

PRACTICE EXAM 13 : MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A client tells her tax lawyer that she wants to take an aggressive deduction that the lawyer believes is not supported by current law but is also not clearly fraudulent. The client asks whether she may take it. The lawyer believes there is a colorable argument for the deduction but that the IRS would likely challenge it on audit. May the lawyer advise her on the legal consequences of taking it?

A. No, because Rule 1.2(d) prohibits a lawyer from any discussion of a tax position the IRS would likely challenge upon audit of the return

B. Yes, but only after the lawyer has obtained an independent written legal opinion from another firm confirming the deduction's underlying validity

C. Yes, because Rule 1.2(d) permits a lawyer to discuss the legal consequences of a proposed course of conduct and to counsel a good-faith effort to determine the validity, scope, or application of the law

D. No, because any advice on positions the IRS would likely challenge necessarily constitutes counseling fraud against the agency under Rule 1.2(d)

2. A lawyer represents a small business in a contract dispute. The opposing party makes a settlement offer of \$40,000 plus a non-disparagement clause. The lawyer believes the offer is unreasonable and immediately rejects it without consulting her client. Is the lawyer subject to discipline?

A. Yes, because Rule 1.4(a)(1) requires a lawyer to promptly inform the client of any decision or circumstance requiring the client's informed consent, including receipt of a settlement offer

B. No, because tactical decisions during litigation, including responses to opposing counsel, are reserved to the lawyer under Rule 1.2(a) on means

C. Yes, but only if the offer had exceeded what the lawyer originally projected the case to be worth in her opening case assessment

D. No, because the lawyer's professional judgment that the offer was unreasonable supersedes the duty to communicate it to the client for her decision

3. A lawyer refers a personal injury case to a more experienced trial lawyer at a different firm. The two lawyers agree to split the contingent fee equally. The client signs the engagement agreement with the referring lawyer but is not specifically told about the fee split with the new firm. Is the arrangement permissible?

A. Yes, because referrals between independent lawyers at different firms are exempt from any client-disclosure requirements under Rule 1.5(e)

B. Yes, provided both lawyers each contribute substantial services to the matter for the ultimate benefit of the client during the engagement

C. Yes, because all fee divisions among lawyers of different firms are governed by private contract and need not involve the client at all

D. No, because Rule 1.5(e) requires the client to agree in writing to the arrangement, including the share each lawyer will receive, and the total fee must be reasonable

4. A lawyer represented a client in structuring a series of business deals two years ago. The lawyer recently learned that the client used those deals to defraud creditors, resulting in substantial financial harm. The fraud continues to cause mounting losses. The client refuses to make restitution or self-report. May the lawyer reveal the information?

A. No, because the duty of confidentiality under Rule 1.6 attached at the time of the original representation and is permanent regardless of any later events

B. Yes, because Rule 1.6(b)(3) permits revelation to prevent, mitigate, or rectify substantial injury to the financial interests of another resulting from a client's crime or fraud in furtherance of which the lawyer's services were used

C. Yes, because Rule 1.6(b)(1) permits revelation to prevent reasonably certain death or substantial bodily harm in any case involving an aggrieved third party

D. No, unless the client expressly authorizes the disclosure or the creditors themselves discover the fraud through independent third-party investigation

5. A lawyer represents two corporate clients in unrelated matters. Client X is a manufacturer; Client Y is a retailer with no business dealings with Client X. Six months into both engagements, Client Y asks the lawyer to take on a third matter — a contract suit against Client X. The two matters would now be directly adverse. May the lawyer undertake the third matter?

A. Yes, because the third matter is unrelated in subject matter to the first matter the lawyer is currently handling for Client X

B. Yes, because the lawyer's prior engagements with both clients independently establish her loyalty in each separate matter she is now handling

C. No, unless both clients give informed consent confirmed in writing, because Rule 1.7(a)(1) prohibits direct adversity between current clients even on unrelated matters

D. No, because Rule 1.7 prohibits direct adversity between any two current clients as a categorically non-consentable conflict under the rule

6. A lawyer's longtime client offers to sell the lawyer a small parcel of farmland at a price the lawyer believes is fair. The lawyer would like to purchase the property. To proceed, what is required under Rule 1.8(a)?

A. The lawyer must obtain written court approval of the proposed transaction before closing on the sale of the parcel to her personally

B. The lawyer must enter into a contract specifying only that the agreed price reflects fair market value at the time of the closing

C. The lawyer must disclose the transaction to the appropriate state disciplinary authority within thirty days after closing the sale

D. The terms must be fair, fully disclosed in writing, the client must be advised in writing of the desirability of independent counsel with a reasonable opportunity to seek it, and the client must give written informed consent

7. A lawyer represented a former client in negotiating an unusual licensing arrangement five years ago. The lawyer has now been retained by a new client to negotiate a similar arrangement with a different party. The lawyer remembers specific details from the prior representation that, if used, would give the new client a significant advantage at the former client's expense. May the lawyer use the information?

A. No, because Rule 1.9(c) prohibits a lawyer from using information relating to a former representation to the disadvantage of the former client, except as the Rules permit or as the information has become generally known

B. Yes, because the information has become the lawyer's own professional knowledge and may be applied freely in subsequent engagements with new clients

C. Yes, provided the lawyer also discloses the prior representation to the new client at the outset of the new engagement she is undertaking

D. Yes, because Rule 1.9 prohibits only representation in substantially related matters and does not address the use of remembered information from prior work

8. A firm wishes to undertake a new matter that would create an imputed conflict because of one lawyer's prior representation of a party with adverse interests. The affected former client may be willing to consent to the new engagement. What must the firm obtain?

A. Verbal consent from the former client, properly documented in the firm's case file shortly after the conversation occurs

B. Informed consent from the affected former client, confirmed in writing, as required under Rule 1.10(c) of the Model Rules

C. A court order from the relevant tribunal approving the firm's continued representation in the new matter going forward

D. Formal approval from the state disciplinary authority before the firm may proceed with the new engagement on any substantive matter

9. A lawyer represents a corporation and has reported a serious internal compliance violation up the corporate ladder to the board of directors. The board declines to take action and continues the misconduct. The misconduct is reasonably certain to result in substantial injury to the corporation. What does Rule 1.13(c) permit?

A. The lawyer must accept the board's decision and continue the representation without any further action of any kind regarding the violation

B. The lawyer must immediately withdraw from the representation without making any further disclosure to any outside party regarding the conduct

C. The lawyer may reveal information relating to the representation to outside authorities to the extent reasonably necessary to prevent substantial injury to the organization, even where Rule 1.6 would otherwise prohibit it

D. The lawyer must report the conduct to the corporation's outside auditors as the next required step before any further action may be taken in any direction

10. A lawyer receives settlement funds for a client. The lawyer deposits the funds into the trust account. The client requests immediate disbursement of her share of the funds, less the lawyer's earned fee. The lawyer is busy and waits two months to issue the disbursement. The lawyer keeps accurate records of the funds throughout. Has the lawyer violated Rule 1.15?

A. No, because the lawyer maintained accurate trust-account records throughout the relevant two-month period during which the funds remained on deposit

B. No, provided the client eventually receives the proper disbursement at some point and the funds remain safely on deposit through the delay

C. Yes, but only if the trust funds bore interest during the two-month delay that should have been credited and paid over to the client

D. Yes, because Rule 1.15(d) requires a lawyer to promptly notify and deliver to the client funds in which the client has an interest

11. A lawyer properly withdraws from a representation mid-case. The case continues with new counsel. Beyond simply ceasing work, what does Rule 1.16(d) require the withdrawing lawyer to do?

