



Title of Program _____

Date of Program _____

Presenting Inn _____ Inn Number _____

Inn City _____ Inn State _____

Contact Person _____ Phone _____

E-mail Address _____

Please consider this program for the Program Awards: Yes No This program is being submitted for Achieving Excellence: Yes No

Program Summary:

Indicate the legal focus and be concise and detailed in summarizing the content and setup of your program. Please attach additional sheets if necessary.

Program Materials:

The following materials checklist is intended to insure that all the materials that are required to restage the program are included in the materials submitted to the Foundation office.

Did the program use a written script? Yes No

Did the program material include any newspaper, magazine, or web articles? Yes No

Did the program material include any copies of citations of law or legal documents? Yes No

Did the program material include a fact pattern for the program? Yes No

Did the program material include a list of questions for the program? Yes No

Did you hand out any materials before or during the program? Yes No

Did this program use PowerPoint, CD, DVD or other media during the course of the presentation? Yes No

Please include a copy of any of the above existing materials with your program submission.

Specific Information Regarding the Program

Number of participants required for the program _____ Has this program been approved for CLE? Yes No

Which state's CLE? _____ How many hours? _____

Program Submission Form

Roles:

List the exact roles used in the demonstration and indicate their membership category; *i.e.*, Pupil, Associate, Barrister or Master of the Bench.

Role	Membership Category

Agenda of Program:

List the segments and scenes of the demonstration and the approximate time each step took; *i.e.*, "Introduction by judge (10 minutes)."

Item	Time

Recommended Physical Setup and Special Equipment:

i.e., VCR and TV, black board with chalk, easel for diagrams, etc. When submitting video, please indicate the length of all videos. *i.e.*, 30 or 60 min.

Comments:

Clarify the procedure, suggest additional ways of performing the same demonstration, or comment on the response from the Inn members regarding the demonstration.

Questions:

Please contact Andrew Young at (703) 684-3590 ext 106 or by e-mail at ayoung@innsofcourt.org.

THE CRAIG S. BERNARD CHAPTER OF THE AMERICAN INNS OF COURT LIV
AND MAGNA CARTA PRESENT

LET'S MAKE A DEAL – TRANSACTIONS WITH CLIENTS

JANUARY 17, 2012

OVERVIEW

A one hour CLE presented in a skit/reenactment format, this presentation focuses on Transactions with Clients under the relevant Rules Regulating the Florida Bar and relevant case law. Magna Carta will use three related presentations in the CLE and encourage participation by using the “Let’s Make A Deal” game show format. Each skit is loosely based on the infamous Casey Anthony legal case.

The first portion will follow Lacey Anthony, Joseph Baez, and a Universal Studios Attorney in an examination of Rule 4-1.8, Conflict of Interest; Prohibited and Other Transactions sections (f) compensation by third parties; (d) acquitting literary or media rights; and (e) financial assistance to client.

The second portion will introduce Georgie and Candy along with counsel Conray and counsel Lipton. This portion of the presentation will examine Rule 4-1.8 (g) settlement of claims for multiple clients; (h) limiting liability for malpractice; as well as 4-1.8(a), informed consent and 4-1.5(i) discussing mandatory arbitration of fee disputes.

Finally, the third portion will show Franny the Nanny and counsel discuss Gifts and Imputation of Conflicts pursuant to Rule 4-1.8(c) gifts to lawyer or lawyer’s family; (k) imputation of conflicts; (a) business transactions with clients; and (i) acquiring proprietary interest in cause of action.

