

PRACTICE EXAM 11 : MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer employs an experienced family-law paralegal. The paralegal asks the lawyer if she may meet alone with new clients to gather facts and explain the legal process. The lawyer reviews and approves all of the paralegal's intake notes. Is this arrangement permissible?

A. Yes, because the paralegal's services are functionally equivalent to those of a junior lawyer working in the same office

B. Yes, because the lawyer's signature on each memorandum confirms appropriate supervisory authority is in place over the work

C. No, because Rule 5.3 prohibits any independent client contact by a non-lawyer assistant in a law office under any circumstances

D. Yes, provided the paralegal does not give legal advice and the lawyer makes reasonable supervisory efforts to ensure the conduct conforms to the lawyer's professional obligations

2. A lawyer is negotiating a commercial contract for a client. To advance the deal, she must reveal certain non-confidential aspects of the client's bargaining position to opposing counsel. The client has not specifically authorized these particular disclosures. May the lawyer make them?

A. No, because Rule 1.6 prohibits disclosure of any information related to a representation without express written client consent

B. Yes, because Rule 1.6(a) permits disclosures impliedly authorized to carry out the representation of the client effectively

C. No, unless the client first signs a separate written waiver authorizing the specific bargaining-position disclosures contemplated

D. Yes, but only if the disclosures concern matters that are already in the public record or have been publicly reported

3. A lawyer represents the plaintiff in a personal injury suit. The defendant, who is represented by counsel, sends the lawyer a friendly email asking about the status of settlement discussions. The defendant's counsel has not consented to direct communication. May the lawyer respond?

A. No, because Rule 4.2 prohibits communication about the matter with a represented person unless that person's lawyer consents to the contact

B. Yes, because the defendant initiated the contact and waived any objection by reaching out directly to opposing counsel in the matter

C. Yes, provided the lawyer copies defense counsel on the response to ensure full transparency about the substance of the exchange

D. No, unless the lawyer first obtains express written consent from her own client before responding to the defendant in the matter

4. A lawyer agrees to represent a client only for purposes of preparing the pleadings in a divorce. The client will appear at court hearings on her own. The client gives informed consent to the limited engagement. Is the arrangement permissible?

A. No, because Rule 1.2(c) prohibits limiting the scope of representation in domestic relations matters under any circumstances

B. No, because limited-scope representation always requires advance court approval before the engagement may lawfully commence

C. Yes, provided the limitation is reasonable under the circumstances and the client gives informed consent to the limited scope

D. Yes, but only if the lawyer also files a formal limited-appearance form with the trial court before drafting the pleadings

5. A prospective client cannot afford an hourly fee for a contested divorce and proposes a contingent fee based on the amount of property she ultimately receives in the property division. May the lawyer accept the arrangement?

- A. Yes, because Rule 1.5(c) permits contingent fees in any civil matter where the client cannot afford to pay on a traditional hourly basis
- B. Yes, provided the agreement is reduced to a writing signed by the client that specifies the precise method of calculation of the fee
- C. No, unless the contingent percentage is held to no more than one-third of the amount the client ultimately recovers in the matter
- D. No, because Rule 1.5(d)(1) prohibits contingent fees in domestic relations matters when payment is contingent on securing a divorce or on the amount of alimony or property settlement

6. A lawyer represents a corporation. During an internal investigation interview with a mid-level employee, the employee begins to disclose facts suggesting his personal liability for misconduct. The interests of the employee and the corporation may diverge. What must the lawyer do under Rule 1.13(f)?

- A. Explain the identity of her client (the corporation), because the lawyer knows or reasonably should know that the organization's interests are or may become adverse to those of the constituent
- B. Immediately discontinue the interview and refer the employee to independent counsel before any further questioning takes place on the merits
- C. Continue the interview while documenting any potentially adverse statements in a privileged memorandum for later use by the corporate client
- D. Notify the corporation's board of directors of the employee's statements before resuming any further interview questioning on the substantive issues

7. A lawyer receives a \$200 retainer for a small legal matter. The lawyer is required to deposit unearned client funds into a trust account. Where must this \$200 generally be deposited?

- A. In the lawyer's operating account, because amounts below \$500 are exempt from formal trust-account requirements in most jurisdictions
- B. In an IOLTA account, because the funds are nominal in amount and short-term, with any interest paid to the state's IOLTA program
- C. In a separate interest-bearing client trust account established individually for this particular client and her specific retainer
- D. In any bank account of the lawyer's choosing, provided the funds are tracked carefully by client-specific ledger entries

8. A criminal defense lawyer holds a brief press statement after her client's arraignment in a high-profile case. She states only the general nature of the claim and that the client denies the charges. She does not discuss evidence, witnesses, or her opinion of the case. Is the statement permissible under Rule 3.6?

A. No, because public statements by counsel during a pending criminal case are categorically prohibited under the trial publicity rule

B. No, unless the lawyer obtains the trial court's prior written permission to address the press while the case is pending

C. Yes, because Rule 3.6(b) permits statements identifying the general nature of the claim, information in the public record, and the client's denial of the charges

D. Yes, provided the statement is made outside the courthouse and physically away from any prospective jurors in the venue

9. A lawyer represents a client in a transactional matter. During the representation, the client insists that the lawyer prepare false closing documents to deceive a lender. The lawyer declines and explains the consequences. The client persists in demanding fraudulent documents. What is the lawyer's obligation?

A. Continue the representation while refusing to prepare the specific fraudulent documents and carefully noting the refusal in the client file

B. Disclose the client's demands to the lender and to the appropriate prosecutor in the jurisdiction where the closing will eventually occur

C. Remain on the matter and prepare lawful documents only, leaving the client to retain separate counsel for any further fraudulent work

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

10. A lawyer worked for several years at the federal agency prosecuting securities fraud. While at the agency, she learned confidential agency information about an ongoing investigation into a company. She has now entered private practice. The information would be relevant to representing a different client against the company. May she use it?

A. No, because Rule 1.11(c) prohibits a former government lawyer from using confidential government information about a person obtained while a public officer to that person's material disadvantage

B. Yes, because the confidential information became her own personal knowledge once she departed government service and entered the private legal sector

C. Yes, provided the company is not actually a party to the current matter being handled by the lawyer at her new private firm

D. No, unless the agency itself consents to the lawyer's specific use of the information for purposes of the new private representation

11. A lawyer wants to ensure that an out-of-state fact witness will travel to the venue and testify at trial. The lawyer offers to pay the witness her actual travel and lodging expenses plus a reasonable amount for time lost from work. May the lawyer do so?

A. No, because any direct payment to a fact witness violates Rule 3.4(b)'s prohibition on offering a witness any inducement to testify

B. Yes, because Rule 3.4(b) permits payment of a fact witness's reasonable expenses incurred and reasonable compensation for time lost from work

C. No, unless the lawyer first obtains court approval for the specific amount of the witness payment in advance of the trial

D. Yes, but only if the payment is contingent on the witness providing testimony favorable to the lawyer's client at the upcoming trial

12. A lawyer learns that her client possesses a smoking-gun document that opposing counsel will surely request in discovery. The lawyer advises the client that, although the document is responsive, the client "might consider" destroying it before the formal request arrives. Has the lawyer violated Rule 3.4?