A. Take steps reasonably practicable to protect the client's interests, such as giving notice, allowing time to employ other counsel, surrendering papers and property, and refunding any advance payment of fee or expense not yet earned

B. Bill the client for all time spent on the matter to date and demand immediate payment of any outstanding amounts due before delivering files

C. Confer with successor counsel about the strengths and weaknesses of the case and fully disclose the lawyer's strategic plan going forward

D. Notify the court ex parte of the underlying reason for the withdrawal so that the trial court can adjust scheduling for the remaining matter

12. A lawyer represents a corporate client considering a hostile takeover. The CEO asks the lawyer for an opinion limited to whether the takeover would be technically lawful. The lawyer is aware of significant non-legal factors — reputational risk, employee impact, broader social consequences — that bear on whether the takeover is wise. What does Rule 2.1 permit?

A. The lawyer must limit her advice strictly to the technical legal question presented, because non-legal considerations fall outside the engagement

B. The lawyer must decline to render any opinion until the CEO retains a separate business adviser to evaluate the relevant non-legal factors

C. The lawyer may refer to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation, in addition to providing the requested legal advice

D. The lawyer must obtain the CEO's written informed consent before any reference to non-legal considerations may be included in the lawyer's opinion

13. A lawyer files an appellate brief arguing that a settled precedent of the state's highest court should be overruled. The argument is creative but unlikely to succeed. The lawyer believes there is a good-faith basis to ask the court to reconsider the precedent in light of changed circumstances. Is the brief permissible under Rule 3.1?

A. No, because asking a state supreme court to overrule its own established precedent inherently constitutes a frivolous filing under Rule 3.1

B. Yes, because Rule 3.1 expressly permits a good-faith argument for an extension, modification, or reversal of existing law

C. No, unless the lawyer first obtains a written opinion letter from a recognized constitutional scholar supporting the merits of the argument

D. Yes, but only if the lawyer can demonstrate that opposing counsel has formally conceded the underlying factual basis for the proposed argument

14. A lawyer represents a client at trial. During trial, the lawyer comes to know that a key piece of evidence offered by the client was fabricated. The lawyer takes appropriate remedial measures during the trial. The case is decided in the client's favor. After the proceeding has concluded, the lawyer discovers additional evidence of fabrication. Does the duty of candor still apply?

- A. No, because Rule 3.3(c) provides that the duties of candor under (a) and (b) continue only to the conclusion of the proceeding, which is when a final judgment has been affirmed on appeal or the time for review has passed
- B. Yes, because the duty of candor begins the moment a lawyer first appears before a tribunal and continues indefinitely regardless of the proceeding's outcome
- C. No, because the duty of candor is owed only to the trial court itself and does not extend to any matters arising after entry of judgment
- D. Yes, but only if the new evidence of fabrication relates to conduct that occurred during the actual courtroom proceedings rather than outside of court

15. The trial court has issued a standing order requiring all motions to be accompanied by a meet-and-confer certification. A lawyer believes the meet-and-confer requirement is wasteful in her particular case and files several motions without the required certification. Has the lawyer violated Rule 3.4?

- A. No, because the meet-and-confer requirement is procedural and not a substantive obligation enforceable through the disciplinary rules
- B. No, provided the lawyer is prepared to comply with the requirement if the trial court specifically orders her to do so in her case
- C. Yes, but only if opposing counsel formally complains to the court about her lack of compliance with the meet-and-confer requirement
- D. Yes, because Rule 3.4(c) prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists

16. During closing argument, a lawyer mentions to the jury a fact that the trial court explicitly excluded from evidence prior to trial. Opposing counsel objects. The lawyer's argument was based on her own assertion that the fact remained "relevant despite the court's earlier ruling." Has the lawyer violated Rule 3.4?

- A. No, because closing argument permits a lawyer to argue reasonable inferences from any matter that may be relevant to the jury's consideration
- B. No, provided the lawyer made the assertion in a manner consistent with her ethical obligation to advocate vigorously for her individual client
- C. Yes, because Rule 3.4(e) prohibits a lawyer in trial from alluding to any matter the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence

D. Yes, but only if the trial court subsequently grants a mistrial based specifically on the improper argument made by the lawyer during closing

17. A lawyer working on a high-profile criminal trial directs her firm's public relations director — a non-lawyer — to issue a statement to the press that, if made by the lawyer herself, would violate Rule 3.6. The PR director makes the statement. Has the lawyer violated the Rules?

A. No, because the statement was made by a non-lawyer employee and the Rules of Professional Conduct apply only to lawyers themselves

B. Yes, because Rule 3.6(d) extends the trial publicity restrictions to statements that a lawyer associated in a firm or government agency would be prohibited from making directly

C. No, provided the PR director made the statement without personal knowledge that it would otherwise violate Rule 3.6 in the lawyer's own voice

D. Yes, but only if the trial court subsequently finds that the statement materially prejudiced the underlying proceeding before the empaneled jury

18. A lawyer in a five-lawyer firm will be a necessary witness at trial on a contested factual issue. The lawyer-witness will testify; one of her colleagues will serve as trial counsel. The colleague has no independent conflict. May the colleague serve as trial counsel?

A. Yes, because Rule 3.7(b) permits a lawyer in the same firm to act as advocate even when another lawyer in the firm is likely to be a necessary witness, unless precluded by Rule 1.7 or 1.9

B. No, because all lawyers in the same firm are imputed-disqualified from serving as trial counsel when any one of them will be a necessary witness in the matter

C. Yes, but only if the lawyer-witness physically leaves the courtroom for the duration of any non-witness portion of the trial proceedings

D. No, unless the firm obtains the client's informed consent in a writing signed by both the lawyer-witness and her trial-counsel colleague at the firm

19. The prosecutor knows that the defendant is appearing pro se because she believes she cannot afford counsel and is unaware of her right to appointed counsel at the upcoming initial appearance. What does Rule 3.8 require?

- A. The prosecutor may proceed to interview the defendant about the alleged offense before any further notice of her constitutional rights is provided
- B. The prosecutor must arrange for the defendant to be represented by privately retained counsel before continuing with the prosecution of her case
- C. The prosecutor must defer to the defendant's choice to proceed pro se and continue with the prosecution without any further procedural obligation
- D. The prosecutor must make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel, and has been given reasonable opportunity to obtain counsel, as required by Rule 3.8(b)

20. A prosecutor learns, during ongoing preparation for trial, that the lead investigating officer has been credibly accused of falsifying reports in unrelated cases. The information bears on the officer's credibility as a witness. What must the prosecutor do under Rule 3.8(d)?

- A. Make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, including information bearing on the credibility of prosecution witnesses
- B. Maintain the information in confidence as part of the prosecution's internal work product until the officer testifies and is challenged in cross-examination
- C. Discuss the issue with the officer's superiors at the agency before deciding whether the credibility information must be disclosed to defense counsel
- D. Disclose the information only if the defense submits a written discovery request specifically seeking impeachment evidence about prosecution witnesses in the case

21. A lawyer represents a buyer of commercial real estate. During negotiations, the lawyer learns that the seller has been deceived about a material fact regarding the property's environmental status — a deception that benefits the lawyer's client. The lawyer's own client did not create the deception but is now its passive beneficiary. May the lawyer remain silent and proceed to closing?

