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## **Supreme Court Approves RPC Amendments on Imputed Conflicts**

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The Supreme Court recently approved a package of related RPC amendments addressing imputed conflicts for public defenders. “Imputed” conflicts are those we share with other lawyers working with us by virtue of the conflicts involved being imputed to the entire firm. Some public defenders are government employees while others work for law firms or non-profits. The treatment of public defenders under the imputed conflict rules varied depending on whether they are government employees or work for non-governmental employers. Conflicts imputed to government and non-governmental lawyers are addressed by, respectively, RPCs 1.11 and 1.10. RPC 1.11 is oriented around practice for traditional governmental units like a city or an agency where the governmental unit is the client. RPC 1.10, by contrast, focusses on lawyers working for law firms or other non-governmental entities with a broader array of clients.

Because public defenders represent individuals rather than governmental units, the amendments clarify that imputed conflicts for public defenders are controlled by RPC 1.10 rather than RPC 1.11 regardless of the nature of their employer. The amendments added a new sentence to RPC 1.10(d): “[L]awyers appointed or assigned to represent indigent members of the public (public

defenders) are subject to this rule regardless of whether they are government employees.” The amendments also added a new Comment 15 to RPC 1.10: “Public defenders represent individuals, not the government. For this reason, imputed conflicts in public defender firms are determined under this rule rather than RPC 1.11.” Related comments were added to RPCs 1.11 and 1.0(A) (which defines various terms used in the RPCs).

The amendments become effective on September 1 and are available on the Washington Courts’ web site.

## **ABOUT THE AUTHOR**

Mark J. Fucile of Fucile & Reising LLP handles professional responsibility, regulatory and attorney-client privilege issues for lawyers, law firms and corporate and governmental legal departments throughout the Northwest. Mark has chaired both the WSBA Committee on Professional Ethics and its predecessor, the WSBA Rules of Professional Conduct Committee. Mark is also a former member of the Oregon State Bar Legal Ethics Committee and is a current member of the Idaho State Bar Section on Professionalism & Ethics. Mark writes the monthly Ethics Focus column for the Multnomah (Portland) Bar’s *Multnomah Lawyer*, the quarterly Ethics & the Law column for the WSBA *NWLawyer* and is a regular contributor on legal ethics to the WSBA *NWSidebar* blog. Mark is a contributing author/editor for the current editions of the OSB Ethical Oregon Lawyer, the WSBA *Legal Ethics Deskbook* and the WSBA *Law of Lawyering in Washington*. Before co-founding Fucile & Reising LLP in 2005, Mark was a partner and in-house ethics counsel for a large Northwest regional firm. He also teaches legal ethics as an adjunct for the University of Oregon School of Law at its Portland campus. Mark is admitted in Oregon, Washington, Idaho, Alaska and the District of Columbia. He is a graduate of the UCLA School of Law. Mark’s telephone and email are 503.224.4895 and Mark@frllp.com.