Carbolic Smokeball

Presents

Overzealous Advocacy

The Present Day Show

1. What should Jackie do upon learning of Charlie's behavior involving his "goddesses?"

A) Do nothing. It is Charlie's life after all and the court has no business in Charlie's sex life.

B) Counsel Charlie on the "best interest" standard that a court will look to in evaluating how to allocate timesharing on behalf of the children, and tell Charlie how his behavior with the "goddesses" will look to the court.

C) Attempt to dissuade Charlie from engaging in said behavior in the presence of his children, as it may be detrimental to his children; Jackie should consider the welfare of the children.

D) Both B and C

ANSWER: D) Both B and C.

Under section 61.13(3), Florida Statutes (2012), the court is required to determine whether modification of the parties' timesharing schedule is in the best interests of Charlie's children, assuming that Denise will also be able to show a "substantial, material, and unanticipated change in circumstances." Pertinent to this question, in considering whether modification of timesharing is in the child's best interest, the court must consider "[t]he anticipated division of parental responsibilities, including the extent to which parental responsibilities will be delegated to third parties," Charlie's capacity to act upon the needs of his children as opposed to his own needs or desires, and the moral fitness of Charlie.

Further, "[i]n representing a client, a lawyer shall . . . render candid advice," and may refer to moral and social factors that may be relevant to the client's situation. Fla. R. Prof'l Conduct 4-2.1.

Finally, the American Academy of Matrimonial Lawyers publishes "Bounds of Advocacy" which aspire to a level of practice above the minimum established in the rules of professional conduct. Bound of Advocacy 6.1 provides, "[a]n attorney representing a parent should consider the welfare of, and seek to minimize the adverse impact of the divorce on, the minor children. The comment to this rule states that matrimonial attorneys should counsel parties to examine their wishes in light of the needs and interests of the children and the relationship to other family members. Bound of Advocacy 5.2 provides that a family law attorney "should advise the client of the potential effect of the client's conduct on a [timesharing] dispute."

Thus, Jackie should tell Charlie how his "goddess"-related behavior will look to the court under the "best interests of the child" standard, as well as provide counsel to Charlie generally about the potential effects of his behavior on his children.

2. Upon Jackie learning that Charlie's spanking of his child in the past left bruises on child, Jackie must:

A) Disclose the information about Charlie's spanking to law enforcement or the Department of Children & Families.

B) Do nothing, as the information about Charlie's particular spanking is confidential and privileged.

ANSWER: B) Do nothing, as the information about Charlie's particular spanking is confidential and privileged.

Florida Rule of Professional Conduct 4-1.6 provides that "[a] lawyer shall not reveal information relating to representation of a client" absent the client's consent. However, an exception to the rule is that "[a] lawyer shall reveal such information to the extent the lawyer reasonably believes necessary" "to prevent a client from committing a crime." Under section 827.03, Florida Statutes, an intentional act that could reasonably be expected to result in physical injury to a child constitutes the crime of child abuse. Here, though, disclosure of the specific, past incident of spanking would not serve to prevent Charlie from committing a crime. *See The Florida Bar v. Lange*, 711 So. 2d 518, 520 n.2 (Fla. 1998)

("rule 4-1.6 . . . forbids attorneys to disclose client confidences unless disclosure is necessary to prevent a crime from occurring"). See also § 90.502, Fla. Stat. (providing that a lawyer-client communication is confidential if not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of legal services to the client and those reasonably necessary for transmission of the communication, and that the client has a privilege to prevent any person from disclosing the contents of confidential communication when that person learned of the communication because it was made in the rendition of legal services to the client).

3. Upon Jackie learning that Charlie currently uses "corporal punishment" and doesn't "hold back" when his son misbehaves, Jackie must:

A) Do nothing as client communications are privileged and confidential

B) Call the central abuse hotline of the Department of Children & Families if lawyer has reasonable cause to suspect that a child is being abused

C) Inform law enforcement

D) Jackie may do nothing but must disclose this information to the extent necessary to prevent Charlie from committing a crime.

