LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
PUBLIC MEETING AGENDA

January 23, 2026 – 12:30pm (via Zoom only)

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1. Approval of minutes of December 12, 2025, meeting (attachment 1).

2. Membership updates and tributes to departing members.

3. Rules committee report: Potential amendments to Rule 16, Rules on Lawyers Professional Responsibility (attachment 2).

4. Director's report (attachment 3).

5. Complainant appeal statistics (attachment 4).

6. Open discussion.

7. Adjournment.

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD
PUBLIC MEETING

OPEN MEETING MINUTES
December 12, 2025, 12:30 pm (In-person and via Zoom) – Minnesota Judicial Center

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Board member attendance:

- Ben Butler
- Daniel Cragg
- Elizabeth Henderson
- Paul Lehman
- Frank Leo
- Melissa Manderschied
- Kevin Magnuson
- Kristi Paulson
- Matthew Ralston
- Abigail Rankin
- Wendy Sturm
- Carol Washington
- John Zwier

Other attendees:

- Minnesota Supreme Court liaison Justice Gordon Moore
- Binh Tuong, Deputy Director of the Office of Lawyers Professional Responsibility
- Members of the OLPR staff
- Members of the public

Approval of prior meeting minutes:
The December meeting of the LPRB began at 12:30, being led by Chair Ben Butler, who was joining via Zoom. The first object on the agenda was the approval of the last meetings minutes, hearing no discussion Frank Leo motioned to approve with Daniel Cragg seconding. The motion passed unanimously.

Membership Updates:
Earlier this year Chair Butler let the board know he would not be returning for another term as board chair. After many lengthy discussions with Supreme Court liaison Justice Moore and Director Humiston, the Minnesota Supreme Court appointed Carol Washington as the next Board Chair. However, due to some personal constraints Washington would not be able to accept the position of Chair until May 1st, 2026, with Chair Butler electing to stay in the interim. The end of Chair Butler's term will now be April 30, 2026.

Justice Gordon Moore described the process to select the new Chair, stating the Court did not look outside of the Board. Justice Moore acknowledged the number of outstanding Board members who were consider, and whose qualifications made the Court's decision a difficult one. In the end, the Court decided that Carol Washington was the best candidate for the position.

Future Chair Washington thanked the Board and the Supreme Court for their faith in her, though she admitted she had a lot to learn. Washington said she would be turning to all Board members and OLPR for help and insight. She described her view of the Chair position as primarily one of a facilitator.

In other membership updates, there are two openings for public members. The notice was posted a while back but unfortunately it closed with only one application from an attorney. The notice has been reposted. Chair Butler asked the public members to please help get the word out about the posting and stated he would hopefully have updates come January.

Rules committee report: Potential amendments to Rule 16, Rules on Lawyers Professional Responsibility (attachment 2)

Daniel Cragg spoke for the rules committee. They have met once a month since the last Board meeting to discuss the amendment to Rule 16. The rules committee wanted the rule to be broad, allowing the discretion for the director to make an application to the Court and pushing the burden onto the respondent who would then be able to make any argument they want saying the prepetition suspension is unwarranted. The committee decided that the application should go directly to the Court with the option to refer to a referee to resolve fact disputes or make credibility evaluations.

> (f) Application for Pre-Petition Temporary Suspension. Where a judicial officer has found probable cause that a lawyer has committed a crime of such severity that the lawyer's authority to practice law prior to the filing of a petition under Rule 12 poses a substantial threat of serious harm to the public, the Director may make an ex parte application to this Court for a Temporary Suspension prior to the filing of a Rule 12 Petition. Upon finding that the Director's application meets this standard, this Court shall issue an Order to Show Cause to the lawyer why the lawyer's authority to practice law should not be temporarily suspended

William Pentelovitch wondered about all these prepetition examples being about the safety of the public, what about situations like lawyer sued civilly for misappropriating funds. Chair Butler reiterated his view that the Board's charge by the Court was to address situations involving a safety risk to the public but that does not necessarily mean physical/criminal.

Cragg told the board that they had a tight turnaround on this and would be back with the final version during the January meeting.

Minnesota Supreme Court referral: Rule 4 (attachments 3 – 6).

The referral from the Court provides in part:

> Rule 4.2 specifically concerns communication with a person represented by counsel and provides: "In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order." As we have identified, several jurisdictions, along with a 2022 advisory opinion from the American Bar Association, have interpreted this language to mean that the non-contact rule applies to self-represented attorneys. *In re Jensen*, 12 N.W.3d 731, 741 n.8 (Minn. 2024) (compiling citations). We have also noted, however, that "[w]e have not addressed whether the no-contact rule applies to self-represented attorneys." *Id.*

A previous Board opinion on Rule 4 was that it did not include self-represented lawyers; the OLPR concurred. Due to the ABA's stricter reading, the Supreme Court has asked the Board to consider whether Rule 4 should be amended to make plain that it covers self-represented lawyers. Chair Butler asked about whether to establish an ad hoc committee or to refer this to the rules committee. Rules Committee chair Daniel Cragg said the committee had the bandwidth for it. Chair Butler then motioned to send it to the rules committee, the motion was seconded by Daniel Cragg and the vote passed unanimously.

Update: working group on OLPR standard language for summary dismissals.

The Director and all members of the summary dismissal letter working group were absent from the meeting. In their stead, Binh Tuong presented the latest version of new dismissal letter options and welcomed feedback. Carrie Washington asked to be reminded of the impotence for this, Tuong answered that it was meant to be more reflective of what the OLPR does as well as more efficient. William Pentelovitch worried that the letter did not include enough language about how large the Director's discretion is. Board members Melissa Manderschied and Wendy Sturm expressed their approval of the letter. Chair Butler thanked the OLPR for bringing it before the Board and said the Board would consider the matter again at its next meeting when the Director and members of the drafting committee were present.

Directors Report

Binh Tuong was standing in for Director Humiston as she is abroad, on a much needed and deserved vacation.

Tuong had some bittersweet updates of employment. Managing attorney Tim Burke is retiring and recently had his last oral argument (his 59th) Justice Hudson acknowledged his years of service. The OLPR is working on transferring his files and hiring.

Secondly, Patricia LaRue, an OLPR paralegal who has been with the office for 25 years, is retiring, Patricia has been compassion and belief in the mission will be hard to replace. The OLPR have potential temporary help from someone who also works part time with the Board of Law Examiners.

Tuong then turned her attention back to the OLPR case numbers: it was a busy, busy year with 1,424 cases so far, more than any year going back at least 20. The OLPR is processing every single

complaint and has a lot on their plates. While they usually have about 30-40% summary dismissals, currently the OLPR has 58%. This is a record-breaking amount for them. File closing has been slow in November, bursts of things getting done then the holiday season slows the OLPR down again. The OLPR reports lots of charges coming out, however, when we issue charges there is still more work to be done by the office. The OLPR had 2 additional lawsuits; the Attorney General's office is handling it, and the cases will most likely be dismissed.

Lastly, the OLPR did an open house to show off their new office at Minnesota Judicial Center, they feel very at home here and enjoy having the comradery.

Complainant Appeal Statistics

Chair Butler reminded the Board we present the statistics to ensure the appeals process was working in a timely and correct manner. The stats remain good with stats for completion being 21 days for investigation or admonitions and 26 days for Summary Dismissal appeals.

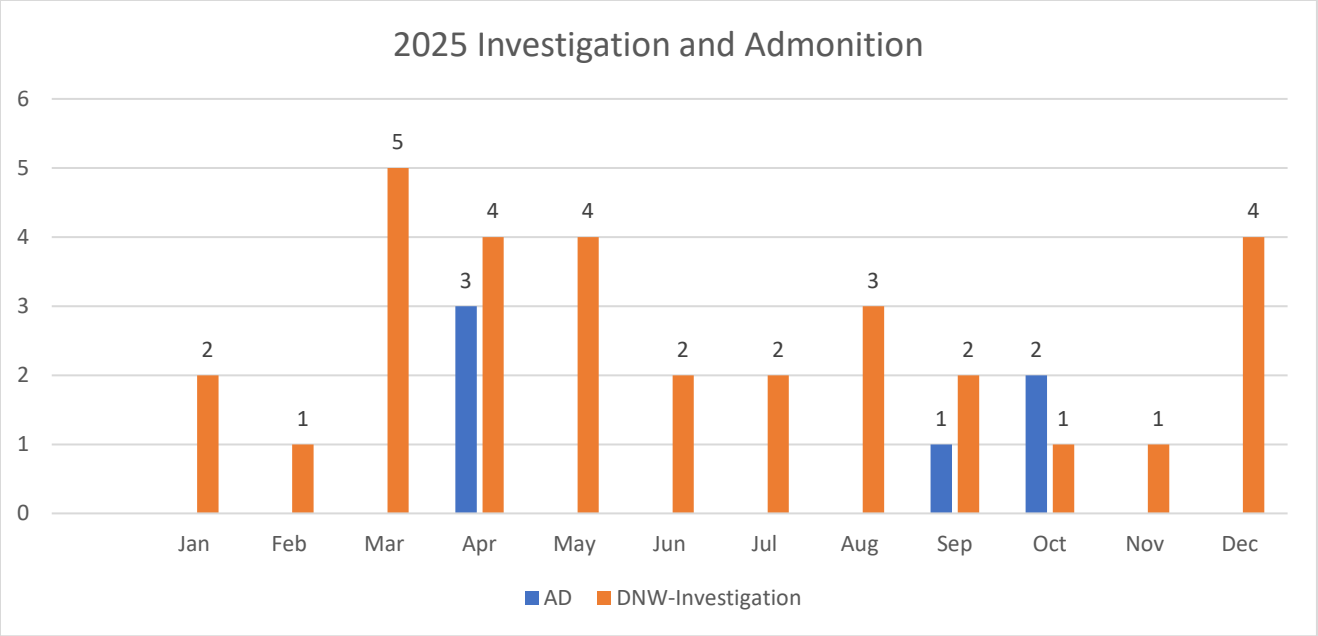
Open Discussion

The first topic of open discussion was ABA opinion 518, which concerns maintaining confidentially on motions to withdraw. Absent an express order to explain the withdrawal the attorney should simply say "professional reasons." However, federal court often requires good cause. Cragg worried local rule 387 was asking for trouble and a trap for the unwary. Cragg suggested we defer this one to the district ethics committee and motioned to do just that. William Pentelovitch seconded the motion. The matter was put to a vote and the Board unanimously decided to require the Chair to submit a letter to relevant federal bar groups and courts expressing the concern.

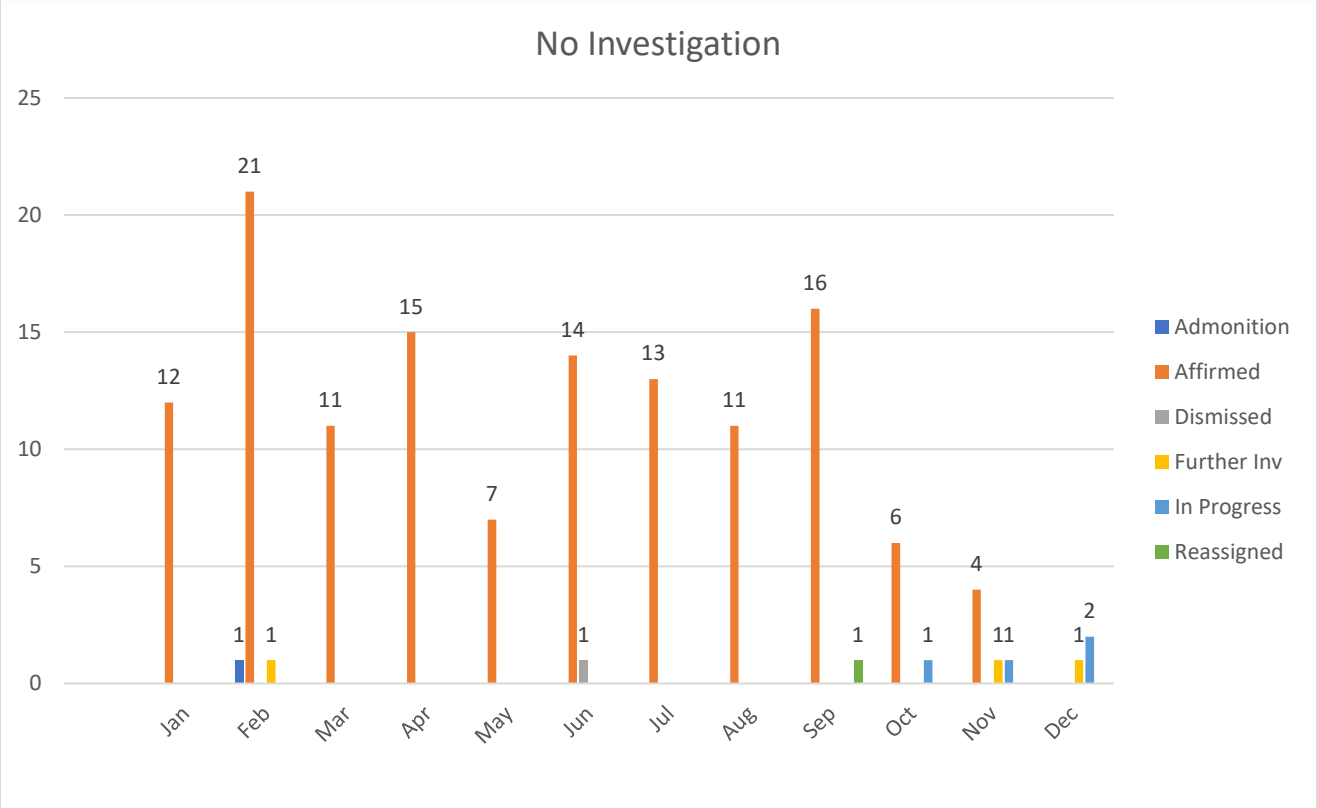
The next topic of discussion was brought up by William Pentelovitch. A criminal defense attorney entered the gubernatorial race and the DFL made a statement saying the attorney "built his career defending violent and exploitative criminals. He represented fraudsters, rapists, and pedophiles, getting many of their charges and cases thrown out along the way. -- With such a checkered history of clients, he lacks a moral compass to be Governor. He would take Minnesota in the wrong direction." Pentelovitch questioned whether the Board should make a statement in opposition to the DFL's. Multiple members were aware of the situation but questioned if it was the Boards place to make a comment. Carol Washington suggested it may be more within the purview of MSBA or the ABA, with these organizations being more able to release a more neutral statement. Washington reminded the board that the Court must remain politically neutral and any statement the Board makes will be perceived as political. Kevin Magnuson said the MSBA would be more sensitive to political matters and even If we did refer it to them nothing might come of it.

Paul Lehman reminded the board that this sort of talk is not exclusive to defense attorneys, with most lawyers being looked at as publicly corrupt just from their profession. Frank Leo offered to draft an opinion given that, as a non-attorney member he was quite upset with the comment. Wendy Sturm, who works as a public defender, stating criminal defense lawyers hear comments like this all the time, sometimes on the record from prosecutors or the court. Justice Moore urged the Board to proceed cautiously, if at all, before doing anything that could be perceived as political.

There was no formal motion or vote, but the consensus was that a statement from the Board was not a good idea. Pentelovitch suggested after the election the Board and/or OLPR consider holding a CLE about educating the public about lawyers' ethical duties to their clients without particularly addressing this topic. Magnuson agreed with this idea and suggested a member of the board could write a statement for LinkedIn. Chair Butler reminded the Board of our media policy but also noted that Board members are individuals with the ability to make statements if they wish, just make sure it's not stated as the Board's opinion.



Average: 23.156 days to complete



Average: 27.52 days to complete

OLPR Dashboard for Court And Chair

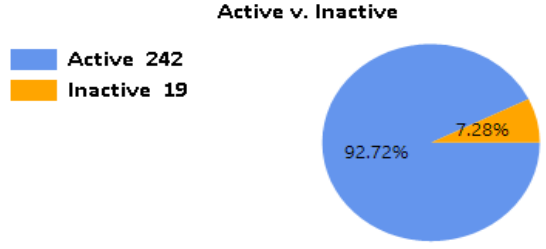
	Month Ending December 2025	Change from Previous Month	Month Ending November 2025	Month Ending December 2024
Open Files	681	-3	684	600
Total Number of Lawyers	461	5	456	409
New Files YTD	1572	150	1422	1273
Closed Files YTD	1491	153	1338	1227
Closed CO12s YTD	389	43	346	251
Summary Dismissals YTD	927	98	829	672
Files Opened During December 2025	150	38	112	125
Files Closed During December 2025	153	64	89	124
Public Matters Pending (excluding Resignations)	39	0	39	34
Panel Matters Pending	11	0	11	17
DEC Matters Pending	122	14	108	122
Files on Hold	19	0	19	9
Advisory Opinion Requests YTD	1789	151	1638	1704
CLE Presentations YTD	32	1	31	37
Files Over 1 Year Old	261	-1	262	219
Total Number of Lawyers	156	4	152	126
Files Pending Over 1 Year Old w/o Charges	149	4	145	124
Total Number of Lawyers	111	4	107	84

	2025 YTD	2024 YTD
Lawyers Disbarred	6	5
Lawyers Suspended	7	14
Lawyers Reprimand & Probation	1	2
Lawyers Reprimand	3	6
TOTAL PUBLIC	**17**	**27**
Private Probation Files	1	7
Admonition Files	92	95
TOTAL PRIVATE	**93**	**102**

FILES OVER 1 YEAR OLD

Year/Month	OLPR	AD	PAN	HOLD	SUP	S12C	SCUA	REIN	TRUS	Total
2018-12	1									**1**
2019-04					1					**1**
2019-07	1									**1**
2019-08	1									**1**
2020-01	1									**1**
2020-02					1					**1**
2020-09	1									**1**
2021-01	1									**1**
2021-03	1			1						**2**
2021-05	3									**3**
2021-06	1				1					**2**
2021-07	1									**1**
2021-08					1					**1**
2021-09	1									**1**
2021-10					1					**1**
2021-11	2						2			**4**
2022-01	1									**1**
2022-03	1									**1**
2022-04	2				1					**3**
2022-05	2									**2**
2022-08	1				2		1			**4**
2022-09	1						1			**2**
2022-10	1			3		1				**5**
2022-11	1				1		1			**3**
2022-12	1									**1**
2023-01	1				2	1	1			**5**
2023-02	2			3			4			**9**
2023-03	3					1	2			**6**
2023-04	1				1		1			**3**
2023-05	3			1		1				**5**
2023-06	1									**1**
2023-07	6				1		7			**14**
2023-08	5		1		1		2			**9**
2023-09	1				3		24			**28**
2023-10	3		1	1			4	1		**10**
2023-11	3						1			**4**
2023-12	3									**3**
2024-01	2									**2**
2024-02	3			1			2			**6**
2024-03	3	1								**4**
2024-04	3			3	1		1			**8**
2024-05	4			1	1		3			**9**
2024-06	5									**5**
2024-07	4				2		2			**8**
2024-08	16						1			**17**
2024-09	7				1					**8**
2024-10	12	1					1			**14**
2024-11	15			1			3	1		**20**
2024-12	17								1	**18**
Total	**149**	**2**	**2**	**15**	**22**	**4**	**64**	**2**	**1**	**261**

	Total	**Sup. Ct.**
Sub-total of Cases Over One Year Old	197	29
Total Cases Under Advisement	64	64
Total Cases Over One Year Old	**261**	**93**



All Pending Files as of Month Ending December 2025

Year/Month	SD	DEC	REV	OLPR	AD	PAN	HOLD	SUP	S12C	SCUA	REIN	RESG	TRUS	C012	**Total**
2018-12				1											**1**
2019-04								1							**1**
2019-07				1											**1**
2019-08				1											**1**
2020-01				1											**1**
2020-02								1							**1**
2020-09				1											**1**
2021-01				1											**1**
2021-03				1			1								**2**
2021-05				3											**3**
2021-06				1				1							**2**
2021-07				1											**1**
2021-08								1							**1**
2021-09				1											**1**
2021-10								1							**1**
2021-11				2						2					**4**
2022-01				1											**1**
2022-03				1											**1**
2022-04				2				1							**3**
2022-05				2											**2**
2022-08				1				2		1					**4**
2022-09				1						1					**2**
2022-10				1			3		1						**5**
2022-11				1				1		1					**3**
2022-12				1											**1**
2023-01				1				2	1	1					**5**
2023-02				2			3			4					**9**
2023-03				3					1	2					**6**
2023-04				1				1		1					**3**
2023-05				3			1		1						**5**
2023-06				1											**1**
2023-07				6				1		7					**14**
2023-08				5		1		1		2					**9**
2023-09				1				3		24					**28**
2023-10				3		1	1			4	1				**10**
2023-11				3						1					**4**
2023-12				3											**3**
2024-01				2											**2**
2024-02				3			1			2					**6**
2024-03				3	1										**4**
2024-04				3			3	1		1					**8**
2024-05				4			1	1		3					**9**
2024-06				5											**5**
2024-07				4				2		2					**8**
2024-08				16						1					**17**
2024-09				7				1							**8**
2024-10				12	1					1					**14**
2024-11				15			1			3	1				**20**
2024-12				17									1		**18**
2025-01				22			1	1		1					**25**
2025-02				23	1										**24**
2025-03				28											**28**
2025-04				22						1					**23**
2025-05				20			2			1					**23**
2025-06		3		20											**23**
2025-07		7	2	25						1					**35**
2025-08		11	1	30							1				**43**
2025-09		17	1	21			1								**40**
2025-10		24	3	17										1	**45**
2025-11		23		14							1		1		**39**
2025-12	19	37		12							1	2		1	**72**
Total	**19**	**122**	**7**	**403**	**3**	**2**	**19**	**23**	**4**	**68**	**5**	**2**	**2**	**2**	**681**

ALL FILES PENDING & FILES OVER 1 YR. OLD	
SD	Summary Dismissal
DEC	District Ethics Committees
REV	Being reviewed by OLPR attorney after DEC report received
OLPR	Under Investigation at Director's Office
AD	Admonition issued
ADAP	Admonition Appealed by Respondent
PROB	Probation Stipulation Issued
PAN	Charges Issued
HOLD	On Hold
SUP	Petition has been filed.
S12C	Respondent cannot be found
SCUA	Under Advisement by the Supreme Court
REIN	Reinstatement
RESG	Resignation
TRUS	Trusteeship

Hand Delivered

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY

Michael B. Padden,

Plaintiff,

vs.

