



Facilitator's Guide Wills and Estates Case Study

The Last Will

Opening Paragraph

It was 3 p.m. on Friday, September 23, 2014, and Janet Darden had promised to contact her client, Sylvain Pelletier, by the end of the day. Sylvain's previous lawyer had obtained an opinion from a respected senior practitioner recommending a shortcut that would save the client a significant amount of time and money, but that would, in Janet's view, be unethical. Janet only had two hours to decide what to advise her client.

Objectives

1. This case is intended for a study group discussion session on professional responsibility in Wills and Estates Litigation.
2. Participants will be expected to put themselves in the position of the lawyer in the case and to identify and analyze the legal, professional and personal challenges she faces.
3. Participants will also be expected to develop alternatives and an action plan for resolving the issues in accordance with the lawyer's professional obligations under the *Code of Professional Conduct*.

References

- Competence, subrule 2.01(1) (a), (d), (e)
- Honesty and Candour, subrule 2.02(2)
- Dishonesty, Fraud by Client, subrule 2.02(7)
- Advocacy, clause 4.01(2)(b), (e)
- Integrity, subrule 1.01(1)
- Communications, subrule 6.02(7)
- Obligatory Withdrawal, clause 2.07(7)(b)
- Duty to Report Misconduct, subrule 6.01(3)

Suggested Discussion Questions

Assume that you are the lawyer in this case, and answer the following questions with reference to the relevant *Code of Professional Conduct* provisions:

1. What are your duties to the client in this case?
2. What steps should you take if your client instructs you to apply for a Letters Probate, but not to disclose all the relevant documents?
3. What are your duties to the lawyer who gave the opinion?
4. Do you have a duty to report that lawyer to the Law Society? Why or why not?