DESCRIPTION

- | | |
|-------------|--|
| 6:05 -6:15 | Opening remarks/introduction |
| 6:15 – 6:30 | Section 1: Lacey Anthony Skit: Conflicts of Interest; Prohibited and Other Transactions |
| 6:30- 6:40 | Section 2: Parents Georgie and Candy Skit: Settlement claims for multiple clients; informed consent; limiting liability for malpractice; and mandatory arbitration of fee disputes |
| 6:40- 6:55 | Section 3: Franny the Nanny Skit: Gifts to Lawyers and Imputation of Conflicts |
| 6:55 – 7:00 | Conclusion/Adjournment |

INNS OF COURT

JANUARY 17, 2012

PRESENTATION BY: MAGNA CARTA

LET'S MAKE A DEAL – TRANSACTIONS WITH CLIENTS

SUBGROUP 1: Lacey Anthony Skit

CHARACTERS:

- Lacey Anthony:
 - Joseph Baez:
 - Universal Studios Attorney:
-

SCENE #1: Law Office Meeting

Universal Studios Attorney: Mr. Baez! Great to see you! I was in the area today and wanted to stop by to tell you what a great job you have been doing on our cases! The Board of Directors over at Universal Studios has been VERY pleased with your work.

Joseph Baez: Thank you. It's been great working with you guys so far.

Universal Studios Attorney: Now.... On to the real reason I dropped in. I hear you are taking on that Lacey Anthony case – you know, that real good looking girl who wacked – I mean, lost – her kid? Us big-wigs over at Universal have been keeping up with the news. We know that Lacey has been telling the cops that she was employed at one of our theme parks here in Orlando – what a racket! With a pretty face like that, the entire state is sure to believe whatever she comes up with to get herself out of this mess. In any event, I'm here to offer your client a proposition: Universal Studios is offering to pay half of Ms. Anthony's legal fees. All you and Lacey have to do is continuing pushing the story that she worked at Universal Studios.

Joseph Baez: I am not sure I understand. What's in it for you?

Universal Studios Attorney: Joseph, Joseph, Joseph. You know the old saying – any press is good press. Plastering pictures of Lacey in front of the Universal Studios sign all over the evening news has been GREAT for business. Every night America is spoon fed images of that

little hottie posing in front of our park. They're eating it up! We'll pay the fees – just make sure you use pictures of Lacey at Universal Studios at every chance you get.

Joseph Baez: Well, I'm not too sure about this....

Universal Studios Attorney: Baez. Universal is a verry good customer of your firm's – you really don't want to jeopardize that, do you? And, those front-of-the-line passes for the Harry Potter Theme Park that we sent you this year for Christmas – NOT very easy to come by. You stick with our plan, and there will be more of where that came from.

QUESTION #1: CAN BAEZ REPRESENT LACEY UNDER THESE CIRCUMSTANCES?

ANSWER: He can as long as he complies with the rule 4-1.8(f)

RULE: Rule 4-1.8. Conflict of Interest; Prohibited and Other Transactions

(f) Compensation by Third Party. A lawyer shall not accept compensation for representing a client from one other than the client unless:

- (1) the client gives informed consent;
- (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
- (3) information relating to representation of a client is protected as required by rule 4-1.6

SCENE #2: Jail House Meeting Between Attorney and Client

Joseph Baez: Lacey. We need to talk some business. Now that you've hired me to be your attorney and represent you at your upcoming murder trial, we need to figure out how you are going to be able to pay for my fees.

Lacey Anthony: I know, I know. I really don't know how I am going to afford all of these bills.

Joseph Baez: Well, I've come up with an idea. The public is really going wild for this bit about you being abused by your father since you were a child. Since you've got plenty of time on your hands while you are awaiting trial here in jail, you should write a

memoire of your childhood. As part of my fees, you'll assign to me the literary rights to your book. The proceeds should MORE than cover the endless number of billable hours I will be billing you to keep you off death row.

QUESTION #2: CAN BAEZ TAKE PART OF HIS FEE BASED ON THE ASSIGNMENT OF THE LITERARY RIGHTS IN A MEMOIR ABOUT LACEY'S CHILDHOOD?

