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Question

Client X hired Lawyer A to represent him in a tort case three months before the two-year statute of limitations expired. Lawyer A's investigation encountered some obstacles, and he was handling numerous other cases at the same time. He calculated the limitations deadline incorrectly and missed it by two days, but he filed the suit anyway to see if the defendant would raise limitations. She did, and the court dismissed the case. Client X filed a grievance against Lawyer A.

Client X then consulted with Lawyer B about his malpractice claim against Lawyer A. Lawyer B is a two-year family law attorney who has never handled anything other than family law matters; he has no experience with legal malpractice cases. Further, Lawyer B has argued two motions in court and defended several depositions in family law cases. He has yet to take a deposition because he has been working with experienced family law attorneys who handle most of the litigation in his matters. Client X wants Lawyer B to file suit right away and move forward on the malpractice claim. Lawyer B is worried about taking the malpractice case, but decides that he wants to help Client X because his client says that other lawyers won't sue Lawyer A.

Which of the following is most accurate?

- A. Both lawyers have legitimate grievance problems under the Texas rules.
- B. Neither lawyer has a legitimate grievance problem under the Texas rules.
- C. Lawyer A should be sanctioned, but Lawyer B should not.
- D. Lawyer B should be sanctioned, but Lawyer A should not.
- E. Lawyer A should be sanctioned, but we don't have enough information about Lawyer B to know whether he has a legitimate grievance problem.



ABOUT THE CENTER

The Texas Center for Legal Ethics was created by three former chief justices of the Supreme Court of Texas to educate lawyers about ethics and professionalism. Lawyers can access the Texas Disciplinary Rules of Professional Conduct, the Texas Lawyer's Creed, and a variety of other online ethics resources by computer or smart device at legalethictexas.com.

DISCLAIMER

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Answer

The correct answer is B. For the reasoning behind the answer, go to legalethictexas.com.