

PRACTICE EXAM 10 : MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer represents a client suing a corporation in commercial litigation. The lawyer wants to interview a former mid-level employee of the corporation about events she witnessed during her employment. The former employee left the company two years ago and is not represented by counsel. The corporation is represented by counsel in the lawsuit. May the lawyer interview the former employee without first contacting corporate counsel?

A. No, because the former employee witnessed events during her employment that may be imputable to the corporation under agency principles

B. Yes, because Rule 4.2's no-contact rule applies to currently associated constituents, and former employees of a represented organization generally fall outside its scope

C. No, unless corporate counsel has expressly waived the advance-notice requirement in a writing signed by counsel of record

D. Yes, but only if the former employee, rather than the lawyer, initiates the contact and requests the interview

2. A client discharges her lawyer one month before trial without cause and retains new counsel. The lawyer had been working on a one-third contingent fee basis and had spent approximately 200 hours on the case. The matter ultimately settles favorably for the client under new counsel's representation. The discharged lawyer seeks compensation for her work. Under the prevailing approach, what is the lawyer entitled to recover?

A. The full contingent fee she would have earned had she completed the representation through trial and judgment

B. Nothing, because the contingent fee arrangement was not completed and required completion in order to vest in the original lawyer

C. The reasonable value of services rendered in quantum meruit, generally subject to the original contingent fee as a ceiling

D. A fee calculated at her standard hourly rate multiplied by hours expended, regardless of the original contingent fee structure

3. A lawyer representing a defendant in a high-profile criminal trial holds a press conference one week before jury selection. She tells reporters that her client "has an airtight alibi corroborated by three witnesses" and that "the prosecution's case rests on coerced statements that will not survive cross-examination." The statements receive substantial media coverage in the venue. Is the lawyer subject to discipline under Rule 3.6?

A. Yes, because the statements have a substantial likelihood of materially prejudicing an adjudicative proceeding in the venue

B. No, because the lawyer is permitted to discuss the general nature of the defense to counterbalance any prosecution publicity

C. No, because the statements describe evidence the lawyer intends to present at trial in the ordinary course in any event

D. Yes, but only if a court enters a finding that the statements actually influenced a prospective juror's view of the case

4. A lawyer represents a client in a civil fraud case. Several months into the representation, the lawyer discovers credible evidence that her continued representation will result in a violation of the Rules of Professional Conduct because the client is using her services to perpetrate an ongoing fraud on third parties. The client refuses to discontinue the fraud and insists the lawyer continue. What must the lawyer do?

A. Continue the representation while carefully documenting her objections and the client's instructions in the case file

B. Continue the representation while privately reporting the conduct to the appropriate disciplinary authority for review

C. Disclose the fraud to all known affected third parties before taking any other procedural action in the matter

D. Withdraw from the representation, because Rule 1.16(a) makes withdrawal mandatory when continued representation will result in a violation of the Rules

5. A lawyer learns from a credible firsthand source that a colleague at another firm has been forging client signatures on settlement documents and pocketing the proceeds. The information is not protected by Rule 1.6, and the conduct raises a substantial question about the colleague's honesty and fitness as a lawyer. What is the lawyer's obligation?

- A. The lawyer must report the colleague's conduct to the appropriate professional disciplinary authority
- B. The lawyer should counsel the colleague directly and report her only if the misconduct continues thereafter
- C. The lawyer may report at her discretion, but no reporting obligation arises until the colleague's clients themselves complain
- D. The lawyer has no reporting obligation, since Rule 8.3 applies only to misconduct the lawyer personally witnesses firsthand

6. A lawyer specializes in mass tort litigation. After a train derailment in her state injures several dozen passengers, the lawyer mails personalized letters to each injured passenger one week after the incident. Each letter clearly identifies itself as an advertisement and explains how the lawyer can assist with potential claims. The recipients have no prior relationship with the lawyer. Is the lawyer's conduct permissible?

- A. No, because written solicitation of persons known to need particular legal services is always prohibited under Rule 7.3
- B. No, because mass tort solicitation by mail is permitted only when the recipients have first requested information from the lawyer
- C. Yes, because targeted written communications to prospective clients are generally permitted when properly labeled as advertising, subject to Rule 7.3's restrictions
- D. Yes, but only if the lawyer first obtains express permission from the state disciplinary authority to conduct the targeted mailing

7. A lawyer represents a client in a contract dispute. The client confides that he has been planning to set fire to a competitor's warehouse during overnight hours, when he knows maintenance staff will be present

in the building. He shows the lawyer detailed plans. The lawyer believes there is a substantial risk the client will go through with it and cannot dissuade him. Under Rule 1.6(b), what may the lawyer do?

- A. The lawyer must maintain strict confidentiality because the client's plans were communicated in the course of the representation
- B. The lawyer may reveal information she reasonably believes necessary to prevent reasonably certain death or substantial bodily harm to others
- C. The lawyer must immediately notify both the prospective victim and the police of every detail learned during the consultation
- D. The lawyer may reveal information only after first obtaining the client's express written permission to make a third-party disclosure

8. Lawyer X joins a 40-attorney firm as a junior associate. During her interview process, Lawyer X disclosed that she previously represented a corporation in a matter substantially related to one her new firm is currently handling against that same corporation. The firm wants to continue its representation. Under Rule 1.10, what must the firm do to avoid imputed disqualification?

- A. Promptly screen Lawyer X from the matter, apportion no part of the fee to her, and provide written notice to the affected former client describing the screening procedures
- B. Withdraw from the existing representation entirely, because Rule 1.10 imputation cannot be cured once a conflicted lawyer has joined the firm at any level
- C. Obtain a signed waiver from the corporation that need not reference the screening arrangement or otherwise describe the firm's procedures
- D. Physically place Lawyer X in a separate office building from the lawyers handling the matter for the duration of the litigation and any appeals

9. A lawyer worked for five years as a senior attorney in a state attorney general's office, where she personally and substantially participated in a complex environmental enforcement action against a manufacturing company. She has now entered private practice. The manufacturing company seeks to retain her in a follow-on civil suit brought by neighboring property owners that substantially overlaps with the prior enforcement action. May she undertake the representation?

- A. Yes, because the prior matter was a government enforcement action and the current matter is a private civil suit between different parties

B. Yes, because Rule 1.11 imposes no restrictions on former government lawyers entering private practice in the same general subject area

C. Yes, provided the lawyer agrees in writing not to use confidential government information she obtained during her prior service for the agency

D. No, unless the appropriate government agency gives its informed consent to the lateral representation, confirmed in writing

10. A lawyer serves as a court-appointed mediator in a commercial dispute between two business owners. Neither party is represented by counsel during the mediation. One party, who appears unfamiliar with the legal implications of the proposed settlement, asks the lawyer whether the terms are favorable to him. What must the lawyer do?

A. Provide candid legal advice to the unrepresented party because the mediator owes equal procedural duties to both sides of the dispute

B. Decline to mediate any further until both parties have retained independent counsel to advise them through the negotiation

C. Inform the parties that she is not acting as a lawyer for either of them and advise the unrepresented party that he may wish to seek independent legal counsel

D. Provide informal legal guidance that does not constitute formal legal advice, while declining to comment on the specific contested terms

11. A lawyer in a large commercial firm completes her annual review and reports that she performed zero hours of pro bono service during the year. Her billable workload was heavy and the firm did not refer any pro bono opportunities to her. Has she violated Rule 6.1?