- A. Yes, because Rule 4.1 imposes no duty of disclosure to opposing parties beyond avoiding affirmative false statements to others in negotiations
- B. Yes, provided the lawyer cautions her own client privately about the legal risks of proceeding to closing under the present circumstances

C. No, because Rule 4.1(b) requires a lawyer in the course of representation to disclose a material fact when necessary to avoid assisting a criminal or fraudulent act by a client, unless prohibited by Rule 1.6

D. No, but only if the seller affirmatively asks the lawyer specifically about the environmental status of the property before the closing

22. A lawyer is investigating a witness's credibility in a contested case. The lawyer obtains and reviews the witness's personal medical records, which the lawyer received without subpoena or other legal process and which were leaked to the lawyer by a disgruntled former hospital employee. Has the lawyer violated Rule 4.4?

A. No, because the lawyer is permitted to use any information helpful to her client's case regardless of how that information was originally obtained

B. Yes, because Rule 4.4(a) prohibits a lawyer from using means that have no substantial purpose other than to embarrass, delay, or burden a third person, or methods that violate the legal rights of such a person

C. No, provided the information was leaked by a disgruntled third party rather than obtained through the lawyer's own affirmative misconduct in the matter

D. Yes, but only if the witness suffers actual damages traceable to the lawyer's use of the medical records in the underlying litigation against her

23. A lawyer is retained by an insurance company to defend an insured under a liability policy. The insurance company instructs the lawyer to settle the case for the policy limits without consulting the insured because the company believes the insured may resist settlement. May the lawyer comply with the instruction?

A. Yes, because the insurance company is paying the lawyer's fees and may direct the lawyer's actions in matters covered by the policy

B. Yes, provided the lawyer documents the company's settlement instructions in the file and proceeds accordingly with the resolution of the case

C. No, unless the insured has previously signed a written waiver granting the insurer settlement authority over her own contractual rights

D. No, because Rule 5.4(c) prohibits a lawyer paid by one to render legal services for another from permitting the person paying to direct or regulate the lawyer's professional judgment in rendering services for the client

24. A lawyer admitted only in State X has been suspended for one year. During the suspension, she continues to draft contracts and provide legal advice to several long-time clients, who are aware of the suspension and have agreed to keep working with her. Is the lawyer subject to discipline?

A. No, because the clients have knowingly agreed to continue working with the lawyer and have effectively waived any objection to her suspended status

B. No, provided the lawyer charges a reduced rate that reflects her current limitations on appearing in court during the period of active suspension

C. Yes, because Rule 5.5(a) prohibits a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction

D. Yes, but only if the lawyer continues to identify herself to the public as an attorney during the period of her active formal suspension

25. A law firm operates a separate but commonly owned title insurance and real estate closing service. Clients of the law firm often use the service in connection with their real estate transactions. What does Rule 5.7 require?

A. The firm must refuse to refer any of its own clients to the title insurance and closing service because of the inherent conflict between law-related and ancillary services

B. The Rules of Professional Conduct apply to the law-related services unless the lawyer takes reasonable measures to assure that the recipient knows the services are not legal services and that lawyer-client protections do not exist

C. The firm must transfer ownership of the closing service to an entirely unrelated third party before any clients of the firm may be referred to it for closing services

D. Lawyers in the firm must obtain individual written informed consent from each client referred to the closing service, separate from any engagement letter or retainer agreement

26. A lawyer serves on the board of a non-profit legal aid organization that provides representation to indigent clients. The organization has decided to pursue a class-action lawsuit. The lawyer's law firm represents a private corporation that would be adverse to the proposed class. May the lawyer continue to serve on the board?

- A. Yes, because Rule 6.3 permits a lawyer to serve on the board of a legal services organization even when it serves persons adverse to her client, provided the lawyer does not knowingly participate in a decision incompatible with her obligations
- B. No, because Rule 6.3 categorically prohibits a lawyer from serving on the board of any legal services organization whose clients may be adverse to her firm's paying clients in any matter
- C. Yes, provided the lawyer pays into the legal aid organization a portion of any fees her firm collects from the corporate client adverse to the proposed class action
- D. No, unless the corporate client provides written informed consent to the lawyer's continued board service after disclosure of the potential adversity between the two clients

27. A lawyer serves on the board of a non-profit organization devoted to law reform in the area of contract law. The organization advocates for legislative changes that, if enacted, would adversely affect the interests of one of the lawyer's clients. The client is not a party to the organization's reform efforts. What does Rule 6.4 require?

- A. The lawyer must immediately resign from the board to avoid the appearance of disloyalty to her current paying client in the ongoing engagement
- B. The lawyer must obtain the client's informed consent before continuing in any capacity on the law reform organization's board going forward
- C. The lawyer must affirmatively disclose her involvement with the organization to all of her firm's existing clients before participating in any further reform activities
- D. The lawyer may participate in the law reform organization, but when she knows a client of hers may be materially benefitted by a decision in which she participates, she shall disclose that fact, though she need not identify the client

28. A lawyer's advertisement claims that her firm is "the best personal injury firm in the state." The claim cannot be objectively verified. Is the statement permissible under Rule 7.1?

- A. Yes, because superlative claims in lawyer advertising are widely understood by consumers as promotional rather than literal factual statements
- B. No, because Rule 7.1 prohibits false or misleading communications about the lawyer or the lawyer's services, and an unsubstantiated comparative claim creates an unjustified expectation about results
- C. Yes, provided the firm can demonstrate that it has obtained results favorable to clients in some past matters within the state's legal market

D. No, but only if the advertisement is placed in a medium subject to the bar's pre-publication review and clearance requirements before publication

29. A lawyer practices alone but operates under the firm name "Smith & Associates" — there are no associates and the lawyer is the sole practitioner in the firm. Is the firm name permissible?

A. Yes, because the lawyer is free to choose any firm name she wishes that reflects her own professional business preferences in the marketplace

B. No, but only if the lawyer routinely contracts with outside counsel and could not reasonably be described as a true solo practitioner in her market

C. No, because the use of "Associates" implies the existence of additional lawyers in the firm and is therefore misleading under Rule 7.1

D. Yes, provided the lawyer includes a disclosure on her firm letterhead stating that she practices alone despite the firm name used in her advertising

30. A lawyer applies for a personal mortgage and intentionally overstates her income on the application by 25 percent to qualify for a larger loan. The misstatement is not in connection with the lawyer's law practice or any client matter. Is the lawyer subject to discipline under Rule 8.4?

A. Yes, because Rule 8.4(c) makes it professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, regardless of whether the conduct is connected to the lawyer's practice

B. No, because the mortgage application is a private personal matter unrelated to the lawyer's professional services to any client or to any law-related transaction

C. Yes, but only if the lender suffers actual financial loss as a result of the lawyer's misstated income figures on the application form

D. No, because Rule 8.4(c) reaches only misconduct occurring in connection with the lawyer's professional services or in her direct dealings with clients

31. A lawyer routinely arrives late to court hearings, misses filing deadlines without good cause, and treats court staff dismissively. None of the lawyer's conduct involves dishonesty or affects the outcome of any particular case. Is the lawyer subject to discipline under Rule 8.4?

