

## Scenario 1

**You have a client who you know to have a major drinking problem, and you also suspect a gambling problem and other mental health issues. He has not worked in five years and seems to have an unrealistic expectation that his pending lawsuit will settle in an amount great enough to pay off his substantial debt and support him for the rest of his life. Once he starts drinking in the evening, he often sends you profanity laced and sometimes abusive emails. There have been a few incidents where he sent such emails to opposing counsel and third party witnesses. He is also getting loans at usurious rates from lenders using the potential recovery in the lawsuit as collateral. He has asked your firm to advance him funds against any recovery he receives in the lawsuit, and you have repeatedly declined, however you expect this issue to be raised again. You are concerned not only about his personal well-being, but also that he may undermine his case (and your ability to collect your contingent fee) through his erratic behavior or by filing for bankruptcy. How do the rules of professional conduct apply in this situation and what advice to you have for this attorney?**

## Scenario 2

A mid-size law firm hires a young attorney as an associate. The attorney is married with an infant child. At first the associate seems eager and hard working. The work product produced by the associate is good and the partners believe that this associate has potential. After about 2 months however, the attorney seems tired and listless. The support staff notices that this attorney falls asleep on the desk in the attorney's office. Several times the attorney has gone to the restroom for extended periods of time. After about 4 months, this attorney is late for meetings and at one point never returned to work after an early morning court appointment. When asked about this, the attorney states that there was an accident on the highway that shut down the road. A review of traffic reports and news reports shows that no such shut down occurred. The partners are becoming concerned as the associate's work product is now sloppy and inconsistent. What are the partners' and/or firm's responsibilities to the associate and to any clients for whom the associate is performing work?

### Scenario 3

**On the day that trial is to commence, you and opposing counsel appear for a scheduled conference in the judge's chambers at the appointed hour. The judge arrives one half hour late, looking disheveled, and makes an off-hand comment about the tribulations of rush hour traffic. The judge is groggy during the conference which was specifically scheduled to resolve evidentiary issues. Instead of so proceeding, the judge decides to reserve all of the issues for disposition during the trial. The jury trial begins one hour late at 10:00 A.M.**

**The judge breaks for lunch at 11:30 A.M. with trial to recommence at 1:00 P.M. The judge does not return to the courtroom until 2:00 P.M. During a sidebar conference, you detect a strong odor of alcohol on the judge's breath. During the afternoon session, the judge refers to one of the witnesses as "a pretty young thing" and berates counsel for wasting the court's time with evidentiary objections that should have been resolved before trial. At 3:30 P.M., the judge recesses for the day commenting again on trial counsels' incompetence. When you return to your office, you learn from one of your associates that the judge performed similarly at a proceeding earlier in the same month. Under the circumstances presented, what are your professional obligations to your client and the justice system?**

#### Scenario 4

A Pittsburgh lawyer represented the Defendant in an employment law case. Although the Plaintiff and his attorney resided in Johnstown, they both agreed to travel to Pittsburgh for the Plaintiff's deposition. At the scheduled time, the Plaintiff arrived at the defense lawyer's office in Pittsburgh. He said that his attorney was traveling separately. A half hour after the deposition was scheduled to begin, the Plaintiff's lawyer had not arrived. The Defendant's lawyer called the Plaintiff's attorney's office, but no one there knew where he was or how to reach him. Forty-five minutes after the scheduled time for the deposition, the Plaintiff's attorney had not arrived and had not called to explain his absence. In fact, the Plaintiff's attorney never communicated regarding his failure to appear for the deposition.

Under the professional rules, what responsibilities did Defendant's lawyer have towards the Plaintiff? With respect to the Plaintiff's attorney?

## Scenario 5

Your good friend and law school classmate, Jack, works for another firm, but you get together several times a week after work for a drink. Jack lives by the rule never to have more than two drinks at one sitting. You become aware that Jack began drinking more, carrying a six pack in his car, and drinking enough to fall asleep in his chair before dinner now and then. At dusk one summer evening, he parked his car on the lawn and fell unconscious on the front steps. The next day when he saw tire tracks on the lawn, he decided to quit drinking for a while, at least.