A. No, because Rule 6.1 establishes an aspirational goal of fifty hours of pro bono service annually but does not impose a disciplinary obligation

B. Yes, because Rule 6.1 imposes a mandatory minimum of fifty hours of pro bono legal service per year on every lawyer in active practice

C. No, because demonstrated workload pressures excuse compliance with Rule 6.1's pro bono expectations in any given calendar year

D. Yes, but only because she could have substituted financial contributions to legal service organizations for pro bono hours and failed to do so

12. A client discharges her lawyer mid-litigation and retains new counsel. The discharged lawyer's file contains pleadings, correspondence, deposition transcripts, work product, and internal strategy notes. The lawyer also has unpaid fees totaling \$8,000. The client demands the entire file. Under the majority approach, what must the lawyer turn over?

- A. Only documents the client originally provided, retaining all materials the lawyer generated until the outstanding fees are paid
- B. The materials necessary to protect the client's interests, which in most jurisdictions includes the substantive file regardless of whether fees remain unpaid
- C. Nothing at all, because the lawyer may retain the entire file as a security interest until all outstanding fees and disbursements are paid
- D. Only documents already filed in court or formally served on opposing parties, because internal work product belongs to the lawyer

13. A lawyer licensed only in State A is asked by a longtime corporate client headquartered in State A to negotiate a commercial real estate purchase in State B. The lawyer travels to State B for several meetings over a two-week period to handle the negotiations. The lawyer is not admitted in State B and does not appear in any State B court. Is the lawyer engaged in the unauthorized practice of law?

- A. Yes, because the lawyer is performing legal services within the geographic boundaries of State B without being admitted to its bar
- B. Yes, unless the lawyer applies for and obtains a State B temporary practice certificate prior to traveling for any meetings
- C. No, because commercial real estate transactions are categorically not the practice of law in any United States jurisdiction
- D. No, because Rule 5.5 permits a lawyer to engage in temporary practice in another jurisdiction when the services arise out of or are reasonably related to her home practice

14. A partner at a law firm supervises an associate working on a complex litigation matter. The associate submits a discovery response containing a material misrepresentation, which the associate believed in good faith but failed to verify. The partner reviews the response superficially and approves it without catching the error. Opposing counsel later discovers the misrepresentation. Is the partner subject to discipline under Rule 5.1?

- A. No, because Rule 5.1 imposes no duty on partners to verify the underlying accuracy of every factual representation made by an associate
- B. Yes, because partners are strictly liable for any professional misconduct committed by associates they supervise, regardless of fault
- C. Yes, if the partner failed to make reasonable efforts to ensure compliance with the Rules through adequate supervision and review procedures
- D. No, because the associate acted in good faith without intent to deceive and the partner relied reasonably on the associate's work

15. A lawyer receives a \$50,000 settlement check made payable jointly to her and her client. She deposits the check into her client trust account. The client owes the lawyer \$15,000 in earned but unpaid fees. The client disputes \$5,000 of the fees but agrees that the remaining \$10,000 is owed. What must the lawyer do?

- A. Withdraw the full \$15,000 immediately because the lawyer has earned the entire fee and may resolve the disputed amount through later proceedings
- B. Promptly disburse the undisputed portion to the client, withdraw the undisputed \$10,000 fee, and keep the disputed \$5,000 in trust until resolved
- C. Hold the entire \$50,000 in the trust account until every aspect of the fee dispute is resolved, including the portions both parties agree are owed
- D. Disburse the full settlement to the client immediately and then sue separately to recover both the disputed and undisputed portions of the fee

16. A lawyer represents a plaintiff in a contested motion to dismiss. The day before the hearing, she encounters the judge socially at a community event. She begins to mention the upcoming motion in passing, intending only to alert the judge to a scheduling issue she anticipates raising at the hearing. The judge politely shifts the conversation. Has the lawyer violated Rule 3.5?

- A. No, because the conversation occurred at a community social event and not at the courthouse during business hours
- B. No, because the lawyer's intent was procedural and not substantive, and the judge did not respond on the merits
- C. Yes, because all conversations between a lawyer and the judge in a pending matter are categorically prohibited regardless of subject

D. Yes, because Rule 3.5(b) prohibits ex parte communication with a judge concerning a pending matter unless authorized by law or court order

17. A lawyer is representing a client in a contract negotiation. The lawyer is engaged to marry an attorney at the firm representing the opposing party. The opposing counsel of record is not the lawyer's fiancé, but the two firms are negotiating against each other. The lawyer believes she can represent the client competently despite the personal relationship. What must she do?

A. Disclose the relationship and obtain the client's informed consent, confirmed in writing, because the relationship creates a significant risk of material limitation under Rule 1.7

B. Decline the representation outright because Rule 1.7 prohibits any representation where opposing counsel's firm employs a personal friend or relative of the lawyer

C. Continue the representation without disclosure to the client because the engagement is unrelated to the legal matter being negotiated

D. Disclose the relationship to the client only if the opposing counsel of record changes during the course of the negotiation

18. During cross-examination at trial, a lawyer's own client gives testimony that the lawyer knows to be materially false. The lawyer had previously counseled the client against testifying falsely. The client persists. What must the lawyer do?

A. Move to withdraw from the representation immediately and refuse to disclose any reason for the withdrawal to the trial court

B. Continue with the examination without further action because the duty of confidentiality protects even materially false testimony

C. Take reasonable remedial measures, including, if necessary, disclosure to the tribunal — Rule 3.3 overrides confidentiality when a client has offered false material evidence

D. Inform opposing counsel privately of the false testimony and allow opposing counsel to address the issue through further cross-examination

19. During settlement negotiations, a lawyer representing a defendant in a personal injury case tells opposing counsel: "My client has no insurance coverage and limited personal assets." In fact, the defendant has \$1 million in liability coverage that the lawyer knows would respond to the claim. Has the lawyer violated Rule 4.1?

- A. No, because puffery and posturing during settlement negotiations are generally not actionable as misrepresentations under Rule 4.1
- B. Yes, because the existence of insurance coverage is a material fact and Rule 4.1 prohibits knowing false statements of material fact to a third person
- C. No, because Rule 4.1 prohibits false statements only when directed to opposing parties personally, not to opposing counsel acting in negotiations
- D. Yes, but only if opposing counsel demonstrates actual reliance on the false statement in accepting a particular settlement amount

20. A lawyer takes on a new divorce client. After two months of representation, the client and lawyer develop a mutual romantic attraction. They had no sexual relationship before the representation began. Both are unmarried adults. May they begin a sexual relationship while the representation continues?

- A. No, because Rule 1.8(j) prohibits a sexual relationship with a current client unless a consensual sexual relationship existed when the lawyer-client relationship commenced
- B. Yes, provided the client gives written informed consent and the lawyer believes the relationship will not affect the competent representation of the client
- C. Yes, because Rule 1.8(j) applies only to criminal defense representations and not to civil family law or other civil matters
- D. No, but only if the divorce involves contested child custody where the relationship could be raised by opposing counsel against the client

21. A potential client telephones a lawyer for a free consultation. Over a forty-minute call, the prospective client describes the facts of a contemplated wrongful termination suit against her former employer, sharing significant confidential information about her employment and an internal investigation. The lawyer ultimately declines the representation. One month later, the former employer asks the same lawyer to defend the suit. May the lawyer represent the employer?

- A. Yes, because the lawyer never formally undertook representation of the prospective client and owes her no continuing professional duty
- B. Yes, provided that during the consultation the prospective client did not request specific written legal advice on the merits
- C. No, unless the prospective client gives informed consent to the new representation of the adverse employer, confirmed in writing

D. No, unless both the prospective client and the employer give informed consent confirmed in writing, or screening and other Rule 1.18 conditions are satisfied

22. A lawyer represents four plaintiffs in a coordinated mass tort action against a common defendant. The defendant offers \$2 million to settle all four claims globally. The lawyer believes the settlement is favorable. To accept the aggregate settlement, what is required?