Office of Lawyers Professional Responsibility (OLPR), a Minnesota state agency; Susan Humiston, individually and as Director of OLPR,

Defendants.

AMENDED COMPLAINT

Case Code: 30106
Negligence/Tort
Case No.: 25CV1790

NOW COMES Plaintiff, Michael B. Padden, Pro Se, as and for this Complaint against the above-named Defendants, alleges to the Court as follows:

I. INTRODUCTION

1. This case concerns a state agency in Minnesota, known as Office of Lawyer Professional Responsibility (OLPR), that targeted a Wisconsin licensed attorney, by and through its Director Susan Humiston, with the illegal, unethical goal of destroying that lawyer's reputation through purposeful, intentional conduct in the category of defamation and defamation per se in addition to other unethical, intentional, and illegal conduct.

2. The targeted attorney was Michael B. Padden (hereafter, Plaintiff or Padden) who obtained his Wisconsin license in September of 2002 and had practiced law legally and successfully in Wisconsin with no ethics violations, at all material times herein.

3. The conduct of Defendant Susan Humiston (hereafter, at times, "Director" or by last name) and others employed by OLPR, all conduct engaged in within the scope and course of their employment with OLPR, evolved around a criminal case venued in Wisconsin. These three, conspiring together, the OLPR co-conspirators ("the OLCC"), developed and executed their conspiracy to make it look as if Padden had engaged in lawyer unethical misconduct in his representation of a Brown County, Wisconsin defendant - Steven Sweet. Padden had in fact behaved ethically. The conspiracy included OLPR operatives/attorneys Humiston (Director), Joshua Brand (Senior Assistant Director), and OLPR paralegal, Patricia LaRue. The latter two are not parties in this lawsuit, but they were deeply involved in the conspiracy.

5. The Sweet matter was initiated by Sweet's wife with ethics complaints/allegations filed in both Wisconsin and Minnesota in February of 2020. Wisconsin authorities dismissed the complaint after a competent investigation, concluding that the accusations had no validity. OLPR, because of the illegal targeting of Plaintiff by its Director, continued forward even with direct knowledge that Padden had in fact done nothing wrong ethically in his representation of Sweet. In fact, they learned that Padden had behaved professionally by securing an excellent plea deal for Sweet in June of 2017. The OLCC was motivated in part by Humiston's desperation as detailed herein (See pp. 5-6 of this Complaint).

6. Nonetheless, the OLCC proceeded with their conduct with these ultimate goals: (1) Generate false information about Padden in the category of defamation per se; (2) Publish it; and (3) Proceed forward illegally based on the defamation and other illegal conduct with the plan to destroy Padden's reputation by generating additional false evidence in support of their defamatory conduct - corroborating their earlier conduct, fully aware that this would effect Padden in not only Minnesota, but also the state of Wisconsin where Padden was also licensed to practice law, at all material times relevant to this matter.

7. Once Wisconsin authorities had determined Padden had done nothing wrong in the Sweet case, the OLCC still proceeded forward anyway violating multiple rules that the venue of the misconduct would control in terms of an ethics decision therefore violating Plaintiff's due process rights. This was based on the ABA Code, Rule 8.5, along with applicable Minnesota and Wisconsin law which adopted that ABA code provision. (Ex. 33).

8. The misconduct by the OLCC with Defendant Humiston as leader as detailed herein shocks the conscience with its many layers/tributaries. Their various tactics, in an attempt to cover up their conduct, made it difficult at times to identify, but when identified, the violations are numerous and prevalent and reveal a level of depravity and unethical conduct particularly shocking for an agency tasked with monitoring and disciplining attorney misconduct. In short, they knew that what they were doing was illegal and unethical.

II. JURISDICTION/VENUE/PARTIES

1. Plaintiff Michael B. Padden, at all times material herein, was a practicing lawyer licensed in Wisconsin. This status began on September 2, 2002.

2. During the relevant timeframe, Plaintiff had an office in Minnesota, but he also practiced at a location in Meteor, Wisconsin (an unincorporated township) with address 656 Hickory Ridge Trail. Padden has worked in Wisconsin often since 2020, the year the Covid pandemic began – and the Wiese bogus OLPR complaints were filed.

3. Defendant OLPR officially became a state agency with the primary task of investigating lawyers in 1971. Their principal offices are located in downtown St. Paul, Minnesota. All conduct noted herein by co-conspirators Humiston, Brand, and LaRue were committed within the scope and course of their employment with this agency. The OLCC improperly got involved in the Wisconsin/Sweet matter thereby subjecting OLPR and their employees to this jurisdiction of Wisconsin courts/law.

4. In 2016, Defendant Susan Humiston (a licensed attorney) became the Director of OLPR after having been appointed. As of this date, she still has that title. She was the lead supervisor in the Padden/Sweet matter aka Sweet/Wiese allegations.

5. At all times material herein, Defendant Joshua Brand was a licensed Minnesota attorney employed by OLPR for many years. Because of the conspiracy, in almost every case that concerned allegations against Padden during the relevant time frame, Humiston always assigned the case to Brand to assist with illegally furthering the goals of the conspiracy, that is, keeping the number of conspirators limited. As an attorney, Minnesota ethical rules applied to Brand. He is not a Defendant, but as a member of the OLCC, he took direction from Defendant Humiston and therefore, the conduct he engaged in for the Sweet/Wiese matter was within the scope and course of his employment with OLPR.

6. Defendant Patricia LaRue has been a long-time paralegal of OLPR and had/has a close bond with Director Humiston. As a member of the conspiracy, she would do anything asked of her by Humiston and Brand even when she knew that the conduct was improper, unethical, and otherwise immoral - in part, to enhance her bond with the Director. This included the investigation of Padden especially regarding the Sweet/Green Bay matter. Her conduct was directed by supervising attorneys Humiston and Brand except for her violation of a sequestration order – later detailed. She is not a Defendant, but as a member of the OLCC, she took direction from Defendant Humiston and co-employee Brand, and therefore, the conduct she engaged in with the Sweet/Wiese matter was within the scope and course of her employment with OLPR.

III. THE ELEMENTS OF THE HUMISTON CONSPIRACY TO DESTROY PADDEN'S REPUTATION IN WISCONSIN BY UTILIZING A WISCONSIN CASE

1. Humiston's Sweet/Wiese conspiracy had many features/tributaries to not only achieve the aforementioned goals, but also, to attempt to successfully hide it to prevent it from being discovered in the discovery phase or otherwise in the Padden Disciplinary Case/Trial. (PDC and PDT).

2. Since the conspirators were perpetuating matters that were untrue, it was difficult to keep the facts straight especially when dealing with people like Steven Sweet and Jessica Wiese who constantly lied even beyond the suborned perjury. Sweet and Wiese cooperated with that testimony that was suborned by Brand, but they made many mistakes which assisted with the conspiracy being unraveled along with LaRune. The only time that Sweet testified under oath in the October, 2023 PDT, he repeatedly denied his brazen criminal conduct in the Green Bay case and actually blamed his victim and an alleged co-conspirator. Sweet and Wiese told in excess of 89 provable lies each in the October, 2023 PDT. (Ex. 3).

3. A mistake made by Humiston and Brand was to give many of the investigatory tasks to paralegal LaRue who by creating the Declarations of Wiese and Sweet in December of 2022, multiplied significantly the number of contradictions with that sworn-to source with other evidence. Although LaRue was certainly incompetent, her conduct herein was unethical and intentional for a paralegal. In short, she knew what she was doing was wrong legally but always with the support of Humiston and Brand. The cover up was incompetently concealed in part due

to LaRue's many mistakes and also, mistakes by her attorney supervisors, Humiston and Brand. Having said that, no reasonable person, including Padden and his prior lawyers, could decipher the true extent of the conspiracy of these three with any detail until AFTER the completion of the PDT. The PDT and other events after publication of the supposed discipline in late 2022, corroborated the earlier unethical conduct pre-publication and included the suborned perjury, a key feature of the conspiracy.

4. The main features of the conspiracy were:

a. Humiston had to find persons she could rely on, and they were Brand and LaRue. But Brand left right after the Padden trial for fear the conspiratorial, unethical conduct would be discovered - affecting his ability to practice law.

b. The main conspirators were OLPR operatives/employees Humiston, Brand, and LaRue. However, complainants Sweet and Wiese eventually became part of the conspiracy - brought in by Humiston and Brand, with LaRue's assistance.

c. Investigate in a non-thorough fashion was another feature. To be thorough would create evidence helpful to Padden. This included for example not securing and putting into evidence two separate transcripts of Sweet's 2020 plea and sentencing to his multiple felonies which alone proved Padden's innocence.

d. Ignore evidence helpful to Padden and conceal that from OLPR complainants, witnesses, and the public.

e. Never utilize experts of any kind because they could end up supporting Padden's defenses. This would include no experts on attorney ethics. In short, the OLCC would pass themselves off as ethics experts when the OLCC unethical conduct utilized against Padden noted herein alone in the Sweet/Wiese matter was so brazen that it could result in significant discipline for both Humiston and Brand. It also involved Wisconsin law, an area presumably for which OLPR operatives had no expertise or daily involvement.

f. Ignore the findings of other state agencies.

g. Believe a complainant - even when not credible - in the event of a denial by Padden - and take the complaint forward with no viable corroborating evidence.

h. Create a petition and other official legal documents with knowingly false information in part to fool the three-person panel who would initially address the claimed unethical conduct – and fool the public including lawyers and judges. The "Petition", with reference to Sweet/Wiese, became a key component of the conspiracy and revealed in and of itself the purposeful, intentional, and unethical conduct of the OLCC as detailed herein. The OLCC knew that once allegations were etched in stone in a formal, public document, it was extremely difficult for any Minnesota attorney to get the genie back in the bottle due to the public nature of the process and for other reasons such as refusing to amend the charges when they knew there were features of the Petition that contained

bald faced lies. They also had a user-friendly referee who would render factual and legal conclusions in essence rubber stamping any and anything that OLPR operatives alleged.

i. Establish a personal bond with the complainants whose claims were not credible and with whom they had conspired. This includes giving legal advice (not allowed ethically) to enhance the bond and establish a first-name relation to assist with bonding and allow them to, for example, text or email at any time of day or night with the OLPR paralegal. This was especially true for LaRue with female complainants. LaRue actually blatantly violated a sequestration order during the Padden trial with witness/complainant Jessica Wiese as later detailed.

j. Recommence the investigation after ceasing it based on the involvement of the top level of Minnesota government commencing with a targeted witch hunt in which Humiston participated.

A. Humiston Desperation

5. Humiston originally came to know Padden soon after she became Director in 2016 as a result of the T.W. case which OLPR operatives unreasonably dragged out for 1.5 years and finally dismissed in 2015. Padden did nothing wrong in his representation of that complainant.

6. In 2018, a correctional officer (CO) was murdered by an inmate at a Minnesota DOC facility in Stillwater, Minnesota. This was the first time in the history of Minnesota that something like this had happened. The lawyer who represented the family of the decedent CO was Plaintiff, and as such, Humiston, based on reasonable information and belief, further targeted Plaintiff because he had pursued claims against /sued the state of Minnesota on behalf of the next-of-kin of the deceased CO.

7. As time went on from 2016 to 2020, nothing was happening to assist with Humiston's plan of destroying Padden's reputation, and in the meantime, Padden's profile was increasing with the fact that he was doing legal commentary on a well-known Twin Cities radio station which began in January of 2019 (for 3.5 years). Additionally, Padden published a book in October of 2020 which was featured in Time Magazine and for which a documentary was created. Significant publicity evolved from that. Padden also handled successfully other high-profile cases during that timeframe, matters that received substantive media attention.

8. Another significant factor in terms of Humiston's motivation to destroy Padden's reputation was the fact that Padden began representation of the highest profile Minnesota restaurant that defied the Minnesota governor's order pertaining to covid restaurant lockdowns in late 2020. This case received a huge amount of media exposure having nothing to do with Padden's representation, but the fact that the opponent in that matter was the State of Minnesota represented by the Minnesota Attorney General's Office was another primary factor for Humiston's further targeting of Padden.[1] This matter was litigated in 2020 into 2021. In addition, whenever Padden prevailed in a criminal case, with a favorable plea agreement,

[1] Neither Plaintiff nor his attorney allege that Minnesota Attorney General, Keith Ellison is part of this conspiracy.

dismissal, or trial victory, this was a defeat of the State of Minnesota, something Defendant Humiston was aware of based on reasonable information and belief. (Padden's clients prevailed in two Minnesota murder trials in 2023. In October of 2020, a felony client of Padden was found not guilty after only five minutes of deliberation in Adams County, Wisconsin, possibly a state record).

9. As such, when the frivolous Wiese accusations came into OLPR in 2020, Humiston was desperate to do something substantive against Padden even though in April of 2020, the venue where the discipline evolved, Wisconsin, determined that Padden had done nothing wrong. (Ex. 1). Humiston knew that by proceeding forward she was violating numerous rules which made clear that the ethics determination by authorities in the state of venue would control for the ethics allegations preventing other jurisdictions from addressing the matter and rendering discipline. (See ABA Code, Rule 8.5; Ex. 33). Humiston did not care because of her evil motive, but this subjected her and her agency to the jurisdiction of Wisconsin.

10. Humiston, however, had other problems of her own that she was dealing with beginning in 2020. In January of 2020, the Lawyer's Professional Responsibility Board (LPRB), a different state entity than OLPR, was authorized to supervise OLPR. They recommended to the Minnesota Supreme Court that Director Humiston not be reappointed. The Court looked into this but strangely reappointed Humiston in April of 2020. (Ex. 2). The Chief Justice then was a Republican appointee. (In October, 2023, a democrat governor appointed Natalie Hudson as Chief Justice).

11. Referencing September of 2020, tracking back 11 months due to an alleged toxic work environment, 14 staff attorneys had left OLPR. (Id.).

12. Even more strange, in early 2021, the Court took away the supervising authority over the Director. Many people opposed this. The Court still terminated LPRB's supervising authority. (Exs. 2 and 4). It was not until 2021 that OLPR moved substantively on the Sweet/Wiese matter.

13. In 2020 and 2021, eight staff attorneys of OLPR left OLPR. (Ex. 4).

14. On November 12, 2021, a prestigious, well-respected lawyer and former director of OLPR pointed out the serious concern that Director Humiston was NO LONGER SUPERVISED (emphasis added herein) by LPRB and its public members. The author, William Wernz, also author of an online treatise, "Minnesota Legal Ethics", in addition to previously being a director of OLPR, was a member of the Board on Judicial Standards at the time that he wrote the article. (Ex. 2).

15. Humiston's history, and with the now lack of supervision as of 2021, emboldened her against Plaintiff in the Sweet/Wiese matter and contributed to the illegal, purposeful, unethical, and intentional conduct that she engaged in with her co-conspirators as detailed in this Complaint.

16. As detailed herein, Humiston's bonding with the Minnesota governor in 2021 gave her additional job security and of note is the fact that as of the date of this Complaint, over four years later, Humiston still has her job. In addition, Governor Tim Walz became involved as noted at pp. 19-20.

IV. SWEET'S GREEN BAY CASE - FACTUAL BACKGROUND

A. The Green Bay Sweet Crimes; Padden Retained

1. On 9/24/15, a Wisconsin Criminal Complaint was prepared and commenced in Brown County, Wisconsin. Sweet's charges: six felony counts of "Fraud Against Financial Institution." (Ex. 5, pp. 1-2).

2. It was alleged that Sweet financially took advantage of a 56-year-old vulnerable adult by forging credit cards in the man's name, purchasing goods with them, and then pawning the goods. The thefts by Sweet were in excess of $30,000 and included charges on an open bank credit card account. On no occasion were the goods or funds illegally obtained given to the victim. (Id.).

3. It was learned that before and after these crimes, which began in 2013, Sweet had committed other financial crimes. [redacted] Para. 16, p. 8 as examples). As such, it was clear Sweet had engaged in financial crimes throughout his adult life. This also included criminal conduct after 2013 for which Sweet was not charged as detailed in the later PSI and other sources. (Ex. 10).

4. When questioned by Green Bay PD detectives, Sweet at first denied the Green Bay crimes, which included falsely blaming the victim and then telling one lie after another. He eventually came clean and fully admitted his crimes. (Ex. 5). However, at a later date, he placed all of the blame on his alleged accomplice, a girlfriend and mother of two of his children. (Ex. 10, p. 4). Throughout the process of the long adjudication of the Green Bay case, Sweet would essentially always blame others, but not himself. His wife Wiese had this trait also: blame others, not her husband. (Ex. 24).

5. Sweet's accomplice had initials M.B. Sweet forced this woman to pawn illegally obtained engagement rings, or he would "place her in a mental institution if she did not." (Ex. 5, p. 6). Sweet later denied this under oath. The OLCC ignored this. M.B. was never interviewed by OLPR operatives.

6. Padden began his representation of Sweet on or about 10/27/16.

B. The Plea Agreement

7. In between November of 2016 and April of 2017, Padden secured the State's evidence which was solid for the State, and Sweet had actually confessed. (Ex. 5, pp. 5-6). The only viable goal was a reasonable plea agreement. With a guilty verdict at trial, Sweet would be looking at the actual potential for imprisonment of at least six years and as much as nine years. (Ex. 5).

8. On 4/26/17, counsel for the State of Wisconsin, prosecutor Mary Kerrigan-Mares, conveyed an offer for Sweet via email to Padden. The State requested six months jail and two years probation following the incarceration. (Ex. 6).

9. Since Sweet did not have email, he asked that all email communications go to his wife, Jessica Wiese, at "wjessica1981@gmail.com." Padden conveyed the 4/26/17 offer email to this email address on 5/1/17. OLPR had these emails as evidence. Wiese never disputed receiving this email. (Id).

10. On 6/8/17, Kerrigan-Mares confirmed the offer with an "Offer Memo" to Padden with State to argue for six months jail. (Ex. 7).

11. On 6/13/17, a record of Sweet's plea was made. He understood the terms and pled of his own free will. Padden was present and assisted the Court with the process. Sweet accepted the 6/8/17 "Offer Memo" terms. (Ex. 8).

12. On that same date, June 13, 2017, Sweet signed a "Plea Questionnaire/Waiver of Rights" form. (Ex. 9). Plaintiff also signed.

13. The Plea document (Id.) correctly detailed the plea: "Plead guilty to three counts. Restitution to be determined. Four months jail as a condition of probation with restitution and work release if eligible." It even included "consideration for doing time in Minnesota where Defendant resides with wife and children." (Id., p.4). When Sweet came back to his home in St. Paul, he told his wife that it was six months jail which was confirmed by numerous other sources. Six months was more viable since it was unlikely Sweet could handle restitution.

14. To any reasonable person, and any competent Wisconsin criminal defense attorney, this was a great result, and Padden had achieved his goals for this client since going to trial was not an option. The number of aggravating factors under these facts made the result almost miraculous including the fact that Huber (work release) and incarceration in Minnesota near his family was a viable possibility for Sweet. (Id., p. 4). The OLCC never told the public any of this in its eventual press release concerning the Sweet matter – nor was it disclosed in the public Petition dated 12/21/22. (Ex. 29).

C. <u>The Plan for Sentencing</u>

15. When Sweet freely pled on 6/13/17, knowing his sentence would be four, possibly six months jail, he was aware that he would be sentenced on 8/22/17, have to complete a pre-sentence investigation (PSI) with a probation agent before then, and likely go to jail on 8/22/17. He told his wife all of this when he returned to Minnesota on 6/13/17. (Exs. 11 and 12). The Court on 6/13/17 specifically noted that the sentencing date would be 8/22/17 inquiring of Padden's schedule. (Ex. 8, pp. 10-12).

16. Sweet cooperated with the PSI process which report was prepared by a probation agent on 8/7/17. It was faxed to Padden on 8/9/17. (Ex. 10). The report noted an 11/7/08 theft by Sweet from St Croix, County, Wisconsin and a prior theft of another vulnerable adult for which Sweet was not charged criminally. (Id. [redacted]).

17. The PSI noted mental health issues for Sweet including anxiety, depression, bipolar disorder, and antisocial personality. Symptoms of these include impulsive lying and telling lies to take advantage of others. Humiston, Brand, and LaRue, the OLCC, knew of the significance

of these symptoms but never conveyed them to the public or considered them in their investigation. (Id., [redacted]).

18. On or about 8/11/17, a coordinator for the Brown County Victim Program provided sentencing judge, Judge Kendall Kelley, with the Victim Impact Statement and Restitution Form. The egregious nature of Sweet's crimes were detailed. The OLCC had this document as part of investigating Padden. (Ex. 13).

19. Amongst other requests, the victim's sister (the victim was not competent - which alone created a significant aggravating factor against Sweet) wanted incarceration "for some time 6 months - 1 year or two?" (Id.). The sister noted correctly how wrong it was of Sweet to take advantage of a "disabled" person. This request was important and accepted by the State as a valid sanction for Sweet, meaning jail time.

20. On 8/20/17, unbeknownst to Padden, Sweet and Wiese checked into a hotel near the Green Bay court. Their son, only a few months old, was with them. OLPR secured the hotel receipt as part of the investigatory process. This receipt ended up being a significant problem for the later lies and suborned perjury articulated in the allegations against Padden by Sweet and Wiese. (Ex. 14).

21. Padden provided a copy of the PSI to Sweet in person during a meeting between 8/9/17 and 8/19/17. The OLCC were aware that Sweet had in fact received the PSI from Padden before 8/20/17. This PSI issue is later detailed. It became a significant feature of the conspiracy – and a major problem for the OLCC in terms of keeping the details of the conspiracy under wraps. Of note is the fact that Sweet likely hid the PSI from Wiese.

