Trying the Aviation Case: Ethical and Practical Pitfalls from Experienced Aviation Counsel 2017 AIA Annual Conference

Speakers

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- Aileen Camacho, Holman Fenwick Willan
- Michele Sears, Wilson Elser LLP
- Elizabeth Vasseur-Browne, Cooling & Herbers PC
- Moderator: Lisa J. Savitt, The Axelrod Firm PC



ABA Model Rules of Professional Conduct

"Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."



Rule 1.2 Scope Of Representation And Allocation Of Authority Between Client And Lawyer

 (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Tri	partite Relation	ship
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The Tripartite Relationship

 The idea is that the three parties are in a coalition for a common purpose — a favorable disposition of the claim — with the attorney owing fiduciary duties to both the Insured and the Insurer as clients.



Rule 3.3 and Rule 3.4(b)

- 3.3(a)(3)
 - Requires lawyer not knowingly "offer evidence that the lawyer knows to be false."
- Rule 3.4(b)
 - Lawyer must not "counsel or assist a witness to testify falsely."







Rule 3.4 Fairness to Opposing Party and Counsel					
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• 3.4(a)					
 Lawyer should not unlawfully obstruct another 					
party's access to evidence or alter, destroy or					
conceal a document or other material of					
evidentiary value – or counsel another person to					
do so.					

Rule 4.1 Truthfulness In Statements to Others

• In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.



Rule 4.2 Communication with Person Represented by Counsel

• In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.



Rule 4.2 Communication with Person Represented by Counsel To whom it may concern: This letter is to confirm that my client, Mrs. is not filing any claims against her employer, or the mine for injuries sustained and/or for the death of her husband Mr. employer, or the mine for loss!. Her claims are only as to the manufacturer of the plane, the manufacturer of the engine, and any component part manufacturer, and any company that performed maintenance on any regine, and any compound that performed maintenance on any intended to the control of the manufacturer, and any company that performed maintenance on any intended to the control of the manufacturer. It is not that the manufacturer of the manufacturer of the plane, the control of the manufacturer of the plane that the manufacturer of the plane, the plane that th Further, please be advised that Attorney with the law firm may speak with my client) with regards to her insurance claim and collection ONLY. Attorney and/or any employee of [law firm name] may not speak to Mrs. regarding any other matter.