ANSWER: This is a grey area. He could take the representation if what Lacey is going to be writing about does not substantially relate to the representation but no if it does substantially

RULE: Rule 4-1.8. Conflict of Interest; Prohibited and Other Transactions **(d) Acquiring Literary or Media Rights.** Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

SCENE #3: Jailhouse Meeting Between Attorney and Client (Continuation of #2)

Lacey Anthony: I've been brainstorming too. I know the media is going crazy about my case. We really need to keep the hype up and take this to the next level. I think if we can keep the public in a frenzy, there is no way a jury will convict me. But, these clothes the jail gives me to wear to court are NOT going to work. I need to look good on camera and make America fall in love with me. Joeseph – what can you do for me? You know my image is an important part of this trial.

Joseph Baez: Well, let me think... I could ask my wife if she has any clothes that she could donate to you.

QUESTION #3: CAN BAEZ DONATE THE CLOTHING TO LACEY?

ANSWER: Yes, pursuant to Florida Bar v. Phillip H. Taylor, 648 So.2d 1190 (FL, 1994):

As long as the clothing is not donated for the purposes of maintaining employment and there is no expectation of repayment from suit proceeds. The Florida Supreme Court would like the donation to be for "humanitarianism".

RULE: Rule 4-1.8. Conflict of Interest; Prohibited and Other Transactions (e) **Financial Assistance to Client.** A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

SUBGROUP 2: Parents (Georgie and Candy) Skit

Scene 1: Georgie/Candy/Conray

Pre-Meeting:

Georgie: Candy will be arriving in the next 10 minutes. I'm early because you must understand how important it is that Candy and I settle this defamation case quickly.

Conray: Georgie, let's wait until Candy arrives. I drafted a settlement offer that I'd like to go over with you. I've been negotiating hard with Franny's attorney to keep your payout at around \$5,000. (Hands over a document)

Georgie: I have several opportunities to make a lot of money – starting with an appearance on the Dr. Bill show. Candy has no idea – but I had a secret affair with Franny. I do not want this to

leak to the media. Franny has promised to keep the affair private if we settle quickly and offer her a generous payment. Let's offer \$50,000.

Candy Arrives:

Candy: Georgie, I do not understand why you wanted to take separate cars. I don't mind waiting for your haircut after this meeting. Hi Brad, I can't believe Franny brought this case. I hope Georgie told you we're in no hurry to settle it. That woman is crazy if she thinks she has a case.

Georgie: Candy, Brad thinks it will be better to resolve this case quickly and he's drafted a settlement offer that we should sign right away. While Franny has no case, Brad proposed we offer \$50,000 to make this whole thing go away. It sounds like a good deal to me.

Conray: Candy, \$50,000 is within a reasonable dollar range...if you factor in my attorney fees for a drawn out dispute.

QUESTION #1: Attorney Conray has been engaged to represent both Candy and Georgie in a defamation lawsuit filed by Franny. Georgie confides to attorney Conray that he had a secret affair with Franny in the past.

Before making a settlement offer to Franny in the defamation lawsuit, does attorney Conray violate the rules of professional conduct if he fails to advise Candy of Georgie's affair with Franny?

- (a) No, as long as attorney Conray advises Candy and Georgie of all the material terms in the settlement offer.
- (b) Yes, attorney Conray must advise each client of all facts related to all represented parties.

- (c) Yes, because Candy will be emotionally injured by learning of the secret affair. Unless violations of law or injury to another or another's property is involved, preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.
- (d) No, although Candy and Georgie are jointly represented, attorney Conray was paid with a check bearing only Georgie's name.

ANSWER: A; No, as long as attorney Conray advises Candy and Georgie of all the material terms in the settlement offer

Rule 4-1.8(g): Settlement of Claims for Multiple Clients. A lawyer who represents 2 or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

Candy: \$50,000 is reasonable!?! She has no case!! Brad – you're fired!!!

SCENE 2: CANDY/ ATTORNEY LIPTON

Candy: I just found out that my husband Georgie is having an affair with the Nanny. I need an attorney to represent me. I really want to take him for all he is worth. Will you represent me in my divorce proceedings?

