PRACTICE EXAM 16: MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer licensed in State A is hired to represent a State A client in a federal trademark dispute that will proceed in federal court in State B. The lawyer has not been admitted to State B's bar. May the lawyer represent the client in the federal court action?

A. Yes, because federal courts are governed by their own admission rules, which typically follow admission to any state bar subject to local federal court rules and pro hac vice procedures

B. No, because all litigation services in State B require prior admission to the State B state bar regardless of whether the litigation is in state court or federal court

C. Yes, but only after the lawyer has fully completed the formal application requirements for State B's bar examination and been admitted to its state bar

D. No, unless the client first signs a written waiver of any objection to representation by a lawyer not admitted to State B's state bar at the time

2. A lawyer represented a corporate client in widely publicized litigation that concluded several years ago. The lawyer now represents a different client and wishes to reference, in arguments to a tribunal, certain facts about the prior client's litigation strategy. The facts appeared in published court opinions and major newspapers. Is the reference permissible?

A. No, because Rule 1.6 prohibits any reference to former-client matters in subsequent representations, regardless of whether the information is otherwise public

B. No, unless the former client provides written informed consent to the lawyer's use of the information in the current matter on behalf of the new client

C. Yes, but only because more than five years have passed since the original litigation concluded and the information has therefore expired under the rules

D. Yes, because Rule 1.9(c) permits use of information that has become generally known, and information from published court opinions and major news coverage typically qualifies

3. A lawyer is representing a client in contentious commercial litigation. The client's positions and tactics have become so distasteful to the lawyer that she finds it personally repugnant to continue. The matter is pending before a court. May the lawyer withdraw?

A. Yes, immediately, because personal repugnance to the client's cause is always sufficient ground for immediate withdrawal under Rule 1.16 of the Model Rules

B. No, because Rule 1.16 permits withdrawal only for specifically enumerated grounds, and a lawyer's personal distaste for the client is not among them in any case

C. The lawyer may seek to withdraw under Rule 1.16(b)(4) (the client insists on a course with which the lawyer has a fundamental disagreement) or 1.16(b)(7) (other good cause), subject to court permission since litigation is pending

D. The lawyer must complete the representation through judgment because withdrawal from contentious litigation prior to trial is per se prohibited under the Rules

4. A lawyer represents an automobile manufacturer in a products liability case in State X arguing that punitive damages caps preclude a large verdict. Simultaneously, in State Y, the lawyer represents a different manufacturer in a similar case arguing that the State Y damages caps are constitutional. Both arguments are made in good faith. Is there a problem under Rule 1.7?

A. No, because positional conflicts in unrelated cases involving different clients are categorically permitted under the Rules of Professional Conduct

B. There is a positional conflict only if there is a significant risk that the lawyer's action in one matter will materially limit her effectiveness in representing another client in a different case, in which case informed consent confirmed in writing is required

C. Yes, because making contradictory legal arguments in different cases is always a violation of Rule 3.3's candor duty owed to the tribunals involved

D. No, because the lawyer is representing different clients in different states and the cases are completely separate matters with no overlap in substance

5. A lawyer represents a client in a contract dispute. The opposing party makes a complex settlement offer involving multiple non-cash components — a non-disparagement clause, ongoing royalty payments, and dismissal of a related counterclaim. The lawyer believes acceptance is in the client's interest but the trade-offs are difficult to evaluate. What does Rule 1.4 require?

A. The lawyer may accept the offer on the client's behalf because complex offers fall within the lawyer's tactical discretion under Rule 1.2 of the Model Rules

B. The lawyer must explain only the cash component of the offer because the non-cash terms are too technical for ordinary client comprehension and informed evaluation

C. The lawyer must obtain the client's written waiver of explanation before deciding whether to accept or reject the offer on the client's behalf at the negotiating stage

D. The lawyer must explain the matter to the extent reasonably necessary to permit the client to make informed decisions, including the trade-offs among the various non-cash components

6. A lawyer agrees to represent a client on an hourly basis at $300 per hour. The retainer agreement is silent on costs. During the representation, the lawyer incurs $4,000 in litigation costs (court filing fees, deposition transcripts, expert witness fees). May the lawyer charge the client for these costs?

A. Yes, because under Rule 1.5(a) reasonable costs are generally a permissible expense, though Rule 1.5(b) requires the basis of fees and expenses to be communicated to the client; best practice is to address costs explicitly in the engagement letter

B. No, because the retainer agreement's silence on costs constitutes a waiver of the lawyer's right to seek reimbursement for litigation expenses incurred during the engagement

C. Yes, but only if the lawyer obtains the client's written approval before incurring each individual cost item over $500 in the course of handling the matter

D. No, because all costs of litigation are presumed to be included in the hourly fee absent a separate written cost-recovery agreement between the lawyer and client

7. A lawyer is handling a complex matter and consults a colleague at her firm about a strategic question. The discussion necessarily requires the lawyer to share confidential client information. Has the lawyer violated Rule 1.6?

A. Yes, because Rule 1.6 prohibits sharing confidential client information with any other lawyer without the client's express advance consent in writing or in person

B. No, because Comment [5] to Rule 1.6 recognizes that disclosure of confidential information to lawyers in the firm to obtain advice on the matter is impliedly authorized in carrying out the representation, unless the client has instructed otherwise

C. Yes, unless the colleague being consulted is formally co-counsel of record on the matter being discussed in the firm's strategic consultation

D. No, but only if the colleague signs a confidentiality acknowledgment before participating in any strategic discussion of the matter with the consulting lawyer

8. A lawyer represents a client in a personal injury case on contingency. The client cannot afford ordinary living expenses while the case proceeds. The lawyer offers to lend the client $5,000 personally to help with rent and medical expenses. May the lawyer do so?

A. Yes, because contingency-fee clients are particularly in need of financial support, and Rule 1.8(e) permits this form of support to bridge the litigation timeline

B. Yes, provided the loan is structured with interest at the prevailing market rate for unsecured personal loans of similar size and duration in the local area

C. Yes, but only if the client signs a written promissory note secured by the anticipated recovery from the underlying personal injury case at issue

D. No, because Rule 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation, except for advancing court costs and expenses (and, in some jurisdictions, limited humanitarian aid to indigent clients)

9. A lawyer at a firm met with a prospective client for an extended consultation. The prospective client shared information that could be significantly harmful to her if used against her. The lawyer did not undertake the representation. The same firm now wishes to represent the opposing party in the same matter, with screening procedures in place. The consulting lawyer learned more than was reasonably necessary to decide whether to accept the engagement. May the firm proceed?

A. Yes, because formal screening procedures always cure imputation under Rule 1.18 regardless of how much information the consulting lawyer ultimately learned

B. Yes, because once a prospective client decides not to retain counsel, the lawyer's continued knowledge of the matter is presumed harmless to her later interests

C. No, because Rule 1.18(d)(2) permits screening only when the disqualified lawyer took reasonable measures to avoid exposure to more disqualifying information than reasonably necessary

D. Yes, provided the firm requires the consulting lawyer to sign a written attestation that she will not share any of the information with colleagues at the firm

10. A lawyer represents a corporation. The corporation's general counsel asks the lawyer to interview a mid-level employee about a workplace incident that may give rise to corporate liability. The employee speaks frankly with the lawyer, including admissions of his own personal conduct. Who holds the attorney-client privilege over the substance of the interview?

A. The corporation alone holds the privilege over communications by employees made to corporate counsel within the scope of employment for purposes of obtaining legal advice for the corporation

B. The corporation and the employee jointly hold the privilege, and either may waive it without the consent of the other party in the corporate-constituent relationship

C. The employee alone holds the privilege because the communication was made by him personally to the lawyer during the recorded interview by counsel

D. No privilege attaches because the employee was not a formal client of the corporate lawyer at the time the recorded interview was conducted by counsel

11. A lawyer maintains a client trust account. State rules generally require trust account records to be retained for a defined period after termination of representation. What does Rule 1.15 typically require?

