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1. What ethical violations, if any has Anne committed according the CA and ABA authorities?

#### Competent

Anne has a duty to competently represent her client under the ABA and under CA to not be negligent, reckless or with intent violate the duty of competency. Both require the lawyer had the skill and knowledge to represent the client. She also has a duty of care and under CA, that duty requires her to not engage in illegal activity or advise the client to engage in illegal activity.

Here, Kelly receive an email from Player and Kelly referred Player to Anne. The Player is in a dispute with the professional team that employs him but he is refusing to play despite having a valid enforceable contract. Anne tells Player to ignore a court order and continue to refuse to play. Anne is telling Player to continue to breach when she knows that the breach is unwarranted because Player refused to play because he wants more money. The advise to ignore the preliminary injunction is an illegal activity that Anne is not allowed to advise as she also has a duty to the courts not to break the law.

This is a new law in CA, where the intent of the lawyer to encourage with advise to break the law will subject the lawyer to penalties, including sanctions or up to disbarment. When Anne told Player to ignore the PI, she was also breaching her duty to her client to advise Player on the effects of on the breach of contract and the effects could have on Player as well as criminal charges for contempt.

Therefore, she is not acting competently under both the ABA and CA law.

#### Unauthorized practice

A lawyer who has been disbarred is not allowed to give legal advise as this is in violation under the unauthorized to practice law without a license and violates both the ABA and CA authorities. However, in CA, the lawyer can be hired as a law clerk or paralegal but the lawyer must be under an attorney who supervises

Here, the facts state that Kelly was disbarred, but she was rehired by the attorney, ANNE, who Kelly shared a practice with prior to the disbarment. The facts further state that Kelly used to represent professional athlete Player, which Anne now represents.

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Supervision requires that Anne who drafted the questions for Anne to ask the owner would be allowed in the deposition. However, during the deposition, Kelly sat next to Anne and passed Anne notes with further suggested questions to the owner. Therefore, Kelly is acting as an attorney and Anne is assisting Kelly in doing so.

Under the ABA, unauthorized practice must be reported. CA does not require that a lawyer turn in another lawyer but it has a requirement that a lawyer must turn herself in if they violate any rules under the rules of professional conduct. Here, Anne needs to turn herself in under CA for allowing Kelly to practice and she could be sanctioned under both the ABA and CA authorities for her actions.

Frivolous lawsuit

Under the duty to the courts, a lawyer is not allowed to file frivolous lawsuits. This means a lawsuit without probable cause, for an alternate purpose, the will result in the defendant prevailing and causes the defendant damages. Here, the fact that Player is in breach of contract and it is only because he wants more money means the counterclaim filed to "get the owner's attention" for "tortuous interference with contractual relations" is not based on probable cause and will most likely result in being dismissed in favor of the owner resulting in damages.

Therefore, Anne has breached a duty of candor to uphold the laws and not file a lawsuit.

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**END OF EXAM**