Answer: Probably D) Jackie may do nothing but must disclose this information to the extent Jackie reasonably believes necessary to prevent Charlie from committing the crime of child abuse.

Section 39.201(1)(a), Florida Statutes (2012) states, "[a]ny person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent . . . or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department" via the department's toll-free central abuse hotline.

But Section 39.204, Florida Statutes (2012) provides, "[t]he privileged quality of communication . . . between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client . . . as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

However, depending upon how broadly the scope of the maintained attorney-client privilege in section 39.204 is interpreted, Florida Rule of Professional Conduct 4-1.6 still likely applies to require Jackie to disclose the information to the extent Jackie reasonably believes necessary to prevent Charlie from committing a crime. But note The Florida Bar v. Glant, 645 So. 2d 962 (Fla. 1994) (attorney representing mother in custody case disciplined for informing Department of Health and Rehabilitative Services that father sexually abused children; disclosure was contrary to the client's objectives where she wanted custody terminated and never testified that she knew the father was abusing the children). Charlie's statements regarding not holding back and that he performs corporal punishment arguably do not provide Jackie with a sufficient basis for disclosure.

The interplay between child abuse reporting statutes, the attorney-client privilege, and rules of professional conduct is complex and largely unsettled. The extent of the family law attorney's duties in such a situation is thus ripe for further legislative and judicial clarification. For further reading, see Robert P. Mosteller, Child Abuse Reporting Laws and Attorney-Client Confidences: The Reality and the Specter of Lawyer as Informant, 42 Duke L.J. 203 (1992); Lewis Becker, Ethical Responsibilities of a Lawyer for a Parent in Custody and Relocation Cases: Duties Respecting the Child and Other Conundrums, 15 J. Am. Acad. Matrim. Law 33, 58-68 (1998).

4. For purposes of this question, assume that at the hearing on Bernice's petition for modification of timesharing the next day, the trial judge tells Jackie that he saw Charlie drinking from his "cup" and that Charlie had a white powdery substances on his nose on The Present Day Show the previous day. What is Jackie's duty to the court regarding Charlie's drinking and drug use?

A) Jackie must inform the court of Charlie's drug use

B) Jackie must inform the court that the cup contained the substance on the one occasion

C) Jackie may deny all knowledge of the nature of the substance in the cup

D) Jackie must withdraw

Answer: Probably B) Jackie must inform the court that the cup contained the substance when Charlie was offstage at The Present Day Show

Pursuant to an attorney's duty of candor to the tribunal, a lawyer shall not knowingly 1) make a false statement of material fact or law to a tribunal; or 2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client. Fla. R. Prof'l Conduct 4-3.3(a)(1), (2). The duty of candor to the tribunal generally trumps the duty of confidentiality. The Florida Bar re Rules Regulating the Florida Bar, 494 So. 2d 977 (Fla. 1986). A parent's drug use that interferes with the parent's ability to meet the needs of the child or otherwise harms the child is a factor that weighs in favor of modifying timesharing. See Sullivan v. Sullivan, 736 So. 2d 103 (Fla. 4th DCA 1999).

At the very least, Jackie's duty of candor to the court requires Jackie to answer honestly about the contents of the cup. Whether Jackie must disclose the fact that Charlie ingests the substance several times per week to the tribunal perhaps depends on whether Bernice already plans to litigate the issue of Charlie's substance abuse as it pertains to the best interests of the children. If Bernice has no knowledge of Charlie's substance abuse, Jackie's position is more precarious, as a failure to disclose could be construed as prejudicial to the administration of justice.

And now a word from our sponsors:

Hosted by Ted

TEN MINUTES WITH TED

1. WHAT IS THE HUSBAND'S ATTORNEY'S DUTY WHEN HE IS TOLD BY THE SON, THAT HE HAD DELETED THE E-MAILS OF THE HUSBAND PARTAKING IN SOME ACTIVITIES WHICH MAY HAVE IMPACTED THE TIME-SHARING DETERMINATION BY THE COURT?