- A. No, because Rule 8.4 requires conduct involving dishonesty or moral turpitude before professional discipline may be imposed under any of its subsections
- B. No, because routine procedural failings and personal rudeness fall below the threshold of any cognizable disciplinary rule under the Model Rules
- C. Yes, but only if the lawyer's conduct results in formal sanctions or other official court action being taken against her in a given matter
- D. Yes, because Rule 8.4(d) makes it professional misconduct to engage in conduct that is prejudicial to the administration of justice

32. A lawyer, while taking depositions, makes repeated derogatory remarks about a witness's national origin to opposing counsel. The witness does not hear the remarks directly but learns of them from opposing counsel. The remarks have no bearing on any substantive issue in the case. Is the lawyer subject to discipline under Rule 8.4?

- A. No, because the remarks were made between counsel and not directed at the witness herself during the formal deposition testimony being recorded
- B. No, because Rule 8.4 does not address conduct occurring outside the formal record of court proceedings or other official judicial documents
- C. Yes, because Rule 8.4(g) makes it professional misconduct to engage in conduct the lawyer knows or reasonably should know is harassment or discrimination based on protected characteristics in conduct related to the practice of law
- D. Yes, but only if the witness later testifies that the remarks actually affected her ability to participate meaningfully in the deposition proceeding

33. A lawyer admitted in State A handles a matter in State B for a State B client. The two states' rules differ on a specific question of professional conduct that bears on the lawyer's actions. Which jurisdiction's rules govern her conduct?

- A. The rules of State A always apply because that is the lawyer's state of admission and therefore her professional "home" disciplinary forum
- B. For conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits apply; for other conduct, the rules of the jurisdiction in which the conduct occurred, or where the predominant effect of the conduct is, apply

C. The lawyer may choose which jurisdiction's rules to follow at the outset of the matter and proceed accordingly throughout the engagement

D. The rules of the jurisdiction with the most stringent professional conduct requirements always apply by default to any multistate practice scenario

34. A judge frequents a local restaurant where the owner is known to be embroiled in a high-profile contract dispute. The judge is friends with the owner socially. The judge is not assigned to the owner's case, but other judges in the same courthouse are. Does the judge's continued patronage raise any concerns under the Code of Judicial Conduct?

A. Yes, because CJC Rule 1.2 requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, even in personal activities outside the courtroom

B. No, because the judge is not personally assigned to the owner's case and therefore has no direct professional connection to the underlying litigation

C. No, because judges retain the same rights as ordinary citizens to maintain personal friendships and patronize local businesses of their choosing in town

D. Yes, but only if the judge speaks publicly about the merits of the contract dispute or her friend's chosen litigation strategy with the press

35. A judge presides over a politically sensitive case in which the governor of the state has publicly expressed strong views about the desired outcome. The judge believes she can decide the case impartially despite the governor's pressure. What does CJC Rule 2.4 require of her?

A. The judge must defer to the governor's stated views in deciding the case as a matter of appropriate inter-branch comity between the executive and judicial branches

B. The judge must not be swayed by public clamor, fear of criticism, or partisan or other extraneous influences when performing judicial duties on any matter

C. The judge must recuse herself from the case immediately upon learning of any executive-branch statement about the desired outcome of the proceeding

D. The judge must consult the chief justice of the state's highest court for formal written guidance before proceeding further with the case under public scrutiny

36. A judge wishes to host a charitable fundraiser at her home for a local literacy non-profit. Several practicing attorneys, some of whom appear before the judge, are expected to attend and contribute to the cause. What does CJC Rule 3.7 generally permit?

A. The judge may host the fundraiser without any restriction so long as the cause is non-political and the funds are used for a genuine charity

B. The judge may not participate in any charitable fundraising activities of any kind under any circumstances under the Code of Judicial Conduct

C. The judge may host the fundraiser only if it occurs outside the courthouse and during non-court hours when court is not in session

D. The judge may engage in certain charitable fundraising activities subject to specified limitations — for example, she generally may not personally solicit contributions from lawyers likely to appear before her court

37. A judge owns a substantial portfolio of publicly traded stocks. The judge actively trades the stocks several times per week, frequently checking financial markets during court breaks. Is this conduct permissible under the Code of Judicial Conduct?

A. No, because judges are categorically prohibited from owning any stocks or other publicly traded securities while actively sitting on the bench in any court

B. Yes, provided the judge reports the trading activity annually on the appropriate state financial disclosure forms required of all judicial officers

C. Generally yes, because CJC Rule 3.11 permits a judge to manage her own and her family's investments, subject to limitations such as not engaging in financial activities that interfere with judicial duties or involve frequent transactions with lawyers or parties before the court

D. Yes, but only if the judge first establishes a blind trust managed by an independent third-party trustee who reports periodically to the judge

38. A sitting judge wishes to publicly endorse a candidate for a state legislative office that is not a judicial position. The judge is in a state where judges themselves are elected. Is the endorsement permissible under the Code of Judicial Conduct?

A. Generally no, because CJC Rule 4.1 prohibits a judge from publicly endorsing or opposing candidates for public office, including non-judicial offices, subject to limited exceptions for the judge's own immediate family

B. Yes, because the judge is not endorsing a judicial candidate and the endorsement therefore falls outside the political restrictions of the Code of Judicial Conduct

C. Yes, provided the endorsement occurs outside court hours and outside the courthouse premises during the judge's personal time at home

D. No, because the Code permits no political speech of any kind whatsoever by sitting judges in any context, public or private, during their judicial tenure

39. A trial judge is asked by a reporter to comment on the merits of a high-profile case pending before her. The judge believes the public has a strong interest in understanding the issues. May the judge respond to the inquiry?

A. Yes, because judges retain the same First Amendment rights as other citizens to comment on matters of significant public interest to the community

B. No, because CJC Rule 2.10(A) prohibits a judge from making any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court

C. Yes, provided the judge makes clear that her comments reflect her personal views rather than any formal ruling she will make in the case

D. No, but only if opposing counsel in the matter formally objects on the record to the judge's making any such public statements during the pendency

40. A lawyer met with a prospective client for an extended consultation but ultimately did not undertake the representation. During the consultation, the prospective client shared information that could be significantly harmful if used against her. The firm wants to represent the opposing party in the same matter. What does Rule 1.18 require?

A. The firm is permanently and irrevocably disqualified from representing the opposing party regardless of any procedural cure now available

B. The firm may freely represent the opposing party because no formal lawyer-client relationship was ever established with the prospective client

C. The firm may proceed without any restriction so long as the original consulting lawyer does not personally handle the matter against the prospective client

D. The firm may proceed if both clients give informed written consent, or if the consulting lawyer took reasonable measures to limit disqualifying information, is timely screened with no fee apportionment, and prompt written notice is given to the prospective client

41. A lawyer represents a corporation in a wrongful termination suit brought by a former employee. The lawyer needs to interview several current employees who participated in the termination decision. The interviews concern company operations, not the constituents' personal liability. What governs the interviews?

A. Rule 4.2 protects current constituents of the represented organization; the lawyer for the opposing party generally may not interview them without consent of corporate counsel — but counsel for the corporation may freely interview employees of her own client

B. Rule 4.2 protects only the corporation's senior officers and not its line employees, regardless of which side of the litigation the interviewing lawyer represents

C. Rule 4.2 prohibits any lawyer from interviewing employees of a corporate party, including the corporation's own counsel, without separate signed employee consent

D. Rule 4.2 has no application in the corporate context, and any lawyer may interview any current or former employee of a represented organization without restriction

42. A lawyer represents her brother in negotiating the sale of his small business. The transaction is straightforward, the brother is a sophisticated businessman, and there is no apparent conflict between the brother's interests and any other client of the lawyer. May the lawyer undertake the representation?