Attorney Lipton: You look familiar. Your that women who was recently on the Nancy Grace Show. You hire/fire more lawyers than any person I know. I refuse to represent you in

any matters unless you sign this Retainer Agreement. (HANDS OVER LARGE DOCUMENT)

Candy: (Flipping through the Agreement). What is this Retainer Agreement? Why is paragraph 1000 in such a small font size? What is a malpractice waiver anyway? Can I speak with someone else about this?

Attorney Lipton: This is my standard agreement I have all my clients sign. Read it over, it is self explanatory. You can have another person review it if you want, just sign it before you leave this office.

QUESTION #2: By requiring Candy to sign a Retainer Agreement containing a malpractice waiver, does attorney Lipton violate the rules of professional conduct?

ANSWER: Probably yes. In this case, Lipton probably violated Rule 4-1.8(h) by requiring her to sign the document containing a malpractice waiver under these facts. While Candy asked if she could have another person review the document, there is no indication that she is independently represented.

Rule 4-1.8(h): Limiting Liability for Malpractice. *A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement. A lawyer shall not settle a*

claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

- *Florida Bar v Robert Jordan*, 705 So.2d, 1387 (Fla. 1998)

- Recommendation of disciplinary measures including “suspended for 12 months, thereafter until Respondent shall prove rehabilitation including, but not limited to proof of passage of the Florida Bar Examination...” for violating, among others, Rule 4-1.8(h).
- Robert Jordan, on 10 separate occasions, attempted to settle a potential claim for malpractice liability without first advising client in writing that she should seek independent representation in connection with the claim.

Candy: I do not know if I want to sign the malpractice waiver part.

Attorney Lipton: Well, if you do not like the malpractice waiver, sign this Agreement which states that you agree “that any controversy, dispute, or claim between us, whether based on this agreement, on the timely payment of fees, on a claim of inadequate representation, or on any other grounds, shall be resolved exclusively through binding arbitration.” Read it over, it is self explanatory. You can have another person review it if you want, just sign it before you leave this office.

QUESTION # 3: Can attorney Lipton require Candy to sign a pre-dispute agreement to arbitrate legal malpractice claims without violating the rules of

professional conduct? Did he violate the rules of professional conduct under these facts?

ANSWER: Lipton may have violated ethical rules

- No per se rule against such clause; caution as to ethical issues of malpractice arbitration clauses.

- *Johnson, Pope, Bokor, Ruppel & Burns v. John Forier*, 2011 Fla. App LEXIS 8899 (Fla. App June 15, 2011)

- Court of Appeal reversed Trial Court holding that enforcement of the arbitration clause, which was part of a legal services contract and required arbitration of malpractice claims, violates public policy; not aware of any Florida cases holding that such clauses are against public policy.

- Court stated that there may be ethical issues in such a contract, citing Brian Spector, *Predispute Agreements to Arbitrate Legal Malpractice Claims: Skating on Thin Ice in Florida's Ethical Twilight Zone?* 82 Fla. B.J. 50, 50 (2008), but there is no Florida Bar Rule that prohibits such an agreement,

- Article suggests:

- Look to Rule 4-1.8(a) --informed consent as minimum requirement; or

- Rule 4-1.5(i):

- A lawyer shall not make an agreement with a potential client prospectively providing for mandatory arbitration of fee disputes without first advising that person in writing that the potential client should consider obtaining independent legal advice as to the advisability of entering into an

agreement containing such mandatory arbitration provisions. A lawyer shall not make an agreement containing such mandatory arbitration provisions unless the agreement contains the following language in bold print:

NOTICE: This agreement contains provisions requiring arbitration of fee disputes. Before you sign this agreement you should consider consulting with another lawyer about the advisability of making an agreement with mandatory arbitration requirements. Arbitration proceedings are ways to resolve disputes without use of the court system. By entering into agreements that require arbitration as the way to resolve fee disputes, you give up (waive) your right to go to court to resolve those disputes by a judge or jury. These are important rights that should not be given up without careful consideration.

