Part-Time Government Attorneys

FACTS: Oak Grove is a small city in Arkansas. As the county seat, it has 20 lawyers in 7 law offices. The leading firm is the firm of Ann, Bob, Carol, Dave and Elizabeth. All are partners in the firm. Frank is the only associate in the firm.

A. Ann is a part-time city attorney for Oak Grove, spending approximately 20% of her time advising city officials, drafting ordinances, reviewing contracts, defending the city in small civil claims. She is paid a salary, with occasional supplements for time consuming projects and litigations. She has served in this position for 2 years.

1) A client ABC wishes to sue the city in a dispute over a contract drafted 4 years ago. (Ann had nothing to do with the contract). May she represent the client against Oak Grove?

2) Can Ann's law partner represent the client against the city?

3) Can the partner represent a client before the planning commission?

4) Can Ann represent a client against another municipality in the same county?

B. Bob is a part-time prosecutor for Oak Grove, spending one day a week prosecuting DWI charges. The salary is paid to Bob personally.

5) May he represent other individuals accused of DWI in the same county?

6) May his law partner represent these other DWI defendants? What steps should the law firm take?

7) May Bob represent DWI defendants in other counties in the same circuit? In other circuits?

8) Bob obtains a criminal conviction against Sam. May he now bring a civil suit on behalf of the victim against Sam arising out of the same incident?

9) May his law partner sue Sam?

C. Carol has been elected to the Oak Grove City Council. It is a non-paying position.

10) May she represent a client who has a dispute with the City Planning Commission?

11) May she represent a private client before the District Judge?

12) May Carol's law partner sue Oak Grove in a contractual dispute?

D. A teacher has been dismissed from her position. May the firm represent the teacher before the Oak Grove School Board?

E. David is a State Representative. In his legislative role, he sets the budget for administrative agencies and performs general oversight.

13) In his private practice, may he represent a client before the State Insurance Commission?

14) May his law partner? Any guidelines?

F.. Frank is hired by the city for 6 months to work on a single matter on a part-time basis.

What advice do you have for the firm?

G. Elizabeth is a part-time district judge. Can her partners appear before her? Code of Judicial Conduct 3(e)(i)(b) and Application (b).

H. Which of the apparent conflicts are waivable? Which cannot be waived, even after disclosure and consent?

I. In conclusion, do you have any general advice for the law firm?

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