A. Trust account records must be retained for the duration of the lawyer's professional career and surrendered to the state bar upon retirement from active practice

B. Trust account records must be retained for two years following the termination of representation under the typical state implementation of the Model Rule on safekeeping property

C. Rule 1.15 requires complete records of trust account funds and property to be kept by the lawyer and preserved for a period of five years (or other period set by state rule) after termination of the representation

D. Trust account records may be discarded as soon as the underlying matter concludes and any associated disbursements have been completed in the ordinary course of business

12. A solo practitioner agrees to sell her practice to another lawyer who will take over her existing client matters. Under Rule 1.17, what is required regarding the clients?

A. Each client must execute a new written fee agreement directly with the buyer of the practice before the sale of the practice may be completed and the transfer effected

B. Written notice of the proposed sale must be given to each client describing the purchaser, providing the client an opportunity to retain other counsel and to direct return of files, and explaining that consent is presumed if no objection is made within a defined period

C. Approval of a probate-style court must be obtained before any client files may be transferred to the buying lawyer at the completion of the sale transaction

D. Each client must affirmatively sign a new written consent to representation by the purchasing lawyer before that lawyer may begin work on any of the transferred client matters

13. A lawyer is representing a client in a divorce matter. The client wants to pursue an aggressive litigation strategy that the lawyer believes will result in higher fees, prolonged conflict, and uncertain outcomes. A reasonable settlement is available. What does Rule 2.1 require?

A. The lawyer should exercise independent professional judgment and render candid advice to the client, including her honest assessment that settlement may serve the client's overall interests better than litigation

B. The lawyer must accept the client's strategic preferences without question because tactical decisions are reserved to the client under the Model Rules of Professional Conduct

C. The lawyer must withdraw from the representation if the client ultimately insists on the aggressive strategy contrary to the lawyer's stated professional recommendation

D. The lawyer must seek court approval before recommending settlement when the client has expressed a clear preference for litigation as the preferred course of action

14. A lawyer served as a mediator in a commercial dispute between two business owners. The mediation did not resolve the dispute. One party now seeks to retain the lawyer to represent her in subsequent litigation arising from the same dispute. May the lawyer accept the engagement?

A. Yes, because the lawyer's prior role as mediator was as a third-party neutral and creates no continuing obligations that would prevent her from representing a former mediation party

B. Yes, provided the lawyer obtained advance permission from the mediation provider organization before accepting the engagement on behalf of the former mediation party

C. Yes, but only if the lawyer agrees in writing not to use any information she learned during the prior mediation in the subsequent litigation against the other party

D. No, because Rule 1.12(a) generally prohibits a lawyer who served as a third-party neutral from later representing anyone in a matter in which she participated personally and substantially, absent informed consent confirmed in writing from all parties

15. A lawyer files a complaint asserting claims that the defendant alleges are wholly unsupported by law or fact. The defendant moves for sanctions under Rule 11. The court determines the complaint was frivolous and imposes sanctions. Does this finding necessarily establish a Rule 3.1 disciplinary violation?

A. Yes, because a Rule 11 sanction necessarily establishes that the lawyer violated her ethical obligations to the tribunal in connection with the filing of the complaint at issue

B. Not necessarily — Rule 3.1 disciplinary violations and Rule 11 sanctions involve overlapping but distinct standards; a Rule 11 finding may be evidence of, but does not automatically establish, a Rule 3.1 violation

C. Yes, because all frivolous filings are per se violations of the Model Rules of Professional Conduct as well as of the procedural rules of the trial court at issue

D. No, because Rule 3.1 applies only to claims known to be frivolous at filing, while Rule 11 reaches negligent frivolity as well in the relevant procedural context

16. A lawyer is arguing a motion before a trial judge. In her oral argument, she misstates the holding of a controlling appellate decision in a manner that supports her client's position. The misstatement is unintentional and reflects her mistaken recollection of the case. Opposing counsel does not immediately correct it. Has the lawyer violated Rule 3.3?

A. Yes, because Rule 3.3(a)(1) prohibits any misstatement of law to a tribunal regardless of the lawyer's intent or her good-faith but mistaken recollection of the legal authority

B. No, because Rule 3.3(a)(1) applies only to misstatements of fact and not to misstatements of law made during oral argument before a trial court on a contested motion

C. Not at the moment of the misstatement, because Rule 3.3(a)(1) prohibits a lawyer from knowingly making a false statement of fact or law; however, once the lawyer recognizes the error she has an obligation to correct it

D. Yes, but the violation may be excused if opposing counsel had a similar opportunity to research the case and failed to cite the correct holding of the controlling decision

17. A lawyer's client is the defendant in a personal injury suit. The client gives the lawyer a written document that the lawyer recognizes may be subject to discovery. The lawyer alters one date on the document to make it more favorable to her client before producing it in response to a discovery request. Has she violated Rule 3.4?

A. Yes, because Rule 3.4(a) prohibits a lawyer from unlawfully altering, destroying, or concealing a document or other material having potential evidentiary value in the litigation

B. No, because the lawyer was responding to a discovery request and had reasonable latitude in characterizing the documents being produced to her opposing counsel

C. Yes, but only if the trial court ultimately determines that the altered date was material to the case's outcome at trial or on a dispositive pre-trial motion

D. No, provided the lawyer made a contemporaneous note in her file recording the alteration of the date before producing the document in discovery

18. A lawyer wants to learn about a prospective juror's background. She instructs her paralegal to search the juror's public social media accounts during jury selection. Is this conduct permissible?

A. No, because Rule 3.5 prohibits any examination of a juror's online presence during the pendency of the trial or any portion of the related judicial proceeding

B. Yes, generally — passive review of a juror's publicly available social media is widely permitted, though Rule 3.5(b) prohibits ex parte communication with the juror, and many jurisdictions distinguish between viewing public content and active "friending" or contact

C. No, because the use of paralegals to research jurors constitutes improper conduct attributable to the lawyer under Rule 5.3 of the Model Rules of Professional Conduct

D. Yes, but only if the lawyer also formally discloses to the court and to opposing counsel that she is researching jurors' social media presence during the selection process

19. A lawyer represents a defendant in a non-jury bench trial before a federal judge. She holds a press conference making statements about the merits of the case that, in a jury trial, would clearly violate Rule 3.6. Is the conduct permissible in this bench-trial context?

A. Yes, because Rule 3.6 applies only to proceedings before juries who could be influenced by extrajudicial press statements about the case before the court

B. Yes, provided the federal judge has not specifically prohibited the lawyer from making public statements about the pending case in any prior order

C. No, because federal judges are presumed to be susceptible to media influence in the same manner as ordinary lay jurors who hear cases in trial

D. The risk of materially prejudicing the proceeding may be lower in bench trials, but Rule 3.6's "substantial likelihood of materially prejudicing an adjudicative proceeding" standard still applies

20. A prosecutor wants to subpoena a defense attorney to testify before a grand jury about communications she had with her client regarding the alleged crime. The prosecutor has reason to believe the communications were used in furtherance of a continuing crime. What does Rule 3.8(e) require?