SUBGROUP 3: Franny the Nanny Skit

Franny the Nanny Skit – Gifts and Imputation of Conflicts

Roles:

Franny the Nanny - Client

Juan Moresons – Partner at firm

Skit/Questions:

Franny enters office of Juan Moresons. [Revise to fit into flow of skit on other topics from our subgroup, but suggested lines below]

Franny: It’s great to see you again, Juan. I’m so happy I found your firm through your website “forthenanny.com.” You’ve been a lifesaver.

Juan: Well, we mean what our slogan says; we really are “For the Nanny,” because we take nannies’ rights seriously.

Franny: Juan, I am appreciative of your legal services and everything you’ve done for me. I really don’t think the legal fees you receive for your work are sufficient.

Juan: Franny, that’s for sure! Although you’re the first client to ever say that [sounds surprised].

Franny: Well, I mean it. I want to do something else to show my gratitude for your services.

[Juan’s phone rings – he says “Hold that thought” to Franny and answers the phone – listens and says “OK, we’ll take care of it”]

Juan: Sorry about that. It was my kids’ school. The little rug rats got into trouble at school again. Those kids are driving me nuts!

Franny: That gives me an idea. I’d like to take you and your family on a vacation and I’ll babysit your kids while you and your wife relax. How does that sound? I can even help you pack for the vacation. Let’s see, we’ll probably need swimsuits, activities for the kids, duct tape...duct tape is a very versatile babysitting tool, you know?

Juan: [Looks startled and concerned] That’s a very generous offer.

QUESTION # 1: Would it be a violation of the Florida Bar Rules for the attorney to accept his client’s gift?

ANSWER: Arguably no. Rule 4-1.8(c) prevents lawyers from soliciting gifts from clients. In this case, the attorney did not solicit the vacation or babysitting gift from the client.

Rules:

4-1.8(c) Gifts to Lawyer or Lawyer's Family. A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to the client. For purposes of this subdivision, related persons include a spouse, child, grandchild, parent, grandparent, or other relative with whom the lawyer or the client maintains a close, familial relationship.

4-1.8(k) Imputation of Conflicts. While lawyers are associated in a firm, a prohibition in the foregoing subdivisions (a) through (i) that applies to any one of them shall apply to all of them.

Juan: Franny, I simply don't have time to go on vacation what with my work and TV appearances. However, I could use your nanny services. Would it be possible for you to watch my kids for free a few hours a week so I can spend some quality time with my wife? That would truly be a substantial gift and would make an instrumental difference in my marriage. Speaking of instruments, I'd be happy to draft a contract for the babysitting services and we'll include a schedule.

Franny: Sure. I guess I could do that. I also nanny for another attorney in town, Alma Daughters, and I will have her review the contract for me.

Juan: Oh, that won't be necessary. Alma is a dear friend of mine and I know she'll approve the contract.

QUESTION #2: Given the change in facts, is there now a violation of the Florida Bar Rules? Also, was it proper for the attorney to discourage the client from seeking independent legal advice regarding the contract?

ANSWER: Most likely.

Rule 4-1.8(c) prohibits the attorney from soliciting a substantial gift, which he arguably did when he made the counteroffer, and also prohibits him from preparing an instrument giving himself a substantial gift. The disputed facts are whether the babysitting is a substantial gift and whether a contract is an instrument prohibited by the Rule. The case law applying this rule addresses testamentary instruments, but the Rule simply states “instruments.”

Rule 4-1.8(a) a lawyer shall not enter into a business transaction with client unless... (sub-paragraph 2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction

Juan: Franny, I spoke to my wife and she is concerned about leaving our kids with a nanny. However, there is still something you can do to help me out. As you know, your relative, Danni Cousins, is a new associate attorney at our firm. Danni has a big trial she is working on and is having difficulties balancing her work and family commitments. If you could provide her free babysitting services for a month or so until the trial is over, you would really be helping out both Danni and our firm.

Franny: Well, she isn't my favorite relative, but we are family and I did want to provide a gift to you so I'll do it.

