ETHICAL QUANDARIES FOR PUBLIC LAWYERS

Presented by the ABA’s Government and Public Sector Lawyers Division and Administrative Law and Regulatory Practice Section

NOVEMBER 7, 2013
GEORGETOWN CONFERENCE CENTER
Washington, D.C.
THE FACULTY

Moderator

❖ **Diana Wick**, Adjunct Professor at George Washington University School of Law

Panelists

❖ **Carlos F. Acosta**, Inspector General, Prince Georges County Police Department

❖ **Judith S. Kaleta**, Assistant General Counsel, Office of the General Counsel, Alternate Agency Ethics Official, and Dispute Resolution Specialist for the U.S. Department of Transportation

❖ **Richard Melnick**, Associate County Attorney, Montgomery County, MD

❖ **Sharon Pandak**, Partner, Greehan, Taves, Pandak & Stoner, PLLC

❖ **Cynthia Rapp**, Deputy Clerk, United States Supreme Court
Scenario One

ON BROADWAY

The City of Broadway’s City Council is considering the purchase of an historic theatre in the downtown district. One council member may support the purchase for reasons other than the one’s he’s stating.
CAST

• Carlos Acosta as Assistant City Attorney Joe Softshoe
• Sharon Pandak as City Attorney Norma Wurries
• Richard Melnick as Tom Tunes
• Cynthia Rapp as Fannie Fiskal
• Judy Kaleta as Ginger Rogers
• Sharon Pandak as Commentator
Scene 1

The City Attorney delivers a new case to Assistant City Attorney Joe Softshoe
Scene 2

In the Men’s room at city hall, Joe Softshoe hears a conversation he’s not supposed to hear.
Scene 3

Softshoe reports what he’s heard to his friend Ginger
Scene 4

Softshoe attends a city council meeting because the theatre purchase is on the agenda
Scene 5

Softshoe checks Tune’s financial report
Scene 6

Softshoe visits the City Attorney
Scene 7

The City Attorney calls Softshoe
1. Does Model Rule 1.13 obligate Softshoe to tell Wurries about Tunes’ possible financial interest?

2. Should Softshoe escalate the matter to the mayor?

3. If Wurries refuses to act, is Softshoe obligated to pursue the matter?
Scenario Two

U.S. v. MARVEL

United States Senator Margie Marvel is the Chair of the Committee on Rules and Administration. Her friend and former personal lawyer, Don Diligentts, is the committee’s Chief Counsel.
CAST

• Richard Melnick as Don Diligentts
• Judy Kaleta as Senator Margie Marvel
• Sharon Pandak as the Assistant U.S. Attorney
• Carlos Acosta as Commentator
Scene 1

It’s Monday morning and Senator Marvel calls Diligentts into her office.
Scene 2

Diligentts returns to his office and gets a call from the Assistant U.S. Attorney
THE QUESTIONS

1. May Diligentts advise Senator Marvel on the U.S. Attorney investigation?

2. Assume Diligentts took notes during their conversation about campaign finance issues related to her Presidential campaign. How should Diligentts respond to the subpoena?

3. How could Diligentts have avoided this situation?
Scenario Three

GO ALONG TO GET ALONG

Walter Windblows is a new Regional Director of the U.S. Department of Agrication. He has suggested that an attorney in his office use Cal Cash’s company for a document management project. However, there is some resistance to that suggestion.
CAST

• Judy Kaleta as Kat B. Tween
• Carlos Acosta as Walter Windblows
• Sharon Pandak as Gretchen Goalong
• Richard Melnick as Ernie Earnest
• Cynthia Rapp as Cathy Chattee
• Judy Kaleta as Commentator


Scene 1

Windblows meets with the new Regional Chief Counsel, Gretchen Goalong
Scene 2
(A few days later)

Windblows calls Goalong and Senior Agency Council Kat B. Tween into his office.
Scene 3

Tween visits her good friend and confidant, Cathy Chattee.
Scene 4

Tween returns to her office and calls the office’s ethics officer, Ernie Earnest.
Scene 5

Goalong visits Tween in her office.
THE QUESTIONS

1. Would it be unethical for Tween to hire Cash’s company?

2. Does this situation raise a conflict of interest in violation of Model Rule 1.7 for Tween?

3. If Goalong continues to pressure Tween to retain the Cash company, does Tween have an obligation to report her for professional misconduct?
Scenario Four

BEEN THERE, DONE THAT

Johnny Gogetter is a former Assistant City Attorney for Injunction Junction who has left the office for private practice. Gogetter’s new client, Penelope Playfair, is suing a sergeant with Injunction Junction’s police force, for sexual harassment.
CAST

• Richard Melnick as Johnny Gogetter
• Sharon Pandak as Penelope Playfair
• Carlos Acosta as Hans Tooky
• Judy Kaleta as Ima N. Charge
• Cynthia Rapp as Judge Dewey Process
• Cynthia Rapp as Commentator
Scene 1

Gogetter meets with his boss, City Attorney Ima N. Charge.
Scene 2
(Six Months Later)
Gogetter meets with his new client Penelope Playfair.
Scene 3
(Two weeks later)

Hans Toochy meets with City Attorney Ima N. Charge
Scene 4

Judge Dewey Process hears Charge’s motion to disqualify.
THE QUESTIONS

1. Should Gogetter’s knowledge of the city’s litigation process alone preclude his representation of Playfair?

2. Should the fact that Gogetter’s friend and confidante previously represented Toochy in a similar matter preclude Gogetter’s representation of Playfair?
Scenario Five

TUMBLING AFTER

Close friends Jill and Jack work for the U.S. Department of Homeland Energy. Jack is going through a rough time and Jill is trying to help him.
CAST

• Cynthia Rapp as Jill
• Carlos Acosta as Jack
• Sharon Pandak as Terry
• Judy Kaleta as Commentator
Scene 1

Jack explains to Jill what he’s been going through
Scene 2

Jill tries to help Jack
Scene 3

Jack’s assistant is also very concerned about him
1. What should Jill say to Jack?

2. What should Jill do if Jack’s behavior does not improve?

3. Must Jill report Jack’s problem to Bar Counsel?
General Questions

Thank you for attending!