A. The prosecutor may issue the subpoena without restriction because the client's crime-fraud exception removes any privilege protection from the communications between the lawyer and her client

B. The prosecutor must obtain the consent of the bar disciplinary authority before issuing any subpoena to a defense lawyer concerning communications she had with a client

C. The prosecutor must not subpoena a lawyer to present evidence about a past or present client unless the prosecutor reasonably believes the information is not protected from disclosure by any applicable privilege, the evidence is essential, and there is no other feasible alternative

D. The prosecutor may freely issue the subpoena because grand jury proceedings are not subject to the substantive provisions of the Model Rules of Professional Conduct

21. A lawyer is representing a client before a city zoning board on a variance application. The proceeding is legislative rather than adjudicative in nature. What does Rule 3.9 require?

A. The lawyer must disclose that she is appearing in a representative capacity and conform to the provisions of Rules 3.3(a)-(c), 3.4(a)-(c), and 3.5 of the Model Rules

B. Rule 3.9 does not impose any obligations on a lawyer appearing before a non-adjudicative body, and she is free to advocate without restriction during the proceeding

C. The lawyer must obtain the city's consent before representing any client in a zoning matter that may affect other property owners in the area surrounding the affected parcel

D. The lawyer must file a formal notice of appearance with the city clerk's office before any oral advocacy is presented to the zoning board on behalf of the client

22. A lawyer represents a private client in a civil suit against a state government agency. The lawyer wishes to contact an elected official of the agency to discuss policy positions that may bear on the suit. State counsel represents the agency in the litigation. May the lawyer contact the elected official directly?

A. No, because Rule 4.2's no-contact rule applies to all government officials of represented agencies without exception during the pendency of the litigation

B. Yes, because elected officials are by definition unrepresented for purposes of Rule 4.2 and are always subject to direct contact regardless of who represents their agency

C. Generally yes, because Comment [5] to Rule 4.2 recognizes that communications with government officials concerning matters within their authority may be permitted, though the lawyer should avoid eliciting information protected by attorney-client privilege

D. Yes, but only after the lawyer obtains written permission from state counsel for each individual contact made with elected officials regarding the matter at issue

23. A lawyer represents a client in a contract dispute with an unrepresented party. The unrepresented party telephones the lawyer to discuss the dispute and asks the lawyer for advice about how to proceed. What does Rule 4.3 require?

A. The lawyer may freely advise the unrepresented party because the party initiated the contact and has effectively waived any objection to receiving advice

B. The lawyer must immediately discontinue the conversation and refuse to communicate with the unrepresented party under any circumstances regarding the dispute

C. The lawyer must provide neutral, balanced advice to the unrepresented party because that party has no other source of guidance during the negotiation

D. The lawyer must avoid implying disinterest and must not give legal advice to the unrepresented party, other than the advice to secure counsel, if she knows or reasonably should know that the party's interests are or have a reasonable possibility of being in conflict with those of the client

24. A senior partner at a law firm reviews a brief drafted by an associate. The brief contains a misrepresentation of controlling precedent. The partner is aware of the misrepresentation and approves the brief for filing. The brief is filed. Has the partner violated the Rules?

A. No, because the brief was drafted by the associate and the misrepresentation is attributable solely to her professional work product alone

B. Yes, because Rule 5.1(c) provides that a lawyer is responsible for another lawyer's violation of the Rules if the lawyer orders, or with knowledge of the specific conduct, ratifies the conduct

C. No, because partners' supervisory roles do not include personal responsibility for the work of associates beyond making reasonable efforts to ensure compliance with the rules

D. Yes, but only if the brief is subsequently sanctioned by the court for the misrepresentation contained in the legal argument that was presented in the filing

25. A lawyer outsources document review to an offshore contractor that employs non-lawyer reviewers. The reviewers process privileged client materials. What does Rule 5.3 require?

A. The lawyer must make reasonable efforts to ensure that the conduct of the non-lawyer reviewers is compatible with the lawyer's professional obligations, including taking reasonable measures to ensure the confidentiality of privileged materials handled by the contractor

B. Rule 5.3 applies only to non-lawyer assistants directly employed by the lawyer's firm and not to outside contractors that the firm may engage from time to time

C. The lawyer must obtain the client's written informed consent before any document review by external contractors may be conducted in connection with the client matter at issue

D. The lawyer must personally supervise each document reviewed by the contractor before any of the reviewed materials may be used in the underlying matter for the client

26. A lawyer wishes to form a professional services firm with a non-lawyer business strategist. The non-lawyer would be a partner with a profit share but would not provide legal services. Under most U.S. jurisdictions' Rule 5.4, may the lawyer proceed?

A. Yes, because the non-lawyer is not personally providing legal services to clients, and the arrangement is therefore exempt from Rule 5.4's restrictions on non-lawyer partnerships

B. Yes, provided the non-lawyer business partner signs a written acknowledgment that she will not interfere with the lawyer's independent professional judgment in client matters

C. Yes, but only if the law firm is structured as a limited liability company rather than a traditional general partnership in the relevant state of formation

D. No, because Rule 5.4(b) generally prohibits a lawyer from forming a partnership with a non-lawyer when any of the partnership's activities consist of the practice of law

27. A lawyer admitted only in State X is retained by a State X client to provide legal advice in connection with a transaction occurring partially in State Y. The lawyer travels to State Y for several meetings related to the transaction but does not appear in any State Y court. Is the lawyer engaged in the unauthorized practice of law in State Y?

A. Yes, because any provision of legal services within State Y requires admission to the State Y bar regardless of the home state of the lawyer providing the services

B. No, because all transactional legal work is exempt from the unauthorized practice rules in every state where transactional services are provided by lawyers admitted elsewhere

C. No, because Rule 5.5(c) permits temporary practice in another jurisdiction when the services arise out of or are reasonably related to the lawyer's practice in her home jurisdiction

D. Yes, unless the lawyer has obtained pro hac vice admission from State Y's highest court before any of the transactional meetings begin in State Y during the engagement

28. A lawyer is negotiating a settlement on behalf of her client. As part of the proposed settlement, the opposing party demands that the lawyer agree not to represent any other plaintiff in similar future suits against the same defendant. May the lawyer agree to such a term?

A. No, because Rule 5.6(b) prohibits a lawyer from offering or making an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy

B. Yes, because settlement terms are within the parties' freedom to negotiate and may include any restrictions both sides accept as part of resolving the underlying litigation

C. Yes, provided the lawyer obtains a substantial additional payment from the defendant to compensate her for the future restriction on her practice in similar matters

D. No, but only if the proposed restriction extends to representations in multiple states beyond the one in which the current case is pending before the court

29. A lawyer's firm has a robust pro bono program that exclusively serves wealthy individuals who cannot afford the firm's regular hourly rates but who are not in any sense indigent. Does this qualify as pro bono service under Rule 6.1?

A. Yes, because any reduced-fee or no-fee service to a client unable to afford the firm's standard rates qualifies as pro bono under Rule 6.1's broad approach to professional service

B. Generally no, because Rule 6.1(a) targets pro bono service primarily to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations addressing the needs of such persons

C. Yes, because Rule 6.1 places no income-based limitations on who may receive pro bono service from lawyers acting voluntarily in their professional capacity

D. No, because Rule 6.1 requires that pro bono service be rendered entirely without any fee or expectation of compensation under all circumstances of the underlying engagement

30. A lawyer is court-appointed to represent an indigent criminal defendant accused of a particularly heinous crime. The lawyer has no conflict of interest, but her firm's clientele includes corporate clients who would find association with the matter damaging to her firm's reputation. May the lawyer decline the appointment?

A. Yes, because reputational harm to the lawyer's practice is automatic good cause for declining a court appointment under Rule 6.2 of the Model Rules

B. Yes, provided the lawyer first identifies a competent colleague in the local bar who is willing to accept the appointment in her place going forward

C. No, because lawyers may never decline court appointments under any circumstances during their professional careers regardless of the personal cost involved

D. Rule 6.2 requires the lawyer not to seek to avoid appointment except for good cause — repugnance to the cause sufficient to impair the relationship is recognized, but a generalized business or reputational concern is typically not

31. A lawyer volunteers at a non-profit organization's legal advice clinic providing short-term limited legal services to walk-in clients. The lawyer briefly advises a tenant. The lawyer is a partner at a firm whose clients include a major commercial landlord — possibly the same landlord involved in the tenant matter. What does Rule 6.5 permit?

