

## Legal Ethics Hypothetical Scenario - A Baker's Dozen

Friday 14 March 2025

1. Rachel is a junior employed solicitor at North Legal, a mid-sized law firm in the ACT. Her supervisor is Greg, who is a Partner at the firm who is tasked with her supervision. She has been handling a case for her long-time client, Mr Adams, the owner of a small bakery. Mr Adams is in a legal dispute with Ms Bell, who is his former employee and now main sourdough-baking competitor. Mr Adams is accusing Ms Bell of the misuse of trade secrets, claiming that during her employment in his bakery, she stole and is now using Mr Adams' secret sourdough starter.
2. Mr Adams' bakery is struggling financially, and he has had to lay off most of his casual staff. He is worried Ms Bell will use his prized sourdough starter to enter an upcoming local baking competition and win the gold medal and take home the significant cash prize. In a panic, he instructs Rachel to waste no time and to commence legal proceedings. Rachel loves a good courtroom fight and her firm commences to draft the pleadings. In her haste, Rachel forgets to provide Mr Adams with details about potential costs.
3. During a team dinner with colleagues at a popular restaurant in Canberra, Rachel discusses Mr Adams' case, sharing sensitive details such as the fact that Mr Adams' bakery is struggling financially and may face bankruptcy if the case does not go in his favour. She also mentions to a junior solicitor, Samantha, that Mr Adams might consider settling but adds that this information must remain confidential to maintain his bargaining position.
4. Later that week, Samantha attends a networking event for hobby cooks and meets Ms Bell. Samantha is a big fan of Ms Bell and wants to make a lasting impression. Desperate to make conversation, Samantha tells Ms Bell that North Legal is preparing an application for "a bakery owner in deep financial trouble". Ms Bell, suspecting this refers to Mr Adams, informs her lawyer, Terry from South Legal, of this. Terry sees this as an opportunity to file a cross-application, alleging Mr Adams owes Ms Bell a significant sum in unpaid wages.
5. Facing mounting pressure from Mr Adams to resolve the dispute with Ms Bell about the trade secrets (i.e. the sourdough starter), Rachel files an application with the court that includes exaggerated claims about Ms Bell's use of Mr Adams' secret recipe. Specifically, she prepares an affidavit to accompany the application and includes a statement that Ms Bell has profited from the sourdough starter's use, despite having no evidence to support this claim together with an elaborate timeline that she constructs with the help of ChatGPT. She calls Mr Adams and tells him that he has "some papers to sign" and puts the affidavit attestation clause in front of him for execution, without taking him through the contents, and then witnesses it when he has left the office.
6. During the hearing, opposing counsel challenges these assertions and further points out significant errors and inconsistencies in the timeline Rachel prepared, which suggest that Rachel did not read the material properly.

7. Mr Adams attends the hearing, and is shocked to hear how Rachel has embellished his case. After the hearing, he confronts Rachel in the busy foyer of the courthouse. Mr Adams accuses Rachel very publicly of professional negligence, embarrassing him and damaging his and his bakery's reputation. When Rachel suggests they step outside or find a meeting room to discuss the matter privately, Mr Adams starts raising his voice and becomes physically aggressive towards Rachel. Rachel feels threatened and intimidated, and decides to walk away from Mr Adams. When he tries to follow her, still yelling, he is intercepted by the court's security staff. There is a scuffle, and Mr Adams punches the security officer in the face. Police are called to assist. Rachel is still there when the police arrive, and they question her as an eyewitness to the event. Later that week, police contact Rachel and request she make a formal witness statement, as they intend to charge Mr Adams with assault.
8. Separate settlement discussions regarding Ms Bells' unpaid wages continue and agreement is reached in the sum of \$275,000. Rachel calls Terry and verbally indicates that Mr Adams will pay the settlement amount of \$275,000 within 14 days of signing the agreement and requests him to draft the agreement. However, Rachel never confirms this with Mr Adams, who is still struggling financially and cannot make the payment within the timeframe. Terry sends the agreement to Rachel, but his admin assistant mistakenly inserts the settlement figure as \$200,000 not \$275,000. Rachel notices this but elects not to tell Terry. Just before the agreement is to be signed, Terry writes to Rachel, requesting her confirmation in writing that Mr Adams will make payment 14 days after settlement. After learning from Mr Adams' that he cannot pay, Samantha deflects the issue with Terry by claiming that due to unforeseen circumstances, Mr Adams can no longer meet those terms. Rachel also tells Mr Adams about the fact that Terry has made an error in the drafting by inserting the incorrect settlement amount and Mr Adams instructs her not to bring this error to Terry's attention. She also adds that *"This mistake will benefit you! It will help you to pay our legal fees!"* Without speaking with her supervising partner Rachel writes off all of the WIP in Mr Adams case and does not issue an invoice to him.
9. After the trade secrets case is resolved, Mr Adams becomes disgruntled about how his case was managed. He requests copies of his case file and related documents for his review and records. Rachel, citing internal policies, issues Mr Adams with an invoice for \$75,000 (incl GST) and also informs Mr Adams that a \$500 "retrieval fee" will apply before the documents can be released. Mr Adams protests, noting that he was never informed that the fees could be so high or of such a "retrieval fee". Rachel refuses to release the documents claiming a lien over the documents until all the fees are paid. Mr Adams says that he will complain and Rachel tells him that there is no one to whom he can complain and that if he doesn't pay her fees she will make him bankrupt.
10. Two weeks after Rachel took on Mr Adams' case, North Legal accepts Ms Bell as a client in an unrelated family law dispute. Rachel does not disclose her representation of Mr Adams to Samantha, who has been allocated carriage of Ms Bell's file, assuming Samantha is aware of this after the team dinner. Samantha has