A. No, because Rule 1.7 prohibits a lawyer from representing any close family member in any business matter regardless of underlying circumstances

B. No, unless the brother first signs a written engagement letter waiving any claims related to the family relationship between them

C. Yes, because Rule 1.7 does not categorically bar a lawyer from representing a family member; the representation should be evaluated under ordinary conflict-of-interest principles

D. Yes, but only if no other competent lawyer in the same geographic area is available to handle the transaction for the brother

43. A lawyer represents a defendant in a criminal case. Two weeks before trial, the defendant tells the lawyer he intends to testify and lie about a key alibi. The lawyer urges the client to testify truthfully or decline to testify. The client refuses both. The lawyer moves to withdraw without telling the court the specific reason. What is the proper analysis?

- A. The lawyer must disclose to the trial court the full reason for the withdrawal motion before it can properly be granted by the court
- B. The lawyer should seek to withdraw under Rule 1.16(b) without disclosing privileged details; if the motion is denied, the lawyer must take other remedial measures under Rule 3.3 if the client testifies falsely
- C. The lawyer must continue the representation and present the testimony as the client directs, because criminal defense requires complete loyalty to the client's stated wishes
- D. The lawyer should disclose the proposed perjury directly to the prosecutor to avoid being complicit in the planned false testimony at the trial

44. A lawyer's flat-fee retainer agreement requires the client to pay \$5,000 upon engagement, to be deemed earned upon the lawyer's completion of certain specified milestones. The client pays \$5,000 to the lawyer. The lawyer has not yet performed any work toward the milestones. Where should the funds be deposited?

- A. Directly into the lawyer's operating account, because flat-fee retainers are considered earned upon receipt under the modern view of Rule 1.5
- B. Into a separate non-IOLTA interest-bearing account established for that particular client and that particular flat-fee retainer arrangement
- C. Half into the operating account and half into the trust account, reflecting the partially earned nature of flat-fee retainers under the rule
- D. Into the lawyer's client trust account, because Rule 1.15 generally requires unearned client funds to be held in trust until earned through performance of services

45. A lawyer is asked by her elderly parent to prepare a will. The will names the lawyer as a substantial beneficiary. The parent insists on the bequest. May the lawyer prepare the will?

- A. Yes, because Rule 1.8(c) prohibits a lawyer from preparing an instrument giving the lawyer a substantial gift only when the lawyer is not related to the client; a parent and child are within the rule's family exception

B. No, because Rule 1.8(c) categorically prohibits a lawyer from preparing any instrument that gives her a substantial gift, regardless of any family relationship between the lawyer and the client

C. Yes, but only if the parent first obtains written approval from a probate court of competent jurisdiction before the will is executed by the family

D. No, unless the lawyer agrees in writing to disclaim her bequest until after the parent's estate has been fully administered through the probate process

46. A lawyer wants to interview a juror after the conclusion of a trial to understand how the jury reached its verdict, for purposes of preparing future cases. The juror is not subject to any court order limiting post-trial contact. May the lawyer interview the juror?

A. No, because all post-trial contact with discharged jurors is categorically and absolutely prohibited under Rule 3.5 regardless of any consent

B. No, unless the lawyer first obtains the trial judge's express written permission to conduct the proposed interview with the discharged juror

C. Yes, generally, because Rule 3.5(c) permits a lawyer to communicate with a discharged juror unless prohibited by law or court order, the juror has expressed a desire not to communicate, or the communication involves misrepresentation, coercion, or harassment

D. Yes, but only if the lawyer also makes the interview transcript available to opposing counsel within ten business days of completing the interview

47. A lawyer represents a client in a civil dispute over a debt. The opposing party has refused to pay. The lawyer sends a letter stating: "Unless you pay within seven days, I will report you to the local prosecutor for criminal embezzlement, fraud, and obstruction arising from your handling of these funds." The criminal allegations have no factual basis. May the lawyer send the letter?

A. Yes, because lawyers are entitled to use vigorous lawful pressure tactics to encourage payment of a legitimately owed civil debt to a client

B. Yes, provided the lawyer is prepared to back up any criminal allegations with actual evidence if pressed during any later inquiry by counsel

C. No, but only because the lawyer has phrased the threat in her own name rather than as a referral to the local prosecutor's office

D. No, because baseless threats of criminal prosecution to gain civil advantage may violate Rule 4.4(a) (no-purpose harassment) and Rule 8.4(b)/(c) (criminal or dishonest conduct)

48. A lawyer wishes to advertise her services through online platforms. She enters into an arrangement with an internet marketing company that pays the firm a commission whenever a referred client retains the firm and pays a fee. May the lawyer participate in the arrangement?

A. Yes, because the marketing company functions as a modern equivalent of newspaper or broadcast advertising paid for by the lawyer

B. No, because Rule 7.2(b) prohibits a lawyer from giving anything of value to a person for recommending the lawyer's services, except for reasonable costs of advertisements or communications and certain other defined exceptions

C. Yes, provided the lawyer discloses the commission arrangement to each referred client at the outset of the engagement in a written notice

D. No, but only if the marketing company is owned by a non-lawyer who has no personal connection to the legal profession or the relevant bar

49. A lawyer collects a \$10,000 retainer at the outset of a representation. The agreement requires the lawyer to provide an accounting and refund any unearned portion if the representation terminates. Six weeks later, the client discharges the lawyer. The lawyer has actually earned only \$3,000 in fees during that period. May the lawyer retain the full \$10,000?

A. No, because Rule 1.16(d) requires the lawyer to refund any advance payment of fee or expense not earned upon termination of the representation

B. Yes, because the retainer was paid in advance and is no longer subject to refund once the representation has begun in earnest at the firm

C. Yes, provided the lawyer documents in the case file her view that the discharge by the client was without justification on the client's part

D. No, but only if the discharge was for cause attributable to the lawyer's own conduct or her own negligent handling of the underlying matter

50. A lawyer represents a buyer in negotiations to purchase a business. The buyer instructs the lawyer to tell the seller's lawyer that the buyer's "rock-bottom maximum" price is \$2 million. In fact, the buyer would be willing to pay up to \$2.5 million if pressed. The lawyer conveys \$2 million to opposing counsel as instructed. Has she violated Rule 4.1?

- A. Yes, because any misstatement of a party's settlement or transaction position during negotiations constitutes a material false statement under Rule 4.1
- B. Yes, but only if the seller actually accepts the \$2 million amount conveyed and the deal ultimately closes at exactly that price between the parties
- C. No, because statements about a party's bottom-line negotiating position are widely understood as conventional bargaining "puffery" not treated as material fact under Comment [2] to Rule 4.1
- D. No, because the buyer instructed the lawyer to make the statement, and the client's instruction relieves the lawyer of any responsibility for the content

51. A lawyer regularly handles complex commercial litigation but is unfamiliar with electronic discovery and the use of cloud-based legal research tools. The lawyer believes the traditional paper-based approach is sufficient for her practice. Has she met her obligation under Rule 1.1?