A. Approval by a simple majority of the represented plaintiffs is sufficient because joint representation implies majority rule on settlement decisions

B. Each of the four clients must give informed consent in a signed writing disclosing the existence of all the claims and each client's participation in the settlement

C. Court approval, after notice to all four plaintiffs and a fairness hearing, before any allocation among the plaintiffs may be made

D. The lawyer's own determination that the proposed allocation is objectively fair when applied to each plaintiff under reasonable criteria

23. A lawyer represents a client in a contested probate matter. The decedent's signature on a key document is disputed. The lawyer was present when the document was signed and is the only available witness who can authenticate the signature. The matter cannot proceed without that authentication. What must the lawyer do under Rule 3.7?

A. Continue as trial counsel and present her own testimony as a witness whenever the authentication issue arises during the proceedings

B. Withdraw from the case entirely because Rule 3.7 prohibits any continued role for a lawyer who will be a necessary witness at trial

C. Decline to act as trial counsel in the matter, though another lawyer in her firm generally may do so unless precluded by another conflict

D. Stipulate to the document's authenticity to avoid the need for her own testimony, regardless of whether the stipulation accurately reflects the facts

24. A lawyer is appointed to represent a criminal defendant who has confessed to her, in confidence, that he committed the charged offense. The defendant insists on pleading not guilty and putting the prosecution to its proof. May the lawyer continue to represent him?

- A. Yes, because the defendant has a constitutional right to plead not guilty and put the prosecution to its proof; the lawyer may not present perjury but may otherwise defend
- B. No, because the lawyer cannot continue representation once she knows that the client is factually guilty of the specific charged offense
- C. Yes, but only if the lawyer first obtains an explicit written waiver from the client of his right to testify in his own defense
- D. No, unless the prosecution agrees not to seek the death penalty or other most-severe sanctions in the case going forward

25. A lawyer charges a flat fee of \$100,000 to defend a client in a misdemeanor traffic violation that ordinarily resolves with a fine and a few hours of work. The client signs a written fee agreement and pays the fee in full. Several months later the client challenges the fee. Under Rule 1.5, may the lawyer be subject to discipline?

- A. No, because the client signed a written fee agreement freely consenting to the agreed-upon amount in advance of the representation
- B. No, because flat fees once paid in full are not subject to subsequent review on reasonableness grounds under Rule 1.5
- C. Yes, but only if the client demonstrates by clear and convincing evidence that she was financially harmed by paying the agreed fee
- D. Yes, because Rule 1.5 prohibits an unreasonable fee regardless of whether the client agreed to the amount in advance in writing

26. A lawyer represents an employer being sued for wrongful termination. The lawyer arranges to interview a current low-level supervisor who witnessed the events but is not represented by counsel. During the interview, the supervisor appears confused about whether the lawyer is "on his side" given that he and the employer are co-aligned. What must the lawyer do under Rule 4.3?

- A. Inform the supervisor that the lawyer represents both the employer and him personally in their shared interests during the pending litigation
- B. Decline to interview the supervisor any further until he obtains separate counsel of his own choosing to protect his interests
- C. Make reasonable efforts to correct the supervisor's misunderstanding and clarify that the lawyer represents the employer, not him personally

D. Provide the supervisor with a list of recommended attorneys who could potentially represent him before continuing with any further questioning

27. A lawyer represents a client in commercial litigation. The client has failed to pay legal fees for the past four months despite repeated demands. The client also has begun making decisions that the lawyer believes are imprudent but not unlawful. The lawyer wishes to withdraw. What governs whether she may do so?

A. The lawyer may withdraw at any time for any reason because the lawyer-client relationship is consensual and either side may terminate at will

B. The lawyer may withdraw for unpaid fees and other permissive grounds under Rule 1.16(b), subject to court permission if litigation is pending and to protecting client interests

C. The lawyer must continue the representation until the case concludes because permissive withdrawal during pending litigation is categorically prohibited

D. The lawyer must continue until the client formally agrees to a substitution of counsel, even if no replacement counsel has yet been identified

28. A lawyer represented a corporation for several years in negotiating supply agreements with various vendors. The representation ended amicably. Two years later, a vendor that had been on the other side of one of those negotiations asks the lawyer to sue the corporation for breach of the very supply agreement she helped negotiate. The new matter is substantially related to her former representation. May she undertake it?

A. Yes, because the representation ended two years ago and the lawyer no longer owes the corporation any ongoing professional duty

B. Yes, because the new matter involves a different legal theory than the negotiation work she previously performed for the corporation

C. Yes, provided the former corporate client does not affirmatively object within a reasonable time after being given notice of the proposed engagement

D. No, unless the former corporate client gives informed consent to the new adverse representation, confirmed in writing

29. A lawyer takes on a personal injury case six months before the statute of limitations expires. Over the next five months, she takes no action — she does not interview witnesses, gather records, or file suit. On

the day before the statute expires, she scrambles to file a bare-bones complaint that is later dismissed on procedural grounds. The client suffers actual harm. Is the lawyer subject to discipline under Rule 1.3?

- A. Yes, because Rule 1.3 requires reasonable diligence and promptness, and months of inaction during the statutory period plainly violated the rule
- B. No, because she filed the complaint before the statute of limitations expired and thus avoided the most serious harm to the client's claim
- C. No, because the complaint was dismissed on procedural grounds unrelated to the lawyer's own diligence in pursuing the matter
- D. Yes, but only if the client establishes by clear and convincing evidence that a properly handled claim would have succeeded on the merits

30. A solo practitioner near retirement wants to sell her practice to another lawyer who will continue serving her clients. Under Rule 1.17, which of the following is required?

- A. The selling lawyer must obtain individual written informed consent from every existing client before the sale of the practice may close
- B. The buying lawyer must waive any right to increase fees from the levels charged by the selling lawyer for a period of at least five years
- C. The selling lawyer must cease engaging in the private practice of law in the geographic area covered by the practice being sold, subject to the rule's allowances
- D. The sale must be approved by the court of general jurisdiction in the county where the selling lawyer maintained her principal office before client files may be transferred

31. A lawyer admitted in States A and B is suspended for two years in State A for misappropriation of client funds. State B receives notice and opens a reciprocal discipline proceeding. The lawyer argues that State B should impose a lesser sanction because, in her view, the conduct would warrant only a public censure under State B's disciplinary norms. Under the typical reciprocal discipline regime, what governs?

- A. State B must impose the identical sanction State A imposed because reciprocal discipline operates automatically and mechanically across jurisdictions
- B. State B will typically impose discipline comparable to State A's unless the lawyer establishes one of the recognized exceptions, such as denial of due process or grave injustice

C. State B must conduct an entirely de novo proceeding and may not give weight to any of State A's findings of fact or determinations of sanction

D. State B has no jurisdiction over conduct that occurred while the lawyer was practicing under State A's authority within State A's borders

32. A lawyer drafts a series of routine business contracts for a longtime client. Six months later, the lawyer discovers that the client has been using those contracts as part of a Ponzi scheme that has defrauded dozens of investors. The fraud is ongoing. The client refuses to make any disclosure to affected parties and continues to use the contracts. What must or may the lawyer do?

A. The lawyer must withdraw from any continued representation and may, under Rule 1.6(b)(3), reveal information necessary to prevent or mitigate substantial financial injury from a fraud in which her services were used

B. The lawyer must maintain confidentiality of all information indefinitely because the original drafting work was lawful when performed and is now outside the representation

C. The lawyer may continue the representation provided she does not draft any new documents for use in the ongoing scheme going forward

D. The lawyer may reveal information only with the express written consent of every individual investor known to have been affected by the scheme

33. A state court judge regularly writes articles for legal journals on procedural reform and occasionally speaks at continuing legal education seminars on the same topics. She accepts modest honoraria for some of the speaking engagements. The articles and speeches do not address any matter pending before her court. Is her conduct permissible under the Code of Judicial Conduct?

