

PRACTICE EXAM 14: MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer agrees to represent a new client in a complex commercial litigation matter. The lawyer has never represented this client before. The lawyer plans to charge an hourly rate of \$400. The lawyer begins work without communicating any fee information to the client in writing or otherwise within a reasonable time of commencing the representation.

A. The lawyer's conduct is permissible because Rule 1.5(b) does not require any communication of fee information to clients in writing for hourly arrangements

B. The lawyer's conduct violates Rule 1.5(b), which requires the basis or rate of the fee to be communicated to the client preferably in writing within a reasonable time of commencing representation

C. The lawyer's conduct is permissible if the lawyer's standard fee is the same as other lawyers in the local market for similar commercial litigation work

D. The lawyer's conduct is permissible if the lawyer ultimately bills the client at a reasonable rate consistent with prevailing local market rates for the practice area

2. A lawyer represents an employee whose legal defense costs are being paid by the employee's employer. The employer instructs the lawyer to take particular positions in the case that the lawyer believes are contrary to the employee-client's best interests. The employer threatens to terminate payment if the lawyer does not comply with the instructions.

A. Under Rule 5.4(c), a lawyer shall not permit a person who pays the lawyer to direct or regulate the lawyer's professional judgment in rendering legal services

B. The lawyer must follow the employer's instructions because the employer is paying the fees and the rules permit third-party payers to direct counsel in representation matters

C. The lawyer must withdraw from the representation immediately because any third-party payment arrangement creates a per se non-consentable conflict under the rules

D. The lawyer may follow the employer's instructions provided that the employee-client signs an oral acknowledgment of the third-party payment arrangement at the outset

3. A lawyer routinely transmits client documents containing sensitive information by unencrypted email and stores them on cloud servers without any access controls. The lawyer has never investigated the security of her email or cloud storage systems. Several emails containing confidential client information have been accidentally sent to wrong recipients in recent months.

A. The lawyer's conduct is permissible because Rule 1.6 addresses only intentional disclosures of confidential information, not accidental ones in the course of practice

B. The lawyer's conduct is permissible because routine business use of email and cloud storage is presumed reasonable under most state ethics opinions on lawyer technology

C. The lawyer's conduct is permissible because the duty to safeguard client information applies only to physical files maintained at the lawyer's office

D. The lawyer's conduct violates Rule 1.6(c), which requires a lawyer to make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client

4. A lawyer represented a client in a securities offering. The client used the lawyer's services to make material misrepresentations to investors. After completing the transaction, the client tells the lawyer about the misrepresentations. Significant investor losses have already occurred but additional losses can still be prevented by timely disclosure.

A. The lawyer must maintain confidentiality absolutely because the underlying fraud has already been completed and Rule 1.6(b)(3) does not permit post-fraud disclosure

B. The lawyer must immediately notify all affected investors and the Securities and Exchange Commission to mitigate the ongoing harm caused by the past fraud

C. Under Rule 1.6(b)(3), the lawyer may reveal information to prevent, mitigate, or rectify substantial injury to financial interests resulting from the client's commission of a fraud in furtherance of which the client has used the lawyer's services

D. The lawyer must withdraw from the representation but is strictly prohibited from making any disclosures relating to the prior fraud or to investor losses suffered

5. A lawyer represents a client in a civil matter. A subpoena duces tecum is served on the lawyer requiring production of documents relating to the representation that fall within the attorney-client privilege. The client has not consented to disclosure. The court has ordered production after reviewing and denying the lawyer's motion to quash.

A. The lawyer must produce the documents without further action because court orders categorically override the attorney-client privilege and Rule 1.6 confidentiality protections

B. Under Rule 1.6(b)(6), the lawyer may comply with a court order, but the lawyer should first assert all non-frivolous claims that the order is improper and consult with the client where feasible

C. The lawyer must refuse to comply with the order and accept any contempt sanction in order to preserve the client's confidentiality interest under the rules of professional conduct

D. The lawyer must comply with the order only after obtaining the client's express written consent to the disclosure required by the court before production occurs

6. A lawyer represents two co-plaintiffs jointly in a personal injury action with the informed written consent of both clients to the joint representation. Six months into the representation, one client changes her mind about the joint representation and revokes her consent. The matter is in active discovery and trial is set for nine months later in the courthouse.

A. The client's consent is irrevocable once given in writing, and the lawyer may continue the joint representation through trial without further analysis required

B. The lawyer must immediately withdraw from representing both clients as soon as one client revokes consent under any circumstances applicable to the matter

C. The lawyer must withdraw only from representing the client who revoked consent and may continue representing the remaining client without any further restriction

D. Under Comment [21] to Rule 1.7, a client may revoke consent; whether continued representation of the remaining client is permissible depends on the circumstances, including whether confidentiality and the other client's expectations are protected

7. A lawyer agrees to represent a celebrity client in a high-profile criminal matter. Before the representation has concluded, the lawyer negotiates a contract granting the lawyer the literary and media rights to a tell-all book about the case and its inner workings. The client signs the agreement after reviewing it with separate counsel of her own choosing.

- A. The lawyer's conduct violates Rule 1.8(d), which prohibits a lawyer prior to the conclusion of representation from making or negotiating an agreement giving the lawyer literary or media rights based in substantial part on information relating to the representation
- B. The lawyer's conduct is permissible because the client gave informed written consent after consulting with separate counsel of her own choosing before signing
- C. The lawyer's conduct is permissible because Rule 1.8(d) restricts only contracts signed after the conclusion of the criminal proceedings rather than before them
- D. The lawyer's conduct is permissible provided that the client receives a percentage of the proceeds equal to or greater than the lawyer's share under the agreement

8. A lawyer is asked to represent an injured worker in a personal injury matter. A friend of the injured worker offers to pay all of the lawyer's fees on the worker's behalf. The friend wants regular updates on the case progress and wants to be consulted on settlement decisions throughout the representation.

- A. The lawyer may accept the friend's payment arrangement without any disclosure to the worker because the worker is the actual client receiving legal services
- B. The lawyer may accept the friend's payment arrangement provided that the friend signs a written waiver of his right to direct the litigation from the outset
- C. Under Rule 1.8(f), the lawyer may accept compensation from a third party only if the client gives informed consent, there is no interference with the lawyer's independent professional judgment, and confidentiality is preserved
- D. The lawyer must decline the third-party payment arrangement because Rule 1.8(f) categorically prohibits payment of a lawyer's fees by anyone other than the client herself

9. A lawyer at a firm has drafted a will for a long-standing client who is not related to the lawyer. The will leaves a substantial bequest to the drafting lawyer's wife. The lawyer asks whether another lawyer at the same firm could draft the will instead, because the disqualifying relationship is between the wife and the drafting lawyer rather than the other firm lawyer who would draft it.

- A. The Rule 1.8(c) prohibition does not extend to other firm lawyers because Rule 1.8 conflicts apply only to the lawyer with the disqualifying relationship and not to firm colleagues
- B. Under Rule 1.8(k), a prohibition under Rule 1.8(a)–(i) that applies to one lawyer in a firm applies to all of them while associated, meaning the other firm lawyer is similarly barred from drafting the bequest

C. The Rule 1.8(c) prohibition is not imputed to other firm lawyers because Rule 1.8(k) excludes drafting-related transactions from its imputation rule generally

D. The Rule 1.8(c) prohibition is imputed only if the other firm lawyer would personally benefit from the bequest in some way under the drafted will being prepared

10. A lawyer formerly worked at a state agency, where she had access to confidential government information about a private company. The information could be used to the company's material disadvantage in a private dispute. The lawyer has now joined a private firm. A client of the firm now seeks to bring litigation against that company directly.

A. The lawyer may freely participate in the new representation because she no longer works for the state agency holding the confidential information about the company

B. The lawyer may participate provided she does not personally disclose any specific document she previously saw at the state agency in her work for the firm

C. The lawyer may participate provided she signs a written attestation that she has forgotten the specific government-held information she previously reviewed in detail

D. Under Rule 1.11(c), a lawyer having confidential government information about a person may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to material disadvantage

11. A lawyer represents a corporation. A senior officer of the corporation is also a defendant in a related civil action and asks the lawyer to represent both the corporation and the officer personally. The corporation's interests in the litigation may diverge from the officer's personal interests in some material respects.