only been a solicitor for 18 months, and is under the supervision of North Legal's managing director, Nicole.

11. North Legal receives a discovery request concerning Ms Bell's family law case from Scott at Coast Legal. Concerned by some of the adverse information contained in the documents that answer to the request, Samantha decides to claim legal professional privilege over an entire folder of information. Instead, she determines to release a separate folder of material that she only partially reads and barely understands because the documents are all of a commercial nature, which is not her area of practice. She briefly discusses the discovery response with Nicole, who is pushed for time and agrees with Samantha's proposal without independently reviewing the documents. Samantha discloses the documents to Scott. It later turns out that the material contained commercially sensitive documents from Mr Adams' case against Ms Bell, but that are irrelevant in the family law proceedings.
12. Samantha, a passionate hobby baker, successfully applies for a role as a casual kitchen hand in Mr Adams' bakery, which has returned to financial viability following settlement of the trade secrets case. Samantha does not tell Nicole or the other directors of North Legal about her new job.
13. Scott complains about Samantha and Nicole to the Law Society. Samantha then sends Scott 3 boxes of fresh pastries each week for 4 weeks. Scott decides to withdraw his complaint to the Law Society against Samantha and writes to the Law Society accordingly.
14. Nicole is worried about team morale in the firm following Scott's complaint. She decides to take all the firm's staff on a weekend team building retreat to Collector. The retreat starts well on the Saturday with a group hike followed by ice-breaker and 'get to know your colleagues' games. In the afternoon, the firm puts on an open bar in the hopes that drinks will make the employees feel more relaxed and enjoy themselves. This is the first time that Samantha is on an all-expenses-covered trip and takes full advantage of access to free drinks. She and some of the other junior female lawyers get very drunk over the course of the afternoon and evening. After dinner, their group is joined by Bob, one of the charismatic and experienced senior associates of the firm. They start playing never have I ever. Samantha feels uncomfortable by some of the questions and comments made, but feels like she has to play along in order to make a good impression on Bob and her other colleagues.
15. At about 10pm, Samantha realises that she is very drunk. Not trusting herself to make good decisions in front of her colleagues, she decides to go to bed. She is almost back at her room, when she realises that Bob is following her. She feels really uncomfortable because the corridor is dark and empty. She quickly goes into her room and closes and locks the door. Bob knocks and when she does not open the door, he jiggles the door-handle, but the door stays locked. It takes Samantha a long time to fall asleep that night, because she is rattled by Bob and feels embarrassed by what happened. The next morning, she decides to drive back to Canberra and skip the rest of the retreat to avoid seeing her colleagues.

16. On Monday, when everyone is back at work, Nicole calls Samantha into her office. Nicole tells Samantha that she is very unimpressed with her leaving the retreat early as it shows a lack of team spirit and commitment to the firm. Nicole tells Samantha that she has jeopardised her future at the firm and is unlikely to get a pay rise during the next performance and pay review.