A. No, because the document has not yet been formally requested through any served written discovery from opposing counsel in the case

B. No, because the lawyer's advice was conditional ("might consider") rather than an outright instruction to destroy responsive material

C. Yes, but only if the client actually destroys the document and that destruction is later discovered through the discovery process

D. Yes, because Rule 3.4(a) prohibits a lawyer from unlawfully obstructing access to evidence, including by counseling or assisting another person to do so

13. A lawyer makes substantial political contributions to a state judge's re-election campaign. Six months later, the lawyer seeks appointment as receiver in a complex commercial matter pending before the same judge. The contributions were made for the purpose of obtaining government legal engagements. Is the conduct subject to discipline?

A. No, because lawyers retain a First Amendment right to make political contributions to judicial candidates in any state election

B. No, provided the lawyer publicly disclosed the prior contributions in advance of the appointment proceedings before the same judge

C. Yes, because Rule 7.6 prohibits a lawyer from accepting a government legal engagement that the lawyer obtains by making, or soliciting, political contributions for the purpose of obtaining the engagement

D. Yes, but only if the contributions exceeded the statutory limits for campaign donations in effect in the state at the relevant time

14. A lawyer at a 30-lawyer firm declines a proposed representation because of a personal religious objection unique to her. The proposed representation involves no confidential information she possesses about any party. The firm wants to assign a different lawyer to the matter. May the firm proceed?

A. Yes, because Rule 1.10(a)(1) provides that imputation does not apply when the prohibition is based on a personal interest of the disqualified lawyer and the conflict does not present a significant risk of materially limiting the representation by the firm's remaining lawyers

B. No, because Rule 1.10 imputes all conflicts to every lawyer in the firm without any recognized exception for personal-interest conflicts

C. Yes, but only if the firm formally walls off the religiously objecting lawyer from any contact with the matter through a written screen

D. No, unless the prospective client provides separate written informed consent to being represented by a different lawyer within the firm

15. A lawyer has a pending motion before a trial judge. She telephones the judge's law clerk to ask about the status of the ruling. The conversation does not touch the merits of the motion. Is the call permissible?

A. No, because all contact with judicial chambers regarding any pending matter is prohibited under Rule 3.5 of the Model Rules of Professional Conduct

B. Yes, because Rule 3.5(b)'s prohibition on ex parte communications with the tribunal addresses substance and not routine procedural inquiries about scheduling or status

C. No, unless the lawyer first notifies opposing counsel of her intention to make the routine procedural inquiry to chambers about the pending motion

D. Yes, but only if the law clerk is the chambers' formally designated point of contact for procedural status inquiries from outside counsel

16. A solo lawyer has represented a small business for fifteen years across dozens of transactional matters. The client is now being sued, and the lawyer is the only witness who can authenticate certain key communications. Substituting trial counsel would impose substantial hardship on the client. May the lawyer continue as trial counsel?

A. No, because Rule 3.7 categorically disqualifies any necessary witness from continuing as trial advocate in the same matter under all circumstances

B. Yes, because the long professional relationship with the client creates an attorney-client privilege that protects the testimony from any disclosure

C. Yes, if disqualification of the lawyer would work substantial hardship on the client — one of the three express exceptions in Rule 3.7(a)

D. Yes, provided the lawyer agrees in writing not to argue her own testimony to the jury during closing argument at the trial

17. A lawyer's client gave the lawyer authority to settle a case for any amount over \$50,000. The defendant offers \$75,000. The lawyer accepts and signs a settlement agreement on the client's behalf. The client later changes her mind and refuses to honor it. Did the lawyer have authority?

A. No, because settlement authority must be obtained anew for each specific settlement amount and cannot be granted as a broad pre-approval range

B. Yes, because the offer exceeded the floor and the lawyer was therefore obligated to accept it on the client's behalf without further consultation

C. No, unless the client signed a separate written authorization specifically referencing the \$75,000 figure ultimately accepted by the lawyer

D. Yes, because the client gave the lawyer actual authority within a specified range, and the accepted settlement fell squarely within that authorized range

18. A lawyer agrees to represent a client in a routine landlord-tenant matter on an hourly basis at \$250 per hour. The lawyer and client discuss the rate orally and agree. The lawyer never reduces the agreement to writing. Is the lawyer subject to discipline under Rule 1.5?

A. No, because Rule 1.5(b) requires the basis of the fee to be communicated to the client but does not require a writing for non-contingent fee arrangements

B. Yes, because Rule 1.5 requires all fee agreements between a lawyer and a client to be in writing and signed by the client before representation begins

C. No, provided the lawyer subsequently issues an invoice that accurately reflects the agreed-upon hourly rate communicated to the client orally

D. Yes, but only because the rate exceeded standard market rates and therefore required heightened documentation under the reasonableness factors of the rule

19. A personal-injury lawyer visits the hospital room of a newly injured accident victim and aggressively pressures the victim, who is medicated and disoriented, to sign a retainer agreement on the spot. Is the conduct permissible under Rule 7.3?

A. Yes, because the lawyer's in-person presence at the hospital permits her to assess the prospective client's legal needs more directly

B. Yes, provided the victim signs the retainer voluntarily and is not actively refusing the proposed representation during the contact

C. No, because Rule 7.3 prohibits in-person solicitation of professional employment for pecuniary gain, particularly under conditions involving duress or coercion

D. No, but only if the victim has already retained other counsel of her own choosing in connection with the underlying accident

20. A lawyer represented a client who has now died. The personal representative of the estate, who was not the lawyer's client, asks the lawyer to disclose certain confidential information the deceased client shared with her. Disclosure would harm the deceased client's reputation but might assist the estate. May the lawyer disclose?

A. Yes, because the duty of confidentiality terminates upon the client's death and survives only to the extent the estate's representative authorizes disclosure

B. No, generally, because the duty of confidentiality under Rule 1.6 ordinarily survives the client's death, absent an applicable exception to the rule

C. Yes, provided the personal representative has been duly appointed by a probate court of competent jurisdiction over the deceased client's estate

D. No, unless the deceased client expressly authorized post-death disclosure of the relevant information during her lifetime in a written instruction

21. A defense lawyer's client is the target of intense prosecution-favorable media coverage that has portrayed her as guilty. The lawyer wants to issue a statement to mitigate the publicity's impact on her client. What does Rule 3.6 permit?

A. The lawyer may make any statement she chooses to counter the publicity, since the prosecution's earlier statements have already prejudiced any potential proceeding

B. The lawyer may make no responsive statement and must instead seek a change of venue if she believes a fair trial is genuinely threatened by the publicity

C. The lawyer may comment only on the limited categories of information that the prosecutor first introduced through her own pre-trial public statements

D. The lawyer may make a statement that a reasonable lawyer would believe is required to protect the client from substantial undue prejudicial effect of recent publicity not initiated by the lawyer or client

22. A lawyer is holding settlement funds in trust for a client. The client's medical provider has a valid hospital lien against the settlement proceeds that the client has acknowledged. The client now instructs the lawyer to disburse the entire settlement to her personally and ignore the lien. What must the lawyer do?

