a particular legal matter is highly motivated and ideally situated to provide accurate and critical commentary about the public aspects of that matter.[31] For example, a criminal defense lawyer who worked on a particular case is in the best position to discuss the nuances of subtle legal issues or defenses that the media, and even lawyers not involved in the case, will not appreciate.[32] This lawyer is also in the best

[27] *See* Hannibal B. Johnson, *The Propriety of Post-Representation Public Communication Defining the Contours of Lawyer-Client Confidentiality in the Information Age*, 22 J. LEGAL PROF. 85, 87 (1998) ("The public's 'right to know' about maters affecting the administration of justice goes to the heart of life in an open and vibrant democracy.").

[28] *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1035 (1991).

[29] *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575 (1980).

[30] *A Random Bit of Media Criticism*, POPEHAT BLOG (June 28, 2013) (discussing how even the well-respected, mainstream media confused two distinct and very different concepts—Florida's stand-your-ground law and "the ancient and time-honored doctrine of self-defense"—in a recent, high-profile case), at https://www.popehat.com/2013/06/28/a-random-bit-of-media-criticism/.

[31] *See* Johnson, *supra* note 27, at 87 ("Lawyers . . . are well positioned to aid the public in its understanding of America's legal system.").

[32] *Id*. at 100.

position to expose abuses of police and prosecutorial powers.[33] Finally, this lawyer is also in the best position to dispel misconceptions about the criminal justice system, including the common presumption that if a defendant is prosecuted in court—or even merely arrested—then he or she must be guilty.

When attorneys—and in particular, criminal defense attorneys—are prevented from talking about the public aspects of their cases, the public suffers to a great extent. The inevitable consequence of silencing this important voice is that government agents are allowed to use their enormous powers and vast discretion in ways that will go unchecked and will escape criticism.[34]

D. Rule 1.9 violates attorney free speech rights

Rule 1.9 prohibits an attorney from discussing, writing about, and otherwise disclosing even *public* information, including what happened in his or her cases in open and public court. However, the U.S. Supreme Court has made clear that "a presumption of openness inheres in the very nature of a criminal trial under our system of justice."[35] Further, "a trial is a public event. What transpires in the court room is public property. . . . Those who see and hear what transpired can report it with impunity."[36]

States that have adopted Rule 1.9, however, believe that this right to report what happens in open and public court is enjoyed by everyone *except* the attorneys involved in the case. But again, the U.S. Supreme Court disagreed: "First Amendment protection

[33] *See Gentile*, 501 U.S. at 1035-36 ("Public awareness and criticism have even greater importance where, as here, they concern allegations of police corruption, or where, as is also the present circumstance, the criticism questions the judgment of an elected public prosecutor.").

[34] *See id.* ("Our system grants prosecutors vast discretion at all states of the criminal process. The public has an interest in its responsible exercise.").

[35] *Richmond Newspapers, Inc.*, 488 U.S. at 573.

[36] *Craig v. Harney*, 331 U.S. 367, 374 (1947).

survives even when the attorney violates a disciplinary rule[.]"[37] Similarly, in a very recent lawyer discipline case, the Virginia Supreme Court held that "[t]o the extent that the information is aired in a public forum, privacy considerations must yield to First Amendment protections. In that respect, a lawyer is no more prohibited than any other citizen from reporting what transpired in the courtroom."[38] And with regard to the confidentiality rule, the court was clear: "[W]e are called upon to answer whether the state may prohibit an attorney from discussing information about a client or former client that is not protected by attorney-client privilege without consent from that client. We agree with [the attorney] that it may not."[39]

IV. The policy behind the rule of confidentiality

The existing Rule 1.9 does nothing to advance the policy concerns underlying a rule of confidentiality. The ABA Code of Professional Responsibility (the predecessor to the Model Rules and Rule 1.9) stated that there are three policy concerns driving a rule of confidentiality: (1) it "encourages laymen to seek early legal assistance"; (2) it encourages the client to "feel free to discuss whatever he wishes with his lawyer"; and (3) it allows the lawyer to "be fully informed of all the facts of the matter he is handling in order for his client to obtain the full advantage of our legal system."[40] In light of these policy concerns, the old ABA Code prohibited an attorney from revealing or using the "*confidences* and *secrets* of a client."[41] This predecessor rule was much narrower on its

[37] *Gentile*, 501 U.S. at 1054.

[38] *Hunter v. Virginia State Bar*, 744 S.E.2d 611, 620 (Va. 2013).

[39] *Id*. at 619.

[40] MODEL CODE OF PROF'L RESPONSIBILITY, EC 4-1 (1983) [Hereafter "MODEL CODE"].

[41] MODEL CODE, DR 4-101.

face, and in its interpretation, than today's Rule 1.9 which protects even widely and publicly available information.

Curiously, however, today's much broader Rule 1.9 repeats, nearly verbatim, the three identical policy concerns as its own justification: (1) "[t]he client is thereby encouraged to seek legal assistance"; (2) the client is encouraged "to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter"; and (3) the lawyer gains access to "this information to represent the client effectively[.]"[42] Yet despite these three, unchanging policy concerns, Rule 1.9 made the dramatic leap from protecting a client's "confidences and secrets" to protecting *all* information, whatever its source, including *public* information.