\*\*\*

Social drinking has always been important to Jack. His parents drank socially. He and his wife often have a drink before dinner and frequently serve alcohol at their home on special occasions and at parties. Jack knows the consequences of excessive drinking but has begun to drink by himself occasionally during the day. He doesn't drink everyday – his work won't permit that – but once in awhile he cancels a social engagement to have time to drink. He is very skillful at concealing his drinking habits. Frequently he complains of fatigue and retires early.

\*\*\*

Jack begins to engage in risk taking behavior by having a couple of drinks to get started in the morning, drinking in order to fall asleep at night, taking a drink to get relaxed before going to a party, buying alcohol instead of paying household bills, drinking instead of enjoying family social activities, and risking his job by drinking at business lunches.

\*\*\*

Jack has had a few significant blackouts, gotten drunk and insulted you, his best friend, driven his car recklessly with his family on board. He has made a fool of himself at his office holiday party, hidden a bottle in the bedroom where he cannot find it, and been too drunk to show up for Thanksgiving dinner. He has passed out on his feet and cannot remember what he did, only that he survived the experience.

As to each of these scenarios, what is your opinion about the level of Jack's consumption of alcohol? What are your responsibilities under the professional rules? What could you do to help him?

## Scenario 6

Sarah and Jessica are first-year law students and roommates who are in the same legal research and writing small section. On the day their take-home exam was due, Sarah returned to their apartment after handing in her exam to find Jessica in tears. Jessica said that she had not been able to study for days. She didn't even feel like getting out of bed in the morning. Sarah knew Jessica had been going out a lot in the past few weeks and coming home late and very drunk. Sarah convinced Jessica to spend the remaining few hours on the exam. Jessica's eventual grade in the class was barely passing.

In the spring semester of their third year of law school, Jessica learns that her mother is seriously ill. Jessica begins ignoring phone calls from her friends and family. Sarah hears from other friends that Jessica is not attending classes or study group appointments. Jessica begins to drink alcohol at home alone and is often drunk on weeknights. Sarah decides to approach Jessica and tell her that she is concerned about her drinking and how Jessica is dealing with her mother's illness. Jessica says that her drinking is no big deal and that she was thinking about going to Counseling and Psychological Services (CAPS) on campus, but someone told her that if she did she would never get admitted to the state bar.

- Does Sarah have an obligation to disclose her concerns about Jessica's drinking to the law school or anyone else?

- Would your answer change if Jessica were abusing cocaine in addition to alcohol?

- What if Sarah were one year ahead of Jessica in law school and admitted to the PA bar, and Jessica asked her to complete a "character and fitness" reference form relating to Jessica's PA bar application?

## Scenario 7

Your partner Jeff Judson has been the most upstanding and forthright attorney of your mid-size law firm for many years. Jeff is everything a lawyer should be: learned, intelligent, fiercely ethical, and dedicated to his clients and his colleagues. Just a visit to his office is awe-inspiring - its walls are covered with photos, clippings, and other souvenirs of a long and noble career.

So it takes a while for you to suspect - let alone believe - that there is something wrong with Jeff. Sure, his office has become a mess - but isn't any lawyer's office a mess when he's busy? And he seems, lately, to repeat stories he's told you before - but every lawyer loves retelling his war stories, doesn't he?

But as time goes by, you are faced with facts you can't ignore. Gail Greenhorn, the junior lawyer on one of his cases, reluctantly confesses that a few of their mutual clients refuse to work with Jeff anymore. "Nothing against Jeff," a client says, "but he just doesn't seem focused on our case, and he's not returning our calls." you learn that Jeff has missed a few client appointments, and that Gail is always ready to attend hearings that Jeff has forgotten about. Then Jeff misses a few important filing deadlines.

You can't ignore it any longer. It's clear to you that Jeff is suffering from some type of mental impairment, dementia, or some other mental disorder.

- What are your ethical obligations in the face of this knowledge?
- What are Jeff's obligations?.
- What are our responsibilities as Jeff's partners?
- Do you have an obligation to report Jeff?
- What if Jeff leaves the firm, what happens next?