

# PRACTICE EXAM 18: MPRE SIMULATION

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**Time Allotted: 2 hours**

**Format: Multiple choice — select the best answer**

1. A lawyer represents a defendant who was just indicted on white-collar charges. The lawyer issues a statement to the press identifying her client by name, stating the general nature of the charges, and announcing the date of the next scheduled court appearance. The statement is brief and factual in nature.

A. The statement violates Rule 3.6 because any public statement by counsel about a pending criminal indictment may materially prejudice the upcoming trial of the matter

B. The statement is permissible only if the lawyer's client personally authorizes each individual statement made publicly to members of the press during the proceedings

C. The statement violates Rule 3.6 because identifying the defendant by name in extrajudicial communications is per se prohibited under the rule of professional conduct

D. The statement is permissible under Rule 3.6(b), which lists categories of statements that may be made without violating the trial publicity rule, including identity of the accused and scheduling information

2. A lawyer agrees to handle a contract dispute for a client. The lawyer files the complaint promptly but then takes no action for nine months despite receiving discovery requests from opposing counsel and inquiries from the client. The lawyer's inaction does not yet implicate a court deadline but is causing serious harm to the client's litigation position.

A. The lawyer is not subject to discipline because no formal court deadline has been missed during the entire period of the lawyer's inaction on the matter

B. The lawyer is not subject to discipline because Rule 1.3 applies only to failure to meet specific procedural deadlines imposed by the court in pending cases

C. The lawyer is subject to discipline under Rule 1.3, which requires a lawyer to act with reasonable diligence and promptness in representing a client throughout the representation

D. The lawyer is subject to discipline only if the client formally files a complaint with the disciplinary authority within sixty days of the inaction occurring in the matter

3. A lawyer takes on a personal injury case on a contingent fee basis. The lawyer and client orally agree that the lawyer will receive one-third of any recovery as the contingent fee. The lawyer begins work immediately without reducing the contingent fee agreement to a writing signed by the client at the outset of the representation.

A. The oral fee arrangement is permissible because contingent fee agreements are governed by general contract principles rather than specific written form requirements applicable to lawyers

B. The oral fee arrangement violates Rule 1.5(c), which requires a contingent fee agreement to be in a writing signed by the client and to state the method by which the fee is determined

C. The oral fee arrangement is permissible because one-third is the customary contingent fee percentage for personal injury cases in most jurisdictions in the United States today

D. The oral fee arrangement is permissible provided the lawyer reduces the contingent fee agreement to a signed writing within thirty days of beginning the actual work

4. A lawyer at a small firm accepts a new client matter without conducting any conflict check against the firm's existing client base. Two months later, the lawyer discovers that her firm has a long-standing representation of a party directly adverse to the new client in the same underlying matter she just accepted.

A. The lawyer's failure to conduct a conflict check before accepting the new matter is itself problematic under Rule 5.1(a) and Rule 1.7, because identifying conflicts is foundational to compliance with the conflict-of-interest rules

B. The lawyer's failure to conduct a conflict check is permissible because Rule 1.7 imposes no specific requirement on the procedures by which lawyers identify potential conflicts of interest

C. The lawyer's failure to conduct a conflict check is permissible because the conflict only became apparent two months later, indicating it was not reasonably discoverable at the outset

D. The lawyer's failure to conduct a conflict check is permissible because the existing firm client may have given prior general consent to representation of adverse parties in their engagement agreement

5. A lawyer at a large firm is having a conversation in the firm cafeteria about a sensitive client matter with another firm lawyer. A third firm lawyer who is not working on the matter overhears the conversation. The third lawyer subsequently uses the overheard information to his personal benefit in unrelated stock trading activity.

A. The first lawyer's cafeteria conversation is permissible because Rule 1.6 applies only to disclosures to persons outside the firm and not to internal firm conversations

B. The first lawyer's conversation is permissible because all firm lawyers are bound by the same confidentiality duties as principals to the client matter under the rules

C. The first lawyer's conversation is permissible if the firm has general written policies about confidentiality applicable to all firm personnel within the building

D. The first lawyer's conversation may violate Rule 1.6(c), which requires reasonable efforts to prevent unauthorized access to client information, including by other firm lawyers not authorized to receive it

6. A lawyer recently moved from Firm X to Firm Y. While at Firm X, the lawyer worked on a matter for Client A. Firm Y currently represents Client B in a matter substantially related to the Client A representation. Firm Y implements screening procedures, apports no part of the fee to the lateral lawyer, and provides written notice to Client A.