22. On 8/21/17, Padden called Sweet to ask him if he needed a ride to Green Bay for the next day's sentencing. Padden had no idea that Sweet was already in Green Bay. Sweet was in a hotel room with Wiese and then LEFT THE ROOM so that Wiese would not be able to hear what Sweet was about to say to Padden (Exs. 11 and 12) which was:

a. "Mike, I'm not going to jail."

b. "Don't tell my wife."

c. "What can happen to me if I don't show up?"

23. Padden, after strongly advising against this decision and emphasizing the relatively short jail time for the serious offenses charged and pled to, and that Sweet would be hit with another felony charge, told Sweet that a warrant would issue which would be either "statewide" or "nationwide." Sweet made clear that he did not care. He was not going to go to jail. It was however agreed that Padden would let Sweet know what the judge decided the next day.

24. Padden was ethically obligated to let Judge Kelley know of the Sweet situation which he did by faxing a letter to Judge Kelley detailing the status on 8/21/17. It correctly depicted the situation. (Ex. 15).

25. On 8/22/17, Padden appeared by phone, and a record was correctly made detailing the status. Sweet no showed for the 8/22/17 hearing. (Ex. 16).

26. During that 8/22/17 hearing, off the record, Judge Kelley advised that the warrant he would issue would be limited to "the four corners of Wisconsin." Judge Kelley did in fact sign a warrant that day entitled "Arrest-Bench Warrant Capias" dated 8/22/17 with the geographic restriction xed as "statewide." (Ex.17). Strangely, the OLCC unethically treated this warrant as if it did not exist revealing alone a significant feature of the conspiracy against Plaintiff – and treated the "four corners" comment of Padden as a lie in the Charge documents. Even as of this date, the OLCC has not retracted this outrageous, false accusation. For example, the Capias Warrant was not referenced in the public Petition document dated 12/21/22. (Ex. 29).

27. After this hearing ended, due to Sweet's non-cooperation, Padden no longer had any ethical, legal obligation to Sweet except matters such as maintaining attorney-client privilege. In short, Padden was no longer required to monitor the case or provide any additional legal advice to Sweet pursuant to Wisconsin law. Padden did however call Sweet on 8/22/17 and advised of the Court's decision regarding the statewide warrant.

28. On or about 9/14/17, Padden began representing Sweet for a dishonored check charge case venued in Washington County, Minnesota. Sweet was also cited for issuing a worthless check in New Richmond, Wisconsin on a date different than the charge date for this Washington County, Minnesota matter. [redacted]

V. SWEET IS ARRESTED AND EXTRADITED – FEBRUARY 0F 2020; WIESE FILES A COMPLAINT WITH OLPR

1. On February 7, 2020, Sweet was arrested in Minnesota and extradited to Wisconsin. His new charge was felony bail jump for on his own deciding not to attend the 8/22/17 sentencing hearing to be sentenced for his 2013 felonies. Wiese advised Padden by 2/8/20 email of Sweet's arrest and said a public defender would be secured for Sweet. She also said: "I hope all is well with you. Have a great rest of your weekend." Wiese then confirms correctly that Padden advised in 2017 that the 8/22/17 warrant was statewide. (Ex. 18). These well wishes by Wiese were not in jest.

2. On 2/19/20, Wiese emailed Padden seeking to retain him for her husband Sweet's new case. She said: "Inmate lawyers are telling him that he will get upward of 10 years because of the new felony for fleeing the state. You were always good about calming him down when he gets like this. Let me know if he can call you." (Ex. 19).

3. What Wiese did not tell Padden at that time was that on 2/18/20, she had filed a "Complaint Form" and submitted it to OLPR. Wiese alleged, all through hearsay, that "Mike did his due diligence up to this time." She meant up until 8/21/17. She also claimed – again, hearsay and lies:

a. On the morning of the sentencing, Mike called and said he had just received the PSI.
b. They [PSI author] lied trying to give him [Steven]10 years or longer.
c. Mike said we should leave the state and never return to Wisconsin.

d. Mike should have been more forthcoming about the consequences. (Ex. 20).

4. Although vague, the essence of Wiese's complaint was that Padden had lied and told Sweet not to appear for court. All of these statements of Wiese were lies and could have easily been proven to be lies (and were in fact later proven), but Humiston eventually directed co-conspirators Brand (who the case was assigned to) and LaRue (as an investigator) to illegally treat/create the matter as supportive of significant discipline. Sweet had the PSI in his possession about one week after it was generated in August of 2017. As such, the notion that Plaintiff could or would lie about it was absurd. Sweet already had it and decided not to show it to his wife. This conduct was intentional and unethical and always with the approval of Humiston. The later created "Charges" and "Petition" documents (Exs. 28 and 29) of OLCC contained outright lies – all for the ultimate purpose of destroying Padden's reputation with an eventual, untruthful press release as part of that goal.

VI. OLPR's INTENTIONALLY UNETHICAL INVESTIGATION – PRELIMINARY MATTERS

1. The Wiese complaint was assigned to Brand as lead attorney and lead investigator. Brand was knowledgeable of Minnesota ethics rules but proceeded to engage in unethical conduct himself.

2. Brand advised Padden's lawyer of the Wiese investigation with a document entitled "Notice of Investigation" dated 3/2/20. (Ex. 21). Padden and his attorney were hopeful at the time that the investigation would be fair and objective since the accusations had no merit whatsoever and were in fact frivolous based on the hearsay accusations of a serial criminal - Sweet - and were determined to have no merit whatsoever by Wisconsin authorities at a later date in April.

3. On 3/22/20, Padden's lawyer, Dan Kufus, provided documents which made clear Padden had done nothing wrong. (Ex. 22). Included was the 8/21/17 Padden letter (Ex. 15) to Judge Kelley which accurately described the no-show situation, and Sweet's willing, unilateral decision not to show up for court on 8/22/17. The same materials were provided to the Office of Lawyer Regulation (OLR), a division of the Supreme Court of Wisconsin, on or about that same date. Wisconsin had jurisdiction over the Padden Green Bay matter by virtue of Wiese's complaint filed there since the application of another state's ethics rules were applicable, something for which OLPR personnel would presumably have no expertise - and no expertise regarding Wisconsin criminal law. (See ABA Rule 8.5; Ex. 33).

4. Kufus made clear: "If the warrant was later modified to extend out of Wisconsin, it would have been after Padden's representation ended." This was true. Padden had no legal obligation to monitor Sweet's case after his no-show of 8/22/17. Minnesota law was/is irrelevant. Kufus closed with: "The issues with Mr. Sweet are of his own doing and are in no way a result of Mr. Padden's representation." (Ex. 22). The matter should have been closed at that time but was not because of Humiston's conspiracy and illegal conspiratorial goals for which Brand and LaRue (the OLCC) were locked into.

5. On 3/24/20, Wiese emailed Brand with her first in a long series of mistruths. She alleged that she and Sweet left for Wisconsin the day before the sentencing which would be 8/21/17. (Ex. 23). Their own hotel bill showed they checked in two days before on 8/20/17. (Ex. 14). Wiese then alleged that the advice to leave Wisconsin, alleged from Padden, occurred, "The morning of the hearing." This also could not have been true. They checked out of the hotel on 8/21/17 – the day before the hearing. Wiese added: "I know this is all hearsay and very hard to prove" confirming that she was never privy to Padden's direct communication when Sweet told Padden on 8/21/17 that he would not cooperate - outside of Wiese's presence. (Exs. 11 and 12).

6. Wiese added: "The court denied his [Padden's] request to show up over the phone." This was false. Padden was permitted to appear by phone as proven by the 8/22/17 transcript and other evidentiary sources including Judge Kelley himself. (Ex. 16).

7. When OLPR operatives obtained the Days Inn receipt which proved that many of Wiese's 3/24/20 email comments were mostly false, they simply ignored them because it cut against the goal of destroying Padden's reputation. (Ex. 14). Humiston's directive was in essence: Accept all evidence that supports our illegal goal, no matter how shaky, and ignore all evidence that undermines it, no matter how certain. The OLCC proceeded forward and engaged in shocking, unethical, intentional conduct and has continued up until the date of this Complaint.

8. Also on 3/24/20, Brand emailed Wiese (Ex. 23) inquiring if at any time her husband Sweet had ever advised any Wisconsin court of his allegation that Padden told him not to appear on 8/22/17. This was an important question which also telegraphed to Wiese – as a way of getting to Sweet - that the allegations should be raised at future court hearings for Sweet's ultimate disposition now that he was caught and would have to face the music. He was sentenced about three months later. Of note is the fact that Sweet never told any court about Padden's alleged misconduct nor did they (Sweet or Wiese) ever say anything to Sweet's new lawyer about Padden's alleged unethical conduct. This lawyer came on in March of 2020 to represent Sweet. (This lawyer told Padden directly via telephone in 2024 that he knew nothing about the Sweet/Wiese ethics allegations against Padden). He was a public defender.

9. The OLCC were aware that a competent investigation required that evidence be addressed to not only potentially provide proof for the Wiese/Sweet allegations, but also, to secure evidence that could prove Padden's innocence, that is, ascertain the truth. The OLCC were not concerned about the truth. They were only motivated to achieve their unethical goals noted herein, and their conduct throughout supported this as detailed herein.

10. After their investigation began, the OLCC determined that it was probable that Wiese would submit some form of communication to the sentencing judge relevant to her husband's upcoming sentence hearings. This would assist with determining the credibility of Wiese's complaint against Padden and ultimately, whether in fact Padden had engaged in unethical conduct. That timeframe was especially significant since the OLCC telegraphed to both Sweet and Wiese what should happen in the future. (See Para. 8, this page). Wiese emailed the sentencing judge on 06/17/20, and in that email, she mentioned nothing about Plaintiff's alleged misconduct. (Ex. 24).

11. On or about 3/31/20, Sweet mailed a letter to Brand. (Ex. 25). Sweet alleged the call with Padden was on 8/22/17 – and initiated by Sweet. Both allegations were lies. Sweet and Wiese left the hotel on 8/21/17. When Padden called (confirmed by Wiese), Sweet left the hotel room which prevented Wiese from hearing what Sweet said to Padden during the call. (Exs. 11 and 12). Sweet also alleged that Padden told him he was looking at "ten years", presumably a reference to the PSI. This was another lie. Sweet did not note in that letter to Brand that he had received the PSI from Padden before 8/20/17 – something Sweet eventually admitted to under oath. The PSI recommended probation, not ten years. How could Padden lie about something/a document Sweet already had? The OLCC knew this early on in their investigation. The OLCC did eventually learn the truth that Sweet had the PSI from Padden long before 10/28/22. Also, the concept of "10 years" was a seed recently planted in Sweet's mind by "inmate lawyers." (See Para. 2, p. 10).

12. Sweet was merely perpetuating a lie he began on 8/21/17 because he did not want to tell his wife the truth that he just did not want to go to jail or even perhaps a more primary incentive - not to have to pay restitution. He expected push back from her which is why he told Padden not to tell "his wife" about his decision - and left the hotel room after receiving Padden's call for obvious reasons. A potential factor was the recent birth of their child (February of 2017), but the OLCC, rather than applying common sense, like Wisconsin investigators had applied, would cut against Humiston's goal to destroy Padden's reputation so they went forward rather than dismissing. This was a specific directive of Humiston.

13. The OLCC has never suggested a motive as to why a lawyer, who had practiced law for about 31 years at that time, would lie about a document his client already had, and otherwise, convince the client to not show for a sentencing hearing when the client had pled, and the attorney had already appeared with the client multiple times in the Green Bay court - and also at the plea hearing. The lack of motive was further proof of Padden's innocence further corroborating his reasonable complete denial of the Wiese/Sweet accusations. No motive was ever noted in the charges documents or anywhere else at any time because there was no motive.

14. With a letter dated 4/2/20, an intake investigator for the Wisconsin agency previously identified advised Wiese that: "The information provided did not offer sufficient proof that Attorney Padden violated any of the rules of professional conduct." (Ex. 1). Although the OLCC became aware of this letter, they gave it no consideration whatsoever at any time. It was completely ignored and reference to it was not included in the Padden charges documents (Exs. 28 and 29) or in their press release.

15. Padden's counsel forwarded the 4/2/20 exoneration letter to Brand via U.S. mail on 4/3/20. It was requested that "the Director" dismiss the Minnesota complaint. (Ex. 27). No OLPR personnel, including Brand, ever responded to this letter substantively nor was receipt even acknowledged.

16. Sweet did in fact receive the PSI from Padden, but Sweet had it is reasonably believed, not given it to his wife. Since the PSI was favorable – recommendation of only probation – one would expect a husband to give it to his wife. The reason Sweet did not do this is that he had

already decided to make a false accusation about the PSI as a way to trick his wife and not show up for the 8/22/17 sentencing. *Sweet could not lie about it if he had given it to Wiese.*

17. The OLCC knew soon after their investigation began that Sweet could not predict understandably that the original lie to his wife on 8/21/17 had now morphed into a full-blown state investigation for which Sweet was now committed to a big lie thinking he would be in even greater trouble if he now admitted the truth, i.e., that he had lied to his wife from the beginning. Professionalism was needed here for Brand and Humiston to tell Sweet's wife, Wiese, the truth. OLPR's conduct was anything but because of immoral, unethical goals as delineated herein.

18. After 2/20, Sweet's matter progressed in the Wisconsin criminal justice system, and Sweet eventually pled to "felony bail jump" and the other crimes for not appearing at the sentencing on 8/22/17. (Exs. 30 and 31). The sentence date was 7/2/20. But he was also sentenced for the original charges on 6/15/20 also before Judge Marc Hammer. (Ex. 30).

VII. THE SENTENCING HEARINGS OF SWEET IN JUNE AND JULY OF 2020; WIESE'S STRANGE JUNE OF 2020 EMAIL TO THE SENTENCING JUDGE

1. If valid and true, after his arrest and extradition in February of 2020, Sweet had every incentive to advise his new attorney about the alleged unethical conduct of Padden for Sweet's non-appearance on 8/22/17 – and let the sentencing judge know. (This was now Judge Marc Hammer, not Judge Kelley). Sweet did neither.

2. Three important sources had no information about the Sweet/Wiese allegations against Padden. The three sources where the Sweet/Wiese allegations should have been raised (there were of course others), if true, were:

a. The sentencing hearing before Judge Hammer of June 15, 2020 regarding the charges Sweet voluntarily pled guilty to on June 13, 2017 (Ex. 30);

b. The email of "Jessie Sweet" to Judge Hammer of June 17, 2020 (Ex. 2~~4~~); and

c. The sentencing hearing before Judge Hammer of July 2, 2020 regarding Sweet's bail jump plea for missing the 8/22/17 sentencing hearing (Ex. 31).

3. The OLCC knew of their importance but did not secure this evidence. Had this evidence for the Padden case discovery been obtained, this alone would have resulted in the truth coming out for the bogus allegations that pertained to Padden, and the Sweet/Wiese matter would have been dismissed.

4. The OLCC members knew that these sources alone proved Padden's innocence, and therefore, Wiese's original filing of 2/18/20 was hearsay and full of lies, the source being her husband, Sweet, a consistent theft criminal and liar in his adult years. OLPR never offered these into evidence in the Padden trial.

A. The June 15, 2020 Sentencing Hearing (Ex. 30)

5. On 6/15/20, Judge Marc Hammer sentenced Sweet for the crimes for which he was to be sentenced in August of 2017.

6. Sweet had every incentive to point out to the Court if his non-appearance on 8/22/17 had to do with anyone other than himself. He did not.

7. It was made clear on the record that this first plea was for the "2015 case" not the "2017 case" which was the new charge for bail jump for Sweet's non-appearance on 8/22/17. That sentencing hearing would be on 7/2/20.

8. Restitution is noted and required in the amount of $26,644.

9. Crime victim, Brian LeClair's sister (Ann Fuelle) speaks on LeClair's behalf, now his guardian due to LeClair's mental disabilities. She notes the theft began in 2013 and involved 13 credit cards.

10. When Fuelle learned of how Sweet was taking advantage of her brother, law enforcement came in, and a payment plan was agreed to by Sweet. Sweet promised to pay LeClair back.

11. Sweet then attempted to pay back LeClair and Fuelle with " . . . a couple of times with useless debit cards with no money on them, and then he wrote two bad checks . . ."

12. Fuelle goes on to explain that Sweet stole a check from a roommate "of his who was disabled and tried to pay us with that, and that wasn't good either."

13. She goes on to note that for seven years, both her and LeClair had been trying to "clean up the mess" that Sweet's criminal conduct created. She asks the Court to sentence Sweet to this "same essential sentence" that they have had. In short, Sweet never paid anything pursuant to the agreement he entered into voluntarily.

14. Kerrigan-Mares then notes Sweet's social history of stealing checks, gambling, forgeries, felonies, and "uttering" charges; and that Sweet "has a habit of blaming everyone but himself" for his criminal conduct in Green Bay. She also emphasizes that Sweet's victim "never saw a dime" of the proceeds of the theft. Her statements advocating for the State were true.

15. The non-appearance for 8/22/17 is referenced as "bail jumping" under Wisconsin law. From 8/22/17 to 2/14/20, Sweet was a no show. Sweet voluntarily paid nothing during that time frame.

16. It is noted that during the hearing Sweet could receive as much as nine years. If Padden told him to not appear on 8/22/17, the time was now for Sweet to tell the judge. He did not.

17. Regarding the important issue of lack of remorse, almost always relevant to sentencing judges, Kerrigan-Mares says: "That behavior [not appearing on 8/22/17] is the biggest sign of the lack of remorse."

18. She also notes that Sweet has blamed others for his criminal conduct and portrays himself as the victim. She adds: "Clearly, the defendant is not someone who stepped up to the plate . . ."

19. Sweet then asked for and was permitted to read a letter to the Court. Sweet does not say why he did not appear for court on 8/22/17, nor is any word mentioned about Padden.

20. Judge Hammer sentences Sweet to one year of prison for each of the two crimes – and orders restitution. He also noted, on the record:

- Sweet ("The Defendant") blames the police.
- He blames his girlfriend.
- He blames the victim.
- The judge notes the serious nature of the crimes, the large theft, and that "the facts reflect the defendant's character."
- It was important to the court that the victim was a "vulnerable adult." Sweet took advantage of a "weaker party."
- Sweet presents a "tremendous risk to the community."
- The judge emphasizes the "absconding" in 2017.
- Sweet paid nothing to the victims – and left the state.
- The judge does not believe the defendant's supposed remorse and contends that the notion that Sweet will pay restitution is specious at best. (Ex. 30).

B. Wiese's Strange June of 2020 Email to the Sentencing Judge (Ex. 24)

21. In between the sentencing hearing of 6/15/20 and the one on 7/2/20, Wiese decides to be heard with an email of 6/17/20 which went directly to Judge Hammer.

22. Wiese's 6/18/20 email to Judge Hammer repeatedly disrespected the judge and mentioned not one word about Padden's alleged misconduct as the reason for her husband's non-appearance before Judge Kelley on 8/22/17. Many of her allegations were lies:

a. If you get this, you probably don't care and won't even read it.
b. Your ego may be telling you right now I bet you don't care about this, and it's completely irrelevant to the case and sentence.
c. You might have known someone who was a victim of a scam and so you see Steven as some type of Bernie Madoff, type, con artist.
d. You accused Steven of lying in open court, refused him to speak, or present his defense. [Sweet had no defense].
e. You said you refused to believe anything that came out of his mouth.
f. You humiliated him in open court.
g. You gave him the harshest sentence you could think of.
h. These actions are not of an impartial judge, but of a judge seeking revenge from a bitter personal experience.
i. Your personal opinions have put Steven at risk of being fatally attacked and injured in prison. (Exhibit 24).

C. The July 2, 2020 Sentencing Hearing (Ex. 31)

23. This date marked the moment of Sweet's sentencing for absconding on 8/22/17. It is essentially a repeat of 6/15/20: Nothing is mentioned regarding the reason for his 8/22/17 no-show, and neither is any reference made to his former attorney, Padden.

24. The OLCC, based on reasonable information and belief, knew of this transcript but did not bother to secure it for evidence like the other because it was exculpatory in nature and completely supported Padden's innocence. This conduct was in furtherance of their illegal goals.

25. At the 7/2/20 hearing, also Zoom, Sweet pled guilty to "felony bail jumping" for intentionally not attending the 8/22/17 sentencing, a class H felony under Wisconsin law.

26. This hearing was perfunctory compared to the 6/15/20 hearing since it was essentially a forgone conclusion that Sweet was going to get more prison time for absconding. Sweet confirmed entry of the no-contest plea early in the hearing.

27. A prosecutor named Saunders attending for Kerrigan-Mares, noted: "This is a bail jumping case that's clearly one of the more aggravated charges of this type I have ever seen."

28. Neither Sweet nor his attorney offer any defense or mitigating factors during the hearing. No reference is made to the 2/18/20 accusations of Sweet's wife Wiese in the OLPR complaint even though just 4 ½ months earlier, Wiese filed her complaint against Padden. Saunders emphasizes the effect on the victims and the sizable restitution figure of over $26,000. (By blowing off sentencing in 2017, Sweet conveniently decided not to pay restitution). It is categorized as "re-victimization."

29. Saunders notes two misdemeanor theft cases for Sweet in St. Croix County in 2008.

30. Sweet exercises elocution but only in support of an allegation that he had paid something in the past, and he "really does want to get these people paid." He mentions nothing about Padden.

31. The Court does reference having read the Wiese email of 6/17/20 and goes on to note the serious nature of Sweet's crimes. Judge Hammer notes the crime as a "significant bail jump."

32. The Court additionally notes that when Sweet was gone from Wisconsin – after absconding – he did not pay any restitution. Judge Hammer sentences Sweet to one year of additional incarceration (to the already two years) and one year of extended supervision. Like with the 6/15/20 sentencing hearing, Sweet mentioned nothing as to why he did not appear for sentencing on 8/22/17. The OLCC did not present this evidence in the Charges documents. (Exs. 28 and 29).