QUESTION # 3: Under the new facts, is there a violation of the Florida Bar Rules?

ANSWER: Maybe - it depends on whether the Florida Bar deems the babysitting services a gift to Juan or a gift to Danni.

Rule: If it is a gift to Juan and he is deemed to have solicited the gift then the gift violates Rule 4-1.8(c). If it is only a gift to Danni, then the gift would fall into an exception to the rule if it is found that Danni and Franny have a close, familial relationship.

If Danni is deemed not to fall into the family exception then the gift is a violation, because prohibited acts apply to all lawyers in a firm pursuant to Rule 4-1.8(k).

Skit/Questions continued:

Juan: You must really make a lot of money if you can afford to take my family on vacation and offer to sit for my associate for free. How much money does being a nanny net you in a year?

Franny: You would be surprised.

Juan: Do tell....I've always imagined that nannydom would leave a person living at the poverty line.

Franny: Oh, you are mistaken my dear lawyer....On a bad year, if I have a full time position, with a wealthy family, I average well in the six figure salary range....And you have to realize this is bill free, because these type of gigs require that I reside with the family full time, so my bills are pretty much nothing.

Juan: And I thought I was the smart one going to law school and getting a law degree.

Franny: Yeah, not so smart after all....

Juan: I have an idea....I'm not really a family vacation man, and my associate isn't that great....Instead of the vacation and assisting my associate, why don't you make me a partner in your business and give me 30 percent share of your salary for a year, and we can call our services even?

Franny: Hmm, I'd have to think about that one.....

QUESTION # 4: Is the lawyer permitted to enter business transactions with a client as a form of payment for services?

ANSWER: No, unless,

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Rule:

4-1.8(a): Business Transactions With or Acquiring Interest Adverse to Client. A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client, except a lien granted by law to secure a lawyer's fee or expenses, unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

Franny: Hey Juan, on another note, you know that white car Lacey was stopped in...? Well, she gave it to me as payment for all my babysitting services. She said that since I drive it around so much I could just have it. But NOW she's refusing to give it back. I don't even really want it, to be honest. It has this awful smell coming from the trunk. I want to sue her for...I don't know what. Like I said I don't really want the car anymore, because I don't think I could ever get that stink out. How about I just give the car to you as payment for your attorney's fees and you can do whatever you want with it?

Juan: You know what? I think that's a GREAT idea. Actually, I have this friend that owns a business in town called Pimp My Nanny Ride. We can add some rims...a stereo system...nice dark tints, even some street glow (*strokes chin while gazing up*).

Franny: Street glow?? What's that?

Juan: It's that pimp neon lighting under the car...makes the street glow as you cruise down the street "at 2 miles an hour so everybody sees you." Anyway, we can definitely get you your \$\$\$. The car could be worth an additional \$5000. I'll even pay for it myself!

QUESTION # 5: Is it permissible for Juan to take proceeds from the sale of the car as payment for his attorney fees?

ANSWER: Yes, an attorney can contract for reasonable contingent fees or place a lien and acquire a lien granted by law to secure the lawyer's fee or expenses?

Rule:

Pursuant to Rule 4-1.8 (a)

QUESTION # 6: Can Juan be sanctioned for adding upgrades to the car which result in a higher value?

ANSWER: Yes, pursuant to *The Florida Bar v. Perry*, 377 So.2d 712 (Fla. 1979), and Rule 4-1.8 (i),

Rule:

Juan has now gained a proprietary interest in the subject matter of the litigation (i.e., the car). As the arrangement to sell the car was made before Franny's undivided interest in the car was determined, there was still a possibility the courts would not have awarded the car or proceeds from the car to Franny. Therefore, Juan's customization of the car would give him a proprietary interest in the subject matter of the litigation.

4-1.8(i): Acquiring Proprietary Interest in Cause of Action. A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

- (1) acquire a lien granted by law to secure the lawyer's fee or expenses; and
- (2) contract with a client for a reasonable contingent fee.