A. No, because judges are categorically prohibited from accepting any form of compensation for any extrajudicial activities of any kind

B. No, because judges may not publicly discuss legal issues even in their personal capacities and unrelated to specific pending matters

C. Yes, but only if she obtains advance written approval from the chief justice of her court for each individual extrajudicial engagement

D. Yes, provided the activities do not interfere with the performance of judicial duties, do not detract from the dignity of the office, and comply with restrictions on honoraria and reporting

34. A lawyer represents a corporate client in environmental compliance matters. The lawyer learns that the client has been knowingly discharging a toxic chemical into a public waterway in violation of federal law. The discharge poses a substantial risk of serious bodily harm to people who drink water downstream. The client refuses to stop or self-report. The lawyer cannot dissuade the client. What may the lawyer do under Rule 1.6?

- A. The lawyer must immediately inform the appropriate environmental regulators of every detail learned during the course of the corporate representation
- B. The lawyer is strictly bound by confidentiality and may not disclose any information whatsoever without the client's express written consent
- C. The lawyer may reveal information she reasonably believes necessary to prevent reasonably certain death or substantial bodily harm
- D. The lawyer may reveal information only after the client has already caused harm and the lawyer's services were used in furtherance of the conduct

35. An associate is directed by a senior partner to draft a brief that the associate believes contains a misrepresentation of controlling precedent. The associate raises the concern, and the partner insists the characterization is a "reasonable argument" and instructs the associate to file as drafted. The associate believes the characterization is not a reasonable argument. Is the associate subject to discipline if she files the brief?

- A. Yes, because Rule 5.2(b) protects the subordinate only when she acts in accordance with the supervisor's reasonable resolution of an arguable question of professional duty
- B. No, because Rule 5.2 categorically immunizes subordinate lawyers from discipline for any conduct undertaken pursuant to a supervising partner's instruction
- C. Yes, but only if the brief is actually filed with the court and the misrepresentation is discovered by the presiding judge during the proceedings
- D. No, because subordinate lawyers have no independent ethical obligations beyond carrying out the reasonable directions of their supervisors in good faith

36. A lawyer represents a client in business litigation. Over a four-month period, the lawyer fails to respond to seven of the client's emails and three of her voicemails inquiring about the status of the case. The lawyer is working diligently on the matter but considers the client's questions unsophisticated and not worth her time. The matter is otherwise progressing normally. Is the lawyer subject to discipline?

- A. No, because the underlying matter is progressing satisfactorily despite the temporary lack of communication between attorney and client
- B. Yes, because Rule 1.4 requires a lawyer to reasonably consult with the client about the means of the representation and promptly comply with reasonable information requests
- C. No, because Rule 1.4 applies only when the client has suffered demonstrable actual harm flowing from the lack of communication with counsel
- D. Yes, but only if the client has explicitly informed the lawyer in writing that she considers the lack of timely response to be a serious problem

37. A lawyer represents a defendant charged with assault. The lawyer believes a plea bargain offering five years' probation is favorable and strongly recommends acceptance. The client wants to go to trial and risk a 15-year sentence on conviction. The decision belongs to the client under Rule 1.2. What must the lawyer do?

- A. Accept the plea on behalf of the client because the lawyer's professional recommendation reflects superior legal judgment in such matters
- B. Move to withdraw from the representation because the fundamental disagreement renders continued representation effectively impossible
- C. Continue to recommend acceptance and ask the trial court to enter an order overriding the client's stated preference about trial
- D. Abide by the client's decision regarding whether to accept the plea, because that fundamental decision belongs to the client under Rule 1.2(a)

38. A lawyer leaves a firm. As part of her departure agreement, the firm proposes that she agree not to represent any of the firm's existing clients for two years after her departure. The lawyer is willing to sign. Is the agreement permissible?

- A. No, because Rule 5.6(a) prohibits agreements that restrict a lawyer's right to practice after departing a firm, except where the restriction concerns retirement benefits
- B. Yes, because the lawyer is willing to agree to the restriction and may freely waive any objection to its terms as a matter of contractual freedom
- C. Yes, because the firm has a legitimate protectable interest in its client relationships that justifies a reasonable post-departure restriction

D. No, but only if the proposed restriction extends for a duration beyond two years from the lawyer's date of departure

39. A lawyer wants to enter into an arrangement with a non-lawyer business consultant under which the consultant will refer potential clients to the lawyer in exchange for one-third of any fees the lawyer earns from referred clients. Is this arrangement permissible?

A. Yes, because the consultant is not a regulated lawyer and is therefore not subject to the Rules of Professional Conduct that govern attorneys

B. No, because Rule 5.4(a) generally prohibits sharing legal fees with a nonlawyer, and this referral-fee arrangement does not fit any recognized exception

C. Yes, provided the consultant does not engage in any in-person solicitation of clients or real-time electronic contact with prospective referrals

D. No, but the arrangement would be entirely permissible if the consultant agreed to a flat per-referral fee rather than a percentage of fees earned

40. A lawyer's television advertisement features actors portraying satisfied former clients describing positive case outcomes. The advertisement does not identify the speakers as paid actors. The lawyer's actual past clients have in fact produced similar outcomes. Is the advertisement permissible under Rule 7.1?

A. Yes, because the actors' statements about outcomes are consistent with results the lawyer has obtained for actual past clients in similar cases

B. Yes, because television advertising commonly uses actors as performers and the general public understands and expects that convention

C. No, because the failure to disclose that the speakers are paid actors rather than actual clients creates a misleading impression in violation of Rule 7.1

D. No, but only if the lawyer's actual past results would not factually justify the substantive statements the actors make about case outcomes

41. A lawyer states on her website that she is a "specialist in family law" and describes herself as having "specialized expertise in custody matters." She is not certified by any organization as a specialist in family law. Is the statement permissible?

- A. Yes, because every lawyer is entitled to identify her practice areas to the public, including by use of the descriptive term "specialist"
- B. Yes, provided the lawyer can demonstrate substantial experience in the relevant practice area through documented past case results
- C. No, because no lawyer may ever use the term "specialist" in advertising any practice area regardless of any certification she may hold
- D. No, unless the lawyer has been certified as a specialist by an appropriate organization and the certifying organization is identified in the communication

42. A lawyer's longtime client offers to sell the lawyer a parcel of investment real estate at what the lawyer believes to be a fair market price. Both parties agree on the terms. To proceed, what must the lawyer do under Rule 1.8(a)?

- A. Ensure the terms are fair and fully disclosed in writing, advise the client in writing of the desirability of independent counsel and a reasonable opportunity to seek it, and obtain the client's written informed consent to the essential terms and the lawyer's role
- B. Refuse the proposed transaction outright because Rule 1.8(a) prohibits any business transactions between lawyers and current clients regardless of the fairness of the terms involved
- C. Obtain a written court order approving the transaction terms after providing notice to all parties potentially affected by the conveyance of the parcel
- D. Disclose the transaction to the state disciplinary authority within thirty days of the closing of the real estate transaction with her current client

43. A criminal defense lawyer is approached by a high-profile client about to stand trial for murder. The client offers to assign the lawyer all media, book, and film rights to the lawyer's account of the trial in lieu of paying any cash fee. Is this arrangement permissible?

