

Session: Ethics, Lawyering and Professional Regulation

Topic: Conflicts of Interests

Recommended time: 1 hour

Score: 100 Marks

Author: Manuel Akinshola

Conflict of interest

Arkmedia Inc. is a global advertising guru with subsidiaries in many countries. Blair is a senior partner in the law firm of Worthgate LLP which has been representing Arkmedia in many matters. The law firm still works on many files belonging to Arkmedia Inc., including negotiations involving customer debt enforcement proceedings.

SummerRay Ltd, the Canadian subsidiary of Arkmedia Inc. had in April laid off hundreds of its workers, citing unfavourable economic downturn from the Covid-19 pandemic. Most of the workers were only paid 45% of their terminal dues.

The laid off workers had considered taking a class action against SummerRay Ltd and the name of Blair had popped up repeatedly as an expert in labour disputes. He was overwhelmingly voted as the employees' counsel in the impending proceedings against SummerRay Ltd.

Prior to signing the retainer agreement, Blair had asked his secretary to initiate a conflicts search within the firm. The secretary observed that the firm's system reported a potential conflict on the basis that Worthgate LLP had represented and still represents Arkmedia Inc., the parent company of SummerRay Ltd in many matters. The engagement to Arkmedia Inc. had involved counsels at Worthgate questioning some of the employees of Arkmedia from time to time on pending litigations, and was expected to continue in that manner. The secretary noted her concerns for potential or actual business conflict because Arkmedia is

one of the current and lucrative clients of the firm, and if Blair were to accept to represent SummerRay's sacked employees, Arkmedia may even stop engaging the law firm in future matters.

Blair retorted that he was not under any obligation to advise a prospective client about the nature of the proposed engagement due to confidentiality issue. Besides, he never handled Arkmedia matters directly because other counsels in the firm did. So, he plans to only inform the sacked employees of the potential conflicts without identifying Arkmedia Inc. as creating the conflicts. In his opinion, there was no formal conflict that could prevent him from acting as counsel to the employees,

Blair has commenced litigation against SummerRay Ltd on behalf of the sacked employees. The Counsel retained by SummerRay Ltd in this matter has however filed an application to have Blair removed as counsel to the employees on the basis of alleged conflict of interest.

You are the case management judge and this application is before you. Give your ruling.