VIII. WIESE'S SOCIAL POST OF JULY 7, 2020, (Ex. 32); AND BRAND COMMS WITH WIESE IN JULY OF 2020 (Ex. 34)

1. On 7/7/20, emboldened by the OLCC refusal to dismiss, and consistent with her MO to blame everyone but her husband, and perhaps her anger with Judge Hammer, Wiese posted a social post on a lawyer website, accessible to the world. (Ex. 32).

2. The post was full of one defamatory statement after another against Plaintiff. The features, in part, were:

a. It repeats the lie regarding "the day of sentencing Mike calls us in our hotel room." [The call was only to Sweet and on 8/21/17 – the day before the sentencing; Wiese's own 2022 Declaration confirms this; Exs. 11 and 12].
b. Mike said the PSI is full of lies, and they are looking to put Steven away "for decades." [Sweet had the PSI before 8/21/17 that recommended probation. Wiese had previously claimed 10 years but now was alleging decades. This ten-year made-up accusation was probably based on the comments of inmate lawyers after Sweet's incarceration began in February of 2020].
c. She accused Padden of lying.
d. "This is a devil in disguise."
e. "He will manipulate you, take advantage of you, steal all your money, and then lie."
f. "If you value your freedom, and your loved ones, stay away from this man as far as possible." (Ex. 32).

3. In an email on the same date as the defamatory online post, Wiese again lied to Brand alleging that Padden did not contact the court on 8/21/17. (Ex. 34). Padden and his paralegal did in fact contact the court. Padden had to inquire as to how to handle the no-show decision of Sweet. This contact prompted the letter to Judge Kelley, which was faxed to the court the same day. (Ex. 15). Wiese alleged: "They [the court] have no record of any phone call by Mike on 8/20/17." This was also deceptive. The contact was on 8/21/17.

4. Wiese additionally alleged in this email that if Sweet had showed up on 8/22/17, "All his felonies would be gross misdemeanors by now." This was also a lie and never a feature of any offer from Wisconsin in 2017, or at any time. (See Ex. 34). And the OLCC, like all of these date issues, knew Wiese was lying – but never corrected her anywhere in the written record of the case.

5. In an email to Brand of 7/8/20, Wiese now admits her "mistake" about the August sentencing date. In this email exchange, Brand plants a new seed about whether someone "witnessed" the call of Padden to Sweet on 8/21/17. He implies Sweet's mother. This woman was never listed as a witness in the eventual trial, nor did she ever testify. (Ex. 34-2).

6. Wiese contends that there was no Padden contact with them on 8/22/17 and goes on to say: "I could have sworn we had court on 8/21/17." Both contentions were false. Padden called Sweet on 8/22/17 and did in fact advise him of the statewide warrant.

7. On 7/17/20, LaRue spoke with Wiese and generated an email to Brand at 1:50 p.m. Wiese told LaRue the plea deal was "60 days jail and 2 years' probation." (Ex. 35). Wiese told LaRue the sentencing date was 8/21/17. This was not true. LaRue knew this but never documented same in her file or communicated this to Brand or Humiston.

8. Wiese seems to allege in this email that Padden told her court was on 8/21/17. But it was clear all along that it was 8/22/17 - something Sweet already knew from the 6/13/17 plea

hearing. (Ex. 8). This was confirmed in their Declarations also that LaRue created with their input. (Exs. 11, 12, and 36).

9. Wiese added another lie: "Mr. Padden had not said that if he [Sweet] left the state without appearing in court that another felony charge would be added." Padden in fact made clear to Sweet on 8/21/17 that if he did not appear that there WOULD be another felony charge and possibly more. This would be obvious to any felony defendant and was to Sweet who was not naïve and had significant prior experience with the criminal justice system due to his many years of thievery.

10. The source of Wiese's anger is noted - a "3-year sentence." But she admits attempting to hire Padden for the new case in February of 2020. (Exs. 19 and 35).

IX. HUMISTON'S SINISTER, CONSPIRATORIAL CONDUCT IN 2021 AND THE BACKROUND AND REASONS FOR THIS CONDUCT

1. From July of 2020 to May of 2021, there was no activity of OLPR regarding Padden at all. Padden and his attorney reasonably believed that the Sweet/Wiese OLPR investigation had ended.

2. This was a reasonable belief since Wisconsin had ended the investigation of Sweet/Wiese in April of 2020 (Ex. 1), and any reasonable person, certainly reasonable agency investigator, would see that Sweet and Wiese were basically a couple of crazies, and Sweet had been a financial criminal for essentially most if not all of his adult life with no credibility. Wiese had no credibility either.

3. However, between July of 2020 and May of 2021, Plaintiff became a larger target for Humiston and OLPR.

4. Humiston was further emboldened during this time frame since the lack of oversight was gone primarily due to the decisions of the then Chief Justice of the Minnesota Supreme Court, Lori Gildea. The Minnesota Supreme Court was becoming, willing or not, and ally of the corrupt Humiston.

5. As previously referenced, two factors resulted in Padden's targeting: The Gomm murder case (Para. 6, p. 5) and the Alibi Drinkery case (Para. 8, p. 5).

6. Based on reasonable information and belief, Governor Tim Walz influenced Humiston to further target Plaintiff with the goal of taking away his ability to practice law as retaliation for Gomm and Alibi – during this time frame of no activity between 7/20 and 5/21.

7. Regarding Gomm, Padden had attempted to secure funds through the Minnesota legislature for Gomm's heirs. He attempted the assistance of Walz. Walz did nothing. It went nowhere. And the Minnesota Attorney General's Office defended the later litigation.[2]

[2] Gomm's heirs did not prevail in the case due to exclusivity law. This is why the main thrust of the case from the beginning was to secure funds from the Minnesota legislature as noted here.

8. Padden's involvement with Alibi was from December of 2020 to April of 2021. Walz had developed a deep hatred of Alibi's owner due to her public criticism of him, and as such, Walz planned and began his revenge which included targeting Plaintiff.[3]

9. It was therefore not a coincidence that after a long gap, OLPR once again came after Plaintiff, and it was with the frivolous Sweet/Wiese matter with how they did it.[4]

10. The OLCC was back in full force with Brand as the hatchet man. He issued a 5/26/21 letter to Attorney Kufus and seems to have forgotten his earlier involvement in Sweet/Wiese: "Dear Mr. Kufus: I am the attorney now assigned to the handling of this matter." Brand was involved on Sweet/Wiese as early as March 24, 2020. [redacted]

11. It was just nine days later as of 3/24/20 that OLR of Wisconsin determined in essence that the Wiese complaint to them was frivolous. Rule 8.5 would have made clear to any reasonable lawyer investigative agency that Sweet/Wiese was over pursuant to Rule 8.5 and the similar Wisconsin and Minnesota rules. (Ex. 33). Not so for OLPR due to the evil intent of OLCC now supported by Walz.[5]

12. In 2021, Brand, as part of the OLCC targeting, repeatedly asked questions via letter about the Sweet/Wiese matter and submitted these to Padden's lawyer and Padden. Complete, full responses were provided with letters and attached documents on 7/1/21, 9/12/21, and 9/14/21 by Padden and his lawyer. (Ex. 37).

13. With a letter dated 9/14/21, Padden forwarded further detail proving his innocence regarding Wiese's false claims. Included was the Wisconsin rejection. (Ex. 1). In reference to an exhibit, Padden said: "Sweet voluntarily decided to not cooperate with the Wisconsin prosecutor. That was his decision, not mine." This was true, and the OLCC knew it. (Ex. 37[redacted]).

14. Although Padden was now pro se in 2021, it was the reasonable belief of Padden and his former counsel, that the Sweet/Wiese matter would finally be dismissed. But for the illegal conspiracy of the OLCC with the now input and influence of Walz, it would have been dismissed.

X. OLPR PARALEGAL LARUE'S INTENTIONALLY UNETHICAL INVESTIGATION CONCERNING IN PART SWEET'S PSI FROM AUGUST OF 2017 LEADING INTO THE CREATION OF THE DECEMBER, 2022 DECLARATIONS OF SWEET AND WIESE BY LARUE: CONDUCT TO FURTHER THE CONSPIRACY

[3] Before Padden's involvement, Alibi's owner was very vocal about her disdain of Walz for his decision for complete lockdowns of all bars and restaurants which commonly concerned small businesses who could not survive this reality. Alibi's owner was perhaps more vocal than any bar/restaurant proprietor. Wisconsin's governor tried to do the same thing, but the Wisconsin Supreme Court prevented it on constitutional grounds. Walz permitted businesses in Minnesota like Sam's Club to operate as normal.

[4] For the gap was over ten months.

[5] The state's antics with the Alibi litigation was shocking. After clearly destroying the business and their owner financially, the Attorney General's Office still went after her for money (primarily fines) even though she had filed for bankruptcy. Much of this happened however Padden's attorney-client relationship with Alibi ended because Alibi no longer had the funds to bankroll litigation.

1. As part of re-commencement of the Sweet/Wiese investigation, Brand decided to sic LaRue on Padden. Although LaRue's over-the-top incompetence would greatly reveal the conspiracy of the OLCC, LaRue was motivated to illegally help Brand and Humiston as their number one agency lackey.

2. In December of 2021, LaRue began a dialogue with Sweet's 2017 prosecutor, Mary Kerrigan-Mares, and she inquired about the "final offer" (which was confirmed as four or six months jail) - and any additional charges for Sweet's no-show of 8/22/17. After confirming the last offer in 2017, which was accepted by Sweet, as Padden contended all along, Kerrigan-Mares then tells LaRue that the 8/17 PSI cannot be provided to LaRue since "they are confidential." LaRue had affirmatively requested it. [redacted]

3. It is possible to assume that during this time frame, LaRue was not yet aware that Sweet had possession of the PSI all along but had not disclosed this reality to LaRue or Brand for fear that OLPR operatives would not believe the Sweet/Wiese allegations which was understandable because: How could Padden lie about a document Sweet already had received from Padden before 8/20/17? And it could be assumed that Sweet would have shown/given it to his wife especially if the terms were favorable – unless Sweet had an otherwise improper motive.[6] (Sweet confirmed receiving the 8/17 PSI from Padden under oath in 2023; Exhibit 3, p.). Padden was entitled to a fair investigation. He did not receive that because of the conspiracy detailed herein which was the illegal conduct of the OLCC correctly categorized as purposeful and intentional.

4. Although presumably LaRue now knew about the Wisconsin rules regarding disclosure of PSIs, she then sought same from the sentencing judge, Judge Marc Hammer. The judge responded with a 1/3/22 letter to LaRue and advised that PSIs under Wisconsin law "are confidential," and he cannot provide the Sweet PSI to her. [redacted] This could not have been a surprise to LaRue, but her purpose in trying this was obvious: If she could not obtain same from Wisconsin, she would now have to deal with the inherent problem of receiving it from Sweet. There is no evidence that LaRue ever asked Sweet directly.

5. LaRue therefore could not obtain the PSI of 8/17 from Wisconsin sources but did subsequently obtain it. She did realize at the time, before formal charges against Padden in October of 2022, that admitting this fact (that she had it) would be a significant admission and alone could result in Padden's innocence. LaRue therefore, after realizing this, was careful not to disclose in the OLPR Padden case file how she obtained it (Padden could be privy to this data/evidence through discovery) and also made sure the PSI was not disclosed by OLPR to Padden in the discovery phase - or at any time. Of course, Padden had it all along as of 8/9/17. The notion that

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[6] When Sweet lied to his wife on 8/21/17 and decided to use the PSI as a convenient excuse, he probably never believed that his white lie, in his mind anyway, would evolve into a state investigation. Once his wife filed the complaint, unbeknownst to him, he had no choice but to play along with his original lie, but this became problematic with the huge number of discrepancies. Therefore, the lies of both Sweet and Wiese, along with the unethical conduct of the OLCC, has resulted in the case at hand and the numerous ways that Plaintiff has been damaged. In short, these five conspirators threw Padden under the bus and did a poor job of covering their tracks creating a perfect storm of unethical conduct to destroy an attorney's reputation. But Wisconsin was not fooled. (Ex. 1). The question about Sweet having the PSI was asked by Brand.

LaRue could not get it through other than formal means was specious. And if she was not able to obtain it, she had to make it look surreptitiously like she never obtained it. She does not document anywhere in the over 5,100 pages of the Padden case file how she eventually obtained it.

6. The OLPR Padden case file is silent as to how LaRue obtained the PSI, but the OLCC were negligent in admitting LaRue had it long before 10/28/22, the date the formal charges were served on Padden although not yet published. (Ex. 28).

7. In two separate in-person meetings, one in 2021 and one in 2022, with Brand present, at the OLPR offices, with questions primarily about the Sweet matter, LaRue, asking the questions of Padden, admitted having the 8/17 PSI - but not how she obtained it. This exchange occurred at the first meeting - Brand present:

LaRue: We have the PSI [reference to the 8/17 one]. It recommended probation.

Padden: That doesn't matter. The Wisconsin authorities weren't obligated to accept that. Don't you understand Wisconsin criminal plea law?[7]

8. The OLCC became aware long before 10/28/22 (the first Charge Document date) that the Wiese complaint had no credibility. The OLPR Padden case file does not identify how LaRue obtained the 8/17 PSI. All of LaRue's conduct regarding investigation of the 8/17 PSI was at the request and supervision of Humiston and Brand. In short, both knew LaRue possessed it during the investigation.

9. As noted, LaRue never documents in the OLPR file how and when she obtained the 8/17 PSI - because this would have proven that she, Humiston, and Brand would have known that if Sweet and/or Wiese had it before 8/21/17, this fact alone would prove that the original allegations by Wiese against Padden, back on 2/18/20, could not be true. Padden could not have lied about a document that Sweet and/or Wiese already had before 8/21/17, that is, a document Padden had given to Sweet – which Sweet admitted.

10. At some point, the specific time unknown, the OLCC realized the significance of having the 8/17 PSI since it could not have been received from Wisconsin authorities, and if either Wiese and/or Sweet had it, and therefore LaRue, Padden had to be innocent. They were in a quandary. They made a conscious decision to not specifically disclose that they had it, but this was difficult because they needed to show some knowledge of the 8/17 PSI with their unethical theory to implicate Padden - their version of connecting the dots to fool others. The prime mover of this decision was Humiston as the head of the agency. It was their hope, that is, the OLCC, that the problem would not be uncovered by Padden or his legal team.

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[7] Padden did not realize at that time that this simple detail alone was an important fact to prove his innocence. A summary of a Brand phone call with Padden lawyer Kufus notes an upcoming meeting with Padden alone in the week of 6/21/21. There is no documentation for this meeting either by the OLCC, but this also was a meeting where LaRue admitted to Padden that OLPR had the 8/17 PSI. Interestingly, no reports were prepared summarizing any meetings that LaRue and/or Brand had with Padden. If they were prepared, they were not offered into evidence or disclosed in the discovery phase . This would include, for example, meeting notes. This quoted recollection is based on Padden's memory, not an actual transcript.

11. The date that LaRue actually obtained the 8/17 PSI from Wiese is not documented because LaRue's attorney supervisors told her not to document it. As such, only vague references were made to it until the Charges document of 10/28/22. This conduct was purposeful and intentional. (Ex. 28).

12. LaRue at no time ever disclosed to Padden her trouble obtaining the 8/17 PSI from the Wisconsin authorities. Plaintiff and his legal team did not become aware of this evidence until it was disclosed in the discovery phase of Padden's case soon before the October trial date. LaRue never asked Padden for a copy of the 8/17 PSI.

13. In October of 2023, under oath, Sweet said this in response to questions from Defendant Brand when Brand asked him about the 8/17 PSI during the Padden trial:

Brand (B): Did you ever see your pre-sentence investigation report?
Sweet (S): Yes.
B: Was it provided to you?
S: Yes. I believe it was.
B: And who provided it to you?
S: Michael Padden. (Exhibit 3, p.).

Nowhere in LaRue's investigation is it indicated that Sweet in fact obtained the PSI from Padden in August of 2017 or at any time. The reason for this was simple: It would prove Padden's innocence.

14. Sweet had the 8/17 PSI all along. The above testimony was of a smoking-gun nature to not only prove Padden's innocence, but to prove the unjust, unethical, and conspiratorial conduct of the OLCC. The fact that Sweet had the PSI all along was not disclosed in either Charge documents nor was it included in the OLPR press release regarding Plaintiff. (Exs. 28 and 29).

15. Regarding the 8/17 PSI, the "date prepared" is noted as 8/7/17. (Ex. 10). It was faxed to Padden from the "Brown County Circuit Courts" on 8/9/17. (Id.). Padden then got a copy to Sweet before 8/20/17. During the 6/3/17 plea hearing, Judge Kelley asked Padden if two weeks before the 8/22/17 sentencing date would be enough time for Padden to meet with Sweet to go over the PSI. Padden responded with: "Yes, sir." Sweet proved the meeting happened. He admitted to this meeting with Padden where Padden told him to for sure attend the sentencing hearing on 8/22/17 "about a week before the 8/21/17 phone call." (Ex. 3, p. 33).

16. It is assumed that LaRue helped Brand prepare the Charges document dated 10/28/22. (Ex. 28). At page 3, para. 9, knowledge of the contents of the PSI are admitted.[8]

17. In addition, the signed 12/5/22 "Declaration of Jessica Wiese Sweet", prepared by LaRue, also admits knowledge of the PSI contents. The timing of this is critical because it was sixteen days later that the OLCC published their main public discipline against Padden in the

[8] This Charge Document also did not admit OLPR knowledge of the statewide 8/22/17 Capias Warrant because this would be an admission that Padden was innocent. The Capias Warrant is not mentioned at all in this document or the later Petition document dated 12/21/22. (Ex. 29).

Petition document (12/21/22, Ex. 29) which did not reveal that Sweet had the PSI all along - definitive proof that what Sweet allegedly told his wife on 8/21/17, according to Wiese, could not have been true since Sweet already had the PSI from Padden. (Id.).

18. In the Wiese signed Declaration of 12/5/22, at para. 32, p. 8 (para. 31, p.7 of the unsigned Wiese Declaration - Exhibit 301 from the Padden trial, has verbatim language - Exhibits 11 and 12), this language is found:

> 32. I didn't know at the time [a reference to 8/21/17 when her husband lied to her], but I now know that the pre-sentencing investigation report did not, in fact, recommend a harsher sentence as Mr. Padden had told Steven. Rather the report actually recommended a lighter [emphasis underlined from original] sentence. (Ex. 11 at p. 8).

19. Based on the directive of Humiston and Brand, LaRue was careful in the Wiese Declaration not to reveal to any reader how and when Wiese became aware of the PSI terms, or when Wiese came into possession of it. Sixteen days later, the OLCC published the Petition document for the world to see aware that Wiese's complaint to OLPR of 2/18/20 was false and frivolous. If the OLCC were ethical, the matter would have been dismissed long before then – like the Wisconsin authorities had done.

20. If Wiese did not have the PSI on or before 8/21/17, this would mean that her husband never showed it to her after he obtained it from Padden between 8/9/17 and 8/20/17. This would also mean that Sweet was planning all along to lie to Wiese as a predicate for illegally not appearing for sentencing on 8/22/17. If Sweet had shown the 8/17 PSI to Wiese before 8/20/17, he would not have been in a position to lie to her about it. The OLCC did not do the right thing when they realized the significance of Sweet and/or Wiese possessing the PSI because they were in too deep, and Humiston refused to give up at that point.

XI. THE DECEMBER 5, 2022 DECLARATIONS OF STEVEN SWEET AND JESSICA WIESE: CREATED BY OLPR PARALEGAL, PATRICIA LARUE

1. After the decision was made to "charge" Padden, with the Sweet/Wiese matter listed as first, the OLCC then proceeded with the next important phase: publication and service of the formal charges in a "Petition for Disciplinary Action" dated 12/21/22. (Ex. 29).

2. As it pertained to the Sweet/Wiese matter, each co-conspirator of OLCC knew that the salient allegations in the Petition were false and had no merit whatsoever. But for many reasons, they thought that they could get away with it – and they almost did. As previously noted, Humiston survived a removal proposal in 2021, and LPRB lost its oversight authority. Humiston was therefore emboldened to engage in even unethical conduct against Minnesota targeted attorneys. Why not? Nobody was supervising her, and she therefore had free reign. Based on developments then and later, the Minnesota Supreme Court was not going to do anything.[9]

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[9] The Chief Justice who presided over Padden's disciplinary hearing – after the trial was over in October, 2023 - (before almost all members of the Court except one) was a Walz appointee.

3. Since the Sweet/Wiese matter had become very complicated, not because of Padden, but in part because of the strange investigative behavior of LaRue, Brand felt it would be advisable to have paralegal LaRue extrapolate the case facts for each witness in a concise legal document to assist with later matters such as trial preparation. This ended up being a huge mistake for OLPR.

4. LaRue was to include understandably the salient details that supported OLPR's goal for significant sanction against Padden up to and including disbarment. LaRue therefore endeavored to do this with declarations for both Sweet and Wiese. A declaration is similar to an affidavit in the sense that it is sworn testimony although out of court like an affidavit.

5. With a letter dated 10/11/22, Brand mailed to Sweet and Wiese "two packets and a draft declaration for each of you." The packets included the exhibits referenced in each Declaration. [redacted]

6. It was clear that the drafts were prepared by "Patricia" (LaRue), and Sweet/Wiese were to contact her if corrections were needed.[10] Both witnesses were asked to sign off.[redacted] Both were on a first-name basis with Brand and LaRue.

A. <u>The December 5, 2022 Declaration of Jessica Wiese Sweet (Exhibit 12)</u>

7. LaRue's work on this Declaration, like that of Sweet, was done within the scope and course of her employment with OLPR and under the supervision of Attorneys Humiston and Brand.

8. Wiese admits in her Declaration receiving from Padden the State's offer via email on May 1, 2017. (Ex. 12, p. 8).

9. Wiese alleges that when Sweet came back from Green Bay (this would have been 6/13/17), he told her that the State "offered" six months jail, two years probation. This was essentially true. Sweet had accepted the offer. (Id., p. 2).