A. Hold the disputed portion in trust until the lien is resolved and properly disburse to the lienholder the amount it covers, because Rule 1.15(e) requires safekeeping of funds in which a third party has an interest

B. Disburse the full settlement to the client immediately, because the client's instructions to her own lawyer take precedence over any third-party creditor's competing claim

C. Disburse the full settlement to the lienholder first to avoid any potential liability for interference with the creditor's contractual rights against the client

D. Place the entire settlement in the lawyer's operating account pending judicial resolution of the lien dispute between the client and her medical provider

23. A lawyer represents a corporation and is investigating internal misconduct. She wishes to interview officers and employees. Under Rule 1.13(d), what should the lawyer do when beginning each interview, especially where the interests of the corporation may differ from the constituent's?

A. Assure the constituent that anything said during the interview will be privileged and protected from disclosure to any other interested party

B. Advise the constituent that he automatically becomes the lawyer's individual client by virtue of his official role within the corporation

C. Explain the identity of the client (the organization), particularly when the lawyer knows or should know that the organization's interests are adverse to those of the constituent

D. Decline to conduct any further interview unless the constituent first retains separate independent counsel before answering any of the lawyer's questions

24. A lawyer represents an automotive parts supplier in licensing matters. An unrelated client of the same firm wants to bring a contract claim against the parts supplier. Both clients know about the other engagement. Even though the matters are unrelated, may the firm undertake the new representation?

A. Yes, because the two matters involve different subject areas and pose no realistic risk of overlap in confidential information between them

B. No, unless both clients give informed consent confirmed in writing, because Rule 1.7(a)(1) prohibits direct adversity against a current client even on an unrelated matter

C. Yes, provided the firm formally screens the lawyers handling each matter from each other for the duration of both engagements

D. No, but only if the lawyers assigned to the new matter have actual access to confidential information from the parts supplier representation

25. An applicant for admission to the bar has a history of multiple bankruptcies, unpaid debts, and a recent arrest for assault (no conviction). The applicant fully discloses each matter in her application and supplies supporting documentation. What governs admission?

A. The applicant must be admitted because she has been forthcoming in the application, and any past financial difficulty is irrelevant to the practice of law

B. The applicant must be denied because any criminal arrest within five years of application is a per se categorical bar to admission to the bar

C. The applicant must be admitted if she demonstrates that all of the listed debts have been satisfied prior to the date of her admission

D. The bar admission authority will evaluate whether the applicant has demonstrated the present character and fitness required for the practice of law, considering the totality of the disclosed circumstances

26. A lawyer is admitted to practice in States X and Y. She commits misconduct in connection with a representation occurring entirely in State Y. Which jurisdictions have disciplinary authority over her conduct?

A. Only State Y, because that is where the underlying conduct occurred and where both the affected client and the relevant witnesses are located

B. Only State X, because that is the state of her primary admission and is therefore properly regarded as her professional "home" jurisdiction

C. Both State X and State Y, because each state has disciplinary authority over a lawyer admitted to practice in it for conduct occurring anywhere

D. Neither state until the state in which the conduct actually occurred has concluded its own initial investigation and formally referred the matter

27. A lawyer represents the parent of a minor child injured in a car accident. The lawyer reaches a settlement with the defendant's insurer. The settlement involves disbursement of funds for the benefit of the minor child. What is generally required to finalize the settlement?

A. Court approval of the settlement, because settlements on behalf of minors typically require judicial approval to be enforceable against later challenge

B. The lawyer's certification on professional letterhead that the settlement is in the minor's best interest given the facts and the prospects of recovery at trial

C. Notarized written consent from the minor child herself before the settlement funds may be released to her parent or any other family member

D. Approval from the relevant state child welfare agency after a structured assessment of the proposed settlement terms and their impact on the child

28. A lawyer receives a misdirected email from opposing counsel that contains opposing counsel's privileged internal strategy memorandum. It is immediately clear the email was sent in error. What does Rule 4.4(b) require?

- A. The lawyer may read the memorandum thoroughly before deciding what to do with it, because inadvertent disclosure necessarily waives the privilege
- B. The lawyer must promptly notify the sender so the sender may take protective measures, though the Rules do not address whether the document must be returned or destroyed
- C. The lawyer must immediately destroy the document and report the inadvertent disclosure to the trial court in writing within a reasonable time
- D. The lawyer must return the document to opposing counsel unread but may retain her own contemporaneous notes about the contents of the memorandum

29. A lawyer represents a defendant in a civil suit. The plaintiff's complaint is well-pleaded and the defendant's position lacks any non-frivolous basis. The lawyer files an answer denying all allegations and asserts multiple affirmative defenses for which there is no factual or legal support. Has the lawyer violated Rule 3.1?

- A. No, because Rule 3.1 applies only to plaintiffs' affirmative claims and not to defenses asserted in response to a complaint filed by another party
- B. No, because answering a properly served complaint with denials and affirmative defenses is always permitted to preserve the defendant's procedural rights
- C. Yes, but only if the trial court subsequently strikes the asserted defenses on a motion brought by the plaintiff under the applicable procedural rules
- D. Yes, because Rule 3.1 prohibits asserting issues or controverting issues without a basis in law or fact that is not frivolous, and the rule applies to both claims and defenses

30. A grandmother asks a lawyer to defend her grandson against criminal charges. The grandmother agrees to pay the entire fee. The grandson is the lawyer's client. What does Rule 1.8(f) require for the lawyer to accept the third-party payment?

- A. The lawyer must obtain a court order approving the third-party payment arrangement before accepting any funds from the grandmother for the engagement
- B. The lawyer must refuse the arrangement, because acceptance of payment from a non-client always creates an unwaivable conflict of interest
- C. The lawyer must obtain the grandson's informed consent, ensure the third party does not interfere with the lawyer's independence or the lawyer-client relationship, and protect Rule 1.6 information

D. The lawyer must enter into separate written agreements with both the grandmother and the grandson defining their respective rights and obligations regarding the fee

31. A trial judge sanctions a lawyer personally for filing a frivolous motion and orders her to pay \$5,000 to opposing counsel. The lawyer believes the sanction is unwarranted but pays it from her own funds. Several days later, she bills the client for the \$5,000 as part of her costs. Is the billing permissible?

A. No, because a personal sanction imposed on a lawyer for the lawyer's own conduct may not be passed on to the client as a fee or cost item

B. Yes, because the client is ultimately the party that benefited from the lawyer's filing of the motion in the first place at the litigation stage

C. Yes, provided the client previously signed a fee agreement allowing the lawyer to bill court-imposed costs incurred in the course of representation

D. No, but only if the client has separately agreed to seek appellate review of the underlying sanction order rather than letting it stand on the docket

32. A lawyer drafting a brief discovers a controlling decision of the highest court in the jurisdiction that is squarely against her client's position. Opposing counsel has not cited the decision and is unlikely to find it. May the lawyer omit the citation from her brief?