- A. Yes, because clients are entitled to compensate their lawyers in any form they choose, including through assignments of media and literary rights
- B. Yes, provided the lawyer agrees in writing not to publish or release anything based on the matter until after the conclusion of all available appeals
- C. No, because Rule 1.8(d) prohibits a lawyer from making or negotiating an agreement giving the lawyer literary or media rights to an account substantially based on the representation prior to the conclusion of the matter

D. No, but only if the lawyer accepts any portion of the proceeds from a third-party publication or production based on the underlying trial proceedings

44. An insurance company retains a lawyer to defend its insured against a personal injury claim. During discovery, the lawyer learns that the insured engaged in conduct that, if disclosed to the insurer, would likely cause the insurer to deny coverage. The information is otherwise protected by Rule 1.6. What should the lawyer do?

A. Disclose the information to the insurance company immediately because the insurer is also a client and has a co-equal right to the information

B. Maintain the insured's confidence and address the conflict in accordance with Rule 1.7, which may require withdrawal from the matter if the conflict is non-consentable

C. Continue the representation as if no conflict existed because the case is being adequately defended on the merits in the underlying litigation

D. Disclose the information only if the insured affirmatively authorizes the disclosure in a writing signed by both the lawyer and the insured client

45. A lawyer is approached by a client who wants to file a lawsuit asserting a novel legal theory that has been rejected by every court that has considered it, but for which the client wants to advocate as part of a legal reform effort. The lawyer believes there is a non-frivolous good-faith argument for an extension or change in the law, though the theory is unlikely to prevail. May the lawyer file the suit?

A. No, because Rule 3.1 categorically prohibits filing any claim that has been previously rejected by all courts that have considered the underlying theory

B. No, unless the client agrees in writing to indemnify the lawyer for any Rule 11 sanctions or fee awards the court may eventually impose

C. Yes, but only if the lawyer first obtains a court order specifically authorizing the use of the unconventional legal argument before the case is filed

D. Yes, because Rule 3.1 expressly permits a good-faith argument for an extension, modification, or reversal of existing law, even where success is unlikely

46. A lawyer leaves a firm where she personally handled the representation of a long-term corporate client. After her departure, the corporate client retains her at her new firm. Her former firm now wants to

represent a competitor in a matter substantially related to her former work for the corporate client. May the former firm undertake the representation?

- A. No, because the former firm is permanently disqualified by virtue of the prior representation of the corporate client by the firm's former lawyer
- B. No, unless the former firm first reimburses the corporate client for all fees paid during the lawyer's tenure at the firm prior to her recent departure
- C. Yes, if no lawyer remaining in the former firm has confidential information material to the matter, because Rule 1.10(b) permits adverse representations once the conflicted lawyer departs
- D. Yes, but only if the corporate client gives informed consent in writing to the former firm's continued involvement in the adverse matter going forward

47. A lawyer has been representing a defendant in commercial litigation. As trial approaches, the lawyer realizes a significant medical condition will likely impair her ability to handle trial competently. She has not informed the client. What must the lawyer do?

- A. Inform the client of the impairment and either withdraw or obtain co-counsel sufficient to ensure competent representation, because Rule 1.1 requires competence and Rule 1.4 requires candid communication about material developments
- B. Continue the representation without informing the client because medical conditions are a private matter not subject to disclosure under the rules
- C. Inform only the trial court of the impairment and quietly request a continuance, without disclosing the underlying reason to the client
- D. Continue the representation while requesting that opposing counsel agree to make appropriate accommodations during the upcoming trial proceedings

48. A lawyer learns that her cousin has been seriously injured in a car accident. She contacts her cousin directly, in person, to offer her legal services representing the cousin in a personal injury claim. Is the contact permissible under Rule 7.3?

- A. No, because all in-person solicitation of potential clients by a lawyer is categorically prohibited regardless of any pre-existing relationship between them
- B. Yes, because Rule 7.3(a) exempts solicitation of family members, close personal friends, and persons with prior professional relationships with the lawyer

C. No, unless the cousin signs a written acknowledgment of the solicitation and waives any claim of overreaching before any representation actually begins

D. Yes, but only if the cousin has not yet retained any other counsel for the personal injury matter at the time of the in-person contact

49. A lawyer represents a class of plaintiffs in a certified class action. After substantial litigation, the defendant offers a class-wide settlement. To proceed, what is required in addition to court approval?

A. Affirmative individual consent in writing from every absent member of the class, regardless of the total size of the certified class involved

B. Approval by a simple majority of the named class representatives alone, without notice to or input from the absent class members

C. Court approval of the proposed settlement is sufficient by itself, and no other consent, notice, or procedural step is required of class counsel

D. The procedures required by the applicable class action rules, typically including notice to absent class members and a fairness hearing prior to court approval

50. During the representation of a corporate client, a lawyer learns confidential information about an undisclosed but imminent merger that will significantly increase the value of the corporation's publicly traded stock. Without using the information in connection with the representation, the lawyer purchases shares of the corporation for her personal account before the announcement. Is the lawyer subject to discipline?

A. No, because the lawyer's personal stock purchase is wholly unrelated to her actual legal work on the matter for the corporate client

B. No, because the information was obtained in the ordinary course of the representation and may be used for any purpose not adverse to the client

C. Yes, because Rule 1.8(b) prohibits a lawyer from using information relating to representation of a client to the disadvantage of the client without informed consent

D. Yes, but only if the lawyer actually realizes a profit on the trade after the merger announcement is made public by the corporation involved

51. A lawyer is arrested and pleads guilty to felony tax evasion involving substantial unreported personal income over a period of five years. The conduct is unrelated to her law practice or to any client matter. May she be disciplined under Rule 8.4?

A. Yes, because Rule 8.4(b) makes it professional misconduct to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer

B. No, because the criminal conduct is wholly unrelated to the lawyer's professional services or any client representation and falls outside the scope of Rule 8.4

C. Yes, but only if the lawyer is actually incarcerated as a result of her conviction for the underlying tax evasion offense

D. No, because tax matters between a lawyer and the government are inherently personal and are not subject to professional discipline by the bar

52. A lawyer admitted only in State X is asked to handle a single trial in State Y. State Y permits out-of-state lawyers to appear pro hac vice with the court's permission. The lawyer files a pro hac vice motion that is granted. May she handle the trial?

A. No, because lawyers must be admitted to the bar of any state in which they appear in court for trial purposes regardless of any pro hac vice procedure

B. Yes, because Rule 5.5(c)(2) permits temporary practice in another jurisdiction in proceedings the lawyer is authorized to appear in or reasonably expects to be authorized in

C. Yes, but only if she also obtains a separate license from State Y's bar before the trial actually commences and witnesses are sworn for testimony

D. No, because pro hac vice admission only authorizes the filing of motions and other paperwork, not actually conducting a contested trial on the merits

53. A trial court judge is up for re-election. During her campaign, she gives a speech in which she promises that, if re-elected, she will "rule against drunk drivers in every case that comes before me" because "society needs to crack down on this scourge." Is the statement permissible under the Code of Judicial Conduct?

A. Yes, because judicial candidates have a First Amendment right to express personal views on legal and policy issues during their campaigns

B. Yes, because the statement reflects the candidate's general policy preferences rather than her stated view on any specific case currently pending before her

C. Yes, provided the judge does not actually rule against every drunk driver if she is re-elected and continues to serve on the bench

D. No, because the Code prohibits candidates for judicial office from making pledges, promises, or commitments inconsistent with the impartial performance of judicial duties

54. A lawyer realizes she has made an error in handling a client's matter that may give rise to a malpractice claim. The lawyer's malpractice insurance carrier suggests she resolve the matter directly with the client by offering a payment in exchange for a release. To do so, what must the lawyer do under Rule 1.8(h)?