- A. Yes, because Rule 1.1 measures competence by the underlying results obtained for clients, not by familiarity with any particular modern technology
- B. No, because Comment [8] to Rule 1.1 provides that to maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology
- C. No, unless the lawyer is unable to identify alternative methods to achieve the same litigation outcomes as e-discovery tools and online research databases
- D. Yes, provided the lawyer's clients have not specifically requested that she use any particular electronic tools or technologies in handling their matters

52. A lawyer hosts client testimonials on her firm website. Each testimonial is from an actual former client. The website does not disclose that the testimonials were solicited or that some testimonials were provided in exchange for fee discounts. Is the website permissible under Rule 7.1?

- A. Yes, because all testimonials come from actual former clients and not from paid actors or other fictional figures playing former clients on screen
- B. Yes, provided the testimonials accurately reflect each client's experience with the firm during their actual representation by the firm's attorneys
- C. No, but only if any testimonial mentions specific dollar recovery amounts the firm has obtained for the client in prior representations of similar matters

D. No, because omitting that some testimonials were obtained in exchange for fee discounts is materially misleading and creates an unjustified expectation about results, violating Rule 7.1

53. A former client sues a lawyer for malpractice. The lawyer's defense requires disclosure of certain client confidences. The client objects to the disclosure. What does Rule 1.6 permit?

A. The lawyer may reveal information she reasonably believes necessary to establish a defense in the controversy with the client, under Rule 1.6(b)(5)

B. The lawyer may not reveal any confidential information without the client's express written consent under any circumstances of subsequent litigation

C. The lawyer may reveal the information only to a court-appointed special master after in camera review with the client present at the hearing

D. The lawyer must move to dismiss the malpractice case on confidentiality grounds before any disclosure may be made in her own defense of the action

54. A lawyer needs to obtain a routine extension of a court-imposed deadline. Opposing counsel has agreed in writing. The lawyer telephones the judge's chambers, speaks with the judge directly, and discusses the proposed extension. Opposing counsel is not on the call. Has the lawyer violated Rule 3.5?

A. No, because the substance of the communication concerns only a routine procedural extension and not the merits of the underlying litigation

B. No, because opposing counsel has agreed in advance to the substance of the proposed extension that the lawyer is conveying to the judge in chambers

C. Yes, because Rule 3.5(b) prohibits ex parte communications with the judge about a pending matter; even routine procedural communications generally must go through filings or include opposing counsel on the call

D. Yes, but only if the judge actually agreed to grant the extension during the call and entered an order based on the ex parte communication afterward

55. A lawyer learns that her friend is being considered for a vacancy on the appellate bench. The lawyer routinely appears before the appellate court. The lawyer offers to make a substantial financial contribution to the friend's confirmation campaign. Is the lawyer's conduct permissible?

- A. Yes, because political contributions to judicial selection campaigns are protected speech under the First Amendment of the United States Constitution
- B. The lawyer must be cautious — Rule 3.5(a) bars seeking to influence a judge by means prohibited by law, and Rule 7.6 plus applicable election-law restrictions govern judicial-selection contributions
- C. Yes, provided the contribution is made publicly through official campaign disclosure channels rather than privately delivered to the candidate herself
- D. No, because all financial contributions to any judicial candidate by lawyers who appear before the relevant court are categorically prohibited under all rules

56. A lawyer represents three co-defendants in a civil action. After substantial discovery, the plaintiff offers to dismiss the claims against one defendant in exchange for that defendant's testimony against the other two. The defendants disagree about whether to accept the offer. What governs?

- A. The lawyer may accept the offer on behalf of the one defendant being offered dismissal, regardless of the other defendants' views or preferences
- B. The lawyer must consult with the disagreeing defendants but ultimately may exercise her own judgment about what is best for the group of co-defendants
- C. The lawyer may participate in the negotiation provided she does not disclose the discussions to the other co-defendants who would be adverse to the deal
- D. The proposed arrangement creates an adverse-interest conflict among the co-defendants; informed consent confirmed in writing may resolve it, but if it cannot, the lawyer must withdraw from representing at least one of them

57. A lawyer represents a corporation. She has discovered serious financial misconduct by the CEO that, if uncovered, will result in substantial harm to the corporation. She has reported the conduct to the board, which has refused to act. The misconduct continues. May the lawyer disclose the misconduct outside the corporation?

- A. No, because the board's decision on internal corporate misconduct is final, and the lawyer must accept it and continue the representation as before
- B. No, because the duty of confidentiality under Rule 1.6 prohibits any disclosure to outside parties without the corporation's express advance consent

C. Yes, because Rule 1.13(c) permits the lawyer to reveal information relating to the representation, even if Rule 1.6 would otherwise prohibit it, to the extent reasonably necessary to prevent substantial injury to the organization

D. Yes, but only if the lawyer first obtains written authorization from a majority of the corporation's shareholders to disclose the conduct externally to others

58. A lawyer represents a client in litigation. The client requests an aggressive litigation strategy that the lawyer believes is unlikely to succeed but is legally permissible. Before pursuing the strategy, what does Rule 1.4(b) require of the lawyer?

A. The lawyer must explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation

B. The lawyer must seek formal court approval before pursuing any litigation strategy the lawyer privately doubts will ultimately succeed at trial

C. The lawyer must obtain a written waiver from the client acknowledging that the proposed strategy is unlikely to succeed before proceeding any further

D. The lawyer must refer the matter to another lawyer for an independent written opinion before acceding to the client's preferred strategic approach

59. A lawyer is representing a client in a commercial dispute. The lawyer will need to testify briefly about an uncontested administrative matter — the fact that she sent a routine notice of contract termination on a specific date. The fact is undisputed. May the lawyer act as trial counsel and also testify?

A. No, because any necessary witness role disqualifies the lawyer from continuing as trial counsel under all circumstances regardless of the topic

B. Yes, but only if the trial court enters a specific written order permitting the dual role of advocate and witness in the particular proceeding

C. No, because the lawyer-witness rule applies categorically regardless of whether the underlying factual issue is contested or uncontested between the parties

D. Yes, because Rule 3.7(a)(1) permits a lawyer-witness to act as advocate when the testimony relates to an uncontested issue in the matter

60. A lawyer is the subject of a disciplinary investigation. The investigating authority has made a formal demand for information regarding the matter under investigation. The lawyer wishes to invoke client confidentiality to refuse to respond. What does Rule 8.1 require?

- A. The lawyer must respond fully to all demands by the disciplinary authority and may not invoke any privilege or confidentiality protection during the investigation
- B. The lawyer must not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that the rule does not require disclosure of information otherwise protected by Rule 1.6
- C. The lawyer may refuse to respond to any demand for information and require the disciplinary authority to obtain a court order before any cooperation is required
- D. The lawyer must respond within seven days of receipt of the demand regardless of any confidentiality considerations or protective procedures otherwise available

PRACTICE EXAM 13: ANSWERS AND EXPLANATION

1. C — Rule 1.2(d) draws a clear line: a lawyer may not counsel or assist a client in conduct she knows is criminal or fraudulent, but may discuss the legal consequences of any proposed course of conduct and may counsel a good-faith effort to determine the validity, scope, meaning, or application of the law. Aggressive but colorable tax positions fall on the advisable side of that line.

2. A — Rule 1.4(a)(1) requires a lawyer to promptly inform a client of any decision or circumstance requiring the client's informed consent. The decision to accept or reject a settlement is reserved to the client under Rule 1.2(a), so the lawyer must communicate the offer promptly even if she believes it is unreasonable.

