



The Facilitator's Guide Family Law Case Study

The Separation Agreement

Opening Paragraph

On May 4th, 2014, Adam Robertson, partner at the family law firm of Robertson, Daniels & Leighton LLP, in Yorkton, Saskatchewan, reviewed an urgent memo from his junior associate, Herta Schiller. Her client, Olivia Callahan, had demanded an explanation from a senior partner as to why her offer to settle had not yet been sent to her husband's lawyer. Olivia was due to arrive in the office in less than two hours and Adam had agreed to meet with her.

Objectives

1. This case is intended for a study group discussion session on professional responsibility in Family Law.
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 he 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, rule 2.01
- Encouraging Compromise or Settlement, subrule 2.02(4)
- Dishonesty, Fraud by a Client, subrule 2.02(7)
- Obligatory Withdrawal, subrule 2.07 (7)

Suggested Discussion Questions

Assume you are the lawyer in the situation and answer the following questions with reference to the relevant *Code of Professional Conduct*:

1. What are the ethical issues that arise for you in this situation?
2. How will you address each of the ethical issues with a view to retaining Olivia as a client? What will you say to Olivia and why?
3. Based on the information available, outline your recommended strategy for proceeding with the settlement negotiations to be presented to Olivia at the meeting. Identify all the issues and any assumptions that you would make. What alternatives would you suggest to Olivia, and why?
4. What would you say, if anything, to Olivia regarding her role as spousal sponsor in relation to her husband's immigration application? Why?
5. What advice would you give Olivia to properly address any right or claim she may have relating to *Espresso! Coffee Bar*? Why?

6. What if anything, would you tell Olivia regarding the misrepresentations she has made on her Income Tax returns. Give reasons for your answer.
7. What if Olivia instructs you not to disclose the \$120,000 that she took from the line of credit? What would you say to her? What would you do?
8. What are some of the strategies – apart from withdrawal of services – that a lawyer can use to manage a client who expects his or her lawyer to engage in conduct that may result in a breach of the *Code of Professional Conduct*?