A. Under Rule 1.13(g), the lawyer may represent both the corporation and the officer subject to Rule 1.7, but if consent is required, it must be given by an appropriate official of the organization other than the individual being represented

B. The lawyer may simply represent both clients without further consent because the officer's authority within the corporation includes consenting to dual representation

C. The lawyer must decline to represent both because Rule 1.13 categorically prohibits joint representation of an entity and its officer in any matter under any circumstances

D. The lawyer may represent both clients only if the corporation's general counsel approves the arrangement orally before any work begins on the matter at hand

12. A lawyer is preparing to retire and wishes to sell her law practice. She has approached another lawyer to purchase the entire practice, including transferring her client matters to the buyer. The lawyer wants to ensure the transaction complies with the applicable professional conduct rules in her jurisdiction before proceeding.

A. Sales of law practices are categorically prohibited under the Model Rules because they treat clients as commodities to be transferred between practitioners

B. Sales of law practices are permitted without any client notification provided the buyer is a duly licensed lawyer in the jurisdiction where the practice is located

C. Under Rule 1.17, sales of law practices are permitted subject to conditions including notice to clients, the buyer's undertaking to honor existing arrangements, and the seller's discontinuance of the practice area

D. Sales of law practices are permitted only if the trial court formally approves the transfer of each individual client matter from seller to buyer in the relevant court

13. A lawyer's firm meets with a prospective client about a potential matter. The lawyer who took the consultation receives information that could be significantly harmful to the prospective client. The firm later receives a request to represent the opposing party in the same matter. The firm wishes to take the new client representation.

A. Under Rule 1.18(d), the firm may proceed if the consulted lawyer is timely screened from any participation in the matter, apportioned no part of the fee, and written notice is promptly given to the prospective client

B. The firm may proceed without restriction because no formal attorney-client relationship was ever established with the prospective client during the initial consultation period

C. The firm must decline the representation under Rule 1.18 because once the firm has received significantly harmful information from a prospective client, the firm is permanently disqualified

D. The firm may proceed provided that the consulted lawyer provides her notes from the prospective client consultation to the new representation team for transparency purposes

14. A lawyer represents a client in a major business negotiation. The client's preferred course of action is legally permissible but, in the lawyer's view, ethically questionable and likely to damage important non-legal relationships in the long run. The lawyer wants to provide advice on these non-legal considerations to the client.

- A. The lawyer must confine her advice strictly to legal matters because providing non-legal advice violates Rule 1.1's competence requirement on legal practice rules
- B. The lawyer must not mention any non-legal considerations because doing so would violate the client's autonomy in business decisions outside of legal practice issues
- C. Under Rule 2.1, in rendering advice, a 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
- D. The lawyer may discuss non-legal considerations only if the client first expressly requests such advice in writing before the conversation occurs in any meeting

15. A lawyer represents a client in a contested hearing. During the hearing, the lawyer realizes that a non-client witness who was called by opposing counsel has provided false testimony that the lawyer reasonably believes is material to the proceeding. The lawyer is uncertain whether to act on this knowledge.

- A. The lawyer has no duty to take any action because the false testimony came from opposing counsel's witness, not from the lawyer's own client during the hearing
- B. The lawyer must inform the witness directly that her testimony was false and demand correction during the hearing in front of the court
- C. The lawyer's duty under Rule 3.3 is limited to the conduct of the lawyer's own client and does not extend to other persons appearing before the tribunal in any way
- D. Under Rule 3.3(b), the lawyer must take reasonable remedial measures, including disclosure to the tribunal if necessary, when she knows that a person has engaged in criminal or fraudulent conduct related to the proceeding

16. A lawyer is participating in a deposition. The trial court has issued a standing order requiring all attorneys to limit speaking objections and to refrain from any conduct that might intimidate witnesses. The lawyer repeatedly makes lengthy speaking objections coaching the deponent on how to answer the questions during testimony.

- A. The lawyer's conduct is permissible because vigorous objection-making is protected by the rules of civil procedure and the rules of professional conduct generally throughout litigation
- B. The lawyer's conduct violates Rule 3.4(c), which 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

C. The lawyer's conduct is permissible because trial court standing orders are not "rules of a tribunal" within the meaning of Rule 3.4(c) in any meaningful sense

D. The lawyer's conduct is permissible provided that opposing counsel did not formally object during the deposition to the speaking objections being made during questioning

17. A lawyer represents a defendant in civil litigation. The lawyer routinely responds to opposing party's discovery requests by asserting boilerplate objections to every interrogatory, refusing to produce documents until repeatedly compelled, and providing only the bare minimum required by court order. The lawyer's stated goal is to make discovery maximally burdensome for opposing counsel.

A. The lawyer's conduct may violate Rule 3.4(d), which prohibits a lawyer from making a frivolous discovery request or failing to make reasonably diligent efforts to comply with a legally proper discovery request by an opposing party

B. The lawyer's conduct is permissible because zealous advocacy includes making opposing parties work hard to obtain discovery materials in litigation as a tactical matter

C. The lawyer's conduct is permissible because Rule 3.4 addresses only conduct at trial and not pretrial discovery practice in civil cases generally

D. The lawyer's conduct is permissible because boilerplate objections are universally accepted in civil discovery practice and are not subject to professional discipline at all

18. A lawyer represents the defendant in a civil action. During pretrial preparation, a non-employee witness with information helpful to the plaintiff approaches the lawyer's client to ask whether she should cooperate with plaintiff's counsel. The lawyer instructs her client to tell the witness to refuse all contact with plaintiff's counsel going forward.

A. The lawyer's conduct is permissible because witnesses may be advised to refrain from voluntary cooperation with opposing counsel in civil litigation matters generally

B. The lawyer's conduct is permissible provided that the witness has not been formally subpoenaed by either party in the litigation at the time of the request

C. The lawyer's conduct is permissible if the lawyer reasonably believes that the witness's cooperation would harm the defendant's litigation position substantially

D. The lawyer's conduct violates Rule 3.4(f), which generally prohibits requesting a person other than a client to refrain from voluntarily giving relevant information to another party, with limited exceptions for clients, employees, and relatives

19. A lawyer is likely to be called as a necessary witness at trial in a matter being handled by her law firm. The lawyer's anticipated testimony does not fall within any of the Rule 3.7(a) exceptions to the advocate-witness rule. Another lawyer at the firm wishes to serve as advocate at the trial in place of the disqualified lawyer.

A. Under Rule 3.7, no lawyer at the firm may represent the client because one lawyer's disqualification under Rule 3.7(a) is per se imputed to all firm lawyers without any exception

B. Under Rule 3.7(b), another lawyer at the firm may act as advocate in the trial unless precluded from doing so by Rule 1.7 (concurrent conflict) or Rule 1.9 (former client conflict)

C. Another lawyer at the firm may serve as advocate only if the trial court formally consents to the substitution before the lawyer-witness's testimony is given at trial

D. Another lawyer at the firm may serve as advocate only if the lawyer-witness is screened from any participation in trial preparation by other firm lawyers in the case

20. A prosecutor is preparing a criminal case against a defendant charged with armed robbery. During preparation, the prosecutor discovers a witness statement that contradicts the prosecution's theory and supports the defendant's alibi defense. The prosecutor believes the defendant is guilty notwithstanding the witness statement and does not disclose it to the defense.

A. The prosecutor's conduct is permissible because prosecutors have broad discretion to evaluate the credibility of contradictory evidence in preparing criminal cases for trial proceedings

B. The prosecutor's conduct is permissible because the witness statement is hearsay and would not be admissible at the criminal trial of the defendant in any event

C. The prosecutor's conduct violates Rule 3.8(d), which 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

D. The prosecutor's conduct is permissible because the lawyer reasonably believes the defendant is guilty notwithstanding the existence of the contradictory witness statement in the file

21. A prosecutor receives a referral from an investigator suggesting that a person should be charged with a serious felony. The prosecutor knows that the available evidence does not establish probable cause for the charge. The prosecutor nonetheless files the charge to pressure the suspect into providing testimony in another case.