A. Rule 6.5 relaxes the ordinary conflict-of-interest analysis: Rules 1.7 and 1.9(a) apply only if the lawyer knows that the representation involves a conflict, and imputation under Rule 1.10 applies only if the lawyer providing services knows another firm lawyer is disqualified

B. The lawyer must immediately decline to provide any legal services because of the potential conflict with her firm's commercial landlord client regardless of her actual knowledge

C. The lawyer must obtain her firm's written approval before providing any legal services through the clinic to any tenant client of the clinic at any time

D. The lawyer must charge the clinic client her firm's full hourly rate to avoid the imputed-conflict implications of free advice given through the clinic program

32. A lawyer's website features client testimonials describing favorable outcomes. The testimonials are accurate and from actual former clients. The website does not include a disclaimer that past results do not guarantee similar outcomes. Is the website permissible under Rule 7.1?

A. Yes, because the testimonials are accurate and from actual former clients with no falsification or paid actors used to deliver the testimonial content

B. No, because all client testimonials in lawyer advertising are categorically prohibited under Rule 7.1 of the Model Rules of Professional Conduct

C. The testimonials may create unjustified expectations about future results without an appropriate disclaimer; Comment [3] to Rule 7.1 warns that truthful statements may still be misleading, and many jurisdictions require a disclaimer

D. Yes, but only if each former client received compensation from the firm for providing the testimonial that is now featured prominently on the website

33. A lawyer at a small firm contacts a law school classmate who now practices at another firm to ask her to refer clients in a specialized area. The conversation occurs over coffee. Is this in-person solicitation prohibited under Rule 7.3?

A. Yes, because in-person solicitation of professional employment for pecuniary gain is categorically prohibited under Rule 7.3 regardless of the recipient of the solicitation

B. No, because Rule 7.3(a) exempts solicitation of another lawyer from the in-person and live telephone solicitation restrictions of the rule

C. Yes, unless the lawyer first obtains the recipient's written consent to discussion of potential client referrals between the two lawyers and their respective firms

D. No, but only if the two lawyers have practiced together previously at the same firm at some point in their professional careers prior to the conversation

34. A lawyer is interested in being appointed as special counsel for the state Attorney General's office. The Attorney General is up for re-election. The lawyer is considering a substantial campaign contribution. Under Rule 7.6, what is the concern?

A. No concern, because political contributions to candidates the lawyer supports are protected First Amendment activity in all circumstances regardless of motivation

B. The lawyer must disclose any contribution to the disciplinary authority but is not otherwise restricted from making it in any amount she chooses to contribute

C. The lawyer must limit the contribution to no more than $500 to avoid any appearance of impropriety in connection with the proposed special counsel appointment

D. Rule 7.6 prohibits a lawyer or firm from accepting a government legal engagement or judicial appointment that the lawyer obtains by making, or soliciting, political contributions for the purpose of obtaining or being considered for that engagement or appointment

35. A lawyer learns that another lawyer in her city has been chronically rude to opposing counsel, regularly arrives late to depositions, and has been informally censured by the local bar for unprofessional conduct. The lawyer believes the behavior reflects poorly on the profession. Must she report the other lawyer under Rule 8.3?

A. Yes, because any unprofessional conduct by another lawyer that comes to the lawyer's attention must be reported to the disciplinary authority under Rule 8.3 of the Rules

B. Yes, because rudeness to opposing counsel and chronic tardiness implicate Rule 8.4(d)'s prohibition on conduct prejudicial to the administration of justice in the local courts

C. Generally no, because Rule 8.3(a) requires reporting only when the conduct raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer; rudeness and tardiness without more typically do not meet that threshold

D. Yes, but only if the lawyer has personally witnessed the conduct on multiple separate occasions over an extended period of time before the formal reporting obligation arises

36. A lawyer makes racist remarks to opposing counsel during a contentious deposition. The remarks are not directed at the witness, who is of a different background than the targets of the remarks, but are made within the witness's hearing. The remarks have no bearing on any substantive issue. Has she violated Rule 8.4?

A. Yes, because Rule 8.4(g) makes it professional misconduct to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of protected characteristics in conduct related to the practice of law

B. No, because Rule 8.4 governs only conduct directed at parties or witnesses in a proceeding and does not reach lawyer-to-lawyer exchanges between counsel during the deposition

C. Yes, but only if opposing counsel formally objects on the deposition record at the time the inappropriate comments are made by the lawyer being challenged

D. No, because depositions are not formal court proceedings and the strict standards of Rule 8.4 do not apply to deposition-room conduct between opposing counsel and witnesses

37. A lawyer is admitted in State X. She commits misconduct in connection with a matter pending before a court in State Y, where she is appearing pro hac vice. Both states may have an interest in discipline. What governs the choice of law?

A. The rules of State X always apply because she is admitted there and that is her professional home jurisdiction for purposes of any disciplinary action against her

B. The rules of the state where the lawyer maintains her primary law office at the time of the misconduct always apply regardless of the location of the underlying conduct

C. The two states must hold a joint disciplinary proceeding to determine which jurisdiction's rules apply to the misconduct that occurred in connection with the matter

D. Under Rule 8.5(b)(1), for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits apply unless the tribunal's rules provide otherwise — so State Y's rules generally govern

38. A judge uses her judicial title and letterhead in a personal letter to a local prosecutor complaining about how a traffic citation against her teenage daughter was handled. The judge does not appear before that prosecutor in court. Has the judge violated the Code of Judicial Conduct?

A. No, because the judge is using her own personal stationery and not the official court letterhead in the personal communication to the local prosecutor on behalf of family

B. Yes, because CJC Rule 1.3 prohibits a judge from abusing the prestige of judicial office to advance the personal or economic interests of the judge or others, including the judge's family

C. No, because the matter concerns the judge's own family and falls outside the scope of judicial conduct rules that govern her in-court and official conduct as a sitting judge

D. Yes, but only if the prosecutor actually adjusts the handling of the citation in response to the judge's letter that uses her official title and judicial letterhead

39. A judge personally disapproves of the law she is being asked to apply in a particular case but recognizes it as binding. What does the Code of Judicial Conduct require?

A. The judge must recuse herself from any case involving a law she personally disapproves of, to avoid any appearance of personal unfairness in her handling of the proceeding

B. The judge should apply the law as her conscience dictates rather than as written, in order to achieve substantive justice in the particular case before her court

C. CJC Rule 2.2 requires the judge to uphold and apply the law and to perform all duties of judicial office fairly and impartially, even when she personally disagrees with the law

D. The judge should request the case be reassigned to a colleague who is more sympathetic to the controlling law and its underlying policy basis as expressed in the statute

40. A judge consistently makes disparaging comments about a particular religious group during informal hallway conversations with court personnel. The comments do not occur in the courtroom but are overheard by lawyers and litigants. Has the judge violated the Code?

A. Yes, because CJC Rule 2.3(B) provides that a judge shall not, in performing judicial duties, by words or conduct manifest bias or prejudice based on protected characteristics, and the rule has been applied beyond strictly in-court conduct

B. No, because the comments occurred in informal hallway conversations and not on the formal record of any judicial proceeding currently pending before the judge or her colleagues

C. Yes, but only if the comments are made within the actual hearing of an actual party to a pending case before the judge's court at the time of the statement

D. No, because the judge retains personal First Amendment rights to express her views on religious and other matters outside of the courtroom or formal proceedings on the record

41. A judge frequently cuts off attorneys during oral argument, denies witnesses the opportunity to complete their answers, and rushes through hearings to maintain her docket. Has the judge violated the Code?