A. Obtain the client's signature on a written release that recites both the lawyer's settlement offer and the client's full acceptance of the proposed terms

B. Offer to pay the client an amount the lawyer reasonably believes fairly reflects the magnitude of the underlying error and any consequential damages

C. Advise the client in writing of the desirability of seeking the advice of independent legal counsel and give the client a reasonable opportunity to do so before securing the release

D. Limit the proposed release to the specific error already identified and exclude any other potential claims the client may possess against the lawyer

55. A lawyer represents a corporation. During her representation, the corporation's chief financial officer asks the lawyer for advice about how he, as an individual, can structure a personal investment unrelated to the corporation's business. Whom does the lawyer represent?

A. Both the corporation and the CFO automatically because corporate officers and the entity are functionally interconnected in their interests

B. Only the corporation; the lawyer represents the organization through its constituents, not the constituents themselves in their personal capacities

C. Only the CFO, because the personal investment inquiry originated with him in his individual capacity rather than as an organizational matter

D. Both the corporation and the CFO simultaneously, provided that the CFO signs a separate written engagement letter with the lawyer for the personal matter

56. A lawyer representing a corporation discovers that a midlevel manager is engaged in conduct that violates a legal obligation to the corporation and is likely to result in substantial injury to the organization.

The lawyer raises the matter with the manager, who refuses to change course. What must the lawyer ordinarily do?

- A. Withdraw immediately from the representation of the corporation and disclose the manager's misconduct to the relevant external regulators of the entity
- B. Continue the representation while privately documenting the lawyer's concerns in the case file but taking no further internal action within the corporation
- C. Disclose the manager's misconduct to the corporation's outside auditors before any other reporting to the corporation's officers or directors is undertaken
- D. Report the matter to higher authority within the corporation, ordinarily up to and including the highest authority that can act on behalf of the organization, in accordance with Rule 1.13(b)

57. A prosecutor learns, after a defendant has been convicted, of new credible evidence that creates a reasonable likelihood that the defendant did not commit the offense for which he was convicted. The defendant is currently incarcerated. What must the prosecutor do under Rule 3.8(g)?

- A. Promptly disclose the evidence to an appropriate court or authority and, if the conviction was obtained in the prosecutor's jurisdiction, also disclose to the defendant unless a court authorizes delay
- B. Treat the new evidence as a matter for the defendant's appellate counsel to discover independently through the ordinary post-conviction review procedures available
- C. Maintain the new evidence in office confidence until the defendant files a formal post-conviction motion based on independently developed evidence from outside sources
- D. Disclose the evidence only if it would tend to establish actual innocence by a clear and convincing standard rather than mere reasonable likelihood

58. A lawyer in a one-party-consent jurisdiction records a telephone conversation with opposing counsel without disclosing that the call is being recorded. The recording is lawful under the state's wiretapping statute. Is the lawyer's conduct permissible under the Rules of Professional Conduct?

- A. No, because any secret recording of a conversation by a lawyer always violates Rule 8.4's prohibition on dishonest conduct regardless of underlying state law
- B. No, because Rule 4.1 affirmatively requires the lawyer to disclose any recording to opposing counsel before any substantive conversation may begin

C. Generally yes, because the modern view, reflected in ABA Formal Opinion 01-422, is that nonconsensual recording lawful under applicable law is not per se a violation, though deception about the recording can be

D. Yes, but only if opposing counsel was personally unrepresented at the time of the recording and was therefore communicating in a personal capacity

59. An applicant for admission to the bar fails to disclose on her application a misdemeanor conviction from twelve years earlier. The application asks specifically about all criminal convictions, including misdemeanors. The applicant is admitted to the bar. Several years later, the omission is discovered. Is she subject to discipline under Rule 8.1?

A. No, because misdemeanor convictions more than ten years old are generally treated as legally immaterial to bar admission applications under most state rules

B. Yes, because Rule 8.1(a) prohibits knowing false statements of material fact in connection with a bar admission or disciplinary application

C. No, provided she demonstrates that her conduct since admission has been exemplary and that the original omission caused no concrete harm to anyone

D. Yes, but only if the misdemeanor conviction would actually have prevented her admission to the bar had it been truthfully disclosed on the application

60. A lawyer represents an elderly client whose decision-making capacity has begun to decline noticeably. The client wishes to make a significant financial decision that the lawyer believes is contrary to the client's best interests and may reflect undue influence from a recently arrived caregiver. The lawyer cannot dissuade the client. What does Rule 1.14 generally permit the lawyer to do?

A. Override the client's expressed decision and substitute a different choice that the lawyer reasonably believes is in the client's actual best interests

B. Withdraw immediately from the representation without prior notice to the client, transferring the file directly to known family members of the client

C. Maintain complete deference to the client's expressed wishes in all circumstances, regardless of any independent evidence of diminished decision-making capacity

D. Take reasonably necessary protective action, which may include consulting with appropriate individuals or entities or seeking the appointment of a guardian, while maintaining a normal lawyer-client relationship to the extent reasonably possible

ANSWER KEY WITH EXPLANATIONS

1. B — Rule 4.2's no-contact rule applies only to currently constituent persons of a represented organization, not former employees. Comment [7] to Rule 4.2 expressly addresses this: a lawyer may contact former constituents directly because they no longer speak for the organization and are no longer subject to its control. The lawyer must still avoid eliciting privileged information and must not deceive the former employee about her role.
2. C — A discharged lawyer is generally entitled to the reasonable value of services rendered (quantum meruit), and most jurisdictions cap that recovery at the contracted contingent fee to prevent windfall. This rule applies whether the discharge was for cause or without cause; it balances the client's absolute right to discharge counsel under Rule 1.16(a)(3) against unjust enrichment of the client.
3. A — Rule 3.6(a) prohibits extrajudicial statements that the lawyer knows or reasonably should know will have a "substantial likelihood of materially prejudicing an adjudicative proceeding." Pre-trial statements about an alibi, witness corroboration, and characterizing prosecution evidence as "coerced" fall squarely within the categories the comment identifies as presumptively prejudicial.
4. D — Rule 1.16(a)(1) makes withdrawal mandatory when continued representation will result in a violation of the Rules. Where the client's services are being used in ongoing fraud, the lawyer cannot continue without violating Rules 1.2(d) and 8.4. Mandatory withdrawal protects both the lawyer and the integrity of the profession.
5. A — Rule 8.3(a) imposes a mandatory duty to report another lawyer's violation that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer. Forgery and misappropriation of client funds plainly meet that standard, and the information here is not protected by Rule 1.6. Reporting is required, not discretionary.
6. C — Rule 7.3 permits targeted written, recorded, or electronic communications with persons known to need legal services in a particular matter, provided the communication includes the word "Advertising Material" (or equivalent labeling) and complies with the rule's other requirements. The categorical bar in Rule 7.3 reaches in-person and live telephone solicitation, not properly labeled written outreach.
7. B — Rule 1.6(b)(1) permits (but does not require) a lawyer to reveal information she reasonably believes necessary to prevent reasonably certain death or substantial bodily harm. Because the client's

plan would foreseeably injure or kill maintenance staff, the exception applies. The lawyer's authority is discretionary, not mandatory.

8. A — Under Rule 1.10(a)(2), imputation arising from a personally disqualified incoming lawyer can be cured by timely screening, apportioning no part of the fee to the screened lawyer, and giving prompt written notice to the affected former client describing the screening procedures. This is the modern ABA approach to lateral hiring conflicts.

9. D — Rule 1.11(a) prohibits a former government lawyer from representing a private client in connection with a matter in which she personally and substantially participated as a public employee, unless the appropriate government agency gives informed consent confirmed in writing. The bar applies regardless of which side the lawyer now represents.