10. The plea deal was confirmed with the next paragraph that the six months would be "hard, but the baby [only four months old] would not know the difference." Sweet told her the sentence date was 8/22/17. (Id.).

11. On page 3 at para.12, the in essence six months that Sweet had agreed to was again confirmed. "I had accepted the fact that I would be on my own with our newborn for the next six months while Steven was incarcerated." (Id., p. 3).[11]

12. At para. 13, beginning on page 3, Wiese correctly notes that both she and her husband were in the Days Inn room when Sweet received a call from Padden. Then: "Steven went outside

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[10] Wiese realized the importance of this document because she served an unsigned one as part of her answer in the defamation action of Plaintiff's lawsuit commenced in January of 2023. Her "Answer and Counterclaim" is dated 2/12/23.[redacted] She however came up with another lie contending that she served a "handwritten one" on Plaintiff's counsel. The alleged handwritten one was never produced by her or OLPR. Wiese served Ex. 11, an unsigned typed-on one. (Obviously prepared by LaRue). The unsigned one was identical to the signed one in terms of the relevant, important detail. (Exs. 11 and 12).

[11] Sweet repeatedly denied under oath in the PDT that the offer was six months.

of the hotel area [away from Wiese] to take the call." This was clearly true. (Id.). Sweet did this because he did not want his wife to hear what he was about to tell Padden, namely, that he would not go to jail and therefore not appear at court the next day, 8/22/17. This was an extremely important, salient detail noted by OLPR's paralegal, with information Wiese truthfully provided to LaRue, within the scope and course of LaRue's employment. The Brand plan to suborn perjury evolved off of these Declarations.[12]

13. Then on page 4, same para., Wiese alleges that Sweet tells her that "he [Padden] just received the PSI report and the recommendation was worse than anticipated." Sweet went on to tell her allegedly that the sentence could be as much as ten years. Sweet already had the PSI report in his possession before then, and he knew what he said about Padden was not true. Although Sweet said something different at a later date about the PSI, Wiese correctly noted what her husband told her on 8/21/17 – which was a Sweet lie because Sweet did not want to go to jail or perhaps more importantly, pay the large amount of probable court-ordered restitution. (They both had a new born child which perhaps could have been another factor).

14. The ten years that came into play with Wiese's 2/18/20 OLPR complaint was recently planted in Sweet's mind from what the "inmate lawyers" were saying. Sweet now had a built-in excuse for not showing up on 8/22/17, that is, throw your lawyer under the bus, i.e., lie. A competent investigative agency, using common sense, would have seen early in the investigation back in 2020 that these allegations were based on a serial criminal – hearsay though his wife – who had no credibility. Wisconsin authorities with their investigation did in fact see through this. The OLCC ignored the findings of Wisconsin violating multiple applicable rules denying Plaintiff his due process rights as noted herein. (Exs. 1 and 33).

15. There is no reference in the Wiese Declaration to an alleged second call after Sweet came back to the room. If this were true, LaRue WOULD HAVE NOTED THAT. This is a key fact to prove the illegal, unethical, purposeful, intentional conduct of the OLCC regarding their target, Plaintiff – including subordination of perjury by Brand. Wiese's later testimony about a second call from Padden was a bald faced lie - perjury suborned by Brand.[redacted]

16. The Days Inn receipt correctly noted the check-in time as 8/20/17, and the check-out time as 8/21/17. This would later be an important exhibit to support Padden's common-sense defenses. It was attached to the Wiese Declaration as an exhibit.[redacted]

17. The Declaration then notes at para. 16 that Padden appeared on 8/22/17 and advised that the judge issued a bench warrant "statewide and limited to Wisconsin."[redacted] This was true and corroborated by the Capias Warrant. (Ex. 17). Later contentions that Padden never advised of the judge's decision are in direct contradiction to this portion of the Wiese Declaration and in fact Padden's recollection. It should be noted that throughout the entire course of the conduct of the OLCC in dealing with Padden, whenever something he said was in contradiction to something somebody else said, the plan was simple: Do not believe Padden regardless of other

[12] LaRue obviously did not perceive the significance of this, or she would not have included that detail in the Wiese Declaration.

evidence. The existence of the Capias Warrant alone revealed Plaintiff's innocence and was why the OLCC did not include reference to it in the two Charges documents. (Exs. 28 and 29).

18. Wiese then addresses Sweet's arrest on 2/7/20 after she called the police on a welfare check at p. 6, para. 24 – and his extradition to Wisconsin. [redacted]

19. At para. 28, page 7, Wiese expresses disbelief as to the contents of Padden's letter of 8/21/17 advising Judge Kelley of her husband's decision to blow off court on 8/22/17. [redacted] She claims the contention to be false apparently believing the lies her husband told her on 8/21/17. LaRue, however, DID NOT SHOW Wiese the 8/22/17 Capias Warrant nor was it ever shown to Sweet or Wiese in the entire investigation. LaRue, Brand, and Humiston had multiple opportunities to show this straightforward warrant to Sweet and Wiese. Neither Sweet nor Wiese had ever seen it at any time before the defamatory allegations documented in the Petition of December of 2022, and soon thereafter, the OLCC's press release to multiple media.

20. At para. 32, page 8, Wiese admits that the PSI in fact reached conclusions not as harsh of a sentence in the plea in contradiction to what her husband Sweet alleged Padden said to him on 8/21/17. This was further proof that Sweet had lied to Wiese on 8/21/17 about the PSI. [redacted] But this was an important admission that Wiese had at least seen the PSI long before the commencement and service of the Charges documents beginning in October, of 2022, and the press release.

21. LaRue does not include in this Declaration the fact that Wiese's complaint to Wisconsin authorities regarding the allegations against Padden went nowhere. No reference is made in it to the Wisconsin exoneration letter to Wiese of 4/2/20. [redacted]

22. The Wiese Declaration is consistent with the strategy of the OLCC: To treat the Capias Warrant of 8/22/17 and the April 2, 2020 Wisconsin decision that there was "not sufficient proof that Attorney Padden violated any of the rules of professional conduct" as if they did not exist and therefore, not referenced in the OLPR charges, the press release, or even the PDT – the actual trial of Padden.

B. <u>The December 5, 2022 Declaration of Steven Sweet (Exhibit 36)</u>

23. Sweet confirms the receipt of the State's offer for his Green Bay case: 6 months jail. The formal Offer Memo of 6/8/17 is also confirmed. (Exs. 7 and 36, p. 2).

24. Sweet notes appearing in court with Padden on 6/13/17. (Strangely, LaRue goes from para. 8 to para. 1 on page 2. This is assumed to be a mistake). Resolution is confirmed on pages 2-3 with Sweet pleading guilty to three counts, and the other three dismissed. (Ex. 36, pp. 2-3).

25. Sweet confirms that sentencing was set for 8/22/17. He notes the correct belief that he would be taken into custody on 8/22/17, and the stay at Days Inn starting on 8/20/17. (Id., p.3).

26. Sweet alleges receiving a call on 8/21/17 from Padden "while in our hotel room." He does not reference leaving the room for the call contradicting the Wiese Declaration. Sweet alleges (lying) that Padden said the PSI Report was "much harsher" than what was discussed with Kerrigan-Mares. (Id.).

27. Sweet then references "talking it over" with his wife, Wiese. No reference is made to a second phone call with Padden and Wiese and/or Sweet. They decided to leave Wisconsin. Sweet "could not bear the thought of not being able to raise my child or see my wife for years." (Ex. 36, p. 4). This was a possible factor as to why he decided not to show up and go to jail on 8/22/17 in the first place which any reasonable agency would have perceived.

28. Sweet admits Padden told him that he, Padden, appeared for the 8/22/17 hearing, and the court issued a statewide warrant "limited to Wisconsin." LaRue put this in as if it were not true. The 8/22/17 Capias warrant is not mentioned at all in this declaration, like the Wiese Declaration, nor is it attached as an exhibit even though the declaration had many exhibits. (Id., p. 4). This would prove that what Padden told Sweet was true, and this was one example of many as to how LaRue deceptively dealt with evidence, with the permission and supervision of Humiston and Brand.

29. The Sweet Declaration does mention the filing with the Wisconsin version of OLPR and the dismissal of the matter within five weeks on April 2, 2020 by Wisconsin OLR. (Ex. 1).

30. Sweet notes the arrest on 2/7/20 in Minnesota, and a Wisconsin warrant is discovered by the police. Sweet is extradited and alleges (lying) that Padden lied to him on 8/22/17 when Padden advised that Judge Kelley signed a statewide warrant. A nationwide warrant of 8/31/17 is referenced, but LaRue does not attach the 8/22/17 statewide warrant as an exhibit, nor is it addressed with the witness in his declaration. It seemed as if LaRue simply had no intention of ever advising Sweet or Wiese that the Capias Warrant did in fact exist. However, as of 8//22/17, certainly Sweet knew it had existed because Padden told him truthfully that it did exist. It appears that neither Brand, Humiston, or LaRue ever discussed anything or disclosed anything about the 8/22/17 Capias Warrant with anyone relevant including Brown County District Attorney David Lasee.

31. Neither LaRue nor Brand ever explained to either (Sweet/Wiese) that once Sweet did not appear for court on 8/22/17, Padden no longer had any obligation to do anything for Sweet. (Padden had explained this to Sweet on 8/22/17, and Sweet understood). The fact Padden agreed to advise as to what Judge Kelley did on 8/22/17 was voluntary, and Padden did in fact tell the truth that a statewide warrant was in fact signed on 8/22/17 corroborating Padden's statement that the warrant would be limited to the "four corners of Wisconsin," a statement attributed to Judge Kelley, according to Padden. (Id., p. 8). Like Wiese, LaRue never educated Sweet on this fact.

XI. THE CHARGE DOCUMENTS AS THEY PERTAIN TO THE SWEET GREEN BAY CRIMINAL CASE

1. Just a few weeks before LaRue finalized the Declarations for Sweet and Wiese, OLPR had served upon Padden and his counsel a document entitled: "Charges of Unprofessional Conduct, Notice of Panel Procedures, Notice of Panel Assignment."

2. The Charges document was dated 10/28/22. Both OLPR co-conspirators Brand and Humiston signed off on it. (Exhibit 28).

3. Then, a public document followed: "Petition for Disciplinary Action" again signed by Brand and Humiston. (Ex. 29).

4. Both documents were essentially similar with almost identical allegations – on the salient details. But now with the later document, the Petition, the accusations were now a matter for public record/consumption.

A. The "Charges" Document: October 28, 2022 (Exhibit 28)

5. This document was prepared by Humiston and Brand who signed off on it on 10/28/22. The document contained numerous flat out lies and incomplete information as same pertains to the Sweet/Wiese matter all in furtherance of the conspiratorial goals of the OLCC.

6. In both, the first matter addressed in terms of complainants is the "Steven Sweet and Jessica Wiese Matters." This fact perhaps more than any signified the importance of it to the OLCC and the fact that it clearly was the gravamen from the OLCC's perspective of the various disciplinary allegations against Padden.

7. The Charges document, however, did contain helpful facts for Padden. This concept was later recognized by Brand which led to the later strategy decision to not offer the LaRue-prepared Declarations into evidence in the PDT, and the subsequent draconian decision of Brand, supported by Humiston, to suborn perjury. The OLCC was so desperate that during the testimony of Sweet in the trial, LaRue actually violated the sequestration order and texted Wiese, in real time, on an issue of substance. LaRue was in the courtroom. Wiese was not. Same is later detailed.

8. The Sweet/Wiese allegations in the Charges document began right at page 1 of the 34-page document as a "PROBABLE CAUSE STATEMENT" and runs ten pages. (Ex. 28, p.1).

9. Para. 7, page 2, correctly notes that Sweet accepted the State's plea offer which was confirmed on the record on 6/13/17. The essence of the two proposals was "no more than six months in jail" and two years' probation. (Id., p.2).

10. Para. 9, page 3, contains Sweet's made-up lie regarding his allegations in the call from Padden that Padden stated he had "just received" the PSI, and the recommendation was for 10 years. OLPR's investigation should have – or perhaps did discover – that Sweet had the PSI all along given to him by Padden between 8/9/17 and 8/19/17. As such, both Humiston and Brand were aware, or should have been aware, that this allegation of Wiese – hearsay from Sweet in the OLPR 2/18/20 complaint – was specious. In other words, Sweet came up with a lie in an attempt to fool his wife Wiese because he did not want to serve jail time, nor did he want to pay restitution.

11. These obvious problems were figured out by the OLCC after this time frame and the first scheduled trial date for Padden's trial – and Sweet was worried about push back from her at the hotel which led to the strategy noted herein.

12. But the Charges document contained more problems for OLPR. The 8/21/17 letter of Padden to Judge Kelley correctly laid out Sweet's non-cooperation. Padden is noted as unethical for not getting a copy of that letter to both "Sweets." Sweet had specifically told Padden to not

tell his wife about his decision not to show up on 8/22/17. To do so would be an ethics violation. As such, the best means to get the letter to Sweet would be by email which option was not available since Padden only had an email address for Wiese. Both Sweet and Wiese lived together. Only Wiese had an email address. With mail, Wiese could have opened an envelope.

13. Padden told Sweet on 8/21/17 that he would have to apprise the judge of the unfortunate decision to no longer cooperate. Sweet understood and consented. Padden did not need Sweet's permission to advise the judge of status anyway. This was one example of many as to how the OLCC would manipulate facts to not only fool the decision makers in Padden's case, but also, the public.

14. But the false accusations in the Charges document – intentionally false – with the allegation that "following the 8/22/17 sentencing hearing Respondent (Padden) failed to communicate to Sweet the outcome . . ." was blatantly false, and the LaRue Declarations ALONE confirmed this. This was an incredibly important fact that corroborated the "four corners" allegation and was a key factor to prove Padden's innocence. The OLCC within the contents of the Charges document just chose to ignore the truth. (Id., p. 5).

15. The drafters then reference a nationwide warrant completely ignoring the 8/22/17 one executed by Judge Kelley, the Capias Warrant, another key factor that proved Padden's innocence. (Id.). This conduct was intentional, unethical, and defamatory.

16. The Capias Warrant is not mentioned anywhere in the Charges document nor is there reference to Padden's exoneration by Wisconsin authorities. In addition, no exhibit is attached supportive of Padden's innocence. This was part of the conspiratorial goal: Ignore evidence that proved Padden had done nothing wrong. To not include this evidence was unethical and supportive of the causes of action in this Complaint including defamation.

17. On pages 5-6, para. 18, it is further alleged that there never was a statewide warrant. This allegation was intentional, unethical, and defamatory as same pertained to Padden. The OLCC knew that there was a statewide warrant. This was a blatant lie. (Id., pp. 5-6).

B. <u>The Petition Document: December, 2022 (Ex. 29)</u>

18. Based on reasonable information and belief, this public document was made public after December 22, 2022 and provided to Plaintiff on or about 12/30/22.

19. All the salient details noted in Paragraphs 6 through 18 of the Charge and Petition documents above were repeated in this document which was the equivalent of a criminal complaint in, for example, a Minnesota criminal case.

20. The OLCC could have corrected the allegations between 10/28/22 and the Petition created date but did not. For example, the allegation in Paragraph 15 that Padden "failed to communicate the outcome." (the statewide warrant) is proven to be false by the Declaration their

own paralegal prepared of Wiese in between those two dates.[13] Also, Padden's attorney had previously emailed the Capias warrant to Brand. (Ex. 22).

21. These problems were later addressed by the OLCC with their trial strategy which included not offering certain evidence into trial and suborning perjury as later detailed.[14]

C. Problems that Evolved for the OLCC before the Creation of the Charges Documents; The Declarations Prepared by LaRue; and Brand's Trial Prep for the Originally Scheduled Padden Trial; Definitive Proof that OLCC Knew About the Capias Warrant Long Before October of 2022

22. As noted above, even when they were provided with definitive evidence that proved Padden's innocence, the OLCC never bothered to amend the charging documents or generate documents in the first instance with facts they knew to be true.

23. An example of this was the Capias Warrant of 8/22/17 for which they could not deny knowledge of its existence which means their conduct in this regard was purposeful and intentional.

24. On 5/25/22, LaRue spoke with the Brown County, Wisconsin District Attorney, David Lasee, about the history of the Green Bay/Sweet case since Kerrigan-Mares had retired. LaRue needed a "Declaration" because "the Director needed to support her charges." (Ex. 26[redacted]).

25. The information obtained from Lasee further proved Padden's innocence. Lasee made clear in a 6/14/22 email to LaRue, a little over six months before the first charging document, that the 6/8/17 offer in the "Offer Memo" could not have become "harsher" on the "eve of sentencing." [redacted]

26. He confirms the dual offer of four months or six months then makes clear that there is another Warrant other than the one LaRue is fixated on dated 8/31/17. This was an obvious reference to the 8/22/17 Capias warrant, perhaps the key document to prove Padden's innocence which, even at this late date of the investigation, LaRue was clearly intentionally ignoring.

27. Lasee says:

> There's simply no way she [Kerrigan-Mares] would have had a phone call with the attorney and made a "handshake" offer on the eve of sentencing. This would be a clear violation of the plea agreement and is not allowed under Wisconsin law. [redacted]

In other words, the lie Sweet came up with on 8/21/17 in the conversation with his wife was a really bad one.

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[13] Both Sweet and Wiese made clear that Padden advised of the statewide warrant (Capias) after the 8/22/17 hearing. Padden had always made clear constantly throughout the entire process that he did in fact tell Sweet about this on 8/22/17. (Ex. 12[redacted]).

[14] Those facts alone show the unethical nature of the OLCC without even considering the mountain of other exculpatory evidence that proves Plaintiff's innocence.

28. Lasee then notes the truth about the warrants for LaRue – in pointing out an error on the Declaration she has prepared for him:

> There was one error that I noted in the Declaration. The court issued its bench warrant on 8/22/17. The warrant and complaint that you had attached from 8/31/17 is for the new bail jumping charge that we issued based on Sweet's failure to appear. I don't have a copy of the Court's bench warrant in our records system [a clear reference to the 8/22/17 Capias warrant], but if you think that's necessary I'm sure you could get that from our clerk of courts.

There's no indication that LaRue ever acknowledged this point or that she ever requested the Capias Warrant, the document Lasee was clearly referring to. (Padden did provide it to Brand with an email of 1/13/17[redacted]). Brand additionally was copied on Lasee's 6/14/22 email to LaRue.[redacted]

29. By not referencing the statewide warrant in The Charging documents, the OLCC, in particularly deceptive fashion that Brand, Humiston, and LaRue knew existed, improperly placed emphasis on the "four corners" reference by Padden to support their allegation that Padden lied about it. The manipulation by OLCC on this topic is broken down in this fashion:

a. When Wiese first advised Padden by 2/8/20 email of Sweet's 2/7/20 arrest and eventual extradition to Wisconsin, Padden responded that he was surprised by this because the judge on 8/22/17 made clear the warrant would be limited to the "four corners of Wisconsin," clearly a quote Padden did not make up. (Ex. 18).

b. In the Charging documents, the OLCC alleged that this statement by Padden was "knowingly false." This false allegation by the OLCC was defamatory, purposeful, and intentional - and was in fact knowingly falsely asserted against Padden.

c. In support of their allegation that Padden lied when he noted the "four corners" reference to Wiese, the OLCC made reference to a "nationwide warrant" in paragraph 18, page 6, of the Charges document, but they do not mention the 8/22/17 statewide warrant that Judge Kelley signed: "Moreover, the warrant that was issued and that Respondent should have made Sweet aware of it [sic], is clearly nationwide in scope." This allegation was knowingly false and defamatory. (Ex. 28, p. 6).

d. In alleging the "four corners" statement was knowingly false, the OLCC was presumably referring to the 8/22/17 transcript. But this ignored the fact that at times in criminal case hearings, matters of substance can be stated off the record. Experienced litigators – which the OLCC were not – would know this. However, the OLCC knew this but did not care - and was aware of the fact that the existence of the statewide warrant clearly corroborated the "four corners" statement of Padden attributed to Judge Kelley. (Ex. 17). This allegation was knowingly false and defamatory.

e. On 8/22/17, that very same day, Judge Kelley, who Padden quoted as making the "four corners" statement, did in fact sign a statewide warrant. (Id.). The OLCC completely

ignored this fact and treated this warrant as if it did not exist. The conduct by the OLCC to not reference this fact in paragraph 18 was knowing, intentional, and purposeful.

f. All of the allegations made in this Complaint from the Charges document were equally applicable to the Petition. The significant difference between the two was that the first one was sent to a panel illegally for permission to proceed forward with the Petition, not a matter of public record, but the Petition was in fact a matter of public record, and the first time that Padden would have had a claim for defamation pursuant to the defamation concept of publication.[15]

30. The OLCC never amended either charging document to set the record straight regarding their "four corners" allegations in violation of Minnesota ethics rules and their own internal rules. The Charging documents at no time were ever amended even though the OLCC had ample time to do this. Padden's trial was almost exactly one year after the 10/28/22 Charges document was served but not published. (As noted above, publication was not until 12/21/22).

XII. The OLPR Co-Conspirators (OLCC) Add Two Persons to the Green Bay Conspiracy; Brand's Decision to Suborn Perjury; and LaRue's Conduct with Violating the Sequestration Order with Wiese During the PDT

1. As time went on, especially after creation of the Charge documents, and LaRue's preparation of the two Declarations, Brand became more focused on the Padden case, especially with the trial coming up which was originally set for May of 2023.

2. As Brand reviewed the substantive materials, he saw that the Green Bay case was very weak, and he also saw that the Declarations that LaRue had prepared were significantly supportive of Plaintiff's innocence. As such, he brought Humiston into the loop with a strategy plan moving forward. The strategy detailed herein was approved by Director Humiston.

3. The most significant problem was that Sweet had credibility problems. And Wiese's OLPR complaint from day one seemed to be all hearsay.