3. D — Rule 1.5(e) permits a division of fees between lawyers not in the same firm only if the division is in proportion to services performed or each lawyer assumes joint responsibility, the client agrees to the arrangement (including the share each lawyer will receive) in a writing signed by the client, and the total fee is reasonable. Client written agreement to the split is mandatory.

4. B — Rule 1.6(b)(3) permits a lawyer to reveal information to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client used the lawyer's services. The exception fits exactly this fact pattern.

5. C — Rule 1.7(a)(1) defines a concurrent conflict as one in which the representation of one client will be directly adverse to another current client, even where the matters are otherwise unrelated. Such a conflict is consentable under Rule 1.7(b) only with informed consent confirmed in writing from each affected client, and only if the other Rule 1.7(b) conditions are satisfied.

6. D — Rule 1.8(a) imposes three conjunctive requirements for any business transaction with a current client: terms fair, reasonable, and fully disclosed in writing; written advice of the desirability of independent counsel with a reasonable opportunity to seek it; and the client's written informed consent to the essential terms and the lawyer's role. All three must be satisfied to proceed.

7. A — Rule 1.9(c) prohibits a lawyer who has formerly represented a client from using information relating to that representation to the disadvantage of the former client, except as the Rules permit or when the information has become generally known. Remembered specifics from an unusual prior matter remain protected against use against the former client.

8. B — Rule 1.10(c) provides that any conflict subject to imputation may be waived only by the affected client's informed consent, confirmed in writing, under the conditions stated in Rule 1.7. Oral consent or post-engagement documentation alone is not sufficient to cure the imputed conflict.

9. C — Rule 1.13(c) creates a narrow "reporting-out" authority: where the highest authority in the organization fails to address clearly illegal conduct that is reasonably certain to result in substantial injury, the lawyer may reveal information relating to the representation even when Rule 1.6 would otherwise prohibit it, to the extent reasonably necessary to prevent the injury. The provision is permissive, not mandatory.

10. D — Rule 1.15(d) requires that upon receiving funds in which a client has an interest, a lawyer shall promptly notify the client and, except as stated in the rule or otherwise permitted by law, promptly deliver to the client any funds the client is entitled to receive. A two-month unjustified delay violates this duty regardless of record-keeping accuracy.

11. A — Rule 1.16(d) requires that upon termination of representation a lawyer take steps reasonably practicable to protect the client's interests, including giving reasonable notice, allowing time to retain other counsel, surrendering papers and property the client is entitled to receive, and refunding any advance payment of fee or expense not earned or incurred. The duty exists independent of the reason for withdrawal.

12. C — Rule 2.1 directs a lawyer to exercise independent professional judgment and render candid advice, and provides that in rendering advice the lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation. The rule explicitly endorses contextual advice within the lawyer-client relationship.

13. B — Rule 3.1 prohibits frivolous claims but expressly preserves a lawyer's right to assert a good-faith argument for an extension, modification, or reversal of existing law. Advocating that settled precedent be reconsidered in light of changed circumstances fits squarely within this carve-out, even where success is unlikely.

14. A — Rule 3.3(c) provides that the duties stated in paragraphs (a) and (b) continue to the conclusion of the proceeding, defined as when a final judgment in the proceeding has been affirmed on appeal or the time for review has passed. Once that point is reached, the candor duties under Rule 3.3 end.

15. D — Rule 3.4(c) prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists. Standing orders and local rules qualify as obligations of the tribunal, and silent non-compliance violates the rule.

16. C — Rule 3.4(e) prohibits a lawyer in trial from alluding to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence. Referring during closing argument to a fact already excluded by court order is the paradigmatic violation of this prohibition.

17. B — Rule 3.6(d) provides that no lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a). A lawyer cannot evade the rule by routing a prohibited statement through her firm's non-lawyer staff, including a public-relations director.

18. A — Rule 3.7(b) provides that a lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness, unless precluded from doing so by Rule 1.7 or Rule 1.9. The lawyer-witness disqualification is personal to the witness, not imputed to the entire firm.

19. D — Rule 3.8(b) requires a prosecutor to make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel. The duty is affirmative and does not depend on the defendant's understanding or request.

20. A — Rule 3.8(d) requires a prosecutor to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. ABA Formal Opinion 09-454 and most authorities apply this duty to credibility information bearing on key prosecution witnesses.

21. C — Rule 4.1(b) provides that in the course of representation, a lawyer shall not knowingly fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6. Passive complicity in third-party deception that benefits the client triggers the disclosure duty.

22. B — Rule 4.4(a) prohibits a lawyer in representing a client from using means that have no substantial purpose other than to embarrass, delay, or burden a third person, or methods of obtaining evidence that violate the legal rights of such a person. Using leaked medical records obtained without legal process implicates both branches of the rule.

23. D — Rule 5.4(c) prohibits a lawyer from permitting a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering those services. The insurer's instruction to settle without consulting the insured client crosses that line; the insured, not the insurer, is the client whose interests the lawyer protects.

24. C — Rule 5.5(a) prohibits a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction. A suspended lawyer who continues to provide legal services is engaged in the unauthorized practice of law, and client awareness or consent does not cure the violation.

25. B — Rule 5.7 provides that a lawyer is subject to the Rules of Professional Conduct with respect to provision of law-related services if the services are provided in circumstances not distinct from the lawyer's provision of legal services, or by a separate entity controlled by the lawyer, unless the lawyer takes reasonable measures to assure the recipient knows the services are not legal services and lawyer-client protections do not apply.

26. A — Rule 6.3 permits a lawyer to serve as a director, officer, or member of a legal services organization, apart from the law firm in which the lawyer practices, even where the organization serves persons with interests adverse to a client of the lawyer, so long as the lawyer does not knowingly participate in decisions incompatible with her obligations and recuses where needed.

27. D — Rule 6.4 permits a lawyer to serve in an organization involved in reform of the law, notwithstanding that the reform may affect the interests of a client. When the lawyer knows the interests of a client may be materially benefitted by a decision in which she participates, the lawyer must disclose that fact, but need not identify the client by name.

28. B — Rule 7.1 prohibits false or misleading communications about a lawyer or the lawyer's services, and Comment [3] specifically warns that an unsubstantiated comparison of the lawyer's services with those of other lawyers may be misleading if presented with such specificity as to lead a reasonable person to conclude that the comparison can be substantiated. Superlative claims like "the best" create exactly that risk.

29. C — Rule 7.1 prohibits false or misleading communications, and the comments (and prior Rule 7.5) treat a firm name that implies the existence of lawyers who are not in fact in the firm — such as "& Associates" used by a true solo practitioner — as inherently misleading. The implied additional lawyers do not exist, so the name creates a false impression.

30. A — Rule 8.4(c) makes it professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. The provision reaches private as well as professional conduct because dishonesty in any setting bears on a lawyer's fitness to practice; mortgage fraud is squarely covered.

31. D — Rule 8.4(d) makes it professional misconduct to engage in conduct that is prejudicial to the administration of justice. Chronic tardiness, missed deadlines, and abusive treatment of court staff impair the orderly operation of the court system and have been disciplined under this provision even without dishonesty or impact on individual case outcomes.

32. C — Rule 8.4(g) makes it professional misconduct for a lawyer to engage in conduct, in conduct related to the practice of law, that the lawyer knows or reasonably should know is harassment or discrimination on the basis of protected characteristics including race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status.

