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What ethical violations has Allison committed with respect to

Request for season tickets?

Request for Gifts

A lawyer may not propose a gift from a client or or that the client devise them a gift under testamentary instrument, unless the client is a relative, or the gift is a nominal amount or of unsubstantial value.

Here, A asked D to give her season tickets if she prevailed in his defense. This shows her request was a violation of the prohibition of asking clients for gifts because season tickets are well above the nominal amount, and because she specifically asked for the gift.

Contingency Fee Agreements

A contingency fee agreement occurs where the lawyer's fee is based on the success or failure in a representation. Under both the ABA and CA rules, contingency fee agreements must be in writing, but are also precluded in criminal cases.

Here, A's request of D may have been to compensate her for the representation via season tickets, if she prevailed in his defense for assault. This shows that her fee for the representation may have been based on the outcome because she would not be paid if she lost and D was convicted. While the facts show the fee agreement was valid, if her request was for the representation wholly, the *amount* of the fee was improper because it was contingent on the outcome of a criminal case.

Thus, her if her request was a request to be paid via season tickets was a violation of fee arrangement rules under both the ABA and CA rules.

Payment to Wilfred?

Lay Witness Testimony

A lay person may give admissible testimony if they are competent. This requires they take an oath and be capable of perceiving, recalling, and attesting to facts. They must also have personal knowledge of the facts they testify to.

Here, the prosecution offered the restaurant's security video as evidence, along with testimony from a video surveillance expert, who identified D. W had been waiting tables and saw an argument between D and Caren, but did not see an altercation. Thus shows he did not have personal knowledge of the altercation because the video and the prosecution's witness identified D in the video.

Thus A should not have offered W's testimony relating to the altercation.

Undue Influence

A lawyer may pay a witness **reasonable** compensation for wages lost due to their appearance, but the lawyer may not unduly influence a witness's testimony with compensation, ask them to testify outside their personal knowledge or untruthfully, or avoid communicating with the opposing party or obstructing the other party's discovery of evidence.

Here, A agreed to pay W an hourly wage equal to his pay at the restaurant and for an entire day of preparation, but only if he refused to meet with the prosecutor before trial. This shows A paid W for preparation, which was outside his appearance for testimony or deposition and preparation is not compensable for a lay witness. Further, it shows A sought to obstruct the prosecution's access to evidence because she made W's contingent on his avoiding the prosecutor before trial.

Thus, A's offer to W was a violation of undue influence rules both under CA and ABA rules of ethics.

Payment to Eileen?

Undue Influence

See the rule for undue influence above.

A agreed to pay E \$500 per hour for testifying, but only after E agreed to change her opinion and testify that there was no assault based on the video. This shows A sought to influence E's testimony by an improper amount, because E was an expert video technician and such witness being paid \$500 is improper. It also shows that A manipulated E to falsify her testimony because when A and E watched the video together they both agreed it showed strong evidence of the assault.

Presentation of E's expert opinion?

Expert Witness

Expert witness opinion testimony requires the witness is qualified, have personal knowledge of the facts, their opinion be reasonably based in research or fact, that the testimony be accurate, and while it can go to an outcome determinative fact, they cannot offer opinion on a defendant's state of mind or offer opinion of legal basis.

Here, E was an experienced video technician who testified that, in her opinion, there was no assault based on the poor video quality. This shows she testified on opinion of a legal question. Further, her qualifications as an experienced video technician may not have made her an expert witness on analyzing video footage were suspect.

Thus, A violated the rule against offering improper expert witness testimony.

A's statements in closing arguments?

Lawyer as Witness

A lawyer may not engage in representation where they are likely to be called as a witness, unless it's for a stipulated fact, the client would be prejudiced if they didn't. The lawyer may not offer testimony of personal opinion.

Here, A testified that in her personal opinion, there was no assault. This shows she testified where she didn't need to, and offered personal opinion because the testimony was of her personal opinion of the video. It also shows she lied because she'd agreed with E that the video shows strong evidence that D had assaulted C.

Duty of Candor

A lawyer must never operate in dishonesty or fraud, make false or misleading statements to the tribunal, fail to correct a false or misleading statement after finding one they'd already made was so, or offer evidence they know to be false.

Here, A testified that in her opinion, D was not guilty. This shows she lied because she knew the video showed strong evidence of assault after watching it with E.

Thus, A violated her duty of candor to the tribunal.

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