

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)

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To: The Justices of the Supreme Court

Attorneys Michael D. Cicchini and Terry W. Rose hereby petition the Court to amend SCR 20:1.9(c).

I. The Proposed Change

The proposed amended rule is stated in its entirety, 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.

II. Reasons for the Change

The reasons for the change are described in the petitioners' supporting memorandum. Briefly, the existing SCR 20:1.9(c) prevents an attorney from discussing, writing about, or otherwise disclosing even *public* information about his or her closed cases. This existing rule: (1) conflicts with statutes and other ethics rules; (2) harms the legal profession by preventing effective lawyer CLE; (3) runs contrary to the public's interest in receiving accurate commentary about the legal system; (4) violates attorney free speech rights by preventing lawyers from discussing, writing about, or otherwise disclosing even *widely and publicly available* information; and (5) does not serve any of its own stated objectives.

Submitted this ____ day of September, 2015.

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