(A) The Husband's attorney has no duty to either opposing counsel or the Court to disclose the existence of the deleted emails. The emails were deleted by the son, not the client, and neither the Husband nor the Husband's attorney were consulted or in any way participated in the son's decision to delete the emails.

(B) The attorney must disclose the existence of the deleted emails to the Court if they are otherwise not discovered by opposing counsel or the Wife

(C) The attorney must disclose the existence of the deleted emails to Wife's attorney if they would otherwise be discoverable, but for the son's interference in deleting the emails.

(D) Both B and C.

ANSWER: D

Rule 4-3.3 Candor Toward the Tribunal provides:

(a) False Evidence; Duty to Disclose. A lawyer shall not knowingly:
(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

Rule 4-3.4 Fairness to Opposing Party and Counsel provides:

A lawyer shall not:

(a) Unlawfully obstruct another party's access to evidence or otherwise unlawfully alter, destroy, or conceal a document of other material that the lawyer knows or reasonably should know is relevant to a pending or a reasonably foreseeable proceeding; nor counsel or assist another person to do any such act.

Analysis: The ethical question is not whether the attorney is subject to discipline for destroying the emails (clearly he is NOT) but whether he has an obligation to opposing counsel and/or the court to disclose the existence (and destruction) of the emails, once the attorney learned that the son had tampered with the evidence (by deleting the emails) during the pendency of the divorce. In Florida Bar v. Nicnick, 963 So2d 219 (Fla. 2007), an attorney was suspended from the practice of law for concealing the existence of a settlement agreement. While the attorney was not involved in the execution of the settlement (which was done between the two represented parties WITHOUT involvement of counsel), once the attorney learned of the existence of the Settlement, he had a duty to disclose it to both opposing counsel and the Court The court expressly stated "Nicnick's misconduct was intentional because he knowingly concealed the documents. Among the rules violated were 4-3.3 (a) (2) (lack of candor to tribunal) and 4-3.4 (a) obstructing another party's access to evidence.

2. WAS THE REQUEST OF THE HUSBAND'S ATTORNEY FOR THE SON TO DELETE THE E-MAILS IMPROPER?

(A) Yes.
(B) No, because the deleted emails could still ultimately be recovered if opposing counsel hired an IT expert to examine the computer's hard drive
(C) No, because dad's attorney did not know or reasonably should know that the incriminating emails were relevant.
(D) Maybe not, because there is no general duty to preserve evidence in Florida
(E) Maybe not, because deleting another person's emails (or intentionally destroying evidence) is evidently not a crime in Florida.

Answer – A

See Rule 4-3.4(a)

A lawyer shall not: (a) unlawfully obstruct another party's access to evidence or otherwise unlawfully alter, destroy or conceal a document or other material that the lawyer knows or reasonably should know is relevant to a pending or a reasonably foreseeable proceeding; not counsel or assist another person to do any such act

See also Comment to Rule 4-3.4 Subdivision (a) applies to evidentiary material generally, including computerized information

The rule prohibiting an attorney from concealing evidence may apply, even if copies of a concealed document are available to the opposing party and even if the concealment lasts for only a short period of time. The Florida Bar v. Forrester, 818 So.2d 477 (2002). The comment to Rule 4-3.4(a), although not binding authority, supports our finding that the availability of copies of evidence is irrelevant to whether concealment of an original violates the rule. A trial need not occur before a document is considered relevant evidence under the rule. Forrester, 818 So.2d at 482.