- A. The prosecutor's conduct violates Rule 3.8(a), which prohibits a prosecutor from prosecuting a charge that the prosecutor knows is not supported by probable cause
- B. The prosecutor's conduct is permissible because probable cause is a judicial determination made at preliminary hearing rather than a prosecutorial standard before filing a charge
- C. The prosecutor's conduct is permissible because filing charges to encourage cooperation in other investigations is a recognized prosecutorial tool in the criminal justice system
- D. The prosecutor's conduct is permissible provided that the trial court ultimately dismisses the charge after the requested cooperation is obtained from the suspect in the other case

22. A lawyer represents a client testifying before a state legislative committee on proposed environmental legislation. The lawyer prepares the client's testimony and accompanies the client to the hearing. The lawyer does not formally identify her role to the committee as the client's legal representative for the hearing in any way.

- A. The lawyer's conduct is permissible because Rule 3.9 applies only to representations before adjudicative tribunals such as courts and not to legislative bodies of any kind
- B. The lawyer's conduct is permissible because legislative committee proceedings are political and not subject to the standard rules of professional conduct for lawyers in practice
- C. The lawyer's conduct is permissible provided that the client's testimony itself accurately reflects the client's views and does not contain knowingly false statements to the committee
- D. Under Rule 3.9, a lawyer representing a client before a legislative body or administrative agency in a non-adjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to relevant provisions including Rule 3.3

23. A senior partner at a law firm receives a complaint that a junior associate she supervises has been backdating client documents to make filings appear timely. The partner reviews the situation and finds the complaint accurate. The partner instructs the associate to continue the practice "as long as no one finds out about it" rather than to stop.

- A. The senior partner is subject to discipline only for failure to adequately supervise the associate, not for the backdating itself, under the rules of professional conduct
- B. Under Rule 5.1(c), the senior partner is responsible for the associate's violation because the partner ordered or, with knowledge of the specific conduct, ratified the conduct involved

C. The senior partner is not subject to discipline because the associate is independently responsible for her own work product under Rule 5.2(a) as a subordinate lawyer

D. The senior partner is subject to discipline only if the backdated filings are formally challenged by opposing counsel in any of the affected matters before the court

24. A lawyer operates a separate "estate planning consultancy" alongside her law practice. The consultancy provides services that are related to but not the practice of law, such as document organization and beneficiary coordination. Clients sometimes use both her legal services and the consultancy services without clearly understanding which protections apply to which.

A. The consultancy is fully outside the rules of professional conduct because law-related services are governed solely by state business regulations rather than professional conduct rules

B. The consultancy is subject to all professional conduct rules regardless of how the lawyer structures the consultancy services or discloses their nature to clients of the firm

C. Under Rule 5.7, the rules of professional conduct apply to law-related services if the services are not distinct from the lawyer's provision of legal services or if the lawyer fails to take reasonable measures to ensure the client knows the services are not legal services

D. The consultancy is subject to the rules of professional conduct only if the lawyer's legal practice and the consultancy share office space at any time during the calendar year

25. A lawyer serves as a board member of a nonprofit legal services organization that provides free legal services to indigent clients. The organization is currently providing services to a client whose interests may be adverse to a client of the lawyer's own firm. The lawyer is not personally handling the organization's matter directly.

A. The lawyer must immediately resign from the board because membership in any legal services organization providing services to clients with adverse interests is per se prohibited

B. The lawyer must withdraw her own firm from representing its client because the lawyer's board service creates an automatic conflict for the firm under the rules of professional conduct

C. The lawyer's board service is permissible without any further analysis because board service in a charitable legal services organization is constitutionally protected expression

D. Under Rule 6.3, the lawyer's service is generally permitted unless participating in a decision or action of the organization would be incompatible with the lawyer's obligations to a client under Rule 1.7

26. A lawyer participates in a law reform organization that advocates for changes in the laws governing employment discrimination. The proposed changes would, if enacted, benefit the lawyer's own clients in their pending claims. The lawyer participates in drafting the reform legislation and lobbying for its passage.

A. The lawyer must disclose her clients' identities to the law reform organization to avoid an appearance of impropriety in the reform activities being undertaken

B. The lawyer's participation in the reform organization is per se prohibited because the proposed changes would benefit her clients in pending matters before tribunals

C. Under Rule 6.4, a lawyer may serve in a law reform organization despite the fact that reform may affect a client's interests, although the lawyer must disclose to the organization (without identifying the client) when reform may materially benefit a client

D. The lawyer's participation requires the prior written consent of each of her affected clients before any work on the reform legislation begins to ensure full transparency

27. A lawyer volunteers at a court-annexed clinic that provides short-term limited legal advice to pro se litigants. During a brief consultation, the lawyer provides advice to a litigant without any conflict-checking. Several days later, the lawyer realizes that her firm currently represents the opposing party in the same case.

A. Under Rule 6.5, the conflict-of-interest rules apply to a lawyer providing short-term limited legal services under a court-annexed program only if the lawyer knows the representation involves a conflict, and the conflict is generally not imputed to the lawyer's firm

B. The lawyer must immediately disclose the conflict to her firm and to the opposing party because Rule 6.5 does not modify the standard conflict-of-interest rules in any limited-services setting

C. The lawyer's volunteer work creates an automatic firm-wide disqualification under Rule 1.10 because limited legal services consultations are formal client engagements under the rules

D. The lawyer must withdraw from her firm immediately to allow the firm to continue representing the opposing party in the affected matter without further restriction

28. A lawyer makes substantial political contributions to a candidate running for state Attorney General. The lawyer's purpose in making the contributions is to secure future appointment as outside counsel to handle state legal matters if the candidate wins the election. The candidate is unaware of the lawyer's specific intent.

A. The contributions are constitutionally protected political speech and the lawyer's intent does not affect the analysis under the rules of professional conduct as a matter of law

B. Under Rule 7.6, a lawyer or law firm shall not accept a government legal engagement or appointment by a judge if the lawyer or firm makes a political contribution for the purpose of obtaining or being considered for that engagement or appointment

C. The contributions are permissible provided that the lawyer formally discloses her intent in the candidate's campaign finance reports under state election law disclosure requirements

D. The contributions are permissible provided that the lawyer ultimately wins the appointment based on merit-based qualifications and the candidate's selection process for outside counsel

29. A lawyer who has lost several cases before a particular trial judge gives a media interview accusing the judge of "obvious corruption and bias" and stating that the judge "almost certainly takes bribes from defendants in white-collar cases." The lawyer has no factual basis for either of the statements made publicly.

A. The lawyer's statements are protected by the First Amendment and cannot form the basis for professional discipline under any circumstances applicable to the lawyer's commentary

B. The lawyer's statements are protected by litigation privilege if the cases the lawyer lost are still pending on appeal in any forum at the time of the comments

C. Under Rule 8.2(a), a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other adjudicative officer

D. The lawyer's statements are permissible if they are made in good faith based on the lawyer's subjective belief about the judge's conduct in past cases before the court

30. A lawyer engages in a sustained pattern of personally insulting and demeaning opposing counsel in court filings, including unfounded accusations of dishonesty and lack of competence. The lawyer's conduct disrupts proceedings and undermines the orderly administration of cases assigned to that court over many months.

A. The lawyer's conduct violates Rule 8.4(d), which makes it professional misconduct to engage in conduct that is prejudicial to the administration of justice

B. The lawyer's conduct is permissible because vigorous advocacy may include forceful characterizations of opposing counsel within court filings and submissions in litigation

C. The lawyer's conduct is permissible because the trial court has not formally sanctioned the lawyer for any of the filings or statements in question to date

D. The lawyer's conduct is permissible because Rule 8.4 addresses only conduct involving moral turpitude rather than aggressive litigation tactics in pleadings between counsel

31. A lawyer represents a client in a high-stakes regulatory matter before a state agency. To impress the client, the lawyer tells him, "Don't worry about this. I know the head of the agency personally, and I can ensure she'll see things our way regardless of the actual merits of our case." The lawyer has only a casual professional acquaintance.

