

# **Ethics Refreshers**

**Wyandotte County Bar Association**  
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**Gayle Larkin**

**Gary West**

Office of the Disciplinary Administrator  
701 Southwest Jackson Street, First Floor  
Topeka, Kansas 66603  
785-435-8200

## **Question 1**

John was arrested for DUI and hires you to represent him. Since John is unemployed, his father, a long-time business client of your firm, agrees to pay your fee. A few days after your first meeting with John, his father calls you and asks questions about John's defense and the anticipated outcome of the case. You should:

- a. Discuss the case with his father.
- b. Discuss the case with his father as long as you do not disclose privileged communications.
- c. Discuss the case with the father on the condition that he share the information with his son.
- d. Decline to discuss the case with the father because he is not the client and information related to the case is confidential.

## **Question 2**

In an ex parte proceeding a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are:

- a. True.
- b. Controversial.
- c. Relevant.
- d. Adverse.

### Question 3

In accordance with Kansas Supreme Court Orders concerning court operations during the COVID-19 pandemic, the district court where attorney Marcus practices is scheduling cases for virtual hearings using Zoom, an electronic audio-visual communication program. Marcus does mostly transactional work and has very few litigation cases. As a result, Marcus has not yet participated in a virtual hearing.

In a case Marcus recently became involved in, the district court notified counsel that a pretrial evidentiary hearing will be held remotely through Zoom. Marcus is concerned because he has limited computer skills and has never used Zoom or any other kind of online video conferencing program. Marcus filed an objection to the online hearing and requested that it be held in-person. In the objection, Marcus argued that he cannot competently represent his client through a remote hearing because he is not proficient enough with computers to use Zoom. He also asserted that he should not have to try to learn how to use remote conferencing because he does so few litigation cases.

**Yes or No:** Does Marcus have an obligation under the Kansas Rules of Professional Conduct to learn how to use remote conferencing programs?

### Question 4

Attorney John failed to pay his annual attorney registration fees. As a result, the Kansas Supreme Court has issued an order suspending John's license to practice law.

**True or False:** Even though he has been suspended, John may continue to meet with clients, give legal advice and otherwise practice law, as long as he does not appear in court.

### Question 5

A plaintiff in a pending case in which you are not involved calls you for a consultation to discuss the merits of the case. She tells you that she is represented by an attorney but wants to get a second opinion from you. Under the Kansas Rules of Professional Conduct:

- a. You must get permission from her current attorney before discussing the case with her.
- b. You may communicate with her concerning the case.
- c. You may communicate with her concerning the case only if you have been certified as a Specialist in Second Opinions by an organization accredited by the American Bar Association.
- d. You may communicate with her concerning the case only if she plans to discharge her current attorney.

### Question 6

You represent a client in a hotly contested matter. You receive an email from opposing counsel. The email contains highly confidential information directed to the opposing party. It was obviously sent to you by mistake. You should:

- a. Promptly notify the sender.
- b. Promptly notify the opposing party.
- c. Make no disclosure to the sender.
- d. Delete it.

### Question 7

Which of the following are true statements?

- a. A lawyer charged with a felony crime must promptly notify the disciplinary administrator.
- b. A conviction of an attorney of a crime or a civil judgment against an attorney based on clear and convincing evidence is conclusive evidence of that crime or civil wrong in any disciplinary proceeding based upon the conviction or judgment.
- c. Lawyer advertisements must be pre-approved by the office of the disciplinary administrator prior to publication.
- d. All communications between a lawyer who contacts the Kansas Lawyer's Assistance Program (KALAP) or participates in its programs are privileged against disclosure to the same extent and subject to the same conditions as attorney-client confidential communications.

### Question 8

Attorney trust account records must be preserved:

- a. For a period of two years after termination of representation.
- b. For a period of three years after termination of representation.
- c. For a period of five years after termination of representation.
- d. Until the termination of the representation.

### Question 9

**True or False:** The Kansas Rules of Professional Conduct prohibit non-refundable fee agreements where the fees are for services to be performed in the future.

### Question 10

Carol is an attorney licensed in Kansas and is a solo practitioner. Her law office was in Kansas City, Kansas, but she recently moved to a new office across the state line in Kansas City, Missouri. Carol does not have a Missouri license. She intends to continue to practice only Kansas law in Kansas courts but from her office in Missouri. She does not intend to practice Missouri law. Carol's letterhead shows her new Missouri address, but clearly notes that she is licensed only in Kansas.

**Yes or No:** Is Carol violating the Kansas Rule of Professional Conduct that prohibits engaging in the unauthorized practice of law?

### Question 11

**True or False:** Attorney discipline hearings are open to the public.

### Question 12

You agree to represent Joe in a criminal case for a \$25,000 flat fee. Under the terms of the fee agreement, the flat fee covers representation through trial and sentencing. What should you do with Joe's \$25,000 payment?

- a. Deposit it into your operating account; flat fees are considered earned upon receipt and therefore belong to you.
- b. Deposit it into your trust account to maintain a proper record of the transaction and then immediately transfer it to your operating account.
- c. Deposit it into your operating account; as long as the fee is reasonable for the services, it belongs to you.
- d. Deposit it into your trust account; any fee paid in advance for future services belongs to the client until the fee is earned.

### Question 13

Husband and Wife want you to jointly represent them in a divorce. They claim to be in complete agreement on all issues and do not want to waste money by hiring two attorneys. Husband and Wife offer to waive any conflict of interest. You:

- a. May ethically represent both Husband and Wife in the divorce if each client gives informed consent, confirmed in writing.
- b. May ethically represent both Husband and Wife in the divorce if you advise each client to seek independent counsel regarding any conflict and if each client gives informed consent confirmed in writing.
- c. May not ethically represent both Husband and Wife in the divorce, even if they consent and waive any conflict of interest.
- d. May ethically represent both Husband and Wife in the divorce if each client gives informed consent, confirmed in writing, and there is no significant risk that your representation will be materially limited by your representation of the other client.

### Question 14

James, a prosecutor, is preparing for sentencing in a case where the defense has filed a downward departure motion. James has come across information that would be strong mitigating evidence in favor of departure.

**Yes or No:** Does James have a duty under the Kansas Rules of Professional Conduct to disclose the mitigating information to the defense?

### Question 15

Generally, an attorney has an ethical duty to keep confidential:

- a. Only communication received directly from a client.
- b. Only communication received directly from a client, the client's parents, or the client's other close relatives.
- c. Only information relating to the representation of a client that is not likely to be introduced at trial.
- d. All information relating to the representation of a client.

### Question 16

You represent a client in pending litigation. You filed a response to a motion that included an affidavit signed by your client attesting to various facts relevant to the motion. Later, after the motion was ruled upon, you discovered that material statements in that affidavit were false.

What is the first thing you should do?

- a. Withdraw.
- b. Do nothing unless the false statement is discovered by opposing counsel.
- c. Tell your client you need to act to remedy the false statements and ask for the client's cooperation.
- d. Notify the court that the affidavit contained false statements.

### Question 17

**True or False:** There is a specific provision in the Kansas Rules of Professional Conduct that prohibits improper communication with a juror or prospective juror.