4. Another significant problem was that it was clear that Padden had given Sweet the PSI between 8/9/17 and 8/19/17, and the notion Padden would lie about a document his client already had was problematic for OLPR. Also, the fact that Sweet could receive something that important and not show it to his wife, which was the case, revealed in essence how he rolled with his wife. In other words, in this marriage, the husband would pick and choose what he would share with his wife, and that was the case with the PSI in this matter. The OLCC members were aware of this, but they pushed it aside, did not consider it, because if they did, their target Padden would be exonerated.

5. Sweet had made the conscious decision to not give his wife the PSI which meant that Sweet had planned all along to utilize the PSI in support of his false excuse for not showing up at the 8/22/17 sentencing hearing. It was reasonably concluded also that Wiese had apparently

[15] This defamation extended into the future including the PDT in 2023.

accepted this lie, and the contention of a supposed second phone call Wiese alleged with Padden had all kinds of problems including the fact that there was no competent corroboration throughout the massive record – in fact, it was otherwise – many chances to corroborate proving that the second call never happened. For example, Wiese and Sweet had the opportunity on at least 18 occasions to provide substantive detail regarding a supposed second call with Padden, but that did not happen. In addition, no second call was mentioned in the Charges document and Petition presumably prepared by LaRue.

6. Brand was motivated like Humiston to destroy Padden's reputation along with paralegal LaRue. The ethical decision at this point should have been to essentially conclude that the Wisconsin authorities were correct when they dismissed the matter years ago and work out an agreement for a relatively mild sanction with Padden's attorney.

7. Padden had already conceded the technical violations of the trust account, and had expressed, through his counsel and otherwise, motivation to come to some sort of reasonable agreement. The evidence was also clear that there was nothing of substance that equated to something serious like theft.

8. Unfortunately, the OLPR co-conspirators went down a different path that involved hiding evidence, suborning perjury, and a blatant violation of a court order for the case by violating the sequestration order.

9. The conduct that they engaged in shocks the conscious and actually involved bringing two persons outside of their agency into the conspiracy, a blatant example of unethical conduct by people who should have known better since their specific job is to be knowledgeable of the Minnesota ethics rules applicable to Minnesota lawyers.

10. The basic strategy was this:

a. Pretend that the Declarations did not exist, and as such, not offer them into evidence since Padden had missed the cutoff date to offer evidence;

b. Convince Sweet and Wiese to enter the conspiracy by dangling a carrot that testifying dishonestly is something that they can get away with and would be needed, amongst other things, to defeat Padden's defamation lawsuit against them. In other words, don't testify consistently with features of their Declarations secured not long before. In addition, Wiese sought six figures in compensation for the counterclaim she asserted in Plaintiff's defamation lawsuit;

c. Elicit testimony in complete contradiction to features of the Declarations their own paralegal prepared (in essence, a definition of suborning perjury) and in contradiction to other evidence on specific details supportive of Padden's defenses. This would involve specifically going over those details with the two witnesses because they had already previously provided some truthful information such as, for example, Wiese's recollection that when Padden called Sweet on 8/21/17, both she and her husband at first were in the hotel room together. As such, there were essentially five or six bullet points that were specific results of suborned perjury by Brand who knew that what he

was doing was unethical and immoral. This also involved the manipulation of two lay people; and

d. The reality of this conduct, i.e., the suborned perjury, would never be disclosed to Padden or his counsel before the Padden trial, and as such, the blatant unethical conduct would not be apparent until right at the time of trial and difficult for any lawyer to prepare for especially with the potential that the Declarations could not be used in any way at the trial itself. These two witnesses never explained at trial why they were now articulating specific statements in direct contradiction to their Declarations secured just 10 months before.

A. Sweet and Wiese Enter the Conspiracy of the OLPR Co-Conspirators

11. The massive amount of detail and evidence to support suborned perjury alone proves that both Sweet and Wiese had become part of the conspiracy. This time frame was after the creation of their Declarations on 12/5/22.

12. Brand had to specifically explain to Sweet and Wiese why they had to give answers at trial that would contradict points that they had made in their respective declarations. As detailed on pages 38-42 herein, Brand had to bring them in to change their recollection on key issues as noted in IX, C, a-d. (See also next Section B of this Complaint).

13. Brand implied with promises that their cooperation, i.e., testifying dishonestly in contradiction to their Declarations would assist them with prevailing in the Padden defamation lawsuit and assist them with securing money on the Wiese counterclaim. (Exhibit 46; strangely, Sweet did not counterclaim in the Padden lawsuit. He provided a separate answer from his wife).

14. In her Answer and Counterclaim to Padden's lawsuit, dated 2/12/23, in the "Counterclaim" section on p. 2, section 6, Wiese (who was pro se at the time) notes:

> The details of how Mr. Padden handled Steven's criminal matter have been extensively investigated by the Lawyers of Professional Responsibility Board and they concluded Mr. Padden committed malpractice and have made their findings public. As such, they have said I can use the findings for this case going forward I am asking for a counterclaim of $100,000. [redacted]

She goes on to allege how she has financial loss, but makes no reference at all, like OLPR, to the Wisconsin exoneration from April of 2020.

B. The Specific Plan for the Suborned Perjury at Trial

15. There were several areas covered in the Declarations and otherwise for which Brand wanted both Sweet and Wiese to change their factual recollection, that is, lie under oath to assist with winning the case, winning equaling disbarment of Padden. They were:

a. Deny that Sweet was in their hotel room when Padden called at 11am on 8/21/17.

b. Allege no knowledge whatsoever about the 8/22/17 Capias warrant (limited to statewide) and that Padden never advised about it. This included both Brand and LaRue not even showing it to them in meetings or in some other way like email. The plan was to literally treat it as if it did not exist – which was the same plan for the 4/2/20 Wisconsin exoneration letter.

c. Contend that there was never a plea deal for six months or even four months. Rather, contend that it was 60 to 90 days or 60 days consistent with the recommendation of the probation agent from the August, 2017 PSI. This was a way to further embrace the PSI which both lied about.

d. Elicit testimony that there was a second phone call with Padden on 8/21/17 (another lie) even though there was no viable corroboration for same at any time before or during the OLPR investigation.

C. The Detail as to How Brand Executed the Suborned Perjury with the Two Witnesses During the Padden Trial

a. Sweet's Location for the Padden Call at 11:00am on 8/21/17

16. Brand perceived that this was a significant factual issue – and it was. If Sweet left the room so his wife could not hear the call of her husband with Padden, that was a significant fact that alone proved Plaintiff's innocence.

17. There was no gray area on this issue from the LaRue-secured Wiese Declaration of 12/5/22:

> • On August 21, 2017, we were in the Days Inn hotel room. At about 11:00 am, Steven received a telephone call from Mr. Padden. Steven went outside of the hotel area to take the call. When Steven returned to the room . . . (Ex. 9 at p. 3, para. 13).

18. These questions were asked of Sweet by Brand on 10/24/23 during the PDT regarding the 8/21/17 call from Padden:

> Q. Where were you when you accepted this call from Mr. Padden?
> A. I was **outside** of the hotel on the phone. [Emphasis Added].
> Q. Were you in the presence of your wife?
> A. I was not. My wife was in the – in the hotel. [redacted]

Sweet repeats the lie in response to questions from Padden on p. 210.

19. Brand had coached the Sweet to give these answers, and Brand knew these answers were in contradiction of the truth. Brand also knew the answers were a significant fact and the complete opposite of the detail his paralegal had secured from the wife of the witness he was questioning which became part of her Declaration. The wife also was the only person who initiated the OLPR complaint process. Brand suborned perjury on this issue.

b. 10/24/23 Testimony a Result of Suborned Perjury for the Offer of the State to Sweet before 6/13/17 and the Plea Sweet Entered into on That Date

20. LaRue, during the course of the investigation, developed a fixation for the probation agent's suggested offer from the 8/7/17 PSI. She thought this was smoking gun evidence in OLPR's case against Padden. This led strangely to suborned perjury regarding the offer Sweet received in May of 2017 and his ultimate plea on 6/13/17. The contradictions with the Declarations LaRue secured and the trial testimony of both consisted of one under-oath lie after another by Sweet/Wiese coached by Brand and LaRue, primarily a result of Brand's act of suborning perjury.

21. LaRue and Brand's goal evolved into: Get Sweet and Wiese to testify that the State's offer was the same as what was suggested for sanction in the PSI versus what was reality – the actual offers before 6/13/17 and what Sweet actually pled to. This unethical strategy was strange in light of the massive record in support otherwise – but they were emboldened by their strategy decision not to offer the Wiese and Sweet Declarations into evidence for the Padden trial – and many other factors including that Padden did not offer a witness list, Padden assumed that all evidence OLPR produced in the discovery phase would become trial evidence.

22. On 4/26/17, via email to Padden, Kerrigan-Mares first made the State's offer of six months jail with two years probation known. With all considered, this was a great start for Sweet considering the aggravating factors for his Green Bay crimes, his making no viable attempts prior to pay the victim back, his criminal conduct before and after 2013, and the fact that he was looking at the real possibility of 6-9 years imprisonment if he rolled the dice and went to trial. (Exhibit 25).

23. There was no gray area: The offer on 6/8/17 was: "6 months jail or stipulate to 4 months jail with restitution." (Exhibits 4 and 5).

24. Then, five days later, the deal was consummated before Judge Kelley as confirmed with the Plea Questionnaire (Exhibit 7) and the 6/13/17 transcript of the plea hearing – which then set sentencing for 8/22/17. (Exhibit 6). Sweet pled to four months with restitution. (Lasee confirmed this when he testified during the Padden trial. Also, Sweet signed the Plea Questionnaire – Ex. 9).

25. When Sweet came back from Green Bay, he correctly told his wife what happened which is documented in three places in her Declaration. (Exhibit 3). The essence of his comments was that he would be going away for six months jail but with the potential for work release and incarceration in Minnesota closer to his family. Wiese dutifully noted this. In reality, however, if Sweet paid restitution, he could serve as little as four months.

– unethically coached by Brand:

- . . . we were trying to arrange an offer. But it was 30-90 days or possibly no jail time. (Source #4, p. 176, question from Brand).

- Brand then asks why Sweet decided not to attend. The answer does not mention Padden. "I guess I was afraid for the loss of my – not being able to see my son . . .

I would be sitting for a while. Longer than my 30-90 days." (Exhibit 49). The fact Sweet did not blame Padden here is evidence of the smoking-gun variety.

- I would have sat the 30-90 days. (p. 179).

- At page 191 of the trial transcript, the cross by Padden begins. There was follow up on the above answer: Sweet confirms he would not have served six months, then blurts out: "I was never offered even six months. It was 30 to 90 days." (Exhibit 50).

- On page 193, Sweet notes that Padden never told him Wisconsin sought six months of jail. In light of the documentary record and the Declarations, Sweet lied. (Exhibit 51).

- Sweet denies telling Padden he would not go to jail for six months which contradicts what he said at page 191. [redacted]

- He then again blurts out at page 211: "I was actually informed of the 30 to 90 days at most. There was never no six months."

- Then at p. 212, Sweet now says: "I said I would do 180 days." Sweet obviously was now aware of the problem his earlier answer was creating in terms of helping Padden. He then says: "But I was only promised 30 to 90 days. So I don't even know where six months would have even came into this." In response to a Padden question at line 18:

> Q. And are you saying that I [Padden] didn't tell you that?
> A. Correct. [redacted]

29. The answers Sweet gave on these issues were lies, Brand knew they were lies, and that they were in direct contradiction to the Declaration of 12/5/22 for this witness secured by Brand's own paralegal, LaRue, and Brand therefore suborned perjury.

30. It was the same for Wiese. Before 10/24/23, Wiese was clear that her husband would serve six months starting on 8/22/17, and she noted this in three separate places in her 12/5/22 Declaration. Her testimony at the Padden trial, like her husband, was a different story. Her points in her Declaration about the six months were hearsay from the mouth of her husband.

31. With her suborned perjury, the desire of Wiese, with Brand's assistance, was to change the salient details of her Declaration, that is, lie, to match the offer for her husband in 2017 – and then the final plea with the recommendation of the probation agent - with the 8/7/17 PSI. The goal here was to do the same thing her husband did, and ultimately destroy Padden's reputation, to assist, in her mind with defeating the Padden defamation case and potentially make six figures in the counterclaim.

32. Her testimony proceeded as follows:

- The plea agreement was 60 days in jail with two years probation. (Source: #4 – p. 242).[redacted]

- The original agreement was that he would only have the felony on his record for two years after he served 60 days in jail, and then it would be dropped to a gross misdemeanor.[redacted]

33. The notion Sweet's three felony pleas would revert to a gross misdemeanor was something she just made up. That was never offered or even possible and never documented anywhere. (Exhibit 5).

34. As a reminder, to show how clear the testimony on pages 242 and 268 was suborned, Wiese said this just ten months before in her Declaration – prepared by Brand and Humiston's paralegal:

- In May, 2017, I received an email from Mr. Padden which confirmed the offer of six months. (Ex[redacted]9[redacted]).

- When Steven returned from the June, 2017 plea hearing, he said he was offered "no more than six months in jail and two-years of probation." (Exhibit 9).

- Our baby was just months old, and we figured the baby would not know the difference without Steven gone for six months. (Exhibit 9).

- After being extradited to Wisconsin, Steven was sentenced to three years in prison, which was significantly longer than the six months . . . he faced in 2017. (Exhibit 25).

35. The clear truthful statements about these matters in the Wiese Declaration additionally prove Sweet's dishonesty at trial, the two assisted by the unethical conduct of Brand, approved by Humiston, with the probable hands-on assistance of their paralegal, LaRue.

c. Suborned Perjury for the 8/22/17 Capias Warrant

36. Both Sweet and Wiese testified that neither Brand nor LaRue ever showed them the 8/22/17 Capias warrant. Both claimed no knowledge of it whatsoever during the Padden trial. This fact alone reveals the culpability of the OLCC.

37. Wiese's LaRue-secured Declaration of 12/5/22 contained this language:

- Mr. Padden told us that he appeared at the August 22, 2017 hearing and that the judge had issued a bench warrant for Steven's arrest, but that the warrant was only statewide and limited to Wisconsin. (Exhibit 9).

38. The salient details of Wiese's testimony on 10/24/23, testimony a result of suborned perjury by Brand who knew the answers were false, are as follows:

> Q. [By Brand] Did Mr. Padden ever discuss with you a warrant issued for Mr. Sweet?
> A. No. In fact, I notified Mr. Padden the day Steven – or the next day, I believe, that Steven was taken into custody. (Exhibit 57).
> Q. [By Padden] Okay. now, it sounds like one of the reasons you are upset is because you think I scammed your husband when I told him that the warrant was limited to Wisconsin, correct?
> A. Yes.
> Q. Have you ever seen a document entitled arrest bench warrant capias?
> A. No. (Exhibit 58).

39. The witness was then shown the Capias warrant by Padden during cross. She acknowledges the statewide restriction that is xed. (Exhibit 15). She then admits that neither Brand nor LaRue had ever shown her the Capias document, perhaps the most important document to prove Padden's innocence - and the document that corroborated Padden's contention that Judge Kelley said on 8/22/17 (off the record) that he was limiting the warrant to the "four corners of Wisconsin." LaRue and Brand strangely treated the Capias warrant as if it did not exist. To tell Wiese it existed would have been the equivalent of saying to Wiese: "Sweet lied to you all along."

40. On this issue, Brand had again suborned perjury.

41. Padden did tell Sweet what would happen if he failed to appear for court on 8/22/17 – there would be a bench warrant, another salient detail that proved Padden's innocence. (Source: #4, p. 182). And also, this additional fact was truthfully noted in the Sweet Declaration of 12/5/22, prepared by LaRue:

> Later, Mr. Padden told me that he had appeared for the hearing on August 22, 2017, by telephone. Mr. Padden told me that the judge had issued a bench warrant but that the bench warrant was only statewide and limited to Wisconsin. (Exhibit 10, p. 4, para. 10).

It was almost as if LaRue put this in the Declaration implying that it was not true. It was true, but as part of the conspiracy, neither Brand nor LaRue showed the Capias warrant to Sweet – which was true also for Wiese. (Source: #4, p. 223).

42. Although subornation of perjury was occurring with the cooperation of Sweet and Wiese, it was clear Brand and LaRue were additionally manipulating them recognizing their low I.Q. – at least when it came to legal matters. But it got even worse when it came to the plea Sweet entered into on 6/13/17 – and the offers before that.

43. The OLCC did not care about the truth or justice, and Brand had coached witness Wiese to give these answers. He also knew they were important and vital to Padden's defense, that Padden was innocent of the Green Bay Sweet ethics allegations, and these answers and others were

in contradiction to the truth, the truth secured by his own paralegal! Brand's conduct fit squarely into a classic definition of suborning perjury. He did it but not well in terms of hiding it.

d. The OLCC Create a Second Phone Call on 8/21/17 in an Attempt to Perpetrate the Conspiracy

44. Perhaps of all of the unethical acts, the most egregious was the plan with Sweet and Wiese to create a second phone call out-of-whole-cloth on 8/21/17. This has already been addressed with the bogus "speakerphone" testimony that Wiese gave regarding the initiation of this alleged second call. [redacted]

45. Exhibit 16 is a list of opportunities that Wiese and Sweet would have had to detail the second call if it really occurred. This is a time frame from 2/8/20 to 2/14/23 over three years - and nothing. Certainly, a second call with Padden including Sweet and/or Wiese after Padden's first call with Sweet would be incredibly important and a detail that would not be missed. It was not noted by the OLCC repeatedly because it never happened. It was made up before the trial to help achieve the conspiracy goals.

46. But LaRue who created the Declaration supposedly a document that listed all of the important facts, did not note it with either the Sweet or Wiese Declaration. Why? It never happened.

47. When Brand elicited testimony about the second call, he knew it was not true, and as such, he suborned perjury.

XIII. LARUE VIOLATED THE SEQUESTRATION ORDER BY ILLEGALLY COMMUNICATING WITH WIESE DURING THE TESTIMONY OF HER HUSBAND, SWEET

1. The OLCC were emboldened for numerous reasons as detailed throughout this pleading which perhaps explains why LaRue had no fear with engaging in the blatantly unethical illegal conduct of violating the sequestration order applicable to the Padden trial. This occurred during the testimony of Sweet when LaRue illegally communicated with Wiese who would be the next witness right after her husband on 10/24/23. This occurred on 10/24/23. LaRue simply thought that she could get away with it, but she did not.

2. It is unlikely that Brand as lead trial counsel was even aware of this because it happened so quickly. Had Brand been aware, he would have elicited the relevant testimony from Wiese on direct which would have revealed his involvement. He did not.

3. The Padden trial began on 10/24/23 after relatively short testimony from Padden called by Brand as his first witness. Brand then called Sweet as his first complainant/non-party witness which was not surprising since Sweet/Wiese was the most important part of OLPR's disciplinary case against Padden.

4. The EH transcript specifically notes LaRue's presence on page 2: "ALSO PRESENT: Patricia LaRue, Paralegal." (Source: #4, p.2). Sweet's testimony began on p. 173, Volume I, of the trial transcript.

5. During Sweet's testimony, the important issue of where Sweet was positioned physically in the hotel when Padden called him on 8/21/17 was addressed. Padden asked Sweet why he left the hotel room when the call came in, i.e., why didn't he use the speakerphone feature of his phone so that his wife Wiese could hear both sides of the call right in their hotel room.[16]

> Q. Why didn't you have the conversation with me and her [Wiese] presence and put it on speakerphone so she could hear what I was saying?
>
> A. I guess that could have happened.
>
> Q. And you had that feature on your phone, correct?
>
> A. Yes. (Source: #4, p. 213).

6. Sweet's weak response was picked up by LaRue. Padden had not even planned to ask that question. He just blurted it out. In the entire massive record of the case, this was the first time "speakerphone" had been uttered by anyone, and it was not present anywhere in the over 5,100 documents generated by OLPR in the massive record for the PDC. Certainly, neither Sweet nor Wiese had ever used the word, and neither did Sweet at that time when he testified on their first day of trial through 66 pages in the transcript of the Padden trial.

7. Pursuant to a sequestration order for the trial, issued by Referee Perkins, a witness like Wiese could not be present in the courtroom when her husband Sweet testified. And she was not. However, it would equally be improper for her to be privy to his testimony by some other means even if she was not in the courtroom. The transcript correctly reflects that as soon as Sweet was done testifying, Wiese came right to the stand from outside the courtroom and was sworn. (Source: #4, pp. 239-240). This was in fact accurate. There was clearly no chance for Wiese to meet anyone who was present in the courtroom when her husband testified before she took the stand. Whether this development, the timing, was orchestrated is unknown, but considering all the other sleazy, unethical acts of the OLCC, it is probable.

8. With today's technology, it is easy to get around a sequestration order. No attempt was made to ensure that anyone on the OLPR team did not have a cell phone on their person when Sweet testified. Certainly, Padden did not think that OLPR personnel were that devious at that time. Based on the testimony that evolved with Wiese, namely, the "speakerphone" references in her testimony, it was clear that LaRue had tipped her off. This was easily accomplished with illegal texting.

9. Wiese's testimony began on p. 240 of the transcript. (Source: #4, p. 240). Her direct was relatively short – only 12 pages of transcript. The hotly contested issue of the alleged second phone call, which Padden claims never happened, was addressed by Brand on direct. Wiese never uttered the word "speakerphone" on direct.

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[16] Wiese made clear in her Declaration, and she did not deviate, that Sweet was in the hotel room when the Padden's call came in, and that he, Sweet, then left, before any substance of the call began.

10. Wiese's first description regarding her claim of a second call with Padden was that she initiated it. No reference is made to a speakerphone feature as relevant to that call:

> Q. [Brand] So you called Mr. Padden back after Steven gave you the information?
>
> A. Uh-huh. (Source: #4, p. 243).

11. Wiese provided the important admission that Sweet was inside the hotel room at 11 am when Sweet got the first call from Padden and then left – also confirmed in her unsigned Declaration. (Source: #4, p. 260; and Exhibit 4). She then gives a second description of how the alleged second call was initiated completely contradicting her first contention noted on p. 243.