A. The lawyer's statement is permissible because client communication and confidence-building are essential aspects of effective representation under the rules of professional conduct

B. The lawyer's statement is permissible because the agency head has not actually given the lawyer any favorable treatment in any matter handled by the lawyer's firm

C. The lawyer's statement is permissible because the lawyer's connection to the agency head is genuine professional acquaintance rather than a manufactured fiction or fabrication

D. Under Rule 8.4(e), a lawyer commits professional misconduct by stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules or other law

32. A state trial judge regularly arrives late to court hearings without explanation, frequently appears unprepared on the substantive matters before her, and is dismissive of attorneys appearing in her courtroom. Several lawyers have observed this pattern over many months of practice in her court.

A. The judge's conduct is a matter of personal style and is not subject to professional conduct rules under the Code of Judicial Conduct in any jurisdiction with adopted rules

B. The judge's conduct may violate Rule 1.2 of the Code of Judicial Conduct, which requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary

C. The judge's conduct is subject to discipline only if a specific litigant can demonstrate that the conduct affected the outcome of a particular case in a way that was prejudicial

D. The judge's conduct is subject to discipline only if the chief judge of the district formally counsels the judge before any formal proceeding is initiated against her in the matter

33. A trial judge uses official court letterhead to write personal letters of recommendation for friends and family members who are seeking various non-judicial employment or admission to professional schools. The letters identify the judge by her judicial title and reference her judicial position throughout.

- A. Under Rule 1.3 of the Code of Judicial Conduct, a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others
- B. The judge's letters are permissible because writing personal recommendations is a normal social practice not addressed by the rules of judicial conduct in any state
- C. The judge's letters are permissible provided that the judge does not request any special treatment for the recommended individuals in the recommendations she writes
- D. The judge's letters are permissible provided that the recommended individuals are family members of the judge rather than friends or acquaintances of the judge

34. A state trial judge is presiding over a complex commercial case. A senior state legislator who supported the judge's appointment calls the judge during the pendency of the case to express the legislator's "strong personal interest" in seeing one party prevail. The judge listens to the call and proceeds to issue rulings favorable to that party.

- A. The judge's conduct is permissible because the senior legislator did not directly threaten any adverse consequences to the judge for unfavorable rulings in the case
- B. The judge's conduct is permissible because the rulings the judge issued were legally supportable independent of any communications about the case from outside the courtroom
- C. Under Rule 2.4 of the Code of Judicial Conduct, a judge shall not be swayed by partisan interests, public clamor, or fear of criticism, and shall not permit external interests or relationships to influence the judge's judicial conduct or judgment
- D. The judge's conduct is permissible provided that she discloses the legislator's call on the record at the next status conference held in the case before her court

35. A trial judge is presiding over a contested motion. The judge becomes impatient with one party's lengthy oral arguments and abruptly cuts off the argument after only a few minutes, declines to allow follow-up questions, and announces a ruling without permitting any further submission from that party.

- A. The judge's conduct is permissible because trial judges have broad discretion to manage their dockets efficiently and limit argument time on contested motions before the court

B. The judge's conduct is permissible because the rules of judicial conduct address only out-of-court conduct rather than courtroom proceedings management by sitting judges

C. The judge's conduct is permissible if the party's argument was repetitive or otherwise duplicative of points already adequately considered by the court in the matter

D. Under Rule 2.6 of the Code of Judicial Conduct, a judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law

36. A trial judge presiding over a contentious civil trial repeatedly makes sarcastic and demeaning comments to the litigants, the lawyers, and certain witnesses. The judge's comments are intended to express the judge's displeasure with how the parties are conducting the proceedings before her at trial.

A. The judge's comments are permissible because trial judges may use sarcasm and humor to manage difficult proceedings effectively in their courtrooms during contentious matters

B. Under Rule 2.8 of the Code of Judicial Conduct, a judge shall require order and decorum in proceedings before the court and shall be patient, dignified, and courteous to litigants, jurors, witnesses, and lawyers

C. The judge's comments are permissible if they are confined to behavior that the judge observes during the trial and does not address matters outside the courtroom in any way

D. The judge's comments are permissible provided that any specific complaint about the judge's comments is documented in writing by the affected litigant or counsel before any action

37. A state trial judge is considering a complex motion for summary judgment in a civil case. The judge wants additional context on the legal issues involved. The judge sends an email to a law school professor at her former law school asking for the professor's informal views on the relevant legal questions presented by the motion.

A. The judge's communication is permissible because the law school professor is not a party to the case and is therefore not affected by the judge's outreach in any way

B. Under Rule 2.9 of the Code of Judicial Conduct, a judge may consult with a disinterested expert on the law applicable to a proceeding only after giving notice to the parties and affording the parties an opportunity to respond

C. The judge's communication is permissible because law professors are presumed neutral and are not subject to the same ex parte concerns as practicing lawyers in litigation contexts

D. The judge's communication is permissible provided that the judge does not ultimately cite the professor's communication in any written opinion she issues in the underlying case

38. A trial judge is presiding over a high-profile criminal case that has generated significant media attention. The judge gives a press interview during the pendency of the case in which she discusses her preliminary views on the strength of the prosecution's evidence and the credibility of certain anticipated witnesses.

A. The judge's statements are permissible because public discussion of pending cases by the presiding judge promotes transparency in the judicial process for the general public

B. The judge's statements are permissible because the judge made clear that her views were preliminary and not final rulings on any matter before her in the case

C. The judge's statements are permissible if the trial has not yet formally begun and a jury has not yet been impaneled to hear the evidence presented at trial in the matter

D. Under Rule 2.10 of the Code of Judicial Conduct, a judge shall not make 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

39. A state trial judge has authority to appoint guardians ad litem, receivers, and other court-appointed officials. The judge consistently appoints her law school classmates and her former law firm colleagues to these lucrative positions, even when other qualified candidates have applied for consideration in the appointment process.

A. Under Rule 2.13 of the Code of Judicial Conduct, a judge shall not make unnecessary appointments and shall exercise the power of appointment impartially and on the basis of merit, avoiding nepotism and favoritism

B. The judge's appointments are permissible because judges have plenary discretion in their selection of court-appointed officials in any jurisdiction adopting the Model Code

C. The judge's appointments are permissible provided that each individual appointee meets the minimum statutory qualifications for the appointed position being filled by the judge

D. The judge's appointments are subject to discipline only if a specific non-selected applicant files a formal complaint with the state's judicial conduct commission directly

40. A trial judge is under investigation by the state's judicial conduct commission for alleged misconduct. The investigation involves interviews with various court employees. The judge instructs her judicial law clerks to refuse to cooperate with the commission's investigators and to provide misleading answers if pressed for specifics about her conduct.

- A. The judge's instructions are permissible because judicial law clerks are personal employees of the judge and owe their loyalty to her in any disciplinary proceeding involving her conduct
- B. The judge's instructions are permissible because the judicial law clerks have no formal duty to cooperate with state judicial conduct commission investigations in any way
- C. Under Rule 2.16 of the Code of Judicial Conduct, a judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies, and shall not retaliate against a person known or suspected to have cooperated with an investigation
- D. The judge's instructions are permissible provided that the underlying allegations being investigated are not formally proven by the commission's investigators in due course of the proceeding

41. A trial judge is running for retention election. During the campaign, the judge personally solicits campaign contributions from lawyers who regularly appear before her in court. The judge does not require contributions, but she makes the requests personally and follows up with lawyers who have not yet contributed.

- A. The judge's solicitation is permissible because elected judges have full First Amendment rights to engage in fundraising for their own campaigns from any willing source they choose
- B. Under Rule 4.2 of the Code of Judicial Conduct, certain judicial campaign activities, including direct personal solicitation of campaign contributions, are restricted to safeguard the impartiality and integrity of judicial elections
- C. The judge's solicitation is permissible provided that any lawyer she solicits is given a written acknowledgment that the contribution will not affect any pending matters before her court
- D. The judge's solicitation is permissible if the contribution amounts she requests are below the maximum statutory limit established by the state's election code for political campaigns

42. A judicial candidate is running for election to a state appellate court. The candidate wishes to raise campaign funds. The candidate's spouse offers to serve as the campaign treasurer and to personally solicit contributions on the candidate's behalf from members of the candidate's professional network.

