

Ethics Fact Patterns for EJU

1. You represent a senior citizen in a collection defense matter. The client was sued by a creditor on an unpaid credit card bill. After several months of discovery you notice that your client begins to act strangely and forgets many things that have happened throughout the litigation, including sworn answers given in interrogatories. You ultimately determine that your client may be having lapses in memory and judgment, or in other words suffering from diminished capacity. You determine that your client is not able to assist in preparation and litigation of their case at this time. Your client has had her daughter with her in most meetings with you about her case.
 - a. Can you now talk with the daughter about your observations and concerns with your client's ability to assist in her case? Can you ask the daughter to make decisions on her mothers' behalf? Can you suggest to the daughter that her mother might need a conservator?
 - b. When adverse counsel approaches you to schedule court ordered mediation what can you tell your adversary about why you don't want to schedule mediation at this time? Do you have an obligation to inform the court that your client is no longer competent to carry forward the litigation? Can and should you ask the court to appoint an Attorney ad Litem to represent your client's interests?

2. You represent a minor victim of domestic violence in an order of protection matter. She has been severely abused by her high school boyfriend and you feel she should have a very strict no contact order of protection. The client's mother has filed the order of protection on behalf of the minor child. The day of court your minor client advises you that she wants a social contact order of protection so she can still see her boyfriend. Her mother disagrees strongly and insists that there be a no-contact order. You talk with your minor client about safety issues and the reason that you have advised her that she should have no contract whatsoever with her boyfriend. She does not relent and insists she either wants a social contact order or to dismiss her petition. You must now attempt to negotiate with the boyfriend to see if an agreement can be reached.
 - a. Who is your client, the minor or the mother?
 - b. Whose direction must you follow in negotiating the order, the minor or the mother?
 - c. At the point the minor client does not agree with your advice can terminate your representation of the client?
 - d. Since the mother agrees with your advice can you enter an order based on an agreement with the adverse party since the mother is in fact the Petitioner, even though the minor client does not agree?
 - e. If you do negotiate with the adverse party and fail to reach an agreement can you then advise your client that you will no longer represent her?

- f. Same facts as above except the matter has been to court once before and was continued. You entered an appearance in the case during the first setting. Can you now withdraw? If you do decide to withdraw what can you tell the judge as your reasons for your motion to withdraw?
3. Susie contacts you to represent her in an eviction matter. She has a roommate who is also named on the lease and is likewise being evicted. Susie is being evicted from her apartment by Bob, who you represented several years ago in a divorce matter.
- a. Do you now have a conflict of interest such that you can't now represent Susie?
 - b. If you decide you do have a conflict what can you tell Susie about the reasons you can't represent her?
 - c. Same facts as above except Susie's current roommate is a former employee of Bob at his property rental business
 - d. Same facts as above except you represented Bob years ago when he purchased the rental property in which Susie now resides