2018 Ethics in Civil Litigation

Original Program Date:  September 18, 2018
Available Media Types:  Video and Audio MP3

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DESCRIPTION
In this popular annual ethics refresher, an experienced faculty guide you through problem-solving case studies illustrating real-life issues that come up in litigation.

AGENDA

1  Ethical Issues to Consider in Mediation and Settlement Negotiations
What are the ethical considerations that an attorney must be aware of during settlement discussions and negotiations?  Can an attorney represent an incomplete fact that will help his case and withhold facts that may hurt his case?  What can an attorney reveal during settlement discussions and not say?  What can a mediator do when confidential information is disclosed but which becomes disclose outside of mediation?  Does a mediator owe a duty of impartiality?

Edward K. Le – Edward K. Le PLLC, Renton, WA

2  Ethical Issues with Using, Retaining, Hiring, and Disclosing Experts
What are the ethical ramifications when hiring experts and retaining experts?  Can an attorney hire an expert with the intent of not using that expert but preventing opposing counsel from hiring that same expert?  Can an attorney instruct or coach an expert on what to say in litigation?  Can an attorney designate an expert pursuant to a case schedule without having hired such an expert yet?

Robert Bohm – Robert D. Bohm, PLLC, Federal Way, WA

3  Ethical Issues Dealing with Clients During Litigation
What ethical duties does an attorney owe to a client to ensure that he complies with the diligence requirement in litigation?  What ethical duties does an attorney owe when a client misrepresents the facts?  What ethical duties does an attorney owe during discussions with opposing attorneys when the attorney believes the client is lying?  What ethical duties does an attorney have to each client when he represents multiple clients in the same lawsuit?

Jason Baker – Law Offices of Jason A. Baker, Seattle, WA

Agenda continues on the next page.
4 Ethical Issues Representing Minorities and People of Color
What ethical duties does an attorney owe to ensure that interpreters be available for clients to fairly apprise them of the civil proceedings? What are the ethical implications of the recent Supreme Court amendment to the rules regarding Batson challenges? What ethical duties does an attorney owe to a client to competently understand his/her legal rights and privileges during litigation? What ethical duties does an attorney owe to a client to ensure fairness and impartiality in litigation?

Celia Rivera – Rivera Law Offices PLLC, Olympia, WA

5 Ethical Challenges for Assigned Defense Counsel under a Reservation of Rights Defense
What are the ethical duties an attorney owes to a client even though he/she is being paid by a third party such as an insurance company? Is there an ethical duty to protect the client when an insurance company instructs you otherwise not to settle? What are the ethical duties of an attorney when the defendant dies and the estate is now represented by an attorney? Is there an ethical duty to protect your client if you suspect he or she has a cognitive or mental injury/disability?

Thomas Lether – Lether & Associates, PLLC, Seattle, WA

6 The Ethics of Representing Clients with Diminished Capacity in Litigation
Attorneys have a special set of duties when they represent clients with diminished capacity. This session focuses on identifying if a client has diminished capacity and what your obligations are to the client under those circumstances. The client’s ethical duties to identify if a protective action is necessary and what protective actions are available will be addressed. Specifically, the use of surrogate decision making, Guardians ad Litem, and guardianship, and issues specific to settlement will be reviewed.

Josh Brothers – Brothers & Henderson, P.S., Seattle, WA

7 Ethical Issues and Considerations in Discovery
What ethical duty does an attorney have to produce legitimate discoverable items when the client instructs the attorney not to produce such items? What ethical duties does a client have to protect clients from embarrassing evidence in discovery? What are the ethical duties an attorney owes to a client to require the preservation of social media? What ethical duties does an attorney have to protect the client from burdensome discovery? When are discovery requests improperly invading the work product privilege? What duties does an attorney have with respect to production of discovery of documents and information that the attorney has gathered to support the client’s claims? What is the proper and ethical way to assert and document attorney client and work product privileges in order to justify redaction and withholding of discovery? How does an attorney ethically investigate and challenge withholding of discovery based upon improper privilege assertions?

Jean Jorgensen – Edward K. Le, PLLC, Renton, WA

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Ethical Issues Related to Attorney Fees

What are the ethical duties an attorney owes to a client relating to contingent fees if worked the case only briefly and obtained a substantial settlement? What ethical duties does an attorney have to fairly charge a client? If attorney fees are awarded by a court in a contingent matter, does the fees need to be shared with the client? If attorney fees are awarded by statute in a case that the attorney prevails, what is the reasonable rate an attorney can seek from the Court? Can an attorney charge one client a different retainer or hourly rate and charge another client a different rate? What ethical duties does an attorney have when an attorney withdraws from a case and seek fees?

Lee Raen - Law Office of G. Lee Raen, Seattle, WA