A. Yes, because the lawyer's duty is to her client and not to do opposing counsel's legal research for her during the briefing of the matter

B. Yes, provided the lawyer is prepared to distinguish the decision if it is later raised by either the court or opposing counsel during argument

C. Yes, because Rule 3.3 imposes a duty to disclose adverse authority only when opposing counsel has specifically requested production of the case

D. No, because Rule 3.3(a)(2) requires a lawyer to disclose to the tribunal legal authority in the controlling jurisdiction known to be directly adverse and not disclosed by opposing counsel

33. A lawyer who has never handled a patent matter is asked to take on a complex patent infringement case. The matter requires specialized knowledge of patent prosecution and federal patent litigation procedure. Can the lawyer competently undertake the representation?

- A. No, because Rule 1.1 requires existing competence at the time of engagement and prohibits any learning on the matter during the course of representation
- B. Yes, if the lawyer can attain the requisite competence through reasonable preparation, study, or association with established counsel experienced in the field
- C. Yes, only if the lawyer is already registered to practice before the U.S. Patent and Trademark Office at the time the engagement begins
- D. No, unless the client signs a written waiver of malpractice claims arising specifically from the lawyer's lack of prior experience in patent matters

34. A lawyer is in a long-standing consensual romantic relationship with her partner. The partner asks the lawyer to represent her in a property dispute against a former business associate. The relationship long predates the legal matter. May the lawyer undertake the representation?

- A. Yes, because Rule 1.8(j) excepts consensual sexual relationships that existed between the lawyer and client when the lawyer-client relationship commenced
- B. No, because Rule 1.8(j) categorically prohibits sexual relationships between lawyers and their current clients regardless of when the relationship between them began
- C. Yes, but only if the partner first signs a written waiver acknowledging the dual relationship and its potential for affecting the legal representation
- D. No, unless the lawyer first obtains the informed written consent of any other parties to the litigation before commencing the representation of her partner

35. A lawyer represents two siblings as co-plaintiffs in a wrongful-death action arising from their mother's death. The defendant proposes a global settlement. The siblings have different views about allocation. What governs?

- A. The lawyer may allocate the proposed settlement in any way she objectively believes is fair to both clients given the relative strength of their respective claims
- B. The siblings, as the deceased's heirs, must each accept the proposed settlement and the lawyer's allocation, regardless of any disagreement between them
- C. Rule 1.8(g) requires each client to give informed consent in a signed writing disclosing the existence and nature of all the claims and each client's participation in the settlement
- D. The probate court must allocate the proposed settlement among the heirs after a fairness hearing with all interested parties given prior notice of the hearing

36. A lawyer takes on a complex commercial case. Over the next six months, she works on the matter intermittently, but the client cannot tell whether progress is being made. The lawyer has not communicated the status of the case. The client is anxious. What does Rule 1.3 (and its Comment) require?

A. The lawyer must complete the entire underlying matter within six months of the engagement to meet the diligence standard set out in the rule

B. The lawyer must ensure that progress on the matter is documented in the case file but need not communicate that progress to the client unless asked directly

C. The lawyer must dedicate a fixed percentage of her professional time each week to the client's matter for the entire duration of the engagement under the rule

D. The lawyer must pursue the matter with reasonable diligence and promptness, including controlling workload so each matter can be handled competently; Comment [3] specifically warns against procrastination

37. A lawyer is preparing a witness for trial. The lawyer instructs the witness that, on cross-examination, she should answer every question with "I don't recall" if she has any doubt at all about the matter. The witness in fact has clear recollection of the underlying events. Has the lawyer violated Rule 3.4?

A. No, because witness preparation is an essential and protected part of trial advocacy and falls within the lawyer's reasonable work product

B. Yes, because Rule 3.4(b) prohibits a lawyer from counseling or assisting a witness to testify falsely in any proceeding before a tribunal

C. No, provided the lawyer has not directed the witness to lie about specific factual matters during her direct testimony at trial on examination

D. Yes, but only if the witness actually uses the suggested phrasing during cross-examination at the trial and the testimony is ultimately challenged

38. A lawyer receives a properly served discovery request that calls for production of certain documents. The lawyer believes the documents are protected by attorney-client privilege but wants to test the issue rather than producing them or objecting. The lawyer ignores the request entirely. Has she violated the Rules?

A. Yes, because Rule 3.4(d) prohibits a lawyer from failing to make a reasonably diligent effort to comply with a legally proper discovery request from an opposing party

B. No, because privileged documents need not be produced and the lawyer therefore has no obligation to respond at all to a discovery request seeking them

C. No, provided the lawyer is prepared to assert the privilege when the matter eventually comes before a court on a motion to compel production

D. Yes, but only if opposing counsel later files a formal motion to compel and the court orders production of the documents after argument from both sides

39. A lawyer represented a hospital in negotiating a long-term equipment lease. After that representation ended, she is approached by a third-party investor seeking to challenge that same lease as part of acquiring the hospital's parent company. The new matter would directly attack the validity of the lease she negotiated. May she represent the investor?

A. Yes, because the prior representation has ended and the lawyer is now free to undertake any new engagement she chooses to accept on her own behalf

B. Yes, because the third-party investor is a different party from the original hospital client and the new matter has a different procedural posture in court

C. No, unless the former hospital client gives informed consent confirmed in writing, because the matters are substantially related and materially adverse under Rule 1.9(a)

D. No, but only if the new matter would require disclosure of specific confidential information actually obtained during the prior representation of the hospital

40. A lawyer represents a buyer in a real estate transaction. The buyer instructs the lawyer to use means in the negotiation that the lawyer considers ill-advised, including making aggressive low-ball counteroffers. The means are lawful but the lawyer disagrees with them strategically. What does Rule 1.2 require?

A. The lawyer may unilaterally substitute her own strategic judgment because tactical decisions during the negotiation belong to counsel under the rule

B. The lawyer must abide by the client's decisions concerning the objectives of representation and consult with the client about the means by which they are to be pursued

C. The lawyer must withdraw from the representation because the disagreement over negotiation tactics renders continued representation effectively impossible for both

D. The lawyer must seek court approval for any negotiation approach the client requests when that approach runs against the lawyer's professional recommendation

41. A lawyer is appointed by a court to represent an indigent criminal defendant on routine drug-possession charges. The lawyer has no prior experience with the defendant, no conflicts, and finds the matter unremarkable but inconvenient given her busy practice. May the lawyer decline the appointment?

A. Generally no, because Rule 6.2 requires a lawyer not to seek to avoid court appointment except for good cause, such as a likely Rules violation, unreasonable financial burden, or cause so repugnant as to impair the representation

B. Yes, because every lawyer retains absolute discretion to decline any court appointment that interferes with her existing private practice and case workload

C. Yes, provided the lawyer first identifies a willing colleague in the local bar who is able to accept the court appointment in her place

D. No, because all court appointments are unconditionally mandatory and may never be declined by the appointed lawyer under any circumstances whatsoever

42. A court-appointed criminal defense lawyer has been representing an indigent defendant for several months. The lawyer wishes to withdraw because the client has been verbally abusive to her on multiple occasions. May the lawyer simply withdraw from the appointment?

