

Thursday, March 30, 2023 (class 18 of 30!!)

Today: *Starting Ethics & Professional Responsibility!*

Now: Complete the handout: *Respond to the three scenarios!*

For next class (Tu April 4): Read textbook ch. 4 pp. 100-118, answer either Ethics Q 1 **OR** 2, **OR** Practice Q 4 **OR** 5 (p. 117) on OL by **Sam!**

W April 5 – Th April 13: SPRING RECESS! ☺

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Ethics & professional responsibility! ?? *What do those terms mean ?!*

ethics = basic concepts and fundamental principles of decent human conduct

professional responsibility = legal and moral duty of a professional to apply her/his knowledge [and position] in ways that benefit the client, and the wider society

Source: business-dictionary.com.

NY attorney ethics are **governed** by (*YES* legally binding):

- NY Rules of Professional Conduct
- Appellate Division of Supreme Court of NY
- Discipline & Grievance Committees

and **guided** by Ethics Opinions!

- NYSBA Committee on Professional Ethics (and other attorney organizations) issues opinions to attorneys concerning their own proposed conduct, not past conduct or conduct of another attorney
- advisory only – *but influential!!*

Paralegal ethics are **guided** by (*NOT* legally binding):

- [Nat'l Assn of Legal Assistants \(NALA\) Code of Ethics & Professional Responsibility](#)
- [Nat'l Federation of Paralegal Associations \(NFPA\) Model Code of Ethics & Professional Responsibility](#)

Summary of paralegal ethical duties!! *Honesty, plus . . . the "3 C's"!! C-C-C-UPL!!* ☺

- **Competence** → *be good!* Be knowledgeable and thorough in performing your job.
- **Confidentiality** → *be quiet!* Includes attorney-client privilege.
- **Conflicts of interest** → *be careful!* Conflicts arise when an attorney's representation of one client can injure the interests of another client.

Plus . . . AVOID Unauthorized Practice of Law → conduct constituting the "practice of law" by an individual who is not a licensed attorney.

We discussed some hypothetical situations:

Scenario 1: Client Carolyn asks Paralegal Peter to lie in a court document Peter is preparing for Carolyn's case.

Peter should:

- (A) do what Carolyn says because "the client is always right."
- (B) inform his supervising attorney of Carolyn's request, and tell Carolyn he will not lie in the document.
- (C) pretend he didn't hear Carolyn, draft the document truthfully, and tell no one about the incident.
- (D) draft the document with the lies, because no one will ever know except Carolyn and him.

Scenario 2: Legal assistants Leonardo and Leticia are eating dinner in a local restaurant. They are discussing a well-known client's case and his poor financial condition. They do not know that their server works days in a bank where the client maintains his accounts. The server overhears their conversation. **Did Leonardo and Leticia do anything wrong? If so, what?**

Scenario 3: Legal Assistant Luis brings Witness Wanda into his office for an interview. On Luis' desk is a deposition transcript and several letters from the case of Client Coleman. While interviewing Witness Wanda, Luis stops to take a phone call. While Luis talks on the phone, Witness Wanda gets bored so she picks up the transcript and letters from Client Coleman's file and reads them. **Has Luis done anything wrong? If so, what?**

Scenario 4: Princess Paralegal is researching a case for her firm's client. She finds a case that perfectly supports the client's position. She stops there and gives the case to supervising attorney. Had Princess followed up on her research and "validated" the case, she would have learned that the decision was recently overruled by an appellate court. **What ethical obligation did Princess violate?**

Scenario 5: Lawyer LaTonya assigns a new client's case to Paralegal Patrick. In reviewing the file, Patrick realizes that the case requires LaTonya to sue her former client. **What ethical issue is implicated in this situation?**

Consequences to attorneys for violating legal ethics *include:*

- disciplinary proceedings before state governing body, *which can result in:*
 - reprimand
 - suspension
 - disbarment
- lose job, business, reputation
- sued for malpractice

Consequences to paralegals for violating legal ethics *include:*

- lose job, business, reputation
- statutory violations: UPL, business laws
- personal liability for damages
- lose certification (per NALA, NFPA Codes of Ethics)

DON'T let these things happen to you. **DO THE RIGHT THING!!** 😊