- A. Under Rule 4.4 of the Code of Judicial Conduct, a judicial candidate subject to public election may establish a campaign committee to manage campaign activities including fundraising, with personal solicitation by the candidate herself ordinarily restricted
- B. The candidate may personally solicit contributions through her spouse because spousal involvement is constitutionally protected family expression under the First Amendment generally

C. The candidate must decline any campaign committee structure because campaign committees are categorically prohibited in judicial elections under the Model Code of Judicial Conduct

D. The candidate's spouse may serve as campaign treasurer only if she is not herself a lawyer or otherwise subject to professional discipline by the state bar association

43. A lawyer is preparing her client to testify at trial. The lawyer goes over likely cross-examination questions with the client. The lawyer also explicitly tells the client to "claim memory loss" on any difficult question and to use the phrase "I don't recall" whenever the truthful answer would damage the client's case at trial.

A. The lawyer's preparation is permissible because witness preparation by counsel is a standard practice in trial preparation and is recognized under the rules of professional conduct

B. The lawyer's preparation is permissible because instructing the client to use specific phrases is within the lawyer's tactical discretion in trial strategy under the rules

C. The lawyer's preparation is permissible provided that the client is otherwise told the importance of truthful testimony in the underlying proceeding by the lawyer at preparation

D. The lawyer's preparation violates Rule 3.4(b), which prohibits counseling or assisting a witness to testify falsely, including instructing a witness to feign memory loss to avoid damaging truthful testimony

44. A lawyer makes a public statement following a client's grand jury indictment. The lawyer's statement asserts that the prosecution has "no real evidence" and that "the prosecutor is just throwing accusations at the wall to see what sticks." The trial is set for nine months later in the same court.

A. The lawyer's statements are permissible because they fall within the right of defense counsel to defend clients publicly through dramatic rhetorical framing of the prosecution's case

B. The lawyer's statements are permissible because pretrial publicity months in advance of trial cannot meaningfully prejudice the eventual proceedings before the jury at trial

C. The lawyer's statements may violate Rule 3.6, which prohibits extrajudicial statements that the lawyer knows or reasonably should know will have a substantial likelihood of materially prejudicing an adjudicative proceeding

D. The lawyer's statements are permissible provided the prosecutor declines to publicly respond to the lawyer's characterizations of the case at any point before the trial

45. A lawyer receives an email from opposing counsel that was clearly intended for opposing counsel's own client. The email contains the client's candid assessment of the case's weaknesses. The lawyer recognizes immediately that the email was sent in error and was not intended to reach her firm in any way.

A. Under Rule 4.4(b), a lawyer who receives a document or electronically stored information relating to the representation and knows or reasonably should know it was inadvertently sent shall promptly notify the sender

B. The lawyer may freely use the email's contents because opposing counsel waived any privilege by sending the email to the wrong recipient through her own mistake in transmission

C. The lawyer must immediately forward the email to the trial court for in camera review before any further action is taken between the parties to the litigation in the matter

D. The lawyer must destroy the email and notify her own client that no review of the inadvertent disclosure took place in connection with the matter being handled

46. A lawyer at a small two-person firm conducts no formal conflict checking before accepting new matters. She relies on her memory of the firm's clients to identify potential conflicts. After several months, she accepts a matter that is directly adverse to an existing firm client she had simply forgotten about in her memory.

A. The lawyer is not subject to discipline because Rule 1.7 imposes no specific requirement on the procedures by which lawyers identify potential conflicts of interest among clients

B. The lawyer's failure to maintain a formal conflict-checking system may violate Rule 5.1(a) and Rule 1.7's requirements, because identifying conflicts is a foundational firm-management obligation

C. The lawyer is subject to discipline only if the affected current client files a formal complaint with the state's lawyer disciplinary authority directly regarding the new representation

D. The lawyer is subject to discipline only if the firm has more than five lawyers because conflict-checking requirements apply only to larger firms under the rules of professional conduct

47. A lawyer accepts a \$5,000 advance fee from a client to handle a contract dispute. The agreement provides that the lawyer will bill against the advance as she performs work. The lawyer deposits the entire advance fee directly into her firm operating account on the day of receipt, rather than into her client trust account.

- A. The lawyer's deposit into the operating account is permissible because advance fees become the lawyer's property at the time of receipt under standard fee agreement principles
- B. The lawyer's deposit is permissible provided that her bookkeeping shows the source and intended application of the advance fee within her firm operating records in detail
- C. The lawyer's deposit may violate Rule 1.15, which generally requires that funds paid in advance for fees and expenses be deposited into a client trust account until earned by the lawyer
- D. The lawyer's deposit is permissible if the client signs an oral acknowledgment that the entire advance fee may be treated as immediately earned at the time of receipt by the lawyer

48. A lawyer represents several different plaintiffs in separate but legally similar lawsuits against the same defendant. The plaintiffs have similar but not identical claims. The lawyer represents each plaintiff individually rather than as a class. The plaintiffs' interests potentially diverge over how any recovered settlement funds would be allocated among them.

- A. The multiple representations are categorically prohibited under Rule 1.7 because the same defendant is being sued in each separate matter brought by the various plaintiffs
- B. The multiple representations are permissible without any further analysis because the plaintiffs have separately retained the lawyer in their individual capacities for their cases
- C. The multiple representations are permissible only if all plaintiffs sign oral consents to the lawyer's representation of the other plaintiffs in the related similar matters
- D. The multiple representations are permissible only if the lawyer satisfies Rule 1.7's requirements as to each affected plaintiff, including assessment of material-limitation risk and informed consent confirmed in writing if necessary

49. A lawyer represents one of three defendants in a civil action. The lawyer wishes to enter a joint defense agreement with the lawyers for the other two defendants to share common-interest privileged information for purposes of coordinating their joint defense. The defendants have generally similar but not identical interests in the litigation.

- A. Joint defense agreements are categorically prohibited because they create a conflict of interest between separately represented defendants in any litigation matter under the rules
- B. Joint defense agreements are permissible only if all three defendants sign individual oral consent to the information sharing among defense counsel during the joint agreement

C. Joint defense agreements are generally permissible under common-interest doctrine and Rule 1.6's confidentiality framework, provided the lawyer informs her own client of the agreement and obtains the client's informed consent

D. Joint defense agreements are permissible only if the trial court formally approves the agreement before any privileged information is shared among defense counsel in the case

50. A lawyer represents a client in a real estate transaction. During the representation, the client tells the lawyer that the closing fees seem excessive and that the lawyer's bill is "completely unreasonable." A dispute over the lawyer's fee arises while the closing is pending and the lawyer's services are still needed.

A. Under Rule 1.7 and its comments, a fee dispute between a client and lawyer mid-representation may create a personal-interest conflict that the lawyer must address through disclosure and, if appropriate, withdrawal under Rule 1.16

B. The lawyer must immediately withdraw under Rule 1.16(a) because any fee dispute creates a per se non-consentable conflict between lawyer and client in any matter under the rules

C. The lawyer may unilaterally terminate the representation regardless of the closing deadline because the client's complaint about fees waives her right to continued representation by the lawyer

D. The lawyer must continue the representation without further analysis because Rule 1.5 fee disputes are resolved separately from the question of ongoing representation in any matter

51. A lawyer's brother is a litigation partner at a different law firm. The lawyer's firm is asked to represent a plaintiff in a contract dispute in which the lawyer's brother's firm represents the defendant. The two siblings would be directly adverse in the litigation but at completely separate firms practicing independently.

A. The lawyer must withdraw because Rule 1.10 imputes the sibling-conflict to all lawyers at both firms involved in the litigation between the adverse parties to the matter

B. Under Rule 1.7 and Comment [11], the sibling relationship may create a personal-interest conflict for the lawyer that requires informed consent of her client, though it is generally not imputed to other firm lawyers

C. The lawyer may proceed without any disclosure to her client because the brother's representation of the opposing party is at a separate law firm with no connection to her own

D. The lawyer must seek the brother's law firm's consent before proceeding with the representation of the adverse client in the matter against his firm's client

52. A lawyer originally quoted a client an hourly rate of \$300 in their initial written engagement agreement. After six months of representation, the lawyer increases her hourly rate to \$400 without informing the client and bills the next month's work at the new higher rate. The client receives the bill and is surprised by the higher amount on her statement.