A. No, because efficient management of the court docket is a recognized judicial virtue and falls within the judge's broad discretion to manage her courtroom under the rules

B. Yes, because CJC Rule 2.6 requires a judge to accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law

C. Yes, but only if the rushed procedures result in an erroneous outcome in any particular case before the court that is later reversed on appeal for procedural error

D. No, because trial judges have broad discretion to manage their courtrooms and may impose any procedural restrictions they deem necessary for the efficient administration of justice

42. A judge dislikes handling complex commercial disputes and routinely transfers them to other judges in the courthouse upon receiving them. None of the transfers is required by any conflict of interest or disqualification rule. Has the judge violated the Code?

A. No, because docket management decisions are within the discretion of the assigned judge in each individual case before her court under the local court rules

B. No, because the judge has a personal preference and judges have broad latitude over which cases they choose to handle in their professional careers as judicial officers

C. Yes, but only if a litigant in one of the transferred cases objects to the transfer of her case to a different judge in writing on the official court record

D. Yes, because CJC Rule 2.7 requires a judge to hear and decide matters assigned to the judge, except when disqualification is required or recusal is otherwise appropriate

43. A judge becomes visibly impatient and angry during a hearing in which a pro se litigant struggles to articulate her position. The judge raises her voice, mocks the litigant's grammar, and threatens contempt for taking too long. Has the judge violated the Code?

A. No, because trial judges have discretion to manage their courtrooms with whatever demeanor they consider appropriate to maintain order during contested proceedings

B. Yes, but only if the litigant files a formal grievance with the appropriate judicial conduct authority within thirty days of the underlying hearing in which the conduct occurred

C. Yes, because CJC Rule 2.8 requires a judge to be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, and others with whom the judge deals in an official capacity

D. No, because pro se litigants are subject to the same procedural standards as represented parties and may be sanctioned accordingly for inefficiency in presenting their case

44. A judge presiding over a contract dispute privately searches the internet for information about one of the parties' business reputation and reads several news articles about the company before issuing her ruling. Neither party is aware of the research. Has the judge violated the Code?

A. Yes, because CJC Rule 2.9(C) prohibits a judge from investigating facts in a matter independently and requires the judge to consider only the evidence presented and any facts that may properly be judicially noticed

B. No, because internet research about widely reported public information is permissible due diligence by the bench in connection with the management of a complex commercial dispute

C. Yes, but only if the information she learned actually affected the outcome of the case in question and was specifically referenced in her written ruling on the underlying dispute

D. No, because judges retain inherent power to inform themselves about matters before the court through any means available to them, including independent factual research

45. A judge owns 50 shares of stock in a publicly traded corporation. A case comes before the judge in which the corporation is the plaintiff. The shares are worth approximately $1,200. Must the judge disqualify herself?

A. No, because shares worth less than $5,000 are exempt from the disqualification rule under the Code of Judicial Conduct as currently written and applied in most jurisdictions

B. Yes, because CJC Rule 2.11(A)(3) requires disqualification when the judge has an economic interest in a party — defined as more than a de minimis interest, which an individual stockholding generally is

C. No, provided the judge places the shares in escrow with a third party for the duration of the pendency of the case before her court at issue between the parties

D. Yes, but only if the value of the shares exceeds 5% of the judge's total net worth at the time of the relevant proceeding involving the corporation as the plaintiff

46. A judge needs to appoint a guardian ad litem for a minor child in a contested custody case. The judge appoints her own son, a recent law school graduate, to serve as guardian. The appointment is paid. Has the judge violated the Code?

A. No, because guardian ad litem appointments are administrative rather than judicial in nature and fall outside the scope of the Code of Judicial Conduct's restrictions

B. Yes, but only if the son lacks the qualifications to serve effectively as guardian ad litem in the contested custody matter at issue before the family court

C. No, provided the son discloses the family relationship to all parties in the custody proceeding before commencing his duties as guardian ad litem in the matter

D. Yes, because CJC Rule 2.13 requires a judge in making administrative appointments to exercise the power impartially and on the basis of merit, and to avoid nepotism, favoritism, and unnecessary appointments

47. A judge writes a regular column for a local newspaper about historical legal matters. The column is unpaid, does not address any pending cases, and does not implicate any local political controversies. Is the activity permissible?

A. Yes, because CJC Rule 3.1 permits a judge to engage in extrajudicial activities, including writing about the law, the legal system, and the administration of justice, subject to limitations such as not interfering with judicial duties or casting doubt on impartiality

B. No, because all extrajudicial writing by sitting judges is categorically prohibited under the Code of Judicial Conduct regardless of the subject matter or commercial nature of the writing

C. Yes, but only if the newspaper provides the judge with a written waiver of any liability for the column's content prior to publication in any individual edition of the paper

D. No, because newspaper columns by judges create an appearance of partiality regardless of the content of the writing or the lack of any direct connection to pending cases

48. A judge appears before the state legislature to testify on a bill that would affect the operations of the state's court system. The judge is asked by the legislative committee to share her professional views. May she do so?

A. No, because all judicial testimony before legislative bodies is prohibited under the Code of Judicial Conduct regardless of the subject matter of the legislative inquiry at issue

B. Yes, because judges may freely engage in any political activity they choose during their off-duty hours while not actively presiding over judicial proceedings on the bench

C. Yes, because CJC Rule 3.2 permits a judge to appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official on matters concerning the law, the legal system, or the administration of justice

D. No, unless the chief justice of the state's highest court provides the judge with written authorization before each individual legislative committee appearance in the state capitol

49. A judge has been asked by a longtime friend to testify as a character witness in the friend's criminal trial. The judge believes she could provide helpful testimony but is uncertain about the propriety. What does the Code permit?

A. The judge may testify as a character witness without restriction because all citizens have a duty to assist in the administration of justice when their testimony would be helpful to a party

B. CJC Rule 3.3 prohibits a judge from testifying as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouching for the character of a person in a legal proceeding, except when duly summoned

C. The judge may testify provided she does not identify herself as a sitting judge during her courtroom testimony before the jury in the criminal trial of the longtime friend at issue

D. The judge may testify only if the trial court formally requests her appearance in writing in advance of the proceeding through a duly issued subpoena from the clerk's office

50. A sitting state court judge wishes to assist her elderly mother by handling her mother's simple estate planning, including preparing a will and a durable power of attorney. The judge would not charge for the work. May she do so under the Code?

A. No, because sitting judges may not engage in any legal work for any person regardless of the relationship or compensation for the services provided in the course of any engagement

B. Yes, because pro bono work for family members is categorically exempt from any restrictions on judges in the Code of Judicial Conduct of the relevant jurisdiction in which the judge sits

C. Yes, because estate planning is non-litigation work and falls outside the scope of the practice-of-law restrictions on judges contained in the Code of Judicial Conduct provisions

D. CJC Rule 3.10 generally prohibits a full-time judge from practicing law, with a limited exception permitting the judge to act pro se and to give legal advice to and draft or review documents for a family member, provided she does not serve as the family member's lawyer in any forum

51. A judge is running for re-election in a state where judges are elected. The campaign needs funds. Is the judge permitted to personally solicit campaign contributions from local lawyers?