10. C — Rule 2.4(b) requires a lawyer serving as a third-party neutral to inform unrepresented parties that she is not representing them and, when she knows or reasonably should know that a party does not understand the lawyer's role, must explain the difference between her role as neutral and a lawyer's role in representing a client. Advising the party to seek independent counsel is the standard remedy.

11. A — Rule 6.1 is hortatory. It "encourages" lawyers to perform at least 50 hours of pro bono service annually but explicitly disclaims any disciplinary sanction for failure to do so. The rule promotes a professional aspiration without creating an enforceable duty.

12. B — The majority approach, reflected in Rule 1.16(d) and most ethics opinions, requires a discharged lawyer to turn over the materials necessary to protect the client's interests — generally the substantive file — regardless of unpaid fees. A retaining lien is disfavored or limited in most jurisdictions; the client's right to her file outweighs the lawyer's fee collection interest.

13. D — Rule 5.5(c)(4) permits temporary practice in another jurisdiction by an out-of-state lawyer when the services "arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted." Representing a home-state client in a transaction across state lines is the paradigmatic example of permissible multijurisdictional temporary practice.

14. C — Rule 5.1(a) and (b) require partners and supervisory lawyers to make reasonable efforts to ensure the firm has measures giving reasonable assurance that all lawyers conform to the Rules. Superficial review of a junior associate's work product, where the misrepresentation could have been detected with adequate supervision, may itself violate Rule 5.1 — even though the associate acted without bad intent.

15. B — Rule 1.15(e) requires that when funds are in dispute, the undisputed portion must be promptly distributed to the party entitled to it, while the disputed portion remains in trust until resolution. Holding the entire amount unnecessarily delays the client's access to funds she is plainly entitled to; withdrawing the disputed portion improperly converts client funds.

16. D — Rule 3.5(b) prohibits ex parte communication with a judge during a proceeding unless authorized by law or court order. The social setting does not change the rule's reach; the moment the lawyer raised the pending motion, she crossed the line — regardless of subject. The judge's prompt redirection mitigated the harm but did not cure the violation.

17. A — Under Rule 1.7(a)(2), a concurrent conflict arises when there is a significant risk that the representation will be materially limited by the lawyer's personal interests. A romantic or familial relationship with opposing counsel's firm creates such a risk and requires informed consent confirmed in writing under Rule 1.7(b)(4), even where the fiancé is not personally on the matter.

18. C — Rule 3.3(a)(3) prohibits a lawyer from offering evidence she knows to be false, and Rule 3.3(b) requires her to take reasonable remedial measures, including disclosure to the tribunal if necessary, when she knows that a client has offered material false evidence. This duty extends to the conclusion of the proceeding and overrides confidentiality under Rule 1.6.

19. B — Rule 4.1(a) prohibits a lawyer from knowingly making a false statement of material fact to a third person in the course of representation. While Comment [2] excludes "puffing" about value or settlement bottom line, the existence of insurance coverage is a material fact about the defendant's ability to satisfy a judgment — not puffing. Knowing misrepresentation of coverage violates Rule 4.1.

20. A — Rule 1.8(j) creates a bright-line prohibition: a lawyer shall not have sexual relations with a current client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced. No client consent, however informed, cures a violation, and the rule applies in all practice areas — not only family or criminal matters.

21. D — Rule 1.18(c) prohibits representation materially adverse to a prospective client in the same or a substantially related matter when the lawyer received information that could be significantly harmful. Rule 1.18(d) provides limited exceptions, including (1) informed consent from both parties confirmed in writing, or (2) screening, no fee apportionment, and written notice — provided the lawyer took reasonable measures to limit information received.

22. B — Rule 1.8(g) prohibits aggregate settlement of two or more clients' claims unless each client gives informed consent in a writing signed by the client. The writing must disclose the existence and nature of all the claims and the participation of each person in the settlement. The rule prevents one client from being shortchanged in an aggregate deal.

23. C — Rule 3.7(a) generally prohibits a lawyer from acting as advocate at a trial in which she is likely to be a necessary witness, subject to limited exceptions. However, Rule 3.7(b) provides that other lawyers in the firm may serve as trial counsel even when one lawyer is disqualified as a witness, unless precluded by Rules 1.7 or 1.9.

24. A — A criminal defendant has a constitutional right to plead not guilty and require the prosecution to prove its case beyond a reasonable doubt. A defense lawyer's knowledge of the client's factual guilt does not preclude representation; the lawyer may not present perjured testimony or affirmatively assert facts she knows to be false, but may otherwise mount a vigorous defense focused on the prosecution's burden of proof.

25. D — Rule 1.5(a) prohibits a lawyer from making an agreement for, charging, or collecting an unreasonable fee. Client consent — even informed, written consent — does not validate an unreasonable fee. Disproportion between the fee and the work or risk involved is the touchstone, and a \$100,000 fee for a routine traffic matter is facially unreasonable on its face.

26. C — Rule 4.3 prohibits implying disinterest to an unrepresented person and, if the lawyer knows or reasonably should know the unrepresented person misunderstands the lawyer's role, requires reasonable efforts to correct the misunderstanding. The supervisor's confusion about whose interests the lawyer protects triggers this clarification duty.

27. B — Rule 1.16(b) permits a lawyer to withdraw if, among other grounds, the client has failed substantially to fulfill an obligation regarding the lawyer's services (such as paying fees) after reasonable warning, or other good cause exists. Under Rule 1.16(c), where a matter is pending before a tribunal, the lawyer must comply with the rules of the tribunal regarding withdrawal — typically requiring court permission.

28. D — Rule 1.9(a) prohibits a lawyer who has formerly represented a client in a matter from representing another person in the same or a substantially related matter in which that person's interests are materially

adverse to the former client, unless the former client gives informed consent, confirmed in writing. The two-year gap does not cure the conflict.

29. A — Rule 1.3 requires a lawyer to act with reasonable diligence and promptness. Comment [3] specifically warns against procrastination and emphasizes that even a single act of neglect can violate the rule. Five months of inaction on a personal injury matter, particularly with a statute of limitations approaching, is the textbook diligence violation, regardless of the eventual filing.

30. C — Rule 1.17(a) permits sale of a law practice only if the seller ceases to engage in the private practice of law (in the geographic area in which the practice has been conducted) or in the area of practice that has been sold. This requirement prevents the seller from undermining the value transferred to the buyer.

31. B — Reciprocal discipline regimes typically presume comparable sanctions to the original jurisdiction unless the lawyer establishes recognized exceptions: lack of due process in the prior proceeding, infirmity of proof, the misconduct would not be misconduct in the receiving jurisdiction, or grave injustice would result. State B is not bound to impose the identical sanction, but it will rarely impose a lesser one absent these showings.

32. A — Rule 1.16(a)(1) mandates withdrawal where continued representation would violate the Rules; meanwhile, Rule 1.6(b)(3) permits revelation of confidential information to prevent, mitigate, or rectify substantial injury to the financial interests of another that has resulted or is reasonably certain to result from the client's commission of a crime or fraud in furtherance of which the client used the lawyer's services.

33. D — The Code of Judicial Conduct (Canon 3 / Rule 3.1) permits judges to engage in extrajudicial activities, including writing, teaching, speaking, and other law-related activities, provided those activities do not interfere with judicial duties, do not cast doubt on impartiality, do not detract from the dignity of office, and do not lead to frequent disqualification. Honoraria are subject to specific reporting and limitation rules.

34. C — Rule 1.6(b)(1) permits a lawyer to reveal confidential information to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm. The exception is discretionary, narrowly tailored, and applies even where the client's conduct does not involve the lawyer's services — distinguishing it from the crime/fraud exception in Rule 1.6(b)(2)-(3).