A. Firm Y must decline the representation because Rule 1.10 imputes the lateral lawyer's conflict to all Firm Y lawyers permanently and irrevocably under all circumstances

B. Under Rule 1.10(a)(2), Firm Y may continue the representation because the migrating lawyer is timely screened, apports no part of the fee, and Client A receives written notice

C. Firm Y may continue the representation only if Client A also gives informed written consent to the screening arrangement after receiving notice of the lateral move

D. Firm Y may continue the representation only if the lateral lawyer formally agrees to refund any portion of her current salary derived from the related matter at the firm

7. A lawyer represents a client whose cognitive function has declined significantly during the representation. The client is at risk of substantial harm from her current decisions and cannot adequately act in her own interest. The lawyer reasonably believes protective action is necessary to avoid harm. The client has no family or guardian.

A. Under Rule 1.14(b), the lawyer may take reasonably necessary protective action, which can include consulting with individuals or entities that can take action to protect the client and, in appropriate cases, seeking the appointment of a guardian

B. The lawyer must withdraw from the representation immediately because she cannot continue to represent a client who lacks adequate decision-making capacity for legal matters at all

C. The lawyer must continue the representation without protective action because Rule 1.14 prohibits any deviation from the client's expressed wishes regardless of any risk to the client

D. The lawyer must petition the court directly for guardianship before taking any other protective action under the rules of professional conduct in the jurisdiction where she practices

8. A lawyer represents an elderly widow who has expressed gratitude for the lawyer's services over many years. The widow is not related to the lawyer. The lawyer subtly suggests to the widow that "many of my long-time clients have included me in their estate plans as a token of appreciation," knowing the widow is currently drafting her will.

A. The lawyer's suggestion is permissible because it does not actually demand a gift and leaves the widow free to decide whether to include the lawyer in her estate

B. The lawyer's suggestion is permissible because the widow voluntarily continues working with the lawyer and may make any disposition of her property she chooses

C. The lawyer's suggestion violates Rule 1.8(c), which prohibits a lawyer from soliciting any substantial gift from a client, including a testamentary gift, except where the lawyer or recipient is related to the client

D. The lawyer's suggestion is permissible if the widow ultimately decides on her own not to include the lawyer in her estate plan or testamentary documents after consideration

9. A lawyer represents a client in a civil action where the lawyer is likely to be called as a necessary witness on a contested issue regarding the events giving rise to the dispute. The testimony does not relate to the lawyer's services and does not fall within any Rule 3.7(a) exceptions. The lawyer wishes to continue serving as advocate at trial.

A. The lawyer may serve as advocate because lawyers retain professional discretion to manage their dual role when their testimony aids the client's case in the matter

B. The lawyer may serve as advocate provided that the trial court formally consents to her continued role at trial after disclosure of the potential testimony being given

C. The lawyer may serve as advocate if the client signs a written waiver acknowledging the dual role and any potential complications during the trial proceedings

D. Rule 3.7(a) generally prohibits a lawyer from acting as advocate at a trial in which the lawyer is likely to be a necessary witness, subject only to limited exceptions

10. A lawyer represents a plaintiff in an employment discrimination case against a corporation. The lawyer wants to interview a former employee of the corporation who left the company two years ago. The former employee is not separately represented by counsel. The corporation is represented by outside counsel in the matter.

A. Under Rule 4.2 and Comment [7], the lawyer may contact the former employee directly because consent of the organization's lawyer is not required for communication with a former constituent

B. The lawyer must obtain consent from corporate counsel before contacting any former employee of the corporation because former employees remain protected by Rule 4.2 indefinitely after their departure

C. The lawyer must obtain a court order before contacting the former employee because the former employee's testimony may be imputed to the represented organization in the matter

D. The lawyer must contact the former employee only through formal deposition procedures rather than any informal interview about the discrimination matter being litigated

11. A lawyer holds client trust funds in an interest-bearing IOLTA account. The interest earned on the account is paid to the state bar's legal services foundation under applicable state IOLTA rules. The lawyer earns no benefit from the interest generated by client funds held in the account itself.

