

Recognizing Ethical Issues!

Test Your Skills Against the Panel

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Recent Ethics Opinions

Summer Associates – Secretaries -- Employees

- Firm A is expanding and wants to add 3 people, a first year associate for litigation, an assistant marketing person, and a legal secretary in litigation.
- A's managing partner ("MP") has made offers to fill the needs and drops by your office to tell you how well things are going. Since you are in charge of risk management and ethics compliance you start asking questions. MP gives you the following answers:
 - First year associate: Graduated in May 2015 – summer associate 2014, worked for Firm B in litigation – wrote memos on litigation matters – you note Firm B is on other side of your firm on one litigation matter – you casually mention possible need for screening – MP says he will handle.

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Summer Associates – Secretaries -- Employees

- The prospect for Assistant Marketing director has worked for two other firms over the last 5 years – but so far has not mentioned working on any client matters directly – or having any direct client contacts at other firms.
- The litigation secretary position has been offered to a very experienced litigation secretary who has worked at 3 other firms over the last 20 years. She said that she did not recognize any litigation matters she was asked about.

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Summer Associates – Secretaries -- Employees

- What ethics questions need resolving:
 - Can you ask associate if he has worked on a certain matter of litigation for Firm B?
 - Does Rule 1.05 apply? Does Rule 1.06 apply? Does Rule 1.09 apply?
 - Will screening help?
 - Does Rule 5.03 apply?
 - Opinion 650 (May 2015), Opinion 644 (August 2014), Opinion 501 (April 1994), and Opinion 472 (June 1991)

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Recent Ethics Opinions

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- See Opinion 644 (August 2014) and Opinion 650 (May 2015)
- See *In re Guaranty Insurance Services, Inc.* 343 SW3d 130 (Tex. 2011); *In re Columbia Valley Healthcare System, LP.*, 320 SW3d 819 (Tex.2010); *Grant v. Thirteenth Court of Appeals*, 888 SW2d 4666(Tex. 1994); Professional Ethics Committee Opinion 472 (June 1991).
- What difference does it make if the potential new employee has worked for an opposing firm on the matter in question? Suppose that the new employee had in fact worked on the matter but was not going to work in the new firm on the matter.

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