- A. The lawyer's rate increase is permissible because lawyers have the right to adjust their hourly rates at any time during a representation without restriction in any practice area
- B. The lawyer's rate increase is permissible provided that the new rate remains reasonable under Rule 1.5(a) factors compared to local market rates in the lawyer's practice area
- C. The lawyer's rate increase is permissible if the client has not objected within thirty days of receiving the first bill containing the higher hourly rate amount in the statement
- D. The lawyer's rate increase without notice may violate Rule 1.5(b), which requires the basis of the fee to be communicated to the client, and any changes in the rate of the fee should be promptly communicated to the client

53. A lawyer is considering moving from her current firm to a new firm. To enable the new firm to assess potential conflicts, the lawyer's current firm permits her to share limited information about her existing clients with the new firm. The shared information is limited to client identities, matter descriptions, and general scope of work being performed.

- A. The disclosure is prohibited under Rule 1.6 because it reveals client information without the affected clients' express prior consent to the disclosure of the matter information
- B. The disclosure is permitted because lateral movement between law firms is exempt from Rule 1.6's confidentiality requirements as a categorical matter in all jurisdictions
- C. Under Rule 1.6(b)(7), a lawyer may reveal information relating to the representation to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in firm composition or ownership, with limitations on scope
- D. The disclosure is permitted only if the lawyer first obtains the trial court's approval in any matter where the lawyer has filed an appearance with the court in litigation

54. A lawyer is approached by a marketing company that wants to set up an arrangement where the company would refer clients to the lawyer in exchange for the lawyer paying the company a flat referral fee per case successfully retained. The lawyer is not affiliated with the marketing company through any other business relationship.

- A. The arrangement violates Rule 7.2(b), which generally prohibits a lawyer from giving anything of value to a person for recommending the lawyer's services, with limited exceptions for reasonable advertising costs and nonprofit referral services
- B. The arrangement is permissible because lawyers may pay reasonable fees for marketing services regardless of whether the services involve direct client referrals to the lawyer
- C. The arrangement is permissible provided that the marketing company's referrals do not exceed a stated maximum number of cases per calendar quarter under the agreement
- D. The arrangement is permissible if the lawyer separately discloses the referral arrangement to each referred client at the outset of representation in the matter being handled

55. A trial judge has a financial interest in a party to a case assigned to her courtroom that would ordinarily require disqualification under Rule 2.11. The judge wishes to disclose the interest to the parties and ask whether the parties might agree to her continued presiding over the matter despite the disqualifying interest in one party.

- A. The judge may not disclose the interest to the parties because doing so would create the appearance that the parties are being asked to waive their right to recusal of the disqualified judge
- B. The judge may continue presiding without disclosure provided that she remains impartial despite the financial interest in one of the parties to the litigation before her court
- C. The judge must immediately withdraw without any consultation with the parties because financial interests in a party are categorically non-waivable under the rules of judicial conduct
- D. Under Rule 2.11(C) of the Model Code of Judicial Conduct, a judge subject to disqualification may, in certain circumstances, disclose on the record the basis of disqualification and ask the parties to consider, outside the judge's presence, whether to waive disqualification through remittal

56. A lawyer learns that another lawyer at her firm has been chronically misusing prescription medications, missing court dates, and providing increasingly poor representation to multiple clients as a result. The colleague's conduct raises a substantial question about her fitness to practice law. The colleague has not sought treatment.

- A. The lawyer has no duty to report because Rule 8.3 reporting obligations apply only to violations of specific rules of professional conduct rather than to fitness issues
- B. Under Rule 8.3(a), a lawyer who knows that another lawyer has committed a violation of the Rules that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness shall inform the appropriate professional authority

C. The lawyer's duty is limited to reporting the colleague to firm management and does not extend to reporting to outside disciplinary authorities in such situations of impairment

D. The lawyer must wait until specific client harm has been formally documented before any reporting obligation arises under the Rules in connection with the colleague's conduct

57. A lawyer is named in a state bar disciplinary complaint filed by a former client alleging negligent representation. The lawyer needs to disclose information from the representation to defend herself in the disciplinary proceeding. The former client has not consented to disclosure of any information from the representation.

A. The lawyer may not disclose any information from the representation in the disciplinary proceeding because the duty of confidentiality survives the termination of representation entirely

B. The lawyer must obtain the former client's express written consent before disclosing any information in the disciplinary proceeding regarding the underlying representation provided

C. Under Rule 1.6(b)(5), a lawyer may reveal information relating to the representation to the extent reasonably necessary to establish a defense in a proceeding concerning the lawyer's representation of the client, including a disciplinary proceeding

D. The lawyer may disclose information only if the disciplinary authority formally subpoenas the information from the lawyer first before any voluntary disclosure occurs

58. A lawyer represents Company X in an ongoing contract negotiation. While that representation is active, an individual approaches the lawyer asking her to represent her in a wrongful termination lawsuit against Company X. The new matter is unrelated to the contract negotiation but is directly adverse to a current client.

A. The lawyer must generally decline the new representation under Rule 1.7(a)(1), which makes representation directly adverse to a current client a concurrent conflict regardless of whether the matters are related, absent informed consent confirmed in writing

B. The lawyer may accept the new representation because the wrongful termination matter is unrelated to the contract negotiation work she is performing for Company X currently

C. The lawyer may accept the new representation provided that she does not personally reveal any confidential information she has learned from Company X during her prior representation

D. The lawyer may accept the new representation provided that the individual signs an oral waiver of any concerns about the lawyer's other representations affecting her own case

59. A lawyer represents a personal injury plaintiff on a contingent fee basis. The fee agreement provides that the lawyer will advance the costs of expert witness fees, deposition transcripts, and court filing fees. The lawyer plans to deduct these advanced costs from any recovery before calculating the contingent fee, with reimbursement contingent on outcome.

A. The lawyer's arrangement is impermissible because Rule 1.8(e) categorically prohibits a lawyer from advancing any litigation costs to a client during a pending matter under the rules

B. The lawyer's arrangement is permissible because Rule 1.8(e) permits a lawyer to advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter

C. The lawyer's arrangement is permissible only if the client signs an oral acknowledgment of the advance costs at the time of receipt for each individual expense item separately

D. The lawyer's arrangement is permissible only if the total advanced costs do not exceed 10% of the eventual contingent fee recovery from the case being prosecuted by counsel

60. A lawyer who is licensed in State A is suspended for six months by State A's bar for trust account violations. The lawyer continues to practice law during the suspension period despite the suspension being publicly announced. State A's bar takes additional action against the lawyer for the continued practice during her suspension.

A. The additional action is permissible only if the lawyer's continued practice during suspension caused identifiable harm to specific clients during the period of the suspension order

B. The additional action is permissible only if the lawyer is formally found to have known of the suspension at the time of the continued practice during the suspension period

C. The additional action is unnecessary because continued practice during suspension is itself sufficient to invalidate any work performed without any further disciplinary process being required

D. The additional action is permissible because continued practice during a suspension violates Rule 5.5(a), which prohibits unauthorized practice of law, and also violates the underlying order of suspension and Rule 8.4(d)

ANSWER KEY – PRACTICE EXAM 14 (MPRE)

- 1. B** — Rule 1.5(b) requires that the scope of representation and the basis or rate of the fee and expenses be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except where the lawyer has regularly represented the client. A new-client engagement at an undisclosed hourly rate without timely written communication falls within the rule. The communication need not be elaborate but must be timely.
- 2. A** — 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. Third-party payer status does not authorize the payer to override the lawyer's duty to the represented client. Compliance with payer instructions against the client's interest violates the rule.
- 3. D** — Rule 1.6(c) requires a lawyer to make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client. The standard accounts for the sensitivity of the information and the cost of additional safeguards. Routine use of unencrypted channels and unsecured cloud storage without security review fails the reasonable-efforts test.
- 4. C** — Rule 1.6(b)(3) permits a lawyer to reveal information relating to the representation to the extent reasonably necessary to prevent, mitigate, or rectify substantial injury to the financial interests 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 has used the lawyer's services. Both the services prong and the substantial-injury prong are satisfied here. Disclosure is discretionary but expressly available.
- 5. B** — Rule 1.6(b)(6) permits a lawyer to reveal information to comply with other law or a court order. Comment [15] directs that the lawyer should first assert on the client's behalf all non-frivolous claims that the order is not authorized by other law or that the information is protected by privilege, and consult with the client where feasible. Outright refusal or unconditional production both miss the rule's structured response.
- 6. D** — Comment [21] to Rule 1.7 recognizes that a client may revoke previously given consent and terminate the lawyer's representation. Whether the lawyer may continue to represent the remaining co-client depends on the circumstances, including the reasonable expectations of the other client and whether material detriment would result from withdrawal. The framework requires fact-specific evaluation rather than mechanical application.
- 7. A** — Rule 1.8(d) prohibits a lawyer, prior to the conclusion of representation of a client, from making or negotiating an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation. The bright-line prohibition applies during the representation regardless of client consent or independent counsel review. The conflict between the lawyer's media-rights interest and the client's representation cannot be cured by consent during the engagement.