A. Yes, because verbal abuse by a client is automatic good cause for any lawyer's withdrawal at any stage of any pending proceeding before a court

B. Yes, provided the lawyer files a notice of withdrawal with the trial court along with a brief written explanation of her reasons for terminating the engagement

C. No, because court-appointed counsel may never withdraw from any representation regardless of the circumstances or the behavior of the client during the engagement

D. No, because Rule 1.16(c) requires a lawyer to continue representation when ordered to do so by a tribunal, notwithstanding good cause for terminating the representation

43. A lawyer is mid-trial when she becomes aware that her client perjured himself in earlier testimony. The lawyer has raised the issue with the client, who refuses to take any corrective action. The lawyer believes she must take remedial measures. What does Rule 3.3 require?

A. Complete the trial as if the perjury had not occurred and address the matter through post-trial motions if it later becomes material to the case

B. Take reasonable remedial measures under Rule 3.3(b), which may include disclosure to the tribunal — seeking permission to withdraw may not by itself be sufficient

C. Disclose the perjury to opposing counsel privately to allow opposing counsel to raise the issue in closing argument before the jury at the trial

D. Continue the representation while privately documenting the perjury in case it becomes relevant in a later malpractice action or disciplinary investigation

44. A lawyer wishes to obtain client referrals from a private for-profit lawyer referral service. The service charges referred clients a one-time matching fee that exceeds reasonable advertising costs but does not share in any legal fees the lawyer later earns. May the lawyer participate?

A. Yes, because any referral arrangement that does not directly share legal fees with the referring service is permissible under the modern Rules

B. No, because Rule 7.2 prohibits participation in any non-charitable lawyer referral service regardless of the structure of fees charged to clients

C. Generally no, because Rule 7.2(b)(2) permits participation only in not-for-profit or qualified lawyer referral services that meet the specified rule requirements

D. Yes, provided the lawyer discloses the existence of the referral relationship to each referred client at the outset of the resulting representation

45. A criminal defense lawyer is asked by reporters whether her client intends to testify at the upcoming trial. The lawyer states only that her client has not made a final decision and that, in any event, the defense will be vigorous. Is the statement permissible under Rule 3.6?

A. Yes, because Rule 3.6(b) permits the lawyer to state the general nature of the defense and to make statements similar to information in the public record

B. No, because any statement about the defense's intended trial strategy creates a substantial likelihood of materially prejudicing the upcoming adjudicative proceeding

C. No, because the lawyer may not characterize the defense as "vigorous" without giving specific concrete examples of how that vigor will manifest at trial

D. Yes, but only if the lawyer first obtained the trial court's express permission to make any pre-trial statement to the assembled media reporters

46. A lawyer receives a court order requiring her to disclose certain client information related to her representation. The lawyer believes the order may be improper. What does Rule 1.6 permit her to do?

- A. Disclose all of the information requested by the court order immediately, without challenging the order through any available appellate procedure
- B. Refuse to disclose any of the information regardless of the court order and accept any resulting sanctions imposed by the issuing tribunal
- C. Reveal information to the extent the lawyer reasonably believes necessary to comply with a court order or other law, after challenging the order through available procedures
- D. Disclose the information privately to opposing counsel rather than complying with the order in open court so as to mitigate broader public exposure

47. A lawyer hires an outside investigator to interview witnesses in a case. The investigator, while interviewing a witness, falsely identifies herself as a representative of the witness's insurance company in order to elicit information. The lawyer was unaware of this but did not specifically instruct the investigator to avoid deception. Is the lawyer subject to discipline?

- A. No, because the investigator is an independent contractor and the lawyer therefore has no responsibility for the methods used by the investigator
- B. Possibly, because Rule 5.3 requires lawyers with managerial authority over non-lawyer assistants to make reasonable efforts to ensure their conduct is compatible with the lawyer's professional obligations
- C. No, because the misrepresentation was made by the investigator and not by the lawyer personally during any of her own communications with the witness
- D. Yes, but only if the witness ultimately suffered demonstrable actual harm as a direct result of the investigator's misrepresentation in the interview

48. An applicant for admission to the bar has a history of treated depression. The bar application asks about any mental health conditions affecting the applicant's ability to practice law competently. The applicant has been stable on treatment for years with no functional impairment. What is the appropriate approach?

- A. The applicant should decline to answer the question entirely and challenge it as discriminatory under the Americans with Disabilities Act through litigation

B. The applicant should report only those conditions that were diagnosed within the two years immediately preceding the date of the application's submission

C. The applicant should consult a different jurisdiction that has no mental health question on its application and apply for admission there instead

D. The applicant should answer the question truthfully according to its terms; many jurisdictions have narrowed such questions, but Rule 8.1 still prohibits knowing false statements of material fact

49. A trial judge's former law partner from twenty years ago is now appearing as counsel in a matter before her court. The judge and her former partner have had no professional contact for two decades, and the judge has no continuing financial relationship with him or his current firm. Must the judge disqualify herself?

A. Not on this basis alone, because under CJC Rule 2.11 disqualification requires circumstances in which the judge's impartiality might reasonably be questioned — a remote past partnership without continuing connection generally does not, standing alone, meet that standard

B. Yes, because any prior partnership relationship between a judge and a lawyer appearing before her is a per se basis for disqualification under the Code of Judicial Conduct

C. Yes, but only if either party in the matter formally moves for the disqualification of the presiding judge in writing within a specified time

D. No, because the Code of Judicial Conduct disqualification rule applies only to current relationships and not to any prior professional connections of any duration

50. A trial judge's adult daughter is a partner at a law firm that frequently appears before the judge. The daughter does not personally handle any cases before her mother's court, but other lawyers at her firm do. Must the judge disqualify herself in matters handled by the daughter's firm?

A. Yes, in every matter handled by any lawyer at the daughter's law firm, regardless of the daughter's individual involvement in the particular case

B. No, never, because the daughter is not personally counsel of record in any matter that is pending before the mother's court at any given time

C. Yes, when the daughter is acting as a lawyer in the proceeding or in other defined circumstances under CJC Rule 2.11(A)(2), such as when the daughter has more than a de minimis interest that could be substantially affected

D. Only when opposing counsel in the proceeding raises a formal objection to the judge's continued participation in the matter before her court

51. A lawyer's website lists "Areas of Practice: Family Law, Personal Injury, Criminal Defense." The lawyer regularly handles matters in each area but is not certified as a specialist in any of them. Is the listing permissible?

A. No, because the website listing implies that the lawyer is a certified specialist in each of the practice areas listed in the heading

B. Yes, because Rule 7.2(c) permits a lawyer to communicate the fields of law in which she practices without claiming specialist certification

C. No, unless the lawyer affirmatively states in equal prominence on the website that she is not certified as a specialist in any of the listed fields

D. Yes, but only if the lawyer can demonstrate that she has handled at least ten substantive matters in each of the practice areas listed on her website

52. A lawyer wishes to send mass mailings to recent homeowners offering services related to property tax appeals. The mailings will clearly identify themselves as advertising material. The recipients are people who have purchased property in the area and may benefit from the lawyer's services. Is the mailing permissible?

