

**QUESTION 4     THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II**

Pat is a lawyer who filed a case in a Michigan circuit court on behalf of an injured client. After meeting with the client, Pat learned that the client would like to receive in excess of \$100,000 to resolve the case, but would settle for \$80,000.

(1) Early in the case, defense counsel broached settlement with Pat by saying, "I can get your client \$82,500." Pat responded, "Are you kidding? This claim is easily worth \$50,000 more than your offer. I won't accept that -- in fact, it's so crazy I'm not even going to take it to my client." (2) Pat kept his word and did not convey the offer to his client.

During a subsequent deposition, the client presented as a credible witness with regard to liability and damages. Thereafter, Pat obtained the client's approval to prepare a settlement demand for \$125,000 for pain and suffering and medical treatment, past and future. The next day, and before Pat could transmit the offer to defendant's counsel, the client died from causes unrelated to the slip and fall accident. (3) Pat sent the settlement demand to defense counsel without disclosing the client's death because the client had incurred significant pain and suffering and medical bills before death, and, under applicable law, the claim still had some value for the client's estate.

(4) A few days later, Pat filed a pretrial statement with the court. In the statement, the parties were required to outline their causes of action (or defenses), live witnesses, witnesses by deposition, other evidence and estimated damages. As part of the filing, Pat listed the client as a live witness and enumerated past and future pain and suffering and medical expenses as damages.

(5) Several days later, defense counsel emailed Pat, rejecting the settlement demand for \$125,000 and making a counter-offer of \$89,500. Shortly thereafter, a settlement for \$110,000 was agreed to and opposing counsel sent a check payable to Pat's client along with a release for the client to sign.

Pat planned to have the personal representative of the client's estate cash the check, but when it became clear that opposing counsel and the insurance company wanted to have the release signed in person, Pat admitted that the client had died.

**Explain whether each of Pat's five actions violated any of a Michigan lawyer's ethical duties.**

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