8. C — Rule 1.8(f) permits a lawyer to accept compensation from a third party only if the client gives informed consent, there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship, and information relating to the representation is protected as required by Rule 1.6. All three conditions are cumulative. Third-party payment is not categorically prohibited but is conditioned on these structural safeguards.

9. B — Rule 1.8(k) provides that while lawyers are associated in a firm, a prohibition in paragraphs (a) through (i) that applies to any one of them shall apply to all of them. The drafting prohibition in Rule 1.8(c) therefore applies to every lawyer in the firm whenever one firm lawyer has a relationship that would trigger the bar. Another firm lawyer cannot draft around the disqualification.

10. D — Rule 1.11(c) prohibits a lawyer who has information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, from representing a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. The protection is independent of whether the matter is the same as one the lawyer worked on. The firm may avoid imputation through timely screening of the disqualified lawyer.

11. A — Rule 1.13(g) provides that a lawyer representing an organization may also represent any of its constituents, subject to Rule 1.7, and that if consent is required, it must be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders. Approval by the very constituent seeking dual representation does not satisfy the rule. The protection prevents conflicted consents.

12. C — Rule 1.17 permits sale of a law practice subject to specific conditions: the seller ceases practice in the area sold within the geographic jurisdiction, the entire practice or area of practice is sold, written notice is given to clients regarding the proposed sale and their right to retain other counsel, and fees are not increased by reason of the sale. The rule replaces the older common-law prohibition. Notice, succession, and discontinuance are core procedural requirements.

13. A — Rule 1.18(d) provides that when a lawyer has received disqualifying information from a prospective client, the firm may nonetheless represent a materially adverse client in the same or substantially related matter if the disqualified lawyer is timely screened from any participation, apportioned no part of the fee, and written notice is promptly given to the prospective client. The pathway preserves firm representation while protecting the prospective client through structural separation. Screening avoids permanent firm-wide disqualification.

14. C — Rule 2.1 directs that in representing a client, a lawyer shall exercise independent professional judgment and render candid advice, and in rendering advice 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 recognizes that legal advice often intersects with broader considerations. Confining advice strictly to law would underserve the client.

15. D — Rule 3.3(b) requires a lawyer who represents a client in an adjudicative proceeding and who knows that a person, including a witness called by an opposing party, has engaged in criminal or fraudulent conduct related to the proceeding to take reasonable remedial measures, including disclosure to the

tribunal if necessary. The duty extends beyond the lawyer's own client to any person engaging in proceeding-related conduct. Silence on known false witness testimony is not an option.

16. B — 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. Trial court standing orders fall within "rules of a tribunal" for these purposes. Repeated knowing violation through coaching speaking objections falls squarely within the prohibition.

17. A — Rule 3.4(d) prohibits a lawyer from making a frivolous discovery request or failing to make reasonably diligent efforts to comply with a legally proper discovery request by an opposing party. A pattern of boilerplate objections, minimum production, and burden-imposing tactics designed to harass opposing counsel violates the duty. Tactical motivation to maximize opposing-party burden is precisely what the rule targets.

18. D — Rule 3.4(f) prohibits a lawyer from requesting a person other than a client to refrain from voluntarily giving relevant information to another party, with limited exceptions for the lawyer's relative, employee, or other agent, only when refraining will not adversely affect their interests. The non-employee witness fits no exception. Instructing the client to convey the request still implicates the rule.

19. B — 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 rule explicitly contemplates substitution of another firm lawyer where appropriate. Court consent or formal screening procedures are not the operative requirements.

20. C — Rule 3.8(d) requires a prosecutor in a criminal case 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, except when relieved of this responsibility by a protective order. The duty applies to all known potentially exculpatory information regardless of the prosecutor's assessment of credibility or admissibility. Subjective belief in the defendant's guilt does not justify withholding.

21. A — Rule 3.8(a) prohibits a prosecutor in a criminal case from prosecuting a charge that the prosecutor knows is not supported by probable cause. The rule applies to the prosecutor's charging decision, not just to the eventual judicial determination. Filing charges as leverage for cooperation elsewhere does not cure the absence of probable cause.

22. D — Rule 3.9 requires a lawyer representing a client before a legislative body or administrative agency in a non-adjudicative proceeding to disclose that the appearance is in a representative capacity and to conform to the provisions of Rules 3.3(a)–(c), 3.4(a)–(c), and 3.5. Disclosure of the representational role is a threshold duty in such proceedings. The non-judicial setting does not exempt counsel from the candor and fairness obligations.

23. B — Rule 5.1(c) provides that a lawyer is responsible for another lawyer's violation if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved, or if the lawyer is a partner or has comparable managerial authority and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action. Instructing the associate to continue clearly improper conduct ratifies it. Direct responsibility for the underlying violation attaches.

24. C — Rule 5.7 provides that the Rules of Professional Conduct apply to law-related services if those services are provided in circumstances that are not distinct from the lawyer's provision of legal services, or if the lawyer fails to take reasonable measures to assure that a person obtaining the law-related services knows that the services are not legal services and the lawyer-client protections do not apply. The lawyer's failure to clearly separate the consultancy from her practice triggers full rule application. Disclosure and distinction are the operative tests.

25. D — Rule 6.3 provides that a lawyer may serve as a director, officer, or member of a legal services organization despite the fact that the organization serves persons having interests adverse to a client of the lawyer, subject to limitations. The lawyer must not knowingly participate in a decision of the organization if doing so would be incompatible with the lawyer's obligations to a client under Rule 1.7, or where the decision could have a material adverse effect on a client of the organization. Routine board service is not automatically prohibited.

26. C — Rule 6.4 permits a lawyer to serve as a director, officer, or member of an organization involved in reform of the law or its administration despite the fact that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially benefitted by a decision of the organization, the lawyer must disclose that fact to the organization but need not identify the client. The disclosure-without-identification standard balances reform participation with client interests.

27. A — Rule 6.5 modifies the conflict-of-interest rules for a lawyer providing short-term limited legal services under the auspices of a court-annexed or nonprofit program. The full conflict-checking rules apply only when the lawyer knows that the representation involves a conflict, and the lawyer's conflict is generally not imputed to other lawyers in the firm. The rule encourages volunteer participation without firm-wide disqualification risk.

28. B — Rule 7.6 provides that a lawyer or law firm shall not accept a government legal engagement or appointment by a judge if the lawyer or firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment. The rule targets the appearance and reality of pay-to-play in government legal work. The candidate's knowledge of the contributor's intent is not required.

29. C — Rule 8.2(a) prohibits a lawyer from making a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge or other adjudicative officer. Baseless accusations of corruption and bribery against a sitting judge fall within reckless-disregard territory. The rule balances First Amendment interests against the integrity of the judiciary.

30. A — Rule 8.4(d) makes it professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. A sustained pattern of personal attacks on opposing counsel in court filings that disrupts proceedings and undermines orderly case administration meets that standard. Vigorous advocacy does not extend to baseless personal denigration of opposing counsel.

31. D — Rule 8.4(e) makes it professional misconduct for a lawyer to state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of

Professional Conduct or other law. Telling a client the lawyer can ensure favorable treatment from the agency head implies improper influence regardless of whether such influence actually exists. The misrepresentation is itself the misconduct.

32. B — Rule 1.2 of the Code of Judicial Conduct 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. Chronic lateness, unpreparedness, and dismissive treatment of counsel undermine that confidence even without a specific procedural violation. The duty extends across all aspects of judicial demeanor.