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A duty to preserve evidence does not exist at common law. The duty must originate either in a contract, a statute, or a discovery request for purposes of a claim of spoliation. See Gayer v. Fine Line Const. & Elec., Inc., 970 So.2d 424 (Fla. 4th DCA 2007). See also Royal & Sunallliance v. Lauderdale Marine Center, 877 So.2d 843 (Fla. 4th DCA 2004) … However, Hagopian does not expressly establish any common law duty to preserve evidence. But see Sponco Mfg., Inc. v. Alcover, 656 So.2d 629 (Fla. 3d DCA 1995) – Under certain circumstances, the destruction of evidence may confer in an aggrieved party a separate cognizable claim. And Silhan v. Allstate Ins. Co., 236 F.Supp.2d 1303, N.D. Fla 2002 - Florida law recognizes a duty to preserve evidence after a lawsuit has been filed. However, this Federal district court interpreted Hagopian to expand the common law duty to include the filing of a lawsuit, which the 4th DCA in Royal & Sunalliance stated wasn't so.

Send a preservation of evidence letter in Florida State Court!!

See also, Comment to Rule 4-3.4 – Applicable law in many jurisdictions makes it an offense to destroy material for the purpose of impairing its availability in a pending proceeding.

3. IS THE MOM'S LAWYER VIOLATING THE FLORIDA RULES OF PROFESSIONAL CONDUCT BY USING THE THREAT OF A BAR COMPLAINT AS LEVERAGE AGAINST THE HUSBAND'S ATTORNEY?

(A) No, because everyone knows that a lawyer is supposed to do whatever they can to zealously represent their client.

(B) No, because what else is the lawyer supposed to do?

(C) No, because the other lawyer was acting improperly by telling the teenager to delete the e-mails.

(D) Yes. Threatening a bar complaint violates the Rules of Professional Conduct.

Answer – (D)

According to Ethics Opinion 94-5, under most circumstances, it is unethical to threaten a fellow member of the bar with a grievance complaint. Under the "Reporting Professional Conduct Rule, Rule 4-8.3, an attorney is obligated to report another attorney if the attorney has actual knowledge of misconduct that raises a substantial question as to the offending attorney's "honesty, trustworthiness, or fitness as a lawyer in other respects." See Rule 4-8.3(a). However, an attorney, may not report the violation if the information is protected by the confidentiality rule, Rule 4-1.6, unless the attorney has the consent of the client. As a result, in cases where an attorney is required to report a violation, failure to do so would result in misconduct under Rule 4-8.4(a). Also, an agreement not to file a bar complaint would violate Rule 4-8.4(a) where the filing of a complaint would be required by Rule 4-8.3(a). See Florida Bar v. Fitzgerald, 541 So. 2d 602 (Fla. 1989) (holding that a client's agreement not to report an attorney's misconduct is unenforceable). Therefore, if an attorney is obligated to report another attorney's professional misconduct, the attorney must report it rather than threaten to do so.

Even where an attorney is not required to report misconduct, threatening to do so may violate one or more rules, such as Rules 4-8.4(b), 4-4.1, 4-4.4, and 4-8.4(d). Rule 4-8.4(b) prohibits an attorney from committing "a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." Therefore, an attorney is prohibited from conduct that would constitute extortion under criminal law.

4. IS THE MOM'S LAWYER VIOLATING THE FLORIDA RULES OF PROFESSIONAL CONDUCT BY THREATENING TO PUBLICIZE THE VOICEMAIL TO GET A BETTER RESULT FOR HIS CLIENT?

(A) No, the lawyer is simply engaging in zealous representation for the client.

(B) No, because the child was happy with its mother's actions by giving that tape to the lawyer.