33. B — Rule 8.5(b) provides choice-of-law rules: for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits apply unless the tribunal's rules provide otherwise; for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or the jurisdiction in which the predominant effect of the conduct is, apply.

34. A — CJC Rule 1.2 requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. The rule expressly extends to personal and extrajudicial activities, not only conduct on the bench.

35. B — CJC Rule 2.4(B) provides that a judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment. Subsection (A) further provides that a judge shall not be swayed by public clamor or fear of criticism in performing judicial duties.

36. D — CJC Rule 3.7 permits judges to participate in activities of educational, religious, charitable, fraternal, or civic organizations, including some fundraising activities, subject to important limitations: a judge generally may not personally solicit funds from persons likely to come before the court or use the prestige of judicial office for fundraising. The role is allowed in form but restricted in execution.

37. C — CJC Rule 3.11 permits a judge to manage her own and her family's investments and other financial activities, but prohibits financial activities that may reasonably be perceived to exploit the judge's judicial position, that involve frequent transactions or business with lawyers or parties likely to appear before the judge, or that interfere with the proper performance of judicial duties.

38. A — CJC Rule 4.1(A)(3) prohibits a judge or judicial candidate from publicly endorsing or opposing a candidate for any public office. Limited exceptions exist for endorsements of the judge's own candidacy or, in some jurisdictions, of immediate family members, but a sitting judge generally may not endorse legislative candidates.

39. B — CJC Rule 2.10(A) prohibits a judge from making any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing. Public interest in the case does not override this restriction.

40. D — Rule 1.18(d) provides that when a lawyer has received disqualifying information from a prospective client, representation of an adverse client in the same or substantially related matter is permitted only if both the affected client and the prospective client give informed consent confirmed in writing, or the consulting lawyer took reasonable measures to limit exposure to disqualifying information, is timely screened with no fee apportionment, and prompt written notice is given.

41. A — Rule 4.2 protects "represented persons" of an organization through the constituents identified in Comment [7]: those who supervise, direct, or regularly consult with the lawyer concerning the matter, those who have authority to obligate the organization, and those whose conduct may be imputed to the organization. The protection runs against opposing counsel, not against the organization's own lawyer.

42. C — Rule 1.7 governs conflicts of interest by reference to direct adversity or a significant risk of material limitation, not by familial status standing alone. Representing a family member is permissible where the ordinary Rule 1.7 analysis identifies no significant risk to the lawyer's independent professional judgment in the matter.

43. B — A lawyer aware of a client's intent to commit perjury should first counsel the client to testify truthfully or not testify; if the client persists, the lawyer may seek to withdraw under Rule 1.16(b)(2) without disclosing privileged details. If withdrawal is denied or false testimony is given, Rule 3.3(b) requires further remedial measures, which may include disclosure to the tribunal.

44. D — Rule 1.15(c) requires unearned client funds to be held in a client trust account until earned. A flat fee paid in advance subject to milestone-based earning is unearned upon receipt and may not be deposited into the operating account; the prevailing view treats such flat fees as advance payments subject to the trust-account safeguards.

45. A — Rule 1.8(c) prohibits a lawyer from soliciting any substantial gift from a client, including a testamentary gift, or preparing on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift, unless the lawyer or other recipient of the gift is related to the client. Parent-child relationships fall within the rule's family exception.

46. C — Rule 3.5(c) permits a lawyer to communicate with a juror or prospective juror after discharge of the jury unless the communication is prohibited by law or court order, the juror has made known a desire not to communicate, or the communication involves misrepresentation, coercion, duress, or harassment. Post-trial contact is otherwise generally permissible.

47. D — Rule 4.4(a) prohibits using means with no substantial purpose other than to embarrass, delay, or burden a third person, and Rule 8.4 bars conduct that is criminal (8.4(b)) or involves dishonesty (8.4(c)). Baseless threats of criminal prosecution to extract civil payment implicate both rules and may constitute extortion under state law.

48. B — Rule 7.2(b) prohibits a lawyer from giving anything of value to a person for recommending the lawyer's services except for reasonable advertising or communication costs, charges of legal service plans or not-for-profit or qualified lawyer referral services, sale-of-practice payments under Rule 1.17, and reciprocal referral agreements meeting specified conditions. Commissions on referred-and-retained clients fit none of these exceptions.

49. A — Rule 1.16(d) requires a lawyer upon termination of representation to refund any advance payment of fee or expense that has not been earned or incurred. The lawyer is entitled to retain only the value of work actually performed prior to discharge; the unearned \$7,000 must be returned to the client.

50. C — Comment [2] to Rule 4.1 recognizes that under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact, such as estimates of price or value placed on the subject of a transaction and a party's intentions as to an acceptable settlement of a claim. Conveying an instructed "bottom-line" figure falls within this convention.

51. B — Comment [8] to Rule 1.1 was added in 2012 to make explicit that a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology. Technological competence is part of the baseline competence requirement, particularly in litigation involving electronic discovery and modern research tools.

52. D — Rule 7.1 prohibits false or misleading communications, and Comment [2] treats truthful statements as misleading when they omit a fact necessary to make the statement considered as a whole not materially misleading. Omitting that testimonials were obtained in exchange for fee discounts creates exactly that kind of materially misleading impression.

53. A — Rule 1.6(b)(5) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, or to establish a defense to a criminal charge or civil claim based upon conduct in which the client was involved. The malpractice action is the paradigmatic self-defense exception.

54. C — Rule 3.5(b) prohibits ex parte communications with the judge concerning a pending matter unless authorized by law or court order. The procedural nature of the communication and opposing counsel's pre-call agreement do not transform an ex parte chambers communication into a permissible contact; even routine extensions should be obtained by filing or with all counsel on the call.

55. B — Rule 3.5(a) prohibits a lawyer from seeking to influence a judge, juror, prospective juror, or other official by means prohibited by law. Rule 7.6 and applicable election-law restrictions specifically address contributions in connection with judicial selection, requiring careful navigation rather than simple reliance on First Amendment protection alone.

56. D — A plaintiff's offer to dismiss one defendant in exchange for testimony against co-defendants creates direct adversity among joint clients of the same lawyer in the same litigation. This is a non-consentable conflict under Rule 1.7(b)(3) — or at best one requiring informed consent confirmed in writing from each defendant — and where consent cannot be obtained, the lawyer must withdraw from representing at least one defendant.

57. C — Rule 1.13(c) authorizes a corporate lawyer to reveal information relating to the representation, whether or not Rule 1.6 permits such disclosure, but only if despite efforts in accordance with paragraph (b) the highest authority in the organization insists on or fails to act on conduct that is a clear violation of law, and the lawyer reasonably believes the violation is reasonably certain to result in substantial injury to the organization.

58. A — Rule 1.4(b) requires a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. The duty is operative whenever the client must decide among courses of action with materially different consequences, even when the lawyer doubts the client's preferred strategy will succeed.

59. D — Rule 3.7(a)(1) excepts a lawyer-witness from the disqualification rule when the testimony relates to an uncontested issue. Brief, routine, undisputed testimony about an administrative fact such as the date of a notice satisfies the exception and does not require the lawyer to withdraw from her trial-counsel role.

60. B — Rule 8.1(b) prohibits a lawyer from knowingly failing to respond to a lawful demand for information from an admissions or disciplinary authority, except that the rule does not require disclosure of information otherwise protected by Rule 1.6. The lawyer must engage with the process while preserving genuine confidentiality where it properly applies.