12. Then for the first time she laughably mentions on cross the word "speakerphone" which was just planted in her head by a LaRue text while Sweet testified. On the cross examination, Padden asks:

> Q. Okay. So that's how it played out was when Steven left the room, talked to me, and then came back and told you something, correct?
>
> A. And then there is more though.
>
> Q. We will get to that. We will get to that. But is that something you have alleged as a defense in my lawsuit against you, that you had a phone call with me?
>
> A. After he came back in and told me, I didn't understand that advice. I didn't – I didn't quite believe it either. So he called you on speakerphone, and I talked to you through speakerphone, and you explained everything to me that you had explained to him.
>
> Q. Ma'am, that phone call never happened, did it?
>
> A. Yes, it did. Absolutely it did. (Source: #4, pp. 260-261).

This "speakerphone" reference on p. 261 was the first time in the history of the case that Wiese or Sweet had used that word even failing to use it in response to questions from Brand on direct. LaRue had tipped Wiese off clearly via text while Wiese was outside of the courtroom.

13. Wiese then uses the word six more additional times at pages 263, 270, 279, 280, and 304 of her testimony. (Source: #4). Brand picked up on this and covered it in re-direct.

14. Perhaps flustered by the fact that she was constantly committing perjury and had just blown LaRue's cover, a person with whom she was on a first-name basis and had become a friend, Wiese proceeded to give more contradictory descriptions on how the second call was initiated.

> p. 263: Wiese then gives a description which contradicts the first two on pages 243 and 260. She now says she initiated the call but now on speakerphone contradicting her answer just three pages earlier when she testified her husband initiated the call – on speakerphone:
>
> A. And then I called you. I talked to you on speakerphone. (Source: #4, p. 263).

p. 279: She then goes back to her husband Sweet initiating the call – 16 pages later. This testimony, all over the map, makes one think of a yo-yo.

> A. So I began to argue with Steven, and that's when he [Sweet] called Mr. Padden with his phone on speakerphone and told him, my wife is here. Can you please tell my wife exactly what you told me . . . (Source: #4, pp. 279-280).

15. Wiese's four separate descriptions of the supposed initiation of this second alleged call – which never happened – is supportive of the old adage: When you are not telling the truth, it is difficult to keep your facts straight. Like her husband, Wiese was a consistent liar. But this problem was exacerbated by the manipulation by two lawyers and a paralegal who was as corrupt as her supervising lawyers.

16. Considering the OLCC's abuse of Padden's rights, it is no surprise that LaRue would engage in conduct like this. It is unclear if Humiston, whose stock in trade also was to destroy Padden's career, even knew about this, but LaRue's conduct for which Wiese is also culpable, was committed within the scope and course of LaRue's employment with OLPR. Amongst other things, it confirmed Wiese's full-blown membership into the OLCC conspiracy. And Brand, when he asked these questions, knew that the answers of Wiese were not true.

XV. CAUSES OF ACTION

1. Defamation and Defamation Per Se

1. Plaintiff realleges and incorporates by reference all of the facts and allegations contained in the above paragraphs of this complaint.

2. Plaintiff claims damages for pain and suffering, emotional distress, mental anguish, and loss of enjoyment of life. Loss of earnings not claimed.

3. Compensatory damages are claimed in excess of $50,000.00.

2. Intentional Infliction of Emotional Distress

1. Plaintiff realleges and incorporates by reference all of the facts and allegations contained in the above paragraphs of this complaint.

2. Same as 1(2) above. Plus damages for mediation and therapy bills.

3. Same as 1(3) above.

3. Violation of Due Process

1. Plaintiff realleges and incorporates by reference all of the facts and allegations contained in the above paragraphs of this complaint.

2. Plaintiff claims emotional distress and punitive damages.

3. Same as 1(3) above.

WHEREFORE, Plaintiff pray for judgment against Defendants as follows:

1. For an award of damages in favor of Plaintiff against Defendants in an amount greater than $50,000.00 for the damages noted herein;

2. For attorney's fees, the costs of litigating this matter, and interest; and

3. For such other and further relief as the Court may deem just and equitable.

Dated: December 29, 2025

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AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON ETHICS AND PROFESSIONAL RESPONSIBILITY

Formal Opinion 519 **December 3, 2025**

Disclosure of Information Relating to the Representation in a Motion to Withdraw From a Representation

When moving to withdraw from a representation, a lawyer's disclosure to the tribunal is limited by the duty of confidentiality established by Rule 1.6(a) of the ABA Model Rules of Professional Conduct. Unless an explicit exception to the duty of confidentiality applies or the client provides informed consent, the lawyer may not reveal "information relating to the representation" in support of a withdrawal motion. Disclosure of information relating to the representation is not "impliedly authorized in order to carry out the representation" under Rule 1.6(a) or otherwise impliedly authorized even when Rule 1.16(a) requires the lawyer to seek to withdraw. If disclosure is permitted by an exception to the duty of confidentiality, such as when disclosure is required by a court order, it must be strictly limited to the extent reasonably necessary and, whenever possible, made through measures that protect confidentiality such as by making submissions in camera or under seal.

The Model Rules require that any disclosure in support of withdrawal be narrowly tailored, protective of the client's interests, and undertaken only within the scope of an applicable exception. When the client does not give informed consent to disclosing information relating to the representation in support of a motion to withdraw, and there is no applicable exception to the duty of confidentiality, lawyers should proceed in stages: begin with a motion citing only "professional considerations" or employing similar language to justify the motion; if the court seeks further information, assert all non-frivolous claims for maintaining confidentiality consistent with Rule 1.6(a); and, if ordered to disclose additional information relating to the representation, do so in the narrowest possible manner. Ultimately, the lawyer's paramount duty is to preserve client confidentiality, even at the risk that the tribunal may deny the motion to withdraw.

Introduction

ABA Model Rule of Professional Conduct 1.16 addresses a lawyer's termination of a representation, which may be either mandatory or permissive. Rule 1.16(a), which *requires* a lawyer to end the representation in prescribed circumstances, provides as follows:

> (a) A lawyer shall inquire into and assess the facts and circumstances of each representation to determine whether the lawyer may accept or continue the representation. Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:
>
> (1) the representation will result in violation of the Rules of Professional Conduct or other law;

(2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client;

(3) the lawyer is discharged; or

(4) the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud, despite the lawyer's discussion pursuant to Rules 1.2(d) and 1.4(a)(5) regarding the limitations on the lawyer assisting with the proposed conduct.

Rule 1.16(b), which sets forth grounds on which a lawyer is *permitted* to withdraw, provides as follows:

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer's services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

Under Rule 1.16(c), a lawyer representing a client before a tribunal must follow applicable law requiring notice to and permission of the tribunal before terminating a representation. Rule 1.16(c) provides: "A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation." If the court denies permission to withdraw and requires the lawyer to continue the representation, the lawyer must do so.[1]

[1] *See* MODEL RULES OF PROF'L CONDUCT R. 1.16(c); *see also* Hawkins v. Comm'n for Lawyer Discipline, 988 S.W.2d 927 (Tex. App. 1999) (affirming judgment that lawyer violated professional conduct rules where, though ordered to continue appointed representation, lawyer told client that representation had ceased and refused to advise

This Opinion addresses whether and what a lawyer may disclose in a motion seeking to withdraw from representation, either as permitted or required by Rule 1.16. The Committee concludes that a lawyer may disclose information relating to the representation only if the client gives informed consent, or the court orders the lawyer to do so, or the lawyer is required to do so by court rules or other applicable law, or there is an applicable exception to the duty of confidentiality.

Courts Differ in How They Address Withdrawal Motions

In some situations, a court may grant a lawyer's motion to withdraw from a representation when only the barest facts are presented, particularly when the client consents to the motion or when another lawyer is available to substitute as counsel in a timely fashion. In other situations, however, the court will not grant the motion unless it is satisfied that there is a justification, or perhaps even a compelling basis, for the lawyer to withdraw. In that event, the court may expect the lawyer to explain the basis for the withdrawal motion and perhaps to do so in significant detail.

Given the breadth of the information protected by Rule 1.6(a), it is difficult, and often impossible, for a lawyer to explain the basis for seeking to withdraw without disclosing some "information relating to the representation." As ABA Formal Ethics Opinion 511R (2024) observed, "Rule 1.6 protects 'all information relating to the representation, whatever its source' and is not limited to communications protected by attorney-client privilege."[2]

Rule 1.6 applies to the disclosure of confidential information to the court no less than to others outside the client-lawyer relationship. Consequently, for some matters, merely citing a relevant provision of Rule 1.16(a) may constitute an implicit disclosure of "information relating to the representation." Providing a fuller explanation will result in an explicit and more extensive disclosure and may be harmful to the client.

A client's consent to the lawyer's withdrawal motion may obviate the need to explain the basis for the motion. Further, a client may give "informed consent" to disclosures that the lawyer deems necessary to make in support of a withdrawal motion.[3]

A review of judicial decisions indicates that courts take differing positions with respect to how much information a lawyer must provide in a motion to withdraw. In some cases, courts appear to expect lawyers to explain the grounds for moving to withdraw. Some courts have authorized lawyers to submit information relating to the representation *in camera* or under seal to the extent necessary to support a withdrawal motion.[4]

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or act for client); Harris v. State, 224 So. 3d 76 (Miss. 2017) (finding appointed counsel guilty of direct criminal contempt by refusing to continue representation after court denied motion to withdraw).

[2] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 511R, at 2 (2024).

[3] The Model Rules define "informed consent" as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." MODEL RULES OF PROF'L CONDUCT R. 1.0(e).

[4] *See, e.g.*, Weinberger v. Provident Life & Cas. Ins. Co., 1998 WL 898309 (S.D.N.Y. Dec. 23, 1998) ("[I]t is appropriate for a Court considering a counsel's motion to withdraw to consider in camera submissions in order to prevent a party from being prejudiced by the application of counsel to withdraw."); *State v. Kent*, 2014 Del. Super. 558, at *10 (Del. Super. Dec. 3, 2014) ("[S]ome evidence of *confidential information* must be provided in support of a motion to withdraw on the basis of a conflict of interest.").

In some cases, courts have accepted lawyers' extensive disclosures without reference to the lawyer's duty of confidentiality. For example, in *Whiting v. Lacara*, 187 F.3d 317 (2d Cir. 1999), the plaintiff's lawyer supported a withdrawal motion, on discretionary grounds, with an affidavit asserting that his client failed to follow legal advice, was not focused on his legal rights, demanded publicity contrary to the lawyer's advice, failed to keep adequate contact with the lawyer's office, was not thinking sufficiently clearly to assist at trial, insisted that the lawyer argue collateral issues and a claim that the court had dismissed, demanded that the lawyer serve a Rule 68 Offer of Judgement on the defendants, and had entered the lawyer's office and, without permission, riffled through his inbox, and refused to leave. The lawyer offered to provide further information to the court *in camera*. *Id.* at 319. The court of appeals found the lawyer's withdrawal was justified without considering whether the lawyer's disclosure was impermissible or excessive.

In other cases, courts have disciplined lawyers for volunteering information protected by Rule 1.6 in a withdrawal motion.[5] Many courts agree that, to the extent a lawyer may disclose confidential information in support of a motion to withdraw, the lawyer may not make unnecessary, or unnecessarily broad, disclosures. Disclosures violate Rule 1.6 when there is no need for them or when they are broader than needed for them. *See, e.g., People v. Waters*, 483 P.3d 753, 761 (Colo. 2019). Additionally, courts have found that, while a lawyer may submit information relating to the representation *in camera* for the court's consideration, the lawyer may not publicly file the information.[6]

State ethics opinions that have addressed the issue have advised lawyers not to voluntarily provide information protected by Rule 1.6 for the purpose of establishing a justification for terminating a representation. Some opinions take the view that lawyers may provide only the barest facts, unless a court orders greater disclosure. Even then, lawyers must assert the lawyer's duty of confidentiality and all applicable privileges, including the attorney-client privilege, insofar as applicable. An ethics opinion of the New York State Bar Association concluded that a lawyer moving to withdraw may not disclose information protected by New York's version of Rule 1.6 unless the client consents or the court directs the lawyer to do so. NYSBA Ethics Op. 1057 (June 5, 2015). Likewise, an ethics opinion of the State Bar of California concluded that, although a lawyer may begin by reciting general language in support of a withdrawal motion and, if pressed, "provide additional background information," a lawyer "may not disclose confidential communications or other confidential information – either in open court or even in camera." CA Formal Op. 2015-192. [7]

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[5] *See, e.g.*, *In re* Gonzalez, 773 A.2d at 1030 (D.C. App. 2001) (lawyer disciplined for alleging in publicly filed motion to withdraw that the client lied to the lawyer, missed appointments, and failed to provide requested information); Law. Disciplinary Bd. v. Farber, 488 S.E.2d 460, 463 (W. Va. 1997) (lawyer disciplined for stating in the motion to withdraw that the client had told "a flat-out-lie" and that the client had stated that a jury would have found him guilty if he went to trial).

[6] *See, e.g.*, *In re* Gonzalez, 773 A.2d at 1026. While *in camera* submission is a mechanism a lawyer may pursue after a court has ordered disclosure of confidential information as a means of limiting the scope of the disclosure, *see* pages 10-11, *in camera* submission of confidential information in an initial motion to withdraw may not be appropriate. *See, e.g.*, Johnson v. Board of Prof'l Resp., No. M2024-00452-SC-R3-BP (Tenn. Sup. Ct., Sept. 19, 2025) slip op. at 10 ("disclosure of confidential information to a judge is still disclosure of confidential information").

[7] It is important to note, however, that New York's rule, based on Disciplinary Rule 4-101 of the ABA Code of Professional Responsibility, does not protect non-privileged information relating to the representation unless its disclosure is likely to be embarrassing or detrimental to the client or the client has requested it be kept confidential.

Neither Rule 1.6 nor Rule 1.16 Implicitly Authorizes the Disclosure of Information Relating to the Representation in Support of a Motion to Withdraw

Rule 1.6 governs the extent to which a lawyer may provide information in support of a motion to withdraw from a representation. Rule 1.6(a) provides that, absent an applicable exception, "[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent [or] the disclosure is impliedly authorized in order to carry out the representation." Neither Rule 1.6 nor Rule 1.16 specifically authorizes a lawyer to provide information relating to the representation in support of the lawyer's motion to withdraw, even when withdrawal may be mandatory under Rule 1.16(a). Nor does either Rule establish an implicit exception to the duty of confidentiality.

The Committee recognizes that on some occasions when the duty of confidentiality limits the lawyer's ability to fully justify a withdrawal motion, the tribunal will not be satisfied that the motion is adequately justified and will deny the motion even when seeking to withdraw is mandatory under Rule 1.16(a). However, the drafters of the Model Rules recognized and accepted this possibility in light of the paramount importance of the duty of confidentiality. Comment [3] to Rule 1.16 alludes to this possibility:

> Difficulty may be encountered if withdrawal is based on the client's demand that the lawyer engage in unprofessional conduct. The court may request an explanation for the withdrawal, while the lawyer may be bound to keep confidential the facts that would constitute such an explanation. The lawyer's statement that professional considerations require termination of the representation ordinarily should be accepted as sufficient.

Disclosure of confidential information in support of the lawyer's motion to terminate the representation is not "impliedly authorized [by the client] in order to carry out the representation" under Rule 1.6(a), since the purpose is not to carry out the representation but to end it. Nor does Model Rule 1.16 implicitly authorize lawyers to disclose confidential information to justify or explain a withdrawal motion. Implicit exceptions to the duty of confidentiality are rare. In ABA Formal Ethics Opinion 515, the Committee recently recognized one such implicit exception permitting the disclosure of some information relating to the representation when the lawyer is the victim of a crime by a client. We explained that the Model Rules are rules of reason and "[w]hat makes applying Rule 1.6(a) unreasonable here is that doing so serves no good purpose *and* would cause affirmative harm that seemingly was not contemplated by the Rule drafters, who, as far as we are aware, did not specifically consider the problem of clients' crimes against their lawyers."[8] In contrast, the drafters specifically considered the tension between the confidentiality obligation and Rule 1.16(c) and opted not to carve out an exception to the duty of confidentiality whenever lawyers seek the court's permission to withdraw.

Therefore, in many cases, a lawyer can provide some information relating to the representation that is not regarded as confidential to justify a motion to withdraw, unlike in jurisdictions subject to Model Rule 1.6, which defines protected information more broadly. California's Rule 1.6 (and former CA Rule 3-100, in effect at the time of the opinion) is also different from the Model Rule and has no explicit exception for court- ordered disclosure.

[8] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 515, at 7 (2025).

Therefore, we conclude that the lawyer's duty to maintain the confidentiality of information relating to the representation remains paramount absent the client's informed consent or an applicable provision of the Model Rules that permits or requires disclosure of confidential information. The duty of confidentiality under Rule 1.6 limits the lawyer's ability to disclose facts about a client to the court,[9] even *ex parte*.

Practically speaking, a lawyer will rarely be in a situation where the lawyer is irreparably caught between violating Rule 1.6's confidentiality requirements and Rule 1.16's mandatory withdrawal requirement. As discussed below, there are a sufficient number of intervening steps and remedies which can be taken to avoid the worst-case scenario of being required to remain in a representation that violates Rule 1.16(a). The existence of these options justifies the drafters' decision not to dilute our fundamental confidentiality requirement with an exception in this situation.

We now turn to what information the lawyer may provide and how to approach the motion to withdraw in a way designed to accomplish its goal without running afoul of Rule 1.6.

A Lawyer May Support the Motion with Personal Information that is Not Related to the Representation

In some situations, a lawyer may adequately justify a motion to withdraw from the representation by providing information that is not protected by Rule 1.6 because it is not related to the representation. For example, when a lawyer seeks to withdraw because "the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client,"[10] the lawyer can ordinarily provide a fulsome explanation without revealing information protected by Rule 1.6. For example, a lawyer could move to withdraw, citing Rule 1.16(a)(2) and noting that the lawyer just suffered a heart attack or that the lawyer is otherwise unable to effectively represent the client. Motions to withdraw premised on the lawyer's own material impairment can reveal whatever information the lawyer wishes so long as it pertains to the lawyer and not to the representation of the client.

A Lawyer May Secure the Client's Informed Consent to Disclosures

In other situations, a client will give "informed consent" to the lawyer's disclosure of information needed to adequately explain the lawyer's motion. For example, when a lawyer is required to withdraw under Rule 1.16(a)(3), the client will ordinarily authorize the lawyer to disclose the basis of the motion – that the client discharged the lawyer. In other situations, it will also be in the client's interest for the lawyer to disclose limited information in a careful manner to avoid the risk the court will order fuller and more prejudicial disclosure.

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[9] *See*, *e.g.*, ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 511R (2024) (addressing the confidentiality obligations of lawyers posting to Listservs®); ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 480 (2018) (addressing the confidentiality obligations of lawyers blogging and providing other public commentary).

[10] MODEL RULES OF PROF'L CONDUCT R. 1.16(a)(2).

In Some Circumstances, an Exception to the Duty of Confidentiality Will Apply

In some situations where the lawyer moves to withdraw, an exception to the duty of confidentiality will apply. Rule 1.6(b) is among the provisions of the Model Rules that set forth exceptions. It allows a lawyer to reveal information relating to the representation of client "to the extent the lawyer reasonably believes necessary":

> (1) to prevent reasonably certain death or substantial bodily harm;
>
> (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
>
> (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
>
> (4) to secure legal advice about the lawyer's compliance with these Rules;
>
> (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
>
> (6) to comply with other law or a court order; or
>
> (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

An exception that applies in recurring situations is set forth in Rule 1.6(b)(6), which provides that "[a] lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary . . . to comply with other law or a court order." A lawyer may reveal information relating to the representation in support of a withdrawal motion if the judge, seeking more information to decide the motion, orders the lawyer to make further disclosure. If the court so orders, Rule 1.6(b)(6) expressly permits the lawyer to disclose the information, but only to the extent reasonably necessary.[11] In some situations, disclosure may also be required by court rules or other applicable law.[12]

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[11] *Cf.* Cal. Formal Op. 2015-192 ("an attorney indeed must exhaust all reasonable efforts before concluding that the only options remaining are disclosing confidential information or disobeying a court order").

[12] *See* note 17 and accompanying text.

ABA Formal Ethics Opinion 476 recognized another exception that applies in a discrete situation. When a lawyer moves to withdraw for nonpayment of the lawyer's fees as permitted by Rule 1.6(b)(5), the lawyer may disclose information relating to the representation to the extent reasonably necessary to obtain the tribunal's permission to terminate the representation based on nonpayment.[13] Opinion 476 explained that when judges rule on motions to withdraw for nonpayment of legal fees, they sometimes expect lawyers to explain the basis for the motion. Judicial decisions recite detailed information provided by moving lawyers about the money owed, the legal services performed, and other related facts. The decisions cited by Opinion 476 demonstrate "that these courts found such details pertinent to their assessment of the motions."[14] The Opinion, however, was limited to the specific circumstance in which "a judge has sought additional information in support of a motion to withdraw for failure to pay fees." The Opinion explained that "Rule 1.6(b)(5) authorizes the lawyer to disclose information regarding the representation of the client that is limited to the extent reasonably necessary to respond to the court's inquiry and in support of that motion to withdraw."

Three other Rules, Rules 3.3, 1.13 and 1.14, expressly permit or require disclosure of information relating to the representation and may conceivably permit disclosures in support of a withdrawal motion in specific circumstances. Rule 3.3(a) provides: "If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal." Rule 1.13(c)(2) permits a lawyer representing an organization to reveal information relating to the representation if the organization's highest authority fails to address an act, or refusal to act, that is clearly a violation of law that the lawyer reasonably believes is reasonably certain to cause substantial injury to the organization "whether or not Rule 1.6 permits such disclosure, but only if and to the extent" the lawyer reasonably believes the disclosure is necessary to prevent substantial injury to the organization. Rule 1.14(c) allows lawyers to take protective action to aid a client with decision-making limitations who is at risk of financial or other harm.[15] If the requirements of these rules are otherwise satisfied, they may authorize disclosure in the context of withdrawal.