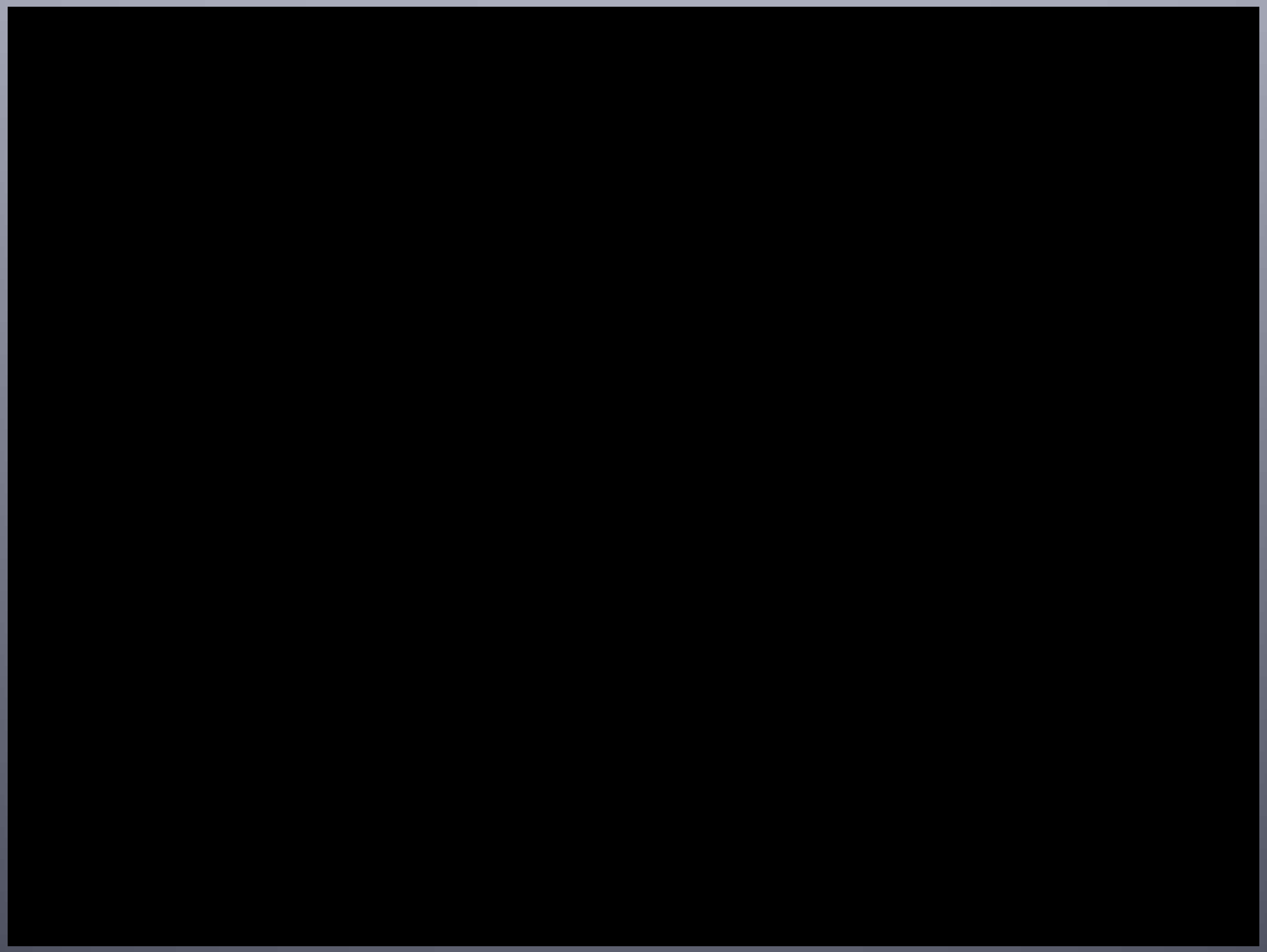
(C) Yes, because the lawyer is not considering the child's interests in its actions.

(D) Yes

Answer: A

In this case, there is no evidence that the child is represented by a guardian ad litem. Had the child been represented by a guardian ad litem, according to Shienvold v. Habie, the Fourth District Court has held that a guardian ad litem may file any necessary pleadings, motions, or petitions for relief as the guardian ad litem deems appropriate or necessary. 627 So.2d 1023, 1025 (Fla. 4th DCA 1993). Here, the lawyer was engaging in zealous representation of the mother, and the fact pattern demonstrates that the child was pleased by the mother's actions by allowing this tape go to the lawyer. IF the child had been appointed a guardian ad litem, this representative would have the right to intervene if they saw it fit to do so.

And now a word from our sponsors:



Tell me your story and I'll call you stupid!