A. Yes, because judicial candidates are like any other political candidate and may freely raise funds for their campaigns through whatever means they reasonably choose to employ during the election

B. Yes, provided the contributions are made through official campaign channels and properly reported under state election law applicable to all candidates seeking elective office at any level

C. No, generally — CJC Rule 4.1 prohibits a judge or judicial candidate from personally soliciting or accepting campaign contributions; under CJC Rule 4.4, contributions are solicited and received by a judicial campaign committee, not by the candidate personally

D. Yes, provided the judge limits each individual solicitation request to no more than $250 to avoid any appearance of impropriety in connection with the underlying judicial campaign for re-election

52. A lawyer represents both the driver and the passenger of a vehicle injured in an accident. Both clients initially sue the other driver. During discovery, evidence emerges that the lawyer's own driver client may have contributed to the accident. The passenger may have a claim against the driver. Must the lawyer reassess the joint representation?

A. Yes, because the emergence of potential adversity between the joint clients creates a conflict that may not have existed at the outset; the lawyer must reassess under Rule 1.7 and may need to withdraw or obtain renewed informed consent confirmed in writing

B. No, because the joint representation was valid at its inception and continues regardless of subsequent developments in the underlying case that emerge during the course of the discovery process

C. Yes, but only if the passenger client expressly raises the possibility of asserting a claim against the driver client during the course of their joint representation by the same lawyer

D. No, because the lawyer's loyalty to the original joint clients precludes any reassessment that would harm either of them by introducing the possibility of withdrawing from one of the representations

53. A lawyer concludes a representation. The file contains documents the client provided, documents the lawyer obtained via third-party discovery, the lawyer's research memoranda, and the lawyer's internal strategy notes. The client requests the entire file. Under the majority approach, what must the lawyer turn over?

A. Only documents the client originally provided to the lawyer during the engagement and not any other documents collected, created, or obtained by the lawyer during the work

B. The entire substantive file (typically including client-provided documents, discovery materials, pleadings, correspondence, and research memoranda), retaining only purely internal materials such as conflicts memoranda or fee-collection notes, regardless of whether fees are paid

C. Only documents that have been filed in court or formally served on opposing parties during the course of the underlying litigation as part of the official record of the matter

D. Nothing, because all materials in the file are the lawyer's property regardless of the source of the document or the fact that the client paid for its development during the engagement

54. A lawyer is retained by a corporate client to prepare a written evaluation of the corporation's legal compliance for use by the corporation's lender. The evaluation will be relied on by the lender in making a credit decision. The lender is not the lawyer's client. What does Rule 2.3 require?

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

B. The lawyer must obtain the lender's written agreement to indemnify her for any inaccuracies in the evaluation before completing the work for the corporate client's prospective lender

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

D. The lawyer must obtain a court order authorizing the evaluation for use by the third-party lender before commencing the engagement on behalf of the corporate client in connection with the credit application

55. A lawyer deposits a client's $20,000 settlement check into the lawyer's general operating account by mistake. She discovers the error the next day and immediately transfers the funds to the client trust account. The client suffers no actual loss. Has the lawyer violated Rule 1.15?

A. No, because the error was promptly corrected and the client suffered no actual financial loss as a result of the inadvertently misdirected deposit of the settlement check

B. No, because Rule 1.15 violations require willful misconduct, and the lawyer's deposit error was inadvertent and corrected immediately upon her discovery the following day

C. Yes, but only if a subsequent disciplinary audit of the trust account specifically uncovers the inadvertent deposit error from earlier in the year during routine compliance review

D. Yes, because Rule 1.15 requires client funds to be held in a separate trust account, and inadvertent commingling, even if quickly corrected, technically violates the rule — though sanctions may be tempered by immediate corrective action and lack of harm

56. A lawyer participates actively on a social media platform under her own name. She regularly posts about her professional activities, including general legal commentary. She has "friended" several current clients on the platform. May she post comments referring obliquely to her current representations?

A. Yes, because lawyer commentary on social media is protected First Amendment activity regardless of content, and the lawyer's posts therefore fall outside any disciplinary regulation under the Rules

B. Only with caution — Rule 1.6's confidentiality duty applies to social media as to any other forum, and even general posts may inadvertently reveal information relating to the representation; ABA Formal Opinion 480 and state opinions warn against discussing client matters in oblique terms without consent

C. Yes, provided the lawyer does not name any client by name in any of her social media posts about her active engagements or her professional activity on behalf of clients

D. No, because lawyers may not maintain any social media presence connected to current clients under the Rules of Professional Conduct and the general principles of client confidentiality

57. A lawyer's standard engagement letter contains a clause requiring any future malpractice dispute between the lawyer and her client to be resolved through binding arbitration. The clause is signed by the client at the outset of the representation. Is the clause enforceable?

A. The clause is generally enforceable if the client gives informed consent — the lawyer must explain the scope of the arbitration provision, the rights being waived, and the desirability of independent counsel before signing

B. The clause is automatically unenforceable because any pre-dispute waiver of a malpractice claim violates Rule 1.8(h)'s requirements regardless of any informed consent provided by the client

C. The clause is enforceable without any additional disclosure to the client because the engagement letter was signed voluntarily as part of an arm's-length engagement letter between counsel and the represented client

D. The clause is enforceable only if it provides for arbitration before a state bar-administered arbitration panel rather than a private arbitration provider or commercial arbitration association

58. A lawyer is asked to represent a client in pursuing a claim against the federal government for personal injury. The client cannot afford to pay hourly fees. The lawyer wishes to handle the matter on a contingency basis. What governs?

A. Contingency fees are universally permitted in any matter under Rule 1.5(c) of the Model Rules without any exception or limitation imposed by federal or state statutory regulation of attorney fees in particular contexts

B. Contingency fees are prohibited in any matter against the federal government regardless of subject matter and regardless of the financial situation of the represented client in the underlying claim

C. Contingency fees are generally permitted in personal injury actions under Rule 1.5(c), but federal law (such as 28 U.S.C. § 2678 in FTCA cases) imposes maximum fee percentages that may limit the contingency arrangement

D. Contingency fees in federal litigation must always be approved in advance by the local United States Attorney's Office before the representation begins and before any work is performed on the underlying personal injury claim

59. A lawyer receives a misdirected email from opposing counsel containing what appears to be a privileged internal memorandum. Recognizing the inadvertent disclosure, the lawyer promptly notifies opposing counsel but does not destroy or return the email or refrain from reading it. Has the lawyer violated Rule 4.4(b)?

A. Yes, because Rule 4.4(b) requires the receiving lawyer to destroy or return the inadvertently disclosed document without first reviewing the contents of the communication that was inadvertently sent

B. No, because Rule 4.4(b) requires only that the receiving lawyer promptly notify the sender; whether the receiving lawyer may continue to read, must return, or must destroy the document is governed by other law and the sender's protective steps

C. Yes, because Rule 4.4(b) requires the receiving lawyer to seek a court order on disposition before taking any further action regarding the contents of the inadvertently received privileged communication

D. No, because Rule 4.4(b) imposes no obligations whatsoever on the receiving lawyer regardless of the contents of the inadvertently disclosed document received by the receiving lawyer in the matter

60. A lawyer admitted to practice in States X, Y, and Z commits misconduct in connection with a representation occurring entirely in State Z. Which states may discipline her?

A. Only State Z, because that is where the conduct occurred and where the underlying representation took place from beginning to end in connection with the client's matter

B. Only the state where the lawyer was first admitted to practice law in her early career and where she initially passed the bar examination as a newly minted attorney

C. Only the state in which the lawyer maintains her primary law office at the time of the misconduct during the underlying representation of the client at issue

D. Under Rule 8.5(a), a lawyer is subject to the disciplinary authority of each jurisdiction in which she is admitted, regardless of where the conduct occurred — all three states may discipline her, subject to choice-of-law rules under 8.5(b)

PRACTICE EXAM 16: ANSWERS AND EXPLANATIONS

1. A — Federal courts have their own admission rules, which typically include a general bar list and pro hac vice procedures operating independently of admission to the state bar where the federal court physically sits. A lawyer admitted to any state bar may generally appear in federal court subject to that court's local admission rules, without needing separate state-level admission in the forum state.