We recognize that in rare situations in which Rule 1.16(a) requires a lawyer to seek to withdraw, no applicable exception to the duty of confidentiality will enable the lawyer to explain the basis for the withdrawal motion to the court's satisfaction, and a lawyer whose barebones withdrawal

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[13] ABA Model Rule 1.6(b)(5) permits disclosures "to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and a client." Comment [11] states: "A lawyer entitled to a fee for services rendered is permitted by paragraph (b)(5) to prove the services rendered in an action to collect it. This aspect of the rule expresses the principle that the beneficiary of a fiduciary relationship may not exploit it to the detriment of the fiduciary."

[14] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 476, at 4 (2016).

[15] To be clear, this Opinion is not suggesting that Rules 3.3, 1.13, and 1.14 expand what a lawyer may disclose in a withdrawal motion to include circumstances when those rules would not otherwise permit disclosure. For example, if a lawyer representing a public company in products liability litigation learns from reviewing client documents that the client is committing securities fraud by misstating its revenues in a financial statement filed with the SEC, the lawyer might be permitted by Rule 1.13 to report that information to financial regulators, provided that all the requirements of Rule 1.13 are satisfied, but that does not mean the lawyer would be authorized to disclose that information in a withdrawal motion filed with the court handling the products liability litigation. On the other hand, a lawyer who is required by Rule 3.3(a) to make disclosure to remediate the effect of false evidence would also be permitted to cite that disclosure in a withdrawal motion filed with the same tribunal.

motion is denied will be compelled to violate a Rule by continuing the representation. In particular, there may be occasions when the lawyer must seek to withdraw under Rule 1.16(a)(1) because "the representation will result in violation of the Rules of Professional Conduct or other law," but the lawyer cannot justify the motion to the tribunal's satisfaction.[16] The most likely situation will be when the lawyer has a conflict of interest but the duty of confidentiality precludes identifying and explaining the basis for the conflict. In some situations, the lawyer may have a legal obligation to disclose the conflict of interest to the court,[17] or there may be some other applicable exception to the duty of confidentiality. But if not, the duty of confidentiality is paramount.[18] Continuing the representation in accordance with the court's ruling should not subject a lawyer to discipline or sanction for having a conflict of interest.

A Multi-Step Approach to Seeking to Withdraw

Even when a lawyer is permitted to reveal otherwise protected information, Opinion 476 cautioned that, in the Rule 1.16(b)(5) nonpayment scenario, a lawyer must limit disclosures to mitigate harm to the client, including, where practicable, by "first seek[ing] to persuade the client to take suitable action to remove the need for the lawyer's disclosure."[19] If it is necessary to explain the basis of the withdrawal motion to a court, the Opinion advises that the lawyer should begin by making "a

[16] We assume that when Rule 1.16(a)(4) requires a motion, because "the client or prospective client seeks to use or persists in using the lawyer's services to commit or further a crime or fraud," a lawyer whose motion is denied can ordinarily continue the representation without assisting in the client's intended crime or fraud. The Model Rules do not require lawyers to obey clients' direction to engage in legally or professionally risky behavior. For example, Rule 3.3(a)(3) permits a lawyer to "refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false." A lawyer's latitude to determine the "means by which" the client's objectives "are to be pursued" allows lawyers to refrain from other measures that the lawyer knows, or reasonably believes, would be forbidden by the applicable rules or law. *See, e.g.*, ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 11-460, at 3 (2011) ("When the law governing potential disclosure is unclear, the lawyer need not risk violating a legal or ethical obligation."); *see also* Model Rule 1.4(a)(5) ("A lawyer shall . . . consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law."). Likewise, a lawyer would be permitted to refuse to submit, and may withdraw, a frivolous filing, *see, e.g.*, Model Rule 3.1; FED. R. CIV. P. 11. A lawyer must take remedial measures when the lawyer learns that the lawyer's evidentiary submission was false. *See* MODEL RULES OF PROF'L CONDUCT R. 3.3(a)(3).

[17] For example, judicial decisions indicate that in criminal cases, defense counsel must bring a conflict of interest to the court's attention so that the court can determine whether to disqualify the lawyer or require the defendant to waive the conflict of interest on the record. *See, e.g.*, Holloway v. Arkansas, 435 U.S. 475, 485-86 (1977) ("[D]efense attorneys have the obligation, upon discovering a conflict of interests, to advise the court at once of the problem."). Likewise, in class actions, counsel for the class or the putative class must disclose when they have conflicts of interest. Pettway v. American Cast Iron Pipe Co., 576 F.2d 1157, 1176 (5th Cir. 1978) ("[T]he attorney's duty to the class requires him to point out conflicts to the court so that the court may take appropriate steps to protect the interests of absentee class members."). Lawyers seeking court appointments in bankruptcy proceedings must similarly disclose conflicts of interest. *See, e.g.*, *In re* Roberts, 46 B.R. 815, 839 (Bankr. D. Utah 1985).

[18] Some courts have denied motions to withdraw filed by lawyers who find that continued representation would constitute a conflict of interest and therefore violate the Rules of Professional Conduct. *See*, *e.g.*, Billings, Cunningham, Morgan & Boatwright, P.A. v. Isom, 701 So. 2d 1271, 1272 (Fla. 1997) (in denying the petitioner law firm's writ of certiorari to challenge the trial court's denial of petitioner's motion to withdraw in which the petitioner argued that withdraw was mandatory under Florida Rule 4-1.16(a) as the continued representation would constitute a conflict, the Florida Supreme Court recognized that "Rule 4-1.16(c) contemplates the situation like this which a trial court has authority to order continued representation, even when potential ethics conflicts are presented").

[19] ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 476, at 8 (2016).

formulaic reference to 'professional considerations' or a similar term."[20] If the court requires more information and orders the lawyer to provide it, the lawyer may then provide additional information to the extent reasonably necessary to respond to the court's inquiry, but should seek the court's permission to provide the necessary information *in camera* and *ex parte*.

The basic approach set out in Opinion 476 is equally relevant when a lawyer seeks the court's permission to withdraw on grounds other than nonpayment of legal fees. Absent informed consent from the client, an applicable Rule 1.6(b) exception, or both, a lawyer seeking the court's permission to withdraw should endeavor to avoid the disclosure of confidential information and, if ordered by the court to disclose confidential information, should minimize the extent of disclosure and avoid harm to the client. We advise that a lawyer seeking to withdraw, whether under Rule 1.16(a) or Rule 1.16(b), should proceed as follows:

(1) initially submit a motion providing no confidential client information apart from a reference to "professional considerations" or "irreconcilable differences";

(2) upon being informed by the court that further information is necessary, respond, when practicable, by seeking to persuade the court to rule on the motion without requiring the disclosure of confidential client information, asserting all non-frivolous claims for maintaining confidentiality consistent with Rule 1.6(a) and for protecting the attorney-client privilege; [21]

(3) if that fails and the lawyer is nonetheless ordered to submit information by the court—thereby invoking Rule 1.6(b)(6)'s exception[22]—do so only to the extent "reasonably necessary" to satisfy the needs of the court and preferably by whatever restricted means of submission are available, such as *in camera* review, under seal, or such other procedures designated to minimize disclosure as the court determines is appropriate; [23] and

(4) if the court does not order the lawyer to disclose but states that the motion to withdraw will be denied unless the lawyer provides more information, the lawyer remains bound by the duty of confidentiality and should remind the judge that, absent an order from the court, the lawyer is obligated under Rule 1.6 to maintain the confidentiality of the information. In doing so, the lawyer should also request that, if the court does order the lawyer to disclose, the court require the lawyer to disclose only so much information protected by Rule 1.6 as is necessary and allow the lawyer to make those

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[20] *Id.* at 9.

[21] *See* Model Rules on Prof'l Conduct R. 1.6 cmt. 15 ("A lawyer may be ordered to reveal information relating to the representation of a client by a court or by another tribunal or governmental entity claiming authority pursuant to other law to compel the disclosure. Absent informed consent of the client to do otherwise, the lawyer should assert on behalf of the client all nonfrivolous claims that the order is not authorized by other law or that the information sought is protected against disclosure by the attorney-client privilege or other applicable law. . . .").

[22] If the court expressly orders the lawyer to make further disclosure, the exception in Rule 1.6(b)(6) for disclosures required to comply with a court order will apply, subject to the guidance in Comment [15].

[23] Comment [16] to Rule 1.6 underscores that a lawyer may disclose information under 1.6(b) only "to the extent the lawyer reasonably believes the disclosure is necessary to accomplish one of the purposes specified."

> disclosures *in camera* or submitted under seal so as to minimize harm to client's interests.

Outside the context of judicial proceedings, lawyers may withdraw from a representation as required by Rule 1.16(a), or as permitted by Rule 1.16(b), without disclosing confidential information to third parties. In the context of judicial proceedings, lawyers must comply with court rules requiring them to obtain the court's permission to terminate the representation. In this situation, there may be a tension between Rule 1.16, which sometimes requires a lawyer to seek to withdraw from a representation, and Rule 1.6, which limits the lawyer's ability to explain why the court should grant permission to withdraw. Neither Rule 1.6 nor Rule 1.16 impliedly authorizes lawyers to disclose information relating to the representation to meet the court's expectations for disclosures to support a withdrawal motion.

Commentators have noted that when the court will not grant the lawyer's motion without a justification that necessitates disclosing information protected by Rule 1.6, no completely "satisfactory solution" exists.[24] The court may address the problem by ordering the lawyer to make further disclosure, even over the lawyer's objection, thereby implicating the confidentiality exception of Rule 1.6(b)(6). Courts may also adopt rules requiring disclosures that would otherwise be forbidden by Rule 1.6. The duty of confidentiality is the foundation upon which the client-lawyer relationship exists. Absent an explicit exception to the broad confidentiality obligation, the Rules do not permit a lawyer to reveal Rule 1.6 material in a motion to withdraw, despite the occasional negative consequences.

Conclusion

When moving to withdraw from a representation under Rule 1.16, a lawyer's disclosure to the tribunal is limited by the broad duty of confidentiality in Rule 1.6(a). Unless an explicit exception applies or the client provides informed consent, the lawyer may not reveal "information relating to the representation" in support of a withdrawal motion. This restriction applies even when withdrawal is mandatory under Rule 1.16(a). However, to the extent a lawyer seeks to withdraw pursuant to Rule 1.16(a)(2) because "the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client," the lawyer will not ordinarily need to reveal information protected by Rule 1.6 to provide a fulsome explanation for the basis for the motion.

When a client withholds consent, disclosure of information relating to the representation will not be "impliedly authorized in order to carry out the representation" under Rule 1.6(a). Even when disclosure is permitted under Rule 1.6(b) or another Rule, disclosure must be strictly limited to the extent reasonably necessary and, whenever possible, made through measures that protect confidentiality such as *in camera* or under seal submissions.

Consistent with ABA Formal Opinion 476, the Committee advises a multi-step approach: begin with a motion citing only "professional considerations" or similar language; if further information is sought, assert all non-frivolous claims of confidentiality; and, if ordered to disclose, do so in the

[24] GEOFFREY C. HAZARD JR., ET AL., THE LAW OF LAWYERING § 21.16 (4th ed. 2015). *See also* Byrd v. Mahaffey, 78 P.3d 671, 676 (Wyo. 2003) ("[A]n artful balance between confidentiality and providing an adequate basis for withdrawal must be maintained by counsel requesting to withdraw.").

narrowest possible manner. Ultimately, the lawyer's paramount duty is to preserve client confidentiality, even at the risk that the tribunal may deny the motion to withdraw. The Rules require that any disclosure in support of withdrawal be narrowly tailored, protective of the client's interests, and undertaken only within the scope of an applicable exception.

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*Note correction to this article at the end of the January 2026 Bench and Bar Article

CONFLICTS: A PRIMER

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Few people enjoy analyzing conflicts of interest in legal representations. And many lawyers have erroneous notions about them. Conflicts of interest are one of the most frequently inquired-about topics on our advisory opinion service. Lately, too, it has been an area where we are seeing more discipline. Because of this, it seems like a primer is in order.

Applicable rules

Several rules cover conflicts of interest, including Rules 1.7 (current clients), 1.8 (specific rules), 1.9 (former clients), 1.10 (imputation), 1.11 (former judges/neutrals), and 1.18 (prospective clients), Minnesota Rules of Professional Conduct (MRPC). For this column, I would like to mainly focus on Rules 1.7 and 1.9.

But before we jump in, I would like to remind counsel that before one can apply the ethics rules on conflicts, counsel needs to be clear on who they represent (or formerly represented) and the scope of that representation, including whether representation is completed or ongoing. Understanding who is and who is not your client and the scope of the representation (both in breadth and temporally) is often critical to effectively identifying and addressing conflicts (since the rules differ). And while it might sound straightforward, unless you are intentional about these matters, you and your client(s) may not be on the same page regarding these basic principles.

What is a conflict? Conflict is not a defined term under Rule 1.0 (terminology) but rather is defined through several rules. Let's start with current clients. Rule 1.7(a), MRPC, prohibits a lawyer from representing a client if the representation involves a "concurrent conflict." The rule then defines a "concurrent conflict" as one in which (1) "the representation of one client will be directly adverse to another client," or (2) "there is a substantial risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer."

Let's take each type of concurrent conflict in turn. A direct adversity conflict is often easy to spot. The key here is that the subject matter of the representations need not and often are not the same. Say you represent Company A in a lease dispute with its landlord. It is a concurrent conflict of interest if a different client wishes to sue Company A in a products liability matter. This is an example of a direct adversity conflict. Or you represent Company A in a merger with Company B, and a new prospective client wishes to hire you to negotiate a supply agreement with Company A. When I say "you," I mean you and every lawyer in your firm due to the imputation of conflicts under Rule 1.10, MRPC. This is also a direct adversity conflict.

Many lawyers will end the analysis there—they see a conflict and choose to decline, even though many conflicts can be addressed by client consent (aka waiver).

Rule 1.7(b), MRPC, addresses when a lawyer may nonetheless represent clients notwithstanding the presence of a concurrent conflict that meets the definitions in Rule 1.7(a), MRPC. Four conditions must be met: (1) "the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;" (2) "the representation is not prohibited by law;" (3) "the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal;" *and* (4) "each affected client gives informed consent, confirmed in writing."

Returning to the direct adversity conflicts above, the first scenario is an unlikely candidate for consent because the lawyer (or firm) would be adverse (on opposite sides of the "v.") in the products liability litigation, thus unable to satisfy Rule 1.7(b)(3), MRPC. The second scenario is arguably consentable if the lawyer can satisfy Rule 1.7(b)(1) (that is, reasonably believes they can provide competent and diligent representation to both affected clients) and the clients give informed consent confirmed in writing.

"Substantial risk" conflicts are likely more prevalent than direct adversity conflicts. Identifying them can also be more challenging than spotting direct adversity conflicts. The language of Rule 1.7(a)(2) is key—"there is a substantial risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities" to other clients, former clients, third parties, or the lawyer's own interest. Let's explore this a little more deeply.

All joint representations in a single matter should be evaluated for a substantial risk conflict.

Ask yourself if there is a risk the client's interests could diverge. Is divergence possible on issues that will materially interfere with the lawyer's loyalty or provision of independent legal advice? How likely is this to occur? Then review the definition again—is there a substantial risk of material limitation? Often, the answer will be yes, there is a substantial risk of material limitation because common clients may disagree about important aspects of the matter and may provide directions to the lawyer that cannot be reconciled, or the lawyer's independence can be compromised by competing obligations. The comments to Rule 1.7, particularly comments [29] through [33], also identify special considerations in common representation. They are worth your consideration and should be discussed with common clients.

"Substantial risk" conflicts can also arise due to your duty to a former client. The most common is the obligation to keep information relating to the former representation confidential. Perhaps a former client is a witness in your matter. Your current client is not adverse to your former client but you may have a current limitation due to your duty of confidentiality to a former client that another lawyer who does not have a former client relationship might not have. This is a "substantial risk" conflict that arises due to a responsibility to a former client if the confidentiality obligation places a material limitation on the representation.

This does not end the analysis, however, unless you wish to avoid joint representations or other "substantial risk" situations. "Substantial risk" conflicts, like "direct adversity" conflicts, can be consented to by affected clients if the four prongs of Rule 1.7(b), MRPC (listed above) can be satisfied. Provided you can satisfy prongs (1) through (3) of Rule 1.7(b), each affected client must give "informed consent," confirmed in writing as part of satisfying prong (4).

Informed consent is a defined term under the ethics rules. Rule 1.0(f), MRPC, defines "informed consent" as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." It is important to give this thought, as each situation will be different. What is the nature of the conflict? What are the risks presented by that conflict? Be specific. What are the alternatives (which should always include, "you can hire someone else")? It is unlikely that a form waiver (we discussed and you consented) will be sufficient to establish that the client's consent to the conflicted representation was "informed." Best practice is for your written confirmation of the client's agreement—which is required—to cover what was discussed: how you described the conflict, the risks presented by that conflict, and the available alternatives to consent.

Former client conflicts are covered by Rule 1.9. Rule 1.9(a), MRPC, which provides that "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or substantially related matter in which that person's interest are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing." Rule 1.9(c), MRPC, reminds counsel that they may not (1) "use information relating to the representation to the disadvantage of the former client... or (2) reveal information relating to the representation except as these rules would permit or require with respect to a client."

Former clients (and their lawyers) are sometimes surprised to learn that lawyers can represent someone else adverse to a former client if the matter is not the same or substantially related to the prior representation *and* the lawyer does not "use" or "reveal" information relating to the former representation. Whether matters are the "same" is easy. Whether matters are "substantially related" can be a bit more challenging. Comment [3] to Rule 1.9 discusses this term. And, as noted in last month's column on confidentiality, confidentiality obligations survive the conclusion of representation, and both use and disclosure are prohibited. As is true under Rule 1.7(b), former clients can give "informed consent" to the adverse representation under Rule 1.9.

Conclusion

This primer is offered to familiarize you with how conflicts are defined so that when there is a potential issue, you stop and turn to the rules (or ethics counsel) to carefully walk yourself and, if necessary, your client through the issues presented. Many conflicts can be consented to, but obtaining that consent requires a good handle on the nature of the conflict and what is being asked of the client. As noted in comment [1] to Rule 1.7, "Loyalty and independent judgment are essential elements in the lawyer's relationship to a client." Conflicts run counter to the fiduciary obligations, so all conflicts should be handled with care. And do not forget we are here to answer your ethics questions, including identification of, and whether it is possible to consent to, particular conflicts. We can be reached at 651-296-3952. ▲

RULE 16. TEMPORARY SUSPENSION PENDING DISCIPLINARY PROCEEDINGS

(a) Petition for Temporary Suspension. In any case where the Director files or has filed a petition under Rule 12, if it appears that a continuation of the lawyer's authority to practice law pending final determination of the disciplinary proceeding poses a substantial threat of serious harm to the public, the Director may file with this Court a petition ~~for suspension of the lawyer~~ to suspend, or otherwise restrict in accordance with Rule 16(d), the lawyer's authority to practice law pending final determination of the disciplinary proceeding, with proof of service. The petition shall set forth facts as may constitute grounds for the suspension and may be supported by a transcript of evidence taken by a Panel, court records, documents or affidavits.

(b) Service. The Director shall cause the petition to be served upon the lawyer in the same manner as a petition for disciplinary action.

(c) Answer. Within ~~20~~21 days after service of the petition or such shorter time as this Court may order, the lawyer shall file in this Court an answer to the petition for temporary suspension, with proof of service. If the lawyer fails to do so within that time or any extension of time this Court may grant, the petition's allegations shall be deemed admitted and this Court may enter an order ~~suspending the lawyer pending final determination of disciplinary proceedings.~~in accordance with Rule 16(d). The answer may be supported by a transcript of any evidence taken by the Panel, court records, documents, or affidavits.

(d) Hearing; Disposition. If this Court after hearing finds a continuation of the lawyer's authority to practice law poses a substantial threat of serious harm to the public, it may enter an order suspending the lawyer pending final determination of disciplinary proceedings, or imposing such other terms and conditions on the lawyer's license to practice as may be warranted. The Court may make a reference to a Referee to resolve material fact disputes.

(e) Interim Suspension. Upon a referee disbarment recommendation, the lawyer's authority to practice law shall be suspended pending final determination of the disciplinary proceeding, unless the referee directs otherwise or the Court orders otherwise.

(f) Application for Pre-Petition Temporary Suspension. Where a judicial officer has found probable cause that a lawyer has committed a crime of such severity that the lawyer's authority to practice law prior to the filing of a petition under Rule 12 poses a substantial threat of serious harm to the public, the Director may make an ex parte application to this Court for a Temporary Suspension prior to the filing of a Rule 12 Petition. Upon finding that the Director's application meets this standard, this Court shall issue an Order to Show Cause to the lawyer why the lawyer's authority to practice law should not be suspended or otherwise restricted in accordance with Rule 16(d).

(g) Proceedings on Order to Show Cause and Pre-Petition Temporary Suspension. After affording the lawyer an opportunity to be heard, the Court shall decide whether the lawyer's authority to practice law should be temporarily suspended or otherwise restricted in accordance with Rule 16(d) during the pendency of the Director's Investigation, Panel Proceedings, and until this Court rules on a Petition under Rule 16(a). The Court may make a reference to a Referee to resolve material fact disputes.

(h) Application to Vacate Pre-Petition Temporary Suspension. A lawyer whose authority to practice law has been suspended or otherwise restricted pursuant to Rule 16(g) may move the Court to vacate the Pre-Petition Temporary Suspension on the following grounds:

1. The Director has determined that discipline is not warranted or has issued a private admonition with respect to the conduct that was the subject of the Rule 16(f) Application;

2. The Director fails to file a Petition under Rule 16(a) within seven days after the filing of a Petition under Rule 12; or

~~(c)~~3. The circumstances giving rise to the Pre-Petition Temporary Suspension have changed such that good cause exists to vacate.

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