A. The arrangement is impermissible because all interest earned on client funds must be paid directly to the individual clients whose funds generated it in the account

B. The arrangement is impermissible because Rule 1.15 requires lawyers to hold client funds in non-interest-bearing accounts to avoid any complications regarding interest allocation among clients

C. The arrangement is generally permissible under IOLTA programs established under Rule 1.15 and state law, with interest from nominal or short-term client funds remitted to the state legal services foundation

D. The arrangement is permissible only if each individual client signs an oral acknowledgment that her funds will be deposited in an IOLTA account at the outset of representation

12. A lawyer prepares a flyer to promote her firm. The flyer states "Get your case settled by the most successful injury attorney in the state — over \$50 million recovered for our clients last year alone!" The

lawyer has not in fact recovered that amount; her firm's total recovery last year was approximately \$5 million.

- A. The flyer is permissible because exaggerated marketing claims are recognized as standard practice in legal advertising and are not subject to discipline under the rules
- B. The flyer violates Rule 7.1, which prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services to potential clients
- C. The flyer is permissible provided the lawyer's firm could foreseeably recover the claimed amount in the future based on pending matters being handled at the time
- D. The flyer is permissible because past results disclaimers are sufficient to address any factual inaccuracy in lawyer marketing materials under the rules of professional conduct

13. A lawyer who has just opened a new solo practice contacts several close personal friends, two family members, and a former law school classmate (who is now also a practicing lawyer) to inform them of her new practice and offer her services. The contacts are by phone and in person, not in written or recorded form.

- A. The lawyer's contacts are permissible under Rule 7.3, which permits live solicitation of professional employment from other lawyers and persons with whom the lawyer has a family, close personal, or prior professional relationship
- B. The lawyer's contacts violate Rule 7.3 because all live, in-person solicitation by lawyers is categorically prohibited regardless of the relationship between the lawyer and recipient
- C. The lawyer's contacts are permissible only if reduced to a written communication clearly labeled as advertising before reaching the friends, family, and former classmate
- D. The lawyer's contacts violate Rule 7.3 only if the friends and family ultimately retain the lawyer after the in-person solicitation occurs in their respective cases later

14. A lawyer applying for admission to a state bar is asked to disclose all prior employment terminations. She was terminated for cause from a job five years earlier, but considers the termination unjust and decides not to disclose it on her application. She is later admitted and the omission is discovered during a routine background re-check by the bar after her admission.

- A. The lawyer is not subject to discipline because the misrepresentation occurred during the admission process and is no longer relevant after admission has been granted to her

- B. The lawyer is not subject to discipline because her belief that the termination was unjust gives her a good-faith basis for non-disclosure on the bar admission application
- C. The lawyer is subject to discipline only if the original termination involved conduct that would itself have been disqualifying for bar admission in the jurisdiction at the time
- D. The lawyer is subject to discipline under Rule 8.1, which prohibits knowingly making a false statement of material fact or failing to disclose a fact necessary to correct a misapprehension in connection with a bar admission application

15. A lawyer learns that a colleague at her firm has been systematically misappropriating client trust funds from multiple firm clients. The misconduct raises a substantial question about the colleague's honesty and fitness to practice law. The lawyer's discovery came from her own review of firm financial records and not from any client communication protected by Rule 1.6.

- A. The lawyer has no duty to report because Rule 8.3 applies only to misconduct of lawyers in firms other than her own firm where she practices
- B. The lawyer has no duty to report because internal firm misconduct should be addressed through firm management rather than external disciplinary authorities in the jurisdiction
- C. Under Rule 8.3(a), the lawyer must inform the appropriate professional authority of the colleague's misconduct because the misconduct raises a substantial question of honesty and fitness
- D. The lawyer has a duty to report only after the colleague has been given formal notice and an opportunity to correct the conduct before any external reporting is made to authority

16. A trial judge owns a small business that is a competitor of a corporation that is a defendant in a case assigned to the judge. The judge has substantial financial interest in the business's continued success. The judge believes she can be impartial despite this competitive economic relationship between her business and the defendant.

