

Problem #15 - Imputed Disqualification and Lateral Movements

Characters: Plaintiff, National Gasket
Defendant, Worldwide Container
C & B - New York City attorney for Defendant
Willis & Xerxes, local attorney for Defendant
RST - another firm in town
ABC - another firm in town

Willis & Xerxes, Attorneys at Law
Willis - in practice since 1990;
lawyer for the railroad;
Xerxes - closed separate practice and
joined Willis in 2007;
Associate Sandra Jones - since 2009
Paralegal Peggy - since 2001
Law Clerk Conrad-Summer of 2011
Joe - Client of the firm

National Gasket v. Worldwide Container

C & B
Willis & Xerxes

1. Xerxes did some related work for National Gasket in 2005 in his separate practice and learned some confidential information. Is he disqualified as local counsel for Worldwide? See Rule 1.9(a,c).
2. If Xerxes is disqualified, is Willis disqualified? See Rule 1.10(a). See (A), page 262 of Morgan.
3. If Xerxes is disqualified, is Sandra Jones disqualified?
4. If Xerxes is disqualified, is C & B disqualified? See (B), page 265 of Morgan.

5. Suppose W and X withdraws as local counsel, and RST takes over. Can RST use the work product of W and X? See (D), page 259.
6. Suppose Xerxes left the firm permanently in January 2011 and opened his own office. Is Willis disqualified from representing Worldwide if it comes to him seeking representation? See Rule 1.10(b). See (3), page 267.
7. Same as (6), but Xerxes takes with him his regular client, Joe. Can Willis bring a lawsuit against Joe in July 2011 for Joe's actions in March 2011? See Rule 1.10(b), Comment 5.
8. Sandra Jones leaves in January 2012 and joins the ABC firm.
 - a) In the ABC firm, a lawsuit is pending: Sam v. Railroad. Willis is defending the railroad. Can Sandra work on the plaintiff's case? See Rule 1.9(b). See (2), page 266.
 - b) Can ABC keep the plaintiff's case? See (D), page 271.
 - c) Six months later, a new client Nancy wishes to sue the railroad. Can Sandra or ABC handle the new case?
9. During the pending Sam v. Railroad, Peggy leaves Mr. Willis and joins ABC. Can ABC continue to represent the plaintiff Sam? See Herron v. Jones, #4, page 256 of Morgan; Brill, page 129. See Comment 4.
10. Conrad graduates from law school in May 2012 and joins ABC, while Sam v. Railroad is pending. Can ABC continue to represent the plaintiff Sam? See #5, page 257.

11. IN SUMMARY:

- a) When is disqualification imputed to the rest of the firm?
- b) When is disqualification not imputed to the rest of the firm?
- c) How should the more non-traditional arrangements be handled? See pages 263-266 of Morgan.
- d) If permitted, how does screening work? See Terminology Rule 1.0, page 17 of Brill; see page 271-275 of Morgan.