A. No, because mass mailings to persons known to need particular legal services are categorically prohibited by Rule 7.3 of the Model Rules

B. No, unless each potential recipient affirmatively requests information from the lawyer in advance of receiving any solicitation by mail

C. Yes, only if the lawyer first obtains express authorization from each homeowner's listed mortgage lender before sending out any of the materials

D. Yes, because Rule 7.3 generally permits targeted written solicitations to persons known to need specific legal services, provided the materials are clearly identified as advertising

53. A lawyer's deteriorating physical condition is materially impairing her ability to handle her active matters competently. Her doctor has told her she will not be able to return to full-time practice for at least a year. What is required under Rule 1.16(a)?

- A. The lawyer must withdraw from the representations, because Rule 1.16(a)(2) requires withdrawal when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client
- B. The lawyer must continue with the representations so long as her clients remain willing to wait for her recovery before pressing forward with their underlying matters
- C. The lawyer may continue with the representations, provided that she discloses her medical condition in writing to each affected client and obtains a signed waiver in advance
- D. The lawyer must inform the state disciplinary authority of her impairment and await its decision before withdrawing from any particular pending matter on her docket

54. A lawyer maintains separate operating and trust accounts. To cover minor monthly trust-account service fees the bank charges, the lawyer deposits a small reserve of her own funds into the trust account. Is this arrangement permissible under Rule 1.15?

- A. No, because Rule 1.15 categorically prohibits any deposit of the lawyer's own funds into a client trust account under any circumstances at all
- B. Yes, because Rule 1.15(b) permits a lawyer to deposit her own funds in a client trust account for the sole purpose of paying bank service charges, but only in an amount necessary for that purpose
- C. Yes, provided the reserve maintained is at least equal to one month's expected legal fees from the current active clients of the lawyer's practice
- D. No, unless every active client of the lawyer signs a written authorization permitting the lawyer to maintain a personal reserve in the trust account

55. A lawyer is asked to represent both the plaintiff and the defendant in the same litigation. Both parties say they understand the situation and want the lawyer to handle the matter as a "neutral umpire" between them. May the lawyer undertake the dual representation?

- A. Yes, because both clients give informed consent and may freely waive any conflict of interest existing between them by mutual written agreement
- B. Yes, provided the lawyer reduces the engagement to a writing signed by both parties acknowledging her dual role as their joint counsel in the dispute
- C. No, because representing both sides of the same litigation is a non-consentable conflict under Rule 1.7(b)(3) — the representation involves the assertion of a claim by one client against another represented by the same lawyer in the same litigation

D. No, unless the trial court approves the dual representation after holding a fairness hearing with both of the parties present and represented

56. A lawyer is retained by a corporation to prepare an evaluation of the company's environmental compliance for use by a third-party prospective lender. The lender will rely on the evaluation in deciding whether to extend credit to the corporation. What does Rule 2.3 require?

A. The lawyer may provide the evaluation if she reasonably believes making it is compatible with other aspects of her relationship with the client, and the client must give informed consent if the evaluation is likely to materially and adversely affect the client's interests

B. The lawyer must decline the engagement because preparing an evaluation for use by an outside third party is fundamentally incompatible with the duty of loyalty owed to the corporate client

C. The lawyer may provide the evaluation only if the lender separately retains and pays her for the engagement, creating a direct lender-lawyer relationship between them

D. The lawyer must obtain a court order authorizing the third-party evaluation before commencing any substantive work on the assignment for the corporate client

57. A trial judge regularly receives small holiday gifts (worth less than \$50 each) from a longtime personal friend who is a practicing attorney but who does not appear before the judge. May the judge accept the gifts under the Code of Judicial Conduct?

A. No, because the Code prohibits judges from accepting gifts of any value from any practicing attorney under any circumstances whatsoever during the judge's tenure

B. No, unless the judge first reports each gift received to the appropriate state judicial disclosure authority within a specified time after receipt

C. Yes, provided that the friend does not become counsel of record in any matter before the judge's court for at least one full year after the date of any gift

D. Yes, because the Code permits a judge to accept gifts from close personal friends or family members under specified conditions, subject to applicable reporting requirements

58. A lawyer represents a defendant in a small civil suit. The plaintiff is appearing pro se. The pro se plaintiff calls the lawyer to discuss settlement of the dispute. What governs the contact between them?

- A. Rule 4.2's no-contact rule applies to the conversation, and the lawyer may not speak with the pro se plaintiff without consent of plaintiff's counsel (whom the plaintiff does not have)
- B. Rule 4.3 governs the contact because the plaintiff is unrepresented; the lawyer must avoid implying disinterest and may not give legal advice other than to advise the plaintiff to secure counsel
- C. The lawyer may engage in any settlement discussion she chooses because pro se litigants are sophisticated enough to look after their own interests in negotiation with opposing counsel
- D. The lawyer must decline any direct contact with the pro se plaintiff and insist that all communications go through the court clerk's office instead

59. A former client sues a lawyer for malpractice, alleging the lawyer's negligent handling of the prior representation caused the client damages. The lawyer's defense depends on certain confidential information shared during the prior representation. May the lawyer reveal the information?

- A. No, because the duty of confidentiality continues to apply regardless of the lawyer's perceived need to defend herself in any subsequent malpractice action
- B. Yes, but only if the former client first signs a written waiver authorizing the disclosure of the specific information for purposes of the malpractice litigation
- C. Yes, because Rule 1.6(b)(5) permits a lawyer to reveal information she reasonably believes necessary to establish a claim or defense on her own behalf in a controversy between the lawyer and the client
- D. Yes, but only to a court-appointed special master after an in camera review of the proposed disclosures, with the former client given prior notice and an opportunity to object

60. A lawyer concluded a representation five years ago. The former client died last year, and the lawyer is now contacted by a journalist seeking information about the former client's case for a profile article. The information is unflattering but accurate. May the lawyer disclose it?

- A. Yes, because the duty of confidentiality terminated when the lawyer-client representation formally concluded five years ago before the client's recent death
- B. Yes, because the former client has died and the duty under Rule 1.6 does not extend beyond the client's natural lifetime in any event
- C. Yes, provided the information requested is now publicly available through court records of the underlying former matter handled by the lawyer
- D. No, because the duty of confidentiality under Rule 1.6 generally survives both the termination of the representation and the death of the client

