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From: Stuart J. Lieberman, Esq. <sjl@liebermanblecher.com>
Sent: Thursday, May 28, 2020 11:21 AM
To: Comments Mailbox
Subject: [External]Working group on the duty of confidentiality and wrongful convictions:
comment to proposed rule amendment

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Dear working group:

My name is Stuart Lieberman. I am a New Jersey licensed attorney and have been a licensed attorney in the state since 1986. Though my area of focus is environmental law, I deal with issues of confidentiality on a frequent basis. I submit to the Working Group the following comment concerning the proposed Rule amendment:

In my opinion, the majority position as stated in the February 12, 2020 report and recommendations chaired by Judge Sabatino should be adopted by the New Jersey Supreme Court. However, I would suggest that if this position is adopted one change should be made during the adoption process. Specifically, the duty to reveal information should be triggered by the wrongful conviction of the third-party. Whether or not that third-party has been incarcerated should not be the triggering mechanism for this duty in the proposed modification to RPC 1.6.

It is clear that wrongfully convicted individuals suffer greatly following their conviction, even when incarceration has not followed. For example there are many professional licenses for which they can no longer apply. There are many public projects for which they can no longer bid. There are many employment opportunities (for one example law enforcement) that are no longer available to them because of their conviction status. These ramifications are more than just stigma; they are economic as well and they last a lifetime.

Thus, I respectfully submit that the Working Group's majority opinion should be adopted by the New Jersey Supreme Court as an amendment to RPC 1.6 with the modification that the obligation to reveal should be triggered by the wrongful conviction regardless of whether incarceration follows.

Respectfully submitted,
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