2. D — Rule 1.9(c)(1) excepts from the use restriction information that has become "generally known." Comment [8] makes clear this exception covers information publicized in court records, press accounts, or other public sources; published judicial opinions and major news coverage typically meet that threshold.

3. C — Rule 1.16(b)(4) permits permissive withdrawal where the client insists on taking action with which the lawyer has a fundamental disagreement, and Rule 1.16(b)(7) permits withdrawal for "other good cause." Where litigation is pending, Rule 1.16(c) requires compliance with the tribunal's withdrawal rules, typically requiring court permission.

4. B — Comment [24] to Rule 1.7 addresses positional conflicts: ordinary inconsistent legal positions in unrelated cases are not impermissible, but a conflict arises if there is a significant risk that the lawyer's action on behalf of one client will materially limit her effectiveness in representing the other. In that case, informed consent confirmed in writing is required.

5. D — Rule 1.4(b) requires a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Where settlement terms include trade-offs the client must evaluate, the lawyer's obligation is to surface and explain those trade-offs, not to substitute her own judgment.

6. A — Rule 1.5(a) addresses the reasonableness of fees and expenses, and 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. Reasonable litigation costs are recoverable as a matter of practice, but addressing costs expressly in the engagement letter is best practice.

7. B — Comment [5] to Rule 1.6 expressly recognizes that disclosure of confidential information among lawyers in the same firm is impliedly authorized in order to carry out the representation, unless the client has instructed otherwise. The implied authority enables ordinary collaboration on client matters within the firm without requiring fresh client consent.

8. D — Rule 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation, except for advancing court costs and expenses of litigation. Certain jurisdictions also permit limited humanitarian aid to indigent clients, but a personal loan for ordinary living expenses is not within the exception.

9. C — Rule 1.18(d)(2) conditions the screening cure on the disqualified lawyer having taken reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client. If the lawyer learned more than was reasonably necessary, the screen does not cure imputation.

10. A — Under Upjohn Co. v. United States and Rule 1.13(a), the corporation is the client, and communications by employees made to corporate counsel within the scope of their employment for purposes of obtaining legal advice for the corporation are protected by the corporation's privilege. Only the corporation, not the individual employee, can waive that privilege.

11. C — The Model Rule's record-keeping provision generally requires complete records of trust account funds and other property to be kept and preserved for a period of five years after termination of representation. Specific state implementations vary in detail, but five years is the standard benchmark.

12. B — Rule 1.17(c) requires written notice to each client of the proposed sale that includes information about the purchaser, the client's right to retain other counsel or take possession of the file, and the fact that the client's consent will be presumed if no action is taken within a defined period. Notice plus an opportunity to opt out is the mechanism — not affirmative client consent or court approval.

13. A — Rule 2.1 directs a lawyer to exercise independent professional judgment and render candid advice. Comments [1] and [5] specifically support counseling the client toward settlement where appropriate; the lawyer's candor about the strengths and weaknesses of litigation versus settlement may be the most valuable service she can provide.

14. D — Rule 1.12(a) provides that a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a third-party neutral, unless all parties to the proceeding give informed consent confirmed in writing. The lawyer's prior mediator role triggers the bar.

15. B — Rule 3.1 disciplinary violations and Rule 11 sanctions employ overlapping but distinct standards: Rule 11 imposes a duty enforceable by the trial court, while Rule 3.1 governs disciplinary fitness. A Rule 11 finding is evidence relevant to a Rule 3.1 inquiry, but it does not automatically establish a disciplinary violation.

16. C — Rule 3.3(a)(1) bars a lawyer from knowingly making a false statement of fact or law to a tribunal — the unintentional misstatement at the moment of utterance is not itself a violation. Once the lawyer becomes aware of the error, however, Rule 3.3(a)(1) requires correction, and continued silence converts the unintentional misstatement into a knowing one.

17. A — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing access to evidence or unlawfully altering, destroying, or concealing a document or other material having potential evidentiary value. Altering a document — even by a single date — before producing it in discovery is a paradigmatic violation of the rule.

18. B — Passive review of publicly available social media content of a prospective or seated juror is generally permitted; what Rule 3.5(b) bars is ex parte communication with the juror. ABA Formal Opinion 466 and many state opinions distinguish between viewing public content (allowed) and actively friending or sending a connection request (prohibited as a communication).

19. D — Rule 3.6's standard — "substantial likelihood of materially prejudicing an adjudicative proceeding" — applies to all adjudicative proceedings, not only jury trials. Comment [6] recognizes that

judicial proceedings without juries pose less risk of prejudice, but the rule's analysis is contextual rather than categorically inapplicable to bench trials.

20. C — Rule 3.8(e) restricts a prosecutor from subpoenaing a lawyer to present evidence about a past or present client unless the prosecutor reasonably believes the information is not protected by any applicable privilege, the evidence is essential to the prosecution, and there is no other feasible alternative. The provision restrains aggressive use of grand jury subpoenas against defense counsel.

21. A — 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. The candor, fairness, and decorum duties carry over to legislative and rule-making contexts.

22. C — Comment [5] to Rule 4.2 specifically preserves the constitutional and policy-based right of a citizen to communicate with the government on matters concerning policy, including communications with elected officials of represented government agencies. The lawyer must still avoid eliciting privileged information protected by the agency's attorney-client privilege.

23. D — Rule 4.3 requires the lawyer to avoid implying disinterest and, when she knows or reasonably should know the unrepresented person misunderstands her role, to make reasonable efforts to correct the misunderstanding. The rule expressly bars giving legal advice to an unrepresented person whose interests may conflict with the client's, other than the advice to secure counsel.

24. B — Rule 5.1(c)(1) provides that a lawyer is responsible for another lawyer's violation of the Rules if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved. A partner's knowing approval and authorization of a brief containing a misrepresentation is ratification within the meaning of the rule.

25. A — Rule 5.3 imputes responsibility for the conduct of non-lawyer assistants — including outside contractors — to lawyers with managerial or supervisory authority. ABA Formal Opinion 08-451 specifically addresses outsourcing and requires the lawyer to make reasonable efforts to ensure confidentiality and that the contractor's conduct conforms to the Rules of Professional Conduct.

26. D — Rule 5.4(b) prohibits a lawyer from forming a partnership with a non-lawyer if any of the partnership's activities consist of the practice of law. The Model Rule remains the standard in nearly all U.S. jurisdictions, with Arizona and the District of Columbia as notable but limited exceptions to the general prohibition.

27. C — Rule 5.5(c)(4) permits a lawyer admitted in one U.S. jurisdiction to provide legal services on a temporary basis in another jurisdiction that arise out of or are reasonably related to the lawyer's practice in her home jurisdiction. Representing a home-state client in a transaction crossing state lines is the paradigmatic example of permissible multijurisdictional temporary practice.

28. A — Rule 5.6(b) prohibits a lawyer from participating in offering or making an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy. The rule protects

the public's access to counsel — settlements cannot be used to remove plaintiffs' lawyers from the market for similar claims against the same defendant.

29. B — Rule 6.1(a) calls for pro bono publico legal services primarily to persons of limited means or to charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means. Reduced-fee work for wealthy clients does not fit within the rule's pro bono category.

30. D — Rule 6.2 requires a lawyer not to seek to avoid court appointment except for good cause, expressly including a likely Rules violation, an unreasonable financial burden, or a client or cause so repugnant as to be likely to impair the relationship or the lawyer's ability to represent. Generalized reputational concerns about a firm's existing client base do not normally qualify as good cause.

