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What Ethical Violations if any has Linda (L) Committed? Discuss

Att/Cl. Relationship exist b/c L represents Client (C) therefore L is subject to ethical violations under both ABA and CA Rules

Fee Agreement - Oral Fee Agreement.

Under both the ABA and California Rules, Fee agreement must be reduced to a writing so the C can understand the terms of the fee agreement.

Here, because L orally agreed to the fee agreement of 50% as attorney fee and the client will get the other half less any cost and incurred.

Therefore, L violated both the ABA and CA rules.

Fee Agreement Uncertain/Unreasonable.

Under the ABA Rules, fees must be reasonable subject to local customarily charged fee based on such issues such as experience, how long it may take the amount to be recovered etc. Historically, what is

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acceptable or standard is $\frac{1}{3}$ while the C as here will get $\frac{2}{3}$.

There are no facts suggesting why L has decided to charge 50% for a PI claim. Knowing fully well that is poor.

Under CA rules, Fees must not be unconscionable and the attorney must state that "fees are subject to negotiation."

Here because L is charging L 50% as fee, for PI issue w/o further facts justifying the deviation from $\frac{1}{3}$ the customary fee.

Therefore L violated fee amount ^{under} both the ABA and CA rules.

SCOPE OF DECISIONS ^{Representation}

CLIENT DECISIONS

Under both the ABA and CA rules the decision to settle, enter a plea, appeal or testify are client decisions not the attorney's. Strategy for litigation is for the atty.

Here, because L accepted the \$100,000 settlement offer before sharing the news to settle by pay

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L's ~~violate~~ exceeded the scope of representation thereby violating her ethical obligations to C.

Therefore L violated scope of representation rule

Failure to Communicate

Settlement Offer

Under both the ABA & CA rules, every lawyer including L is mandated to keep the client reasonably informed so the client can make informed decisions.

Here, L did not give C a chance to think about the settlement offer of \$100,000, thus L deprived C of the opportunity to make informed decisions or at least think about it.

Commingling of Funds

Deposit of \$100,000 into trust

Under both the ABA and CA Rules, A lawyer is not allowed to commingle funds which belong to the client. Funds for clients are supposed to be deposited into an interest on lawyer account (IOLTA) separate from the attorney's business accounts.

Here L deposited the \$100,000 into her law firm's

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business account instead of an (1067A) account thereby commingling funds and not keep it separate.

Therefore L violated her ethical obligations to C

Accounting for Fees/lost Disputed. \$10,000. Retained.

Both under the ABA & CA Rules Disputed fees are supposed to be retained in the account until it is explained and the client is satisfied.

Here, B/c L ^{offered to} ~~unintentionally~~ ^{pay} returned the \$10,000 into the b/c she complained of the LG fees. L violated ethical ~~violates~~ by not accounting for disputed fees as she should.

Conclusions

For the above stated reasons, L violated ethical rules under both ABA & CA rules, and may be subject to discipline.

← The Release Agreement was unethical at best.

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