1: Can Lawyer Bill Paddem advertise that he is better than all other attorneys?

A. Yes

B. No

C. Maybe

Answer: B

A lawyer cannot compare his services with other lawyers services in written advertising unless the comparison is specific and factually substantiated.

CHAPTER 4. RULES OF PROFESSIONAL CONDUCT
PREAMBLE: A LAWYER'S RESPONSIBILITIES . . .“A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. . . .A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials.“

(c) Permissible Content - Rule 4-7.2(b)(1) [ADVERTISING]

(1) Statements About Legal Services. A lawyer shall not make or permit to be made a false, misleading, or deceptive communication about the lawyer or the lawyer's services. A communication violates this rule if it:

(A) contains a material misrepresentation of fact or law;

(B) is false or misleading;

(C) fails to disclose material information necessary to prevent the information supplied from being false or misleading;

(D) is unsubstantiated in fact;

(E) is deceptive;

(F) contains any reference to past successes or results obtained;

(G) promises results;

(H) states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law;

(I) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

2. Can Lawyer Bill Paddem offer a contingency fee in a divorce case?

A. Yes

B. No

C. Maybe

Answer: B

No, A contingency fee is not legally permissible in this instance.

Rule of Professionalism 4-1.5(3) "A lawyer shall not enter into an arrangement for, charge, or collect: (A) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof."

3. Can Lawyer Bill Padden ethically adopt a strategy to incur massive attorney fees in order to ultimately recover a better settlement for wife, Mrs. Gothrocks?

A. Yes

B. No

C. Maybe

Answer: B

No. Wife/Gothrocks said she wanted Lawyer's services as long as the divorce was "quick and amicable"and thus, the lawyer's tactics would conflict with his client's original directive. In addition, the lawyer should not engage in excessive litigation purely as a tactic to advance a settlement in a divorce case because to do so runs contrary to the intent of F.S. 61.16., which could also adversely impact the wife if her lawyer's request for attorney fees were denied by the trial Judge.

Florida Statute §61.16 Attorney's fees, suit money, and costs.—
(1) The court may from time to time, after considering the financial resources of both parties, order a party to pay a reasonable amount for attorney's fees, suit money, and the cost to the other party of maintaining or defending any proceeding under this chapter, including enforcement and modification proceedings and appeals.

FS §61.16, allows for attorney's fees to be charged to the party better able to bear the financial burden in a divorce case. The purpose of the law is to ensure that both parties will have similar ability to obtain counsel. See, Canakkaris v. Canakaris, 382 So.2d 1197 (Fla 1980); However, the statute is also designed to "promote the amicable settlement of disputes that arise between parties to a marriage. See Perlow v. Berg-Perlow, 875 So. 2d 383 (2004).

RULE 4-1.2 OBJECTIVES AND SCOPE OF REPRESENTATION
(a) Lawyer to Abide by Client's Decisions. Subject to subdivisions (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by rule 4-1.4, shall reasonably consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter.

Comment to RULE 4.1.2 Allocation of authority between client and lawyer
Subdivision (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. Within those limits, a client also has a right to consult with the lawyer about the means to be used in pursuing those objectives. At the same time, a lawyer is not required to pursue objectives or employ means simply because a client may wish that the lawyer do so. A clear distinction between objectives and means sometimes cannot be drawn, and in many cases the client-lawyer relationship partakes of a joint undertaking. In questions of means, the lawyer should assume responsibility for technical and legal tactical issues but should defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected.

4: Would Husband's lawyer be committing an ethical violation if he asserts as a defense that husband should not have to pay wife's attorney's fees because they are illegal or prohibited contingency fees?

A. Yes

B. No

C. Maybe

Answer: A

Yes. The rule prohibits using an illegal fee arrangement as a defense in the action. The issue is purely contractual and is to be initially dealt with between lawyer and client.

Rule 4-1.5(e) states "… The fact that a contract may not be in accord with these rules is an issue between the attorney and client and a matter of professional ethics, but is not the proper basis for an action or defense by an opposing party when fee-shifting litigation is involved."

