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1. Whether Mary breached her duty of Loyalty by not telling Peg about her past and present relationship with Len.

DUTY OF LOYALTY



An attorney has a duty of loyalty to make sure that there are no conflicts of interest.

CONFLICT OF INTEREST

An attorney will have a conflict of interest if she represents a party adverse to her client; if her legal representation will materially affect her ability to represent her clients because of the conflict; and if she has any personal, business, or any relationships with third parties that may materially affect legal representation of her client, and she must inform the parties of the relationship and get their informed consent in writing.



Here, Mary had an intimate relationship with Len, the attorney who represents Doug, and thus she has a duty to inform all parties involved in the case and get their consent in writing. Mary did not do this and she is therefore in violation of her duty of loyalty.



2. Whether Mary should use the affair in settlement negotiations.

DUTY OF COMPETENCY

An attorney has a duty to represent a client with the necessary knowledge, skills, and diligence.

Damages and Trial Strategy

Mary knows that if she uses the fact of the affair in her negotiations, she will likely settle for a larger amount. There is a big discrepancy between a \$50,000 award and a \$150,000 award, and if she uses due diligence and if she puts her clients interest ahead of hers, she would get the most award for her client even if she is uncomfortable using the tactic.

Mary's duty is also to make sure that she makes the best trial strategy that is legal and use this to benefit her client, therefore, if she does not use this information, she will breach her duty of competency.

Impeachment Information

Mary has information from her client that will contradict the statement made by Len in the deposition. Len testified that he has never been unfaithful to Peg but Peg gave Mary information that Len was having an affair. Mary had a duty to disclose this in order to refute Len's statement which will benefit Peg's case. Mary did not do this and therefore, she violated her duty of competency.



3. Whether Mary can withdraw from representation if Peg persists.

DUTY OF COMPETENCY

An attorney may withdraw legal representation if she cannot effectively represent her client. An attorney has a duty to represent her attorney with the legal knowledge, skills, and preparation necessary for competent representation.

Mary's inability to separate her feelings for Doug, her inability to not use the information she has to prove that Doug was lying, her inability to try to get the best damage award for Peg, renders her incompetent to make proper decisions to successfully represent her client and therefore, it is in the best interest of the client if Mary withdraws from representing Peg. Thus, Mary can withdraw from representing Peg.



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