PRACTICE EXAM 11 : ANSWERS AND EXPLANATION

- 1. D** — Rule 5.3 imputes responsibility for non-lawyer assistants to supervising lawyers and requires reasonable efforts to ensure their conduct conforms to the lawyer's professional obligations. A paralegal may conduct intake and explain procedures so long as she does not give legal advice and the lawyer adequately supervises the work product.
- 2. B** — Rule 1.6(a) excepts from the duty of confidentiality disclosures impliedly authorized to carry out the representation. Routine bargaining-position disclosures necessary to advance a negotiation fit this exception without requiring fresh client consent for each statement.
- 3. A** — Rule 4.2 protects represented persons regardless of who initiates the contact; the bar runs to the lawyer, and only counsel's consent — not the party's invitation — cures it. The lawyer must decline to engage and may instead ask defense counsel for permission to communicate.
- 4. C** — Rule 1.2(c) permits a lawyer to limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent. Drafting pleadings without representing the client at hearings is a well-recognized form of limited-scope representation.
- 5. D** — Rule 1.5(d)(1) prohibits a contingent fee in any domestic relations matter where payment is contingent upon securing a divorce, on the amount of alimony or support, or on the value of a property settlement. The rule prevents misalignment of financial incentives in matters where reconciliation or settlement should remain on the table.
- 6. A** — Rule 1.13(f) — the corporate Upjohn warning — requires the lawyer to clarify the identity of her client when she knows or reasonably should know the organization's interests are adverse to the constituent's. This prevents the constituent from mistakenly assuming the lawyer represents him personally during a sensitive interview.
- 7. B** — IOLTA (Interest on Lawyers' Trust Accounts) is the required vehicle for client funds that are nominal in amount or held only short-term, where the cost of segregating them would exceed any interest earned. Interest generated in IOLTA accounts is paid to the state's IOLTA program for legal services to the indigent.
- 8. C** — Rule 3.6(b) provides a safe harbor permitting a lawyer to state the general nature of the claim or defense, information already contained in the public record, and the fact that the client denies the charges. The arraignment statement here stays within these permitted categories.
- 9. D** — Rule 1.16(a)(1) mandates withdrawal when continued representation would result in a violation of the Rules. Preparing false closing documents would assist client fraud in violation of Rules 1.2(d) and 8.4(c), so the lawyer cannot remain on the matter once the client persists in the demand.
- 10. A** — Rule 1.11(c) prohibits a former government lawyer from representing a private client whose interests are materially adverse to a person about whom the lawyer obtained confidential government information, where that information could be used to the person's material disadvantage. The bar applies even when the company is not itself a party to the new matter.

11. B — Rule 3.4(b) permits payment of a fact witness's reasonable expenses incurred and reasonable compensation for time lost from work; what it forbids is contingency on outcome or substance of testimony. Comment [3] specifically recognizes these as legitimate forms of witness payment.

12. D — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing access to or unlawfully altering, destroying, or concealing evidence, and prohibits counseling or assisting another person to do so. The advice itself, regardless of conditional phrasing, violates the rule whether or not the client ultimately follows it.

13. C — Rule 7.6 prohibits a lawyer or firm from accepting a government legal engagement or judicial appointment that the lawyer obtained by making, or soliciting, political contributions for the purpose of obtaining the engagement. The rule targets pay-to-play appointment practices.

14. A — Rule 1.10(a)(1) provides that imputation does not apply when the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting representation by other firm lawyers. Personal religious objection unique to one lawyer is the paradigmatic personal-interest conflict not imputed to the firm.

15. B — Rule 3.5(b) prohibits ex parte communications with the tribunal during the proceeding unless authorized; the prohibition targets substantive communications concerning the merits. Routine procedural status inquiries directed to chambers staff are widely understood as permissible administrative contact.

16. C — Rule 3.7(a)(3) permits a lawyer who would be a necessary witness to continue as trial advocate when disqualification would work substantial hardship on the client. A fifteen-year transactional relationship and deep familiarity with the client's affairs are paradigmatic hardship grounds under the exception.

17. D — A client may grant a lawyer actual authority to settle within a defined range, and a settlement falling within that range binds the client. The lawyer's acceptance at \$75,000 satisfied the pre-authorized "anything above \$50,000" instruction, and the client cannot disavow the deal after the fact.

18. A — Rule 1.5(b) requires the basis or rate of the fee to be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation. For non-contingent fees, an oral communication satisfies the rule, though a writing is best practice.

19. C — Rule 7.3 prohibits in-person, live telephone, or real-time electronic solicitation of professional employment for pecuniary gain, with limited exceptions. The hospital-room solicitation of a medicated, disoriented victim is the paradigm of the coercive contact the rule was designed to prevent.

20. B — The duty of confidentiality under Rule 1.6 ordinarily survives the client's death, and the personal representative inherits no general right to direct disclosure of harmful information about the deceased. Comment [18] and ABA opinions confirm that post-death disclosure is governed by the same exceptions as before death.

21. D — Rule 3.6(c) provides a counter-publicity safe harbor: a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect

of recent publicity not initiated by the lawyer or client, limited to information necessary to mitigate that publicity. The provision recognizes the unfairness of one-sided pre-trial publicity.

22. A — Rule 1.15(e) requires that when funds in a lawyer's possession are claimed by a third party with a valid interest, the lawyer must promptly notify and protect that interest. A valid lien or assignment cannot be ignored at the client's instruction; the disputed portion stays in trust pending resolution.

23. C — Rule 1.13(d) requires the lawyer to explain the identity of the client (the organization) when she knows or reasonably should know the organization's interests are adverse to those of the constituent. The duty protects the constituent from a mistaken belief that the lawyer represents him personally during the interview.

24. B — Rule 1.7(a)(1) creates a concurrent conflict when one current client's representation is directly adverse to another current client, even where the matters are entirely unrelated. The conflict is consentable only if informed consent is confirmed in writing by both clients and the other Rule 1.7(b) conditions are met.

25. D — Bar admission authorities evaluate present character and fitness through a totality-of-circumstances inquiry, considering the nature and timing of past conduct, candor in disclosure, evidence of rehabilitation, and any pattern that bears on fitness to practice. Disclosure alone does not guarantee admission, nor does past difficulty automatically bar it.

26. C — Rule 8.5(a) provides that a lawyer admitted in a jurisdiction is subject to that jurisdiction's disciplinary authority regardless of where the conduct occurs, and a lawyer not admitted there is subject to its authority if she provides or offers legal services in the jurisdiction. Both states therefore have authority over the misconduct here.

27. A — Settlements on behalf of minors generally require judicial approval to bind the minor and be enforceable, because a minor lacks legal capacity to release claims. Court approval ensures the settlement is in the minor's best interest and protects both the child and the defendant from later challenge.

28. B — Rule 4.4(b) requires a lawyer who receives a document relating to representation of her client and who knows or reasonably should know that it was inadvertently sent to promptly notify the sender. The rule itself stops there; whether to read, return, or destroy the document is governed by other law and the sender's protective steps.

29. D — Rule 3.1 applies to both claims and defenses: a lawyer shall not assert or controvert an issue unless there is a basis in law and fact that is not frivolous. Defense counsel may not file baseless denials and affirmative defenses any more than plaintiff's counsel may file baseless claims.

30. C — Rule 1.8(f) permits a lawyer to accept compensation from one other than the client only if the client gives informed consent, there is no interference with the lawyer's independence or the lawyer-client relationship, and information relating to the representation is protected as required by Rule 1.6. All three conditions must coexist.

31. A — A court-imposed sanction levied personally on the lawyer for the lawyer's own misconduct is the lawyer's own obligation and cannot be passed through to the client as a fee or cost. Doing so would effectively make the client pay for the lawyer's wrongdoing, contrary to Rule 1.5's reasonableness principles and the lawyer's fiduciary duty.