35. A — Rule 5.2(a) makes a subordinate lawyer bound by the Rules regardless of supervisor direction. Rule 5.2(b) provides a defense only where the subordinate acted in accordance with the supervisor's "reasonable resolution of an arguable question of professional duty." If the associate herself believes the characterization is not a reasonable argument, the Rule 5.2(b) safe harbor is unavailable.

36. B — Rule 1.4(a) requires a lawyer to reasonably consult with the client about the means of accomplishing the client's objectives and to promptly respond to reasonable requests for information. Persistent failure to return communications violates Rule 1.4 regardless of whether the substantive work is being performed competently — communication is itself an independent duty.

37. D — Rule 1.2(a) allocates certain decisions exclusively to the client. In criminal matters, the client decides, after consultation with the lawyer, the plea to be entered, whether to waive jury trial, and whether to testify. The lawyer's recommendation, however strongly held, cannot override the client's authority over these fundamental decisions.

38. A — Rule 5.6(a) prohibits a lawyer from offering or making a partnership, shareholders, operating, employment, or other similar agreement that restricts the right of a lawyer to practice after termination of the relationship, except for an agreement concerning benefits upon retirement. Two-year client restrictions are non-compete clauses that the Rule does not allow, regardless of the departing lawyer's willingness to agree.

39. B — Rule 5.4(a) prohibits a lawyer from sharing legal fees with a nonlawyer, with narrow exceptions (death benefits to a deceased lawyer's estate, employee compensation plans including profit-sharing, fees paid to a nonprofit referrer that recommended the lawyer, and certain court-awarded fees to qualifying nonprofits). A percentage-of-fees referral arrangement with a non-lawyer consultant fits none of these exceptions.

40. C — Rule 7.1 prohibits false or misleading communications about a lawyer's services. Comment [2] makes clear that a truthful statement is also misleading if it omits a fact necessary to make the statement considered as a whole not materially misleading. Failing to disclose that purported "clients" are paid actors creates exactly that kind of materially misleading impression.

41. D — Rule 7.2(c) permits a lawyer to communicate that she has been certified as a specialist in a particular field of law only if (1) certified by an organization approved by an appropriate state authority or accredited by the ABA, and (2) the name of the certifying organization is clearly identified in the communication. Self-described "specialist" claims without those elements are prohibited.

42. A — Rule 1.8(a) requires three things for business transactions with clients: (1) terms fair and reasonable and fully disclosed in writing in a manner that can be reasonably understood by the client; (2) written advice to seek independent counsel and a reasonable opportunity to do so; and (3) the client's written informed consent to the essential terms and the lawyer's role. All three are necessary, not alternative.

43. C — Rule 1.8(d) prohibits a lawyer from making or negotiating an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation, before the conclusion of the representation. The temptation to favor sensational case developments over the client's best interests is the policy concern; the rule is absolute prior to conclusion.

44. B — In insurance defense, the insured is the lawyer's client; whether the insurer is also a client varies by jurisdiction. Either way, the lawyer cannot disclose the insured's confidential information to the insurer to the insured's detriment without consent. Where the conflict is non-consentable under Rule 1.7(b), the lawyer must withdraw — she cannot favor the insurer at the insured's expense.

45. D — Rule 3.1 prohibits frivolous claims but expressly permits a "good faith argument for an extension, modification, or reversal of existing law." Advocacy aimed at changing settled law — provided there is a non-frivolous basis — falls squarely within the rule's protection, even if the lawyer believes success unlikely.

46. C — Rule 1.10(b) provides that when a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly associated lawyer, unless (1) the matter is the same or substantially related to that in which the formerly associated lawyer represented the client, AND (2) any lawyer remaining in the firm has confidential information material to the matter. Both conditions must coexist to disqualify.

47. A — Rule 1.1 requires competent representation, which includes the legal knowledge, skill, thoroughness, and preparation reasonably necessary. A lawyer who knows her competence will be impaired must address the issue — either by withdrawing, obtaining capable co-counsel, or otherwise ensuring the client's matter is handled competently. Rule 1.4 separately requires disclosure of material developments affecting the representation.

48. B — Rule 7.3(a) generally prohibits in-person, live telephone, or real-time electronic solicitation of professional employment, but exempts solicitation directed at (1) another lawyer, (2) a family member,

(3) a close personal friend, or (4) a person with a prior professional relationship with the lawyer. A cousin falls within the family exception.

49. D — Class action settlements are governed by procedural rules (such as Federal Rule of Civil Procedure 23(e)) requiring court approval following notice to class members and a fairness hearing. The MPRE recognizes that class actions operate under specialized procedures distinct from the aggregate-settlement requirements of Rule 1.8(g), which Comment [13] excepts for class members.

50. C — Rule 1.8(b) prohibits a lawyer from using information relating to representation of a client to the disadvantage of the client unless the client gives informed consent. Trading on undisclosed merger information may also implicate securities law independently, but the disciplinary violation flows from misusing confidential information against the client's interest in the integrity of the representation.

51. A — Rule 8.4(b) makes it professional misconduct to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. Felony tax evasion is the paradigmatic example: it involves dishonesty in dealings with government authority and undermines the lawyer's fitness, regardless of any connection to client matters.

52. B — Rule 5.5(c)(2) permits a lawyer admitted in another United States jurisdiction to provide legal services on a temporary basis in another jurisdiction if the lawyer is authorized by law or court order to appear in the proceeding, or reasonably expects to be so authorized. Pro hac vice admission satisfies this requirement.

53. D — The Code of Judicial Conduct prohibits judicial candidates from making pledges, promises, or commitments inconsistent with the impartial performance of judicial duties. Promising to "rule against drunk drivers in every case" prejudices issues that will come before the court and is incompatible with impartial adjudication — even if framed as policy preference.

54. C — Rule 1.8(h)(2) prohibits a lawyer from settling a claim or potential claim for malpractice with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of independent legal counsel in connection with the settlement.

55. B — Rule 1.13(a) provides that a lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents. The CFO is not personally the lawyer's client

merely because he asked for advice; absent a separate engagement satisfying Rule 1.7's joint representation requirements, the entity alone is the client.

56. D — Rule 1.13(b) requires a lawyer who knows that an officer, employee, or other person associated with an organization is engaged in conduct that is a violation of a legal obligation to the organization, or a violation of law reasonably attributable to the organization, and that is likely to result in substantial injury, to refer the matter to higher authority in the organization, ordinarily including the highest authority that can act on its behalf.

57. A — Rule 3.8(g) requires a prosecutor who knows of new credible and material evidence creating a reasonable likelihood that a convicted defendant did not commit the offense to promptly disclose the evidence to an appropriate court or authority, and — if the conviction was obtained in the prosecutor's jurisdiction — to also disclose it to the defendant and undertake further investigation, unless a court authorizes delay.

58. C — ABA Formal Opinion 01-422 reversed the earlier categorical view (Formal Op. 337) and held that a lawyer's electronic recording of a conversation without consent of the other party is not inherently a violation of the Model Rules, provided the recording is lawful under applicable jurisdictional law and provided the lawyer does not affirmatively misrepresent the recording (which would violate Rule 4.1 or 8.4(c)).

59. B — Rule 8.1(a) prohibits a person, in connection with a bar admission application or a disciplinary matter, from knowingly making a false statement of material fact. The omission of a required criminal conviction disclosure is itself a knowing false statement of material fact in connection with admission, and discipline may follow even years after the admission is granted.

60. D — Rule 1.14(b) permits a lawyer representing a client with diminished capacity to take reasonably necessary protective action when the lawyer reasonably believes the client cannot adequately act in her own interest and is at risk of substantial harm. Such action may include consulting with individuals or entities that can protect the client, and, in appropriate cases, seeking the appointment of a guardian or other protective measures.