

Self-Assessment Test

January 2010

New York Professional Responsibility Report

Receive one-half hour of CLE credit in Ethics and Professionalism by reading the Jan. 2010 issue of NYPRR and answering the following questions. The answers are contained within the newsletter. Return this form, together with your payment of \$15 by check or money order. For both true-false questions and multiple-choice questions, mark the correct box with an "x". You must score 80 (16 out of 20 correct) to receive a certificate.

1. A lawyer employed by an organization must explain to a constituent with whom he is dealing that he represents the organization and not the constituent as soon as:
 - he begins his dealings with the constituent*
 - it appears that the interests of the organization and the constituent may differ*
 - the constituent challenges the lawyer's impartiality.*
2. In *MetLife*, Judge Platt disqualified Debevoise because:
 - the firm had represented the policyholders in the demutualization*
 - the interests of the policyholders and the company were inconsistent*
 - an attorney who represents an organization has an attorney-client relationship with its constituents.*
3. The Second Circuit reversed Judge Platt because:
 - Debevoise had not formed an attorney-client relationship with the MetLife policyholders*
 - the services rendered by Debevoise had benefitted the policyholders*
 - the interests of the policyholders and of MetLife were not inconsistent.*
4. In *Eurycleia Partners*, the limited partners argued:
 - Seward and Kissel had drafted the offering memoranda prompting their investments*
 - a fiduciary relationship with the limited partners was created by S&K's attorney-client relationship with Wood River*
 - the lawyer-client relationship formed with a partnership extends to the limited partners.*
5. The Court of Appeals in *Eurycleia* held:
 - the lawyer for a limited partnership owes the same duty to each partner as to the partnership*
 - in the absence of special circumstances, the lawyer for a limited partnership has no fiduciary duty to the limited partners*
 - a limited partner is entitled to rely on an agreement prepared for his signature by the attorney for the partnership.*
6. Comments [2A] and [2B], clarifying the explanation required under Rule 1.13(a), were contributed by:
 - the Appellate Divisions*
 - COSAC*
 - the ABA Model Rules.*
7. When a lawyer representing an entity explains to its constituent that a potential conflict exists, the constituent should:
 - ask the lawyer to explain the nature of the conflict in writing*
 - consider retaining independent counsel*
 - investigate whether the potential conflict affects other constituents of the entity.*
8. COSAC's comment [34A] adds to ABA comment [34] the following factor relating to a corporate affiliate:
 - do the corporation and the affiliate share the same legal department or general counsel?*
 - do the corporation and the affiliate compete in the services or products they offer*
 - do the corporation and the affiliate share the same office?*
9. A lawyer may reasonably conclude that an affiliate is not his client if:
 - he has had no significant dealings with the affiliate or access to its confidences*
 - he has never been consulted on an issue of law by the affiliate*
 - he can reasonably conclude that his services to the corporate client have not affected the affiliate adversely.*
10. In *GSI v. BabyCenter*, GSI argued:
 - BabyCenter was a former client of Blank Rome whose relationship with the firm had ended*
 - it had a basic right to be represented by counsel of its choice*
 - BabyCenter and Johnson and Johnson were separate entities for conflict purposes.*

11. *BabyCenter* stands for the principle that in the absence of the client's consent a lawyer:
- may not advocate in one matter against a client he represents in another matter*
 - may not offer advice and counsel to an affiliate or subsidiary of the client*
 - must limit his services to the client in accordance with his letter of engagement.*
12. A judge is required to withdraw from a case when he knows that a lawyer before him:
- is a former law school classmate*
 - is related to him within the fourth degree of relationship*
 - is a member of his social club.*
13. When a lawyer before him has filed a disciplinary complaint against him:
- the judge is required to withdraw*
 - the judge need not withdraw unless he believes he cannot remain impartial*
 - the judge may not ask the lawyer to consent to remittal.*
14. Remittal, the process by which a disqualified judge may continue to hear a matter, requires full disclosure of the relevant facts and:
- consent of the parties and their lawyers*
 - approval of an appellate court judge*
 - approval of the Advisory Committee on Judicial Ethics.*
15. When a judge files a disciplinary complaint against a lawyer:
- the grievance committee is required to expedite its decision*
 - the complaint is reviewed by a panel of judges*
 - the judge is disqualified from hearing a matter in which the lawyer is involved.*

16. When a judge knows that he has committed an ethical violation:
- he must report the violation to the CJC*
 - he must tender his resignation as a judge.*
 - he is under no obligation to report the violation*
17. When a judge receives an ex-parte communication:
- he has a duty to reveal the contents to all sides*
 - he has a duty to return the communication to the party that sent it*
 - he can exercise his discretion whether or not to notify the other side.*
18. Although a New York judge may participate in a social network, he is cautioned:
- to avoid "friending" any lawyer*
 - not to provide any legal advice in his postings*
 - to participate as an ordinary citizen and not to disclose that he is a judge.*
19. Judicial ethics authorities in Florida have advised judges:
- not to use Facebook to "friend" lawyers who may appear before them*
 - to be discrete in their postings on Facebook*
 - to avoid expressing any controversial comments in their postings.*
20. A judge who is asked to respond to a widely distributed e-mail asking for his views on the qualifications of a judicial candidate who has appeared before him as a lawyer:
- may not submit any response*
 - is permitted to share positive or negative information based upon his experience with the lawyer*
 - must limit his response to a list of the cases in which the lawyer has appeared before him.*

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