31. A — Rule 6.5 was adopted to encourage short-term limited legal services programs by relaxing the usual conflicts analysis. Rules 1.7 and 1.9(a) apply only if the participating lawyer knows the representation involves a conflict, and imputation under Rule 1.10 applies only if the participating lawyer knows another lawyer in her firm is disqualified.

32. C — Comment [3] to Rule 7.1 warns that an unsubstantiated comparison of the lawyer's services or fees may be misleading, and that statements about a lawyer's past achievements may create unjustified expectations about results in similar future matters unless accompanied by an appropriate disclaimer.

33. B — Rule 7.3(a) provides that the prohibition on live person-to-person solicitation does not apply to solicitation directed at a lawyer; a family member; a person with a close personal or prior professional relationship with the lawyer; or a person who routinely uses for business purposes the type of legal services offered. Lawyer-to-lawyer referral discussions are covered by the first exception.

34. D — Rule 7.6 prohibits a lawyer or law firm from accepting a government legal engagement or judicial appointment if the lawyer or firm makes or solicits political contributions for the purpose of obtaining or being considered for that type of engagement or appointment. The rule targets pay-to-play arrangements with public officials.

35. C — Rule 8.3(a) imposes a reporting duty only when the other lawyer's violation raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Rudeness and tardiness, without more, generally do not meet that threshold even though they may be unprofessional or sanctionable in other ways.

36. A — Rule 8.4(g) makes it professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of protected characteristics in conduct related to the practice of law. The rule reaches lawyer-to-lawyer interaction in deposition rooms and other professional settings, not only conduct directed at parties or witnesses.

37. D — Rule 8.5(b)(1) provides that for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits apply, unless the tribunal's rules provide otherwise. The pro hac vice forum is the tribunal of the State Y matter, so State Y's rules govern her conduct in that matter.

38. B — CJC Rule 1.3 provides that a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so. Using a judge's title and judicial letterhead to influence a prosecutor's handling of a family member's traffic citation is a paradigmatic violation of this prohibition.

39. C — CJC Rule 2.2 provides that a judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially. Personal disagreement with controlling law does not relieve the judge of her duty to apply it; the proper avenue for change is appellate or legislative action, not selective enforcement.

40. A — CJC Rule 2.3(B) provides that a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice based on protected characteristics including religion. Comment [2] makes clear the prohibition extends to conduct beyond the formal courtroom record, including informal but on-the-job conversations within the courthouse.

41. B — CJC Rule 2.6(A) provides that a judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. Routinely cutting off counsel and witnesses to expedite the docket undermines this fundamental right.

42. D — CJC Rule 2.7 provides that a judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law. A judge's personal dislike for a category of cases is not a recognized basis to avoid the duty to hear assigned matters.

43. C — CJC Rule 2.8(B) provides that a judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity. Mocking and threatening a struggling pro se litigant violates this requirement directly.

44. A — CJC Rule 2.9(C) prohibits a judge from independently investigating facts in a matter and requires that the judge consider only the evidence presented and any facts that may properly be judicially noticed. The prohibition expressly extends to internet research about parties and matters in pending cases.

45. B — CJC Rule 2.11(A)(3) requires disqualification when the judge knows that she (or specified family members) has an economic interest in the subject matter in controversy or in a party to the proceeding. "Economic interest" is defined as ownership of more than a de minimis legal or equitable interest, which an individual stockholding generally constitutes.

46. D — CJC Rule 2.13 provides that in making administrative appointments — including guardian ad litem appointments — a judge shall exercise the power impartially and on the basis of merit, and shall avoid nepotism, favoritism, and unnecessary appointments. Appointing the judge's own son to a paid GAL position is squarely barred.

47. A — CJC Rule 3.1 permits judges to engage in extrajudicial activities, including writing, teaching, and speaking on the law, the legal system, and the administration of justice, subject to limitations such as not interfering with judicial duties, not casting reasonable doubt on impartiality, and not leading to frequent disqualification. A historical legal column falls within this safe harbor.

48. C — CJC Rule 3.2 permits a judge to appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official on matters concerning the law, the legal system, or the administration of justice, or in connection with matters about which the judge acquired knowledge or expertise in judicial duties.

49. B — CJC Rule 3.3 prohibits a judge from testifying voluntarily as a character witness in a judicial, administrative, or other adjudicatory proceeding, or otherwise vouching for the character of a person in a legal proceeding, except when duly summoned. The rule recognizes that the judge's office lends improper weight to character testimony.

50. D — CJC Rule 3.10 generally prohibits a full-time judge from practicing law. A limited exception permits the judge to act pro se and to give legal advice to and draft or review documents for a family member, but the judge may not serve as the family member's lawyer in any forum, even pro bono.

51. C — CJC Rule 4.1(A)(8) prohibits judges and judicial candidates from personally soliciting or accepting campaign contributions other than through a campaign committee authorized by Rule 4.4. Rule 4.4 directs that a candidate's campaign committee — not the candidate herself — conducts the solicitation and collection of contributions.

52. A — Rule 1.7(a) requires ongoing conflict analysis; conflicts that emerge during a representation must be addressed when they become apparent. Adversity between joint clients of the same lawyer, even if it appears mid-representation, triggers Rule 1.7's informed-consent requirements or, if the conflict is non-consentable, mandates withdrawal under Rule 1.16(a).

53. B — Most jurisdictions follow the "entire file" approach under Rule 1.16(d): the client is generally entitled to the entire substantive file, including documents the lawyer created such as research memoranda, pleadings, and correspondence. The lawyer may retain purely internal materials such as conflict-of-interest memoranda and fee-collection notes; in most jurisdictions, unpaid fees do not justify withholding the substantive file.

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

55. D — Rule 1.15(a) requires a lawyer to hold client funds in a separate trust account, and Rule 1.15(b) limits the lawyer's own funds in trust to amounts necessary to pay bank charges. Inadvertent commingling is a technical violation even when promptly corrected and even where the client suffers no loss, though sanctions are typically mitigated by good-faith correction.

56. B — Rule 1.6's confidentiality duty applies to all communications about client matters, including social media. ABA Formal Opinion 480 (2018) emphasizes that even oblique or general posts about ongoing representations risk improper disclosure, and lawyers should obtain client consent or refrain from such postings.

57. A — Rule 1.8(h)(1) prohibits a lawyer from making an agreement prospectively limiting the lawyer's liability for malpractice unless the client is independently represented in making the agreement. ABA Formal Opinion 02-425 and state authorities generally permit pre-dispute arbitration provisions for malpractice claims if the client gives informed consent — including explanation of scope, the rights being waived, and the desirability of independent counsel.

58. C — Rule 1.5(c) generally permits contingent fees in civil matters, with limited exceptions under Rule 1.5(d). However, federal statutes such as the Federal Tort Claims Act (28 U.S.C. § 2678) impose maximum fee percentages (25% in FTCA cases) on lawyers handling certain federal litigation, which limits the permissible contingency arrangement.

59. B — Rule 4.4(b) provides only that a lawyer who receives a document or electronically stored information relating to representation of the lawyer's client and knows or reasonably should know it was inadvertently sent shall promptly notify the sender. The rule itself does not require return or destruction of the document; those issues are governed by other law and the sender's protective steps after notification.

60. D — Rule 8.5(a) provides that a lawyer admitted to practice in a jurisdiction is subject to that jurisdiction's disciplinary authority regardless of where the lawyer's conduct occurs. A lawyer admitted in multiple jurisdictions is therefore subject to discipline in each jurisdiction of admission, though Rule 8.5(b) sets choice-of-law rules to determine which jurisdiction's substantive rules govern the conduct.