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#### Question 4:

A Lawyer in California has a duty to act in accordance with the rules of professional conduct (PC) and the ABA rules.

1. The issue is whether Lawyer may ethically follow Peter's instructions to file the motion.

#### Scope of representation

A lawyer has a duty to competently represent his/her client, based on the necessary skill, knowledge and preparedness required. (ABA) Under CA rules, a lawyer must not needlessly and negligently represent his client.

Here, Lawyer (L) is an associate lawyer who is defending his client Jones Inc. Lawyer has prepared Jones' responses and done the proper research.

Therefore Lawyer has not violated his duty of competent representation.

#### of supervision

#### Lawyer's duty of subordinate lawyers

A lawyer has an ethical duty to ensure that his subordinate lawyers in their firm apply and follow the rules of profession. Such a lawyer

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may not intend another lawyer to engage in any violation of such duties.

Here, Mr Peter requested that Larry should file a motion that ~~not~~ should not be filed, and that may result in some hours. Therefore Peter's motions <sup>may not be a violation</sup> are a violation of the RPC and Larry should ~~not~~ file this motion because Larry is not sure and Peter has made experience with made secret.

### Duty of Sub-delegate Lawyer

A subordinate lawyer in a firm has a duty to follow the instructions of his ~~superior~~, and if ~~the~~ subordinate is acts according to the instructions of his superior, or the ~~superior~~ supervisor ~~reaches~~ as act that is a violation of the ~~RPC~~ or fails to take action to remedy the actions, the superior is liable to the acts of the subordinate lawyer.

Here, Peter gave Larry express instructions to violate the rules by filing a motion that ~~he~~ he shouldn't file.

Therefore he is <sup>liable</sup> for Larry's actions.

### Duty of Sub-delegate Lawyer

A subordinate lawyer is generally not liable

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when carrying out the instructions of his supervisor he knows and is aware that the instructions are an outright violation of the RPC rules. In such a case, the lawyer must not carry out the instructions.

Here, Larry did some research on the matter and found out that the matter may be denied, but since he was not sure that it would be denied, and since Peter had more experience with made-seats, Larry should file the motion since he is not sure if it would be denied.

### Duty of Candor.

A lawyer has a duty not to make false statements, produce false evidence or any other evidence that may mislead the court.

Here, Larry's research showed that made him think that the motion would be denied and that it might give rise to sanctions, and since such ~~was~~ action is based on made-seats, it is likely falls under privilege and should not be ~~be~~ discovered.

Therefore, if Larry feels in sure that the evidence motion would be denied and it would give rise to sanctions he should not file it.

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Duty of fairness to opposing party

A lawyer has a duty of fairness to opposing party not to make demands, or file motions that the lawyer knows that should not be filed, duty not to waste the time of opposing counsel and the court.

~~If he knows~~, if Larry knows that the author would be denied he should not file it and not waste the court's time and given get sanctioned.

~~frivolous claims~~.

~~A lawyer has a duty~~.

Therefore, Larry should not file the motion if he knows that it would be denied under privilege, and not waste the court's time

Duty of fairness & claims Professional integrity

A lawyer has a duty to the profession to act in good faith when dealing with opposing counsel.

Here, if Larry believes that Smith's claim for privilege under habeas corpus is valid, then he should not file the motion.

Therefore, Larry should not file

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the motion.

2. Lany's obligations relating to the damaging document:

Duty to disclose mitigating evidence

2. A lawyer has a duty of fair dealing ~~not~~ to disclose any new and mitigating evidence that supports the opposing course to the opposing counsel and the court.

Here, Lany also deserves a damaging document that Lany found in the Jones file that would be helpful to Smith's case, even though Lany knows that the document has not been produced to Lany; he has an ethical ~~violation~~ duty to disclose it. Therefore, Lany has an ethical obligation to disclose the damaging document.

Duty of honest advocacy.

A lawyer has a duty to disclose all material facts, evidence that is true and that he deserves even if it does not favor his case.

Here, Lany has a duty to do same

and disclose the evidence to opposing counsel  
and court.

### Duty not to make frivolous claims.

A lawyer has a duty not to make frivolous claims without evidentiary support to misuse the ~~law~~ law or legal process.

Here, Peter bid Larry to interpose hearsay facts which are irrelevant or perhaps so as not to produce the ~~evidence~~ damaging document. This is ~~as~~ a violation of the rules and an abuse of the legal system. Therefore, Larry has an obligation to disclose the ~~damaging~~ documents.

### Duty of court documents.

A lawyer has a duty not to abuse the court system, intentional or disclosure or fail to disclose relevant evidence.

Here, Larry knows that the damaging documents will help Smith case.

Therefore Larry should disclose the damaging documents.

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3. Larry's obligation w.r.t respect to XYZ's job offer

### Duty to communicate:

A ~~lawyer~~ must communicate his any interaction and possible job offers from an other firm who is the opposing party with his current ~~firm and his client~~

Here, Larry got a job offer from XYZ's firm, an opposing firm.

Therefore Larry has a duty to communicate the information to his client & Jones Inc.

### Duty of loyalty (conflict of interest)

A lawyer's duty is to his client and he must only continue representing the client in the face of conflict if he reasonable believes that he can competently represent the client and the client gives informed written consent. Conflict of interest may be actual and potential in nature.

Here, Larry currently represents Jones Inc. but he has gotten an offer from XYZ, a firm that represents Smith, the opposing party, this gives rise to actual conflict of interest, it is likely impossible

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that Larry would be able to represent both John Jones Inc and work for XYZ at the same time.

Duty to disclose the job offer to his Client Firm ABC.

Larry also has a duty to disclose the job offer and the communication that he had with the opposing party to his Client Firm - therefore Larry should disclose it.