33. A — Rule 1.3 of the Code of Judicial Conduct prohibits a judge from abusing the prestige of judicial office to advance the personal or economic interests of the judge or others. Using official court letterhead to write personal recommendations leveraging the judicial title falls within that prohibition. The rule preserves the dignity of judicial office and prevents inappropriate trading of judicial prestige.

34. C — Rule 2.4 of the Code of Judicial Conduct provides that a judge shall not be swayed by partisan interests, public clamor, or fear of criticism, and shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment. The legislator's ex parte attempt to influence the proceeding implicates the rule directly. Whether the underlying rulings are independently supportable is not the operative test.

35. D — Rule 2.6 of the Code of Judicial Conduct provides that a judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law. Abrupt termination of argument and refusal to permit further submission without legitimate efficiency reasons may violate the rule. Docket-management discretion does not extend to denying parties their substantive right to be heard.

36. B — Rule 2.8 of the Code of Judicial Conduct provides that a judge shall require order and decorum in proceedings before the court and shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, and others. Sarcastic and demeaning treatment of those appearing before the court violates the rule. Judicial frustration does not authorize the conduct.

37. B — Rule 2.9 of the Code of Judicial Conduct permits a judge to consult with a disinterested expert on the law applicable to a proceeding only if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice, and affords the parties a reasonable opportunity to respond. Without these procedural safeguards, the consultation is an impermissible ex parte communication. The rule protects parties' due process interests.

38. D — Rule 2.10 of the Code of Judicial Conduct provides that a judge shall not make 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. Statements by a presiding judge about evidence strength and witness credibility in a pending case fall squarely within the rule. Caveats about the preliminary nature of the views do not cure the prohibited prejudgment.

39. A — Rule 2.13 of the Code of Judicial Conduct requires a judge to make appointments impartially and on the basis of merit, avoiding nepotism, favoritism, and unnecessary appointments. Systematic

appointment of classmates and former colleagues over qualified other candidates implicates each of those prohibited preferences. Statutory qualification of the appointees does not cure favoritism-based selection.

40. C — Rule 2.16 of the Code of Judicial Conduct requires a judge to cooperate and be candid and honest with judicial and lawyer disciplinary agencies and prohibits retaliating against a person known or suspected to have assisted or cooperated with an investigation. Instructing law clerks to refuse cooperation and to mislead investigators violates both prongs. The duty applies to judges as subjects of investigation, not only as observers.

41. B — Rule 4.2 of the Code of Judicial Conduct generally restricts certain campaign activities, including direct personal solicitation of campaign contributions by judicial candidates. The model code typically channels fundraising through a campaign committee precisely to safeguard impartiality. Personal solicitation from lawyers regularly appearing before the judge is the paradigm concern.

42. A — Rule 4.4 of the Code of Judicial Conduct permits a judicial candidate subject to public election to establish a campaign committee to manage and conduct campaign activities including fundraising, with the candidate's own personal solicitation of contributions ordinarily restricted. The committee structure protects judicial integrity by insulating the candidate from direct fundraising. Spousal management of the committee is permissible within that structure.

43. D — Rule 3.4(b) prohibits a lawyer from falsifying evidence or counseling or assisting a witness to testify falsely. Instructing a witness to claim memory loss on truthful information that would be damaging is counseling false testimony, regardless of the specific phrase used. Legitimate witness preparation refreshes recollection and addresses truthful answers; it does not coach evasion of truthful responses.

44. C — Rule 3.6(a) prohibits a lawyer who is participating or has participated in the investigation or litigation of a matter from making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Pretrial characterization of the prosecution as having "no real evidence" can implicate that standard. Timing alone does not dissolve the prejudice risk.

45. A — Rule 4.4(b) requires a lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or ESI was inadvertently sent to promptly notify the sender. The duty allows the sender to take protective measures such as seeking return or asserting privilege. Unilateral use of the inadvertently received email is not the lawyer's prerogative.

46. B — Rule 5.1(a) requires partners and lawyers with comparable managerial authority to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers conform to the Rules. Conflict-checking is among the foundational firm-management measures the rule requires. Reliance on personal memory in a multi-lawyer firm fails the reasonable-efforts standard and exposes the firm to Rule 1.7 violations.

47. C — Rule 1.15(c) provides that a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

Until earned through actual work, the funds remain the property of the client. Immediate deposit into the operating account treats unearned funds as the lawyer's property prematurely.

48. D — Rule 1.7 applies to each instance of multiple representations involving the same defendant. The lawyer must evaluate, as to each affected client, whether the multiple representations create a significant risk that representation of one client will be materially limited by the lawyer's responsibilities to another. Where allocation of any recovered settlement funds among plaintiffs creates such risk, informed consent confirmed in writing is required after disclosure.

49. C — Joint defense agreements among co-defendants with common interests are generally permissible under the common-interest doctrine, which extends the attorney-client privilege to communications among separately represented parties sharing a common legal interest. The lawyer must inform her own client of the arrangement and obtain informed consent, and Rule 1.6 confidentiality continues to govern. Court approval is not the operative requirement.

50. A — Rule 1.7(a)(2) and its comments recognize that material disputes between lawyer and client, including mid-representation fee disputes, can create a significant risk of material limitation on the representation. The lawyer must address the conflict through disclosure, possibly informed consent, or withdrawal under Rule 1.16 if continuation is impracticable. Mechanical continuation without analysis is not permitted.

51. B — Comment [11] to Rule 1.7 recognizes that close familial relationships between lawyers representing opposing parties can create a personal-interest conflict for the lawyer that requires the client's informed consent. The personal-interest aspect of the conflict is generally not imputed to other lawyers in the firm under Rule 1.10. Disclosure to and consent of the lawyer's own client are the operative requirements.

52. D — Rule 1.5(b) requires that the basis or rate of the fee and expenses be communicated to the client, and changes in the basis or rate of the fee must also be communicated to the client. Unilateral upward adjustment of the hourly rate without notice violates the communication requirement. Reasonableness under Rule 1.5(a) is a separate inquiry that does not cure the notice failure.

53. C — Rule 1.6(b)(7) permits a lawyer to reveal information relating to the representation to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client. The exception facilitates lateral mobility while limiting disclosure to what is necessary for conflict resolution. Limited identifying information meets the standard.

54. A — Rule 7.2(b) generally prohibits a lawyer from giving anything of value to a person for recommending the lawyer's services, except for reasonable advertising costs, qualifying referral services, certain nominal gifts of appreciation, and other narrow exceptions. Flat per-case payments to a marketing company for client referrals fit none of those exceptions. The rule protects against improper financial inducements channeling legal representation.

55. D — Rule 2.11(C) of the Model Code of Judicial Conduct permits a judge subject to disqualification under the rule, except where disqualification is required by personal bias or prejudice, to disclose on the record the basis of the disqualification and ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. The remittal procedure provides a structured pathway for the parties to agree to the judge's continued participation in specific circumstances. The waiver is fact-specific and procedurally limited.

56. B — Rule 8.3(a) requires a lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects to inform the appropriate professional authority. Chronic substance impairment causing demonstrable representation failures across multiple clients raises a substantial question of fitness. Internal firm management does not substitute for the disciplinary reporting obligation.

57. 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, including a disciplinary proceeding concerning the lawyer's representation of the client. A disciplinary complaint by a former client triggers the self-defense exception. Subpoena is not a prerequisite to the disclosure.

58. A — Rule 1.7(a)(1) provides that a lawyer shall not represent a client if the representation involves a concurrent conflict of interest, which exists if the representation of one client will be directly adverse to another current client. Direct adversity to a current client triggers the conflict regardless of whether the new matter is related to the existing representation. Informed consent confirmed in writing is required for the lawyer to proceed.

59. B — Rule 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation, except that a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter. Expert witness fees, deposition transcript fees, and court filing fees fall within the permitted category of advanced litigation costs. The structure of contingent reimbursement is expressly authorized.

60. D — 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, and Rule 8.4(d) makes it professional misconduct to engage in conduct that is prejudicial to the administration of justice. Continued practice during a publicly announced suspension violates both the underlying suspension order and the unauthorized practice rule. The additional disciplinary action is separately supportable on multiple grounds.