32. D — Rule 3.3(a)(2) imposes an affirmative duty on a lawyer to disclose to the tribunal legal authority in the controlling jurisdiction known to be directly adverse to the client's position and not disclosed by opposing counsel. The duty exists because the tribunal's interest in correct legal rulings outweighs partisan tactics.

33. B — Rule 1.1 requires competent representation, but Comment [2] expressly permits a lawyer to provide adequate representation in a wholly novel field through necessary study or association with experienced counsel. Required competence can be acquired; what is forbidden is undertaking complex work without doing the work to attain it.

34. A — Rule 1.8(j) excepts a consensual sexual relationship that existed between the lawyer and the client when the lawyer-client relationship commenced. Long-standing relationships predating the representation fall squarely within this carve-out.

35. C — Rule 1.8(g) requires informed consent in a writing signed by each client to any aggregate settlement of claims, with full disclosure of the existence and nature of all claims and each client's participation in the settlement. The rule applies to co-plaintiffs even within a single family unit.

36. D — Rule 1.3 requires reasonable diligence and promptness, and Comment [3] specifies that a lawyer must control workload so each matter can be handled competently, warning specifically against procrastination as one of the most widely resented forms of lawyer neglect. Intermittent work without communication implicates both Rule 1.3 and Rule 1.4.

37. B — Rule 3.4(b) prohibits a lawyer from counseling or assisting a witness to testify falsely. Instructing a witness with clear recollection to claim "I don't recall" in answer to every doubt is counseling false testimony, regardless of how the instruction is framed.

38. A — Rule 3.4(d) requires a lawyer to make a reasonably diligent effort to comply with a legally proper discovery request from an opposing party. Privilege must be claimed properly — typically via a privilege log and timely objection — not by silent disregard of the request.

39. C — Rule 1.9(a) prohibits a lawyer from representing another in the same or a substantially related matter where the new client's interests are materially adverse to a former client, absent informed consent confirmed in writing. Attacking the validity of a lease the lawyer herself negotiated for the former client is paradigmatically substantially related and materially adverse.

40. B — Rule 1.2(a) requires a lawyer to abide by the client's decisions concerning the objectives of representation and to consult with the client about the means by which those objectives are to be pursued. Where the chosen means are lawful, the client's strategic preferences within reasonable limits control.

41. A — Rule 6.2 requires a lawyer not to seek to avoid appointment by a tribunal except for good cause — such as a likely Rules violation, unreasonable financial burden, or a client or cause so repugnant as to impair the relationship or the lawyer's ability to represent. An "inconvenient but unremarkable" matter does not satisfy any recognized good-cause ground.

42. D — Rule 1.16(c) requires a lawyer to continue representation when ordered to do so by a tribunal, notwithstanding good cause for terminating the representation. Court-appointed counsel may move for permission to withdraw, but cannot simply walk away when the court has ordered her to continue.

43. B — Rule 3.3(b) requires reasonable remedial measures when a lawyer comes to know that a client has offered false material evidence — including, if necessary, disclosure to the tribunal. Comment [10] makes clear that withdrawal alone may not suffice when the false evidence remains uncorrected before the tribunal.

44. C — Rule 7.2(b)(2) permits a lawyer to pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service that meets defined requirements. A private for-profit referral service charging fees above reasonable advertising costs generally does not qualify under the rule.

45. A — Rule 3.6(b) lists categories a lawyer may discuss without violating the trial publicity rule, including the general nature of the claim or defense and information contained in the public record. A vague statement about whether the client will testify and that the defense will be vigorous stays within the permitted general-nature category.

46. C — Rule 1.6(b)(6) permits a lawyer to reveal information to comply with other law or a court order. The lawyer should challenge an order she believes is improper through available appellate or interlocutory procedures before complying, but ultimately may disclose to the extent necessary to comply with a final order.

47. B — Rule 5.3 imputes responsibility for non-lawyer assistants — including outside investigators — to supervising lawyers when the lawyer has managerial authority or directly engages the assistant. The supervising lawyer's failure to instruct the investigator on permissible methods can support discipline, even without personal knowledge of the misconduct.

48. D — Rule 8.1(a) prohibits knowing false statements of material fact in connection with a bar admission application. Although many jurisdictions have narrowed mental health questions in response to ADA concerns, the duty of truthful disclosure as to the questions actually asked remains the applicant's obligation.

49. A — Code of Judicial Conduct Rule 2.11(A) requires disqualification when the judge's impartiality might reasonably be questioned. A two-decade-old partnership with no continuing financial or professional connection generally does not, standing alone, satisfy that standard; the inquiry is contextual rather than automatic.

50. C — CJC Rule 2.11(A)(2) requires disqualification when the judge's child is acting as a lawyer in the proceeding, has more than a de minimis interest that could be substantially affected by the proceeding, or

otherwise falls within the rule's defined categories. Mere employment of the daughter at a firm appearing before the court is not automatic; the specific circumstances under the rule control.

51. B — Rule 7.2(c) permits a lawyer to communicate that she practices in particular fields of law without claiming specialist certification. Listing practice areas is not the same as holding oneself out as a certified specialist.

52. D — Rule 7.3 permits targeted written, recorded, or electronic communications with prospective clients known to need particular legal services, provided they are clearly identified as advertising and comply with the rule's other restrictions. The categorical prohibition is on in-person and live solicitation, not on properly labeled targeted mail.

53. A — Rule 1.16(a)(2) requires a lawyer to withdraw from representation when the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client. Withdrawal is mandatory under subsection (a), not optional under subsection (b), once the impairment crosses the materiality threshold.

54. B — Rule 1.15(b) permits a lawyer to deposit the lawyer's own funds in a client trust account for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose. This is a narrow, defined exception to the general no-commingling rule.

55. C — Rule 1.7(b)(3) makes a conflict non-consentable when the representation involves the assertion of a claim by one client against another client represented by the same lawyer in the same litigation. No amount of informed consent can cure this structural conflict.

56. A — Rule 2.3 permits a lawyer to provide an evaluation of a matter affecting a client for use by a third person if the lawyer reasonably believes the evaluation is compatible with other aspects of the lawyer-client relationship. If the evaluation is likely to materially and adversely affect the client's interests, the client's informed consent is required.

57. D — The Code of Judicial Conduct generally permits judges to accept ordinary social hospitality and gifts from close personal friends or family, subject to reporting and other restrictions, and provided acceptance would not appear to undermine the judge's independence, integrity, or impartiality. Small holiday gifts from a non-appearing friend fall within the typical safe harbor.

58. B — Rule 4.2's no-contact rule does not apply to an unrepresented party. Rule 4.3 governs, requiring the lawyer to avoid implying disinterest, correct any misunderstanding of her role, and refrain from giving legal advice other than to advise the unrepresented person to secure counsel.

59. C — Rule 1.6(b)(5) permits a lawyer to reveal information relating to the representation to the extent reasonably necessary to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client. A malpractice action is the paradigmatic self-defense exception to confidentiality.

60. D — The duty of confidentiality under Rule 1.6 survives both the termination of the representation and the death of the client, absent an applicable exception. Public interest, journalistic curiosity, and the

lapse of time do not authorize disclosure of unflattering client information learned in the course of representation.