But protecting all information, rather than confidences and secrets, does nothing to advance the three unchanged policy concerns. To demonstrate this, consider the second and third policy concerns: encouraging clients to speak fully and frankly with their lawyers to allow for the best possible representation. It is true that a client might hesitate to tell a lawyer confidential or secret information if the lawyer could freely repeat it. But why would a client hesitate to tell a lawyer confidential or secret information if, *after the representation ended*, the ethics rules allowed the lawyer to use or disclose information that was contained in *publicly-filed pleadings*, stated in *open and public court*, or included in a *published appellate court decision*? There is simply no connection between the policy concerns allegedly driving the rule, and the rule itself. The lawyer's ability to discuss *public* information, after a case ends, would in no way affect a client's

[42] MODEL RULES, R. 1.6 cmt. 2.

willingness to tell the lawyer *confidential* or *secret* information during the representation.[43]

There is an even weaker connection—if that is even possible—between the first policy concern of encouraging clients to hire lawyers, and Rule 1.9's prohibition on a lawyer's disclosure of public information after the case ends. For example, if a potential client decides to represent himself instead of using a lawyer, then everything that was asserted in pleadings, said in the courtroom, or published in a court's decision is public information and can be discussed by absolutely anyone (including the lawyer not hired). Given this, it makes absolutely no sense that a would-be client might not hire a lawyer because, after the case is concluded, the lawyer might discuss public information about the case—something the lawyer, and everyone else, could do anyway if the would-be client represents himself.

It is obvious that protecting confidential client communications and other secret information is well aligned with the three underlying policy objectives. But Rule 1.9's leap to protecting *all* information, including public information, serves no objective.

V. Informed consent is not an option

Those who have never (or barely) practiced law may assert that an attorney can, in fact, discuss public information about his or her cases—after obtaining informed consent from the client. However, obtaining informed consent is not a practical, or even theoretically possible, alternative.

[43] *See* Johnson, *supra* note 27, at 93-94 ("It makes sense to preserve inviolate direct lawyer-client ('privileged') communications from public disclosure . . . [but] there seems to be far less justification for protecting mere 'confidential' (as opposed to 'privileged') information in the face of significant, if not compelling, legal and public policy considerations.").

One problem with obtaining informed consent is that such consent "requires an understanding [by the former client] of the risks and benefits attendant upon disclosure."[44] But this high standard does not fit well with an attorney's use or revelation of public information, which is prohibited even when there is "no possible risk of harm" to the former client.[45] And if there is no risk of harm in revealing the information—which is the case with regard to already-revealed *public* information—then there would be no risks for the former client to understand. And without this understanding, a former client cannot give informed consent under the rule. Similarly, neither is there likely to be any benefit for the former client; instead, the disclosure of the information will benefit the legal profession or members of the general public. And with no identifiable benefit for the former client, there would be nothing to understand or to weigh against the (also nonexistent) risks. Once again, informed consent is not possible.

By way of analogy, the informed consent doctrine—with its focus on risks and benefits—is the proverbial square peg. And Rule 1.9—with its blanket prohibition on the revelation of even public information where no risks or benefits exist—is the proverbial round hole. The two are incompatible on a fundamental level.

VI. Other states' treatment of Rule 1.9

Virginia has declared the language of Rule 1.9 unconstitutional. Citing U.S. Supreme Court case law, it held that no ethics rule may infringe on a lawyer's First

[44] MODEL RULES, R. 1.6 (a) annot.

[45] RESTATEMENT § 60 cmt. c(i) (2000) ("a lawyer would commit a disciplinary violation by telling an unassociated lawyer in casual conversation the identity of a firm client, even if mention of the client's identify *creates no possible risk of harm*.").

Amendment right to discuss, write about, or otherwise disclose information about a former client's case, *unless* that information falls within the attorney-client privilege.[46]

Alaska has made an explicit exception to Rule 1.9, permitting attorneys to discuss, write about, or otherwise disclose information about their former clients' cases for purposes of lawyer CLE.[47]

Minnesota,[48] Louisiana,[49] and Missouri[50] have already done what we are asking this court to do: define "generally known" to include information that is publicly available, and further recognize that such "generally known" information has, by definition, already been revealed, thus permitting an attorney to discuss, write about, or otherwise disclose it.

VII. Conclusion

We ask that this Court follow in the footsteps of the several states that have recognized the absurdity of Rule 1.9. We ask that this Court adopt our very modest proposed amendments to Rule 1.9, which would permit an attorney to discuss, write about, or otherwise disclose *public* information, as well as events that occurred in *open and public court*, with regard to his or her closed cases.

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[46] *Hunter v. Virginia State Bar*, 744 S.E.2d 611, 620 (Va. 2013).

[47] *See* Arnold, *supra* note 5, at 409-10 (discussing Alaska's exception to Rules 1.6 and 1.9 for the purpose of providing continuing legal education).

[48] *State v. Mancilla*, 2007 Minn. App. Unpub. LEXIS 717, 6 (a former client's "prior convictions were matters of public record and, therefore, fall within the generally-known-information exception to rule 1.9(c).").

[49] *In Re Sellers*, 669 So. 2d 1204, 1206 (La. 1996) (interpreting the rule of confidentiality regarding current clients and holding that disclosure of public records "was not prohibited by Rule 1.6.").

[50] *In Re Lim*, 210 S.W.3d 199, 201-02 (Mo. 2007) (finding no ethics violation for the disclosure of information that "was a matter of public record.").

Submitted this ____ day of September, 2015.

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