CHAPTER II

1: Was Wife's Attorney's conduct in drafting the one-sided proposed order and submitting it to Judge without sharing it with Husband's Attorney proper?

A. Yes, because Wife's Attorney has a duty to competently and zealously represent his client and get the best possible results for her in the divorce proceeding.

B. No, because attorneys should never submit proposed orders to judges; only judges and their law clerks should write orders.

C. Yes, because Judge requested a proposed order from Wife's Attorney setting forth what Wife's Attorney thought should be Judge's ruling, so Wife's Attorney had to submit the proposed order to avoid being held in contempt.

D. No, because Wife's Attorney should have provided the proposed order to Husband's Attorney prior to submitting it to Judge and should not have included one-sided findings that were not made, or even at issue, at the hearing.

ANSWER: D

See Perlow v. Berg-Perlow, 875 So. 2d 383, 391 (Fla. 2004)(Pariente, J., concurring). "First, the proposed final judgment that was submitted by the wife's attorney to the trial court should have been given to the husband before it was provided to the trial court, to afford the husband an opportunity to make objections. See American Academy of Matrimonial Lawyers [AAML], Goals for Family Lawyers § 7.12 (2000)('An attorney should submit proposed orders promptly to other counsel before submitting them to the court.')." Regarding the one-sided proposed order:

"Advocacy of this sort is unprofessional, does little to assist the trial court in it decisionmaking....See The Florida Bar, Ideals and Goals of Professionalism Goal 7.3 (1990)('A lawyer should not permit the client's ill will toward an adversary...to become that of the lawyers'.'); Goals for Family Lawyers § 1.3 ('An attorney should refuse to assist in vindictive conduct and should strive to lower the emotional level of a family dispute by treating all participants with respect.')."

2: Was Judge's conduct in requesting a proposed order from only Wife's Attorney, deterring Husband's Attorney from submitting a competing proposed order, and then signing Wife's Attorney's proposed order verbatim proper?

A. No, because Judge's conduct gave the appearance of impropriety by not permitting Husband's Attorney to submit a proposed order and by entering the proposed order in a short time period without any changes despite its one-sided and overreaching nature.

B. Yes, because judges can ask counsel in their courtroom to do whatever they want, they are judges after all.

C. No, because a judge may never request counsel to prepare proposed orders.

D. Yes, because Husband's Attorney was known to be a poor writer whose proposed order would have been of no value to Judge.

ANSWER: A

See Perlow v. Berg-Perlow, 875 So. 2d 383, 388-390 (Fla. 2004).

"When the trial judge accepts verbatim a proposed final judgment submitted by one party without an opportunity for comments or objections by the other party, there is an appearance that the trial judge did not exercise his or her independent judgment in the case. This is especially true when the judge had made no findings or conclusions on the record that would form the basis for the party's proposed final judgment. This type of proceeding is fair to neither the parties involved in a particular case nor our judicial system." Incidentally, Canon 3B(7) of the Florida Code of Judicial Conduct provides,"A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions."

CHAPTER III

1. Did lawyer violate any professional responsibility rules by charging a contingency fee to collect alimony?

A. Yes

B. No

C. Maybe

Answer: B

No. Comment directed to Rule 4-1.5 (f)(3): This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony, or other financial orders because such contracts do not implicate the same policy concerns.

2. How many ethical violations has lawyer committed?

A. Two (2)

B. Three (3)

C. Enough to be suspended from practice.

D. Enough to be disbarred.

E. Who cares, we want to eat dinner.

ANSWER: D

4-1.1 A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

4-1.2(a) Lawyer to Abide by Client's Decisions. Subject to subdivisions (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation, and, as required by rule 4-1.4, shall reasonably consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

4-1.4(b) Duty to Explain Matters to Client. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

4-8.4(d) A lawyer shall not: Engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic;

See: The Florida Bar v. Richard Shankman, 41 So.3d 167, (Fla 2010)