- A. The judge need not disqualify because she subjectively believes she can be impartial despite the competitive relationship with the corporate defendant in the matter
- B. The judge must disqualify under Rule 2.11 because she has a personal economic interest that could be substantially affected by the proceeding involving the corporate defendant
- C. The judge must disqualify only if a party formally objects to her continued participation in the case after disclosure of the competitive interest at issue

D. The judge need not disqualify if she discloses the competitive relationship on the record and the parties consent to her continued participation in the case

17. A lawyer is arguing a motion before the court. During argument, the lawyer cites a recent case that supports her position. Opposing counsel later identifies and brings to the court's attention a more recent appellate decision that has overruled the case the lawyer cited. The lawyer was aware of the overruling decision before the argument began but did not mention it.

A. The lawyer's conduct violates Rule 3.3(a)(1), which prohibits a lawyer from knowingly making a false statement of fact or law to a tribunal or failing to correct a false statement of material fact or law previously made

B. The lawyer's conduct is permissible because lawyers may strategically choose which cases to cite in support of their positions during oral argument before any tribunal in the jurisdiction

C. The lawyer's conduct is permissible because opposing counsel ultimately brought the overruling decision to the court's attention through her own legal research and argument

D. The lawyer's conduct is permissible if the cited case still represents the better legal principle on the underlying issue as a matter of substantive law in the lawyer's view

18. A lawyer represents five clients in a mass tort case. The defendant offers a global settlement of \$1 million to resolve all five claims. The lawyer believes the proposed allocation gives each client a fair share. The lawyer obtains signed written consent from four of the five clients but not from the fifth, who is traveling and cannot be reached easily.

A. The lawyer may proceed with the settlement because the majority of clients have consented to the proposed allocation among the participating plaintiffs in the matter

B. The lawyer may proceed with the settlement provided that the fifth client's allocation is not materially less favorable than the others' shares under the global settlement

C. The lawyer may not proceed because Rule 1.8(g) requires informed consent from each client to an aggregate settlement, in a writing signed by each client, after disclosure of all claims and the share each will receive

D. The lawyer may proceed if she obtains oral consent from the fifth client by phone and documents the conversation in the file before completing the settlement

19. A lawyer represents a client in a civil action. During the representation, the lawyer discovers that her client has been using the lawyer's services as part of an ongoing fraud scheme against the opposing party. The client refuses to discontinue the fraudulent conduct despite the lawyer's counseling. Continued representation would result in continued assistance with the fraud.

- A. The lawyer must continue the representation while declining to participate in any fraudulent activity, because withdrawal during active litigation prejudices the client's interests in the case
- B. The lawyer may withdraw at her discretion but is not required to do so under the rules unless the client formally demands the lawyer's continued participation in the fraud
- C. The lawyer must consult with the client's family before taking any withdrawal action to ensure the client has support during the process of finding new counsel for the matter
- D. Under Rule 1.16(a)(1), the lawyer must withdraw because continuing the representation would result in violation of the rules of professional conduct or other law

20. A lawyer admitted only in State A is representing a client in a contract dispute pending in State A. She needs to travel briefly to State B to take depositions of witnesses located there. She does not maintain an office in State B and her presence there will be limited to the specific depositions needed for the home-state matter.

- A. The lawyer's State B activities constitute unauthorized practice of law because she is not admitted to State B's bar to engage in any legal activity in the jurisdiction
- B. Under Rule 5.5(c), the lawyer may provide legal services on a temporary basis in another U.S. jurisdiction when the services are reasonably related to a pending matter in the lawyer's home jurisdiction
- C. The lawyer must obtain pro hac vice admission in State B before conducting any depositions or other legal activity in the state during the representation
- D. The lawyer must associate with local State B counsel before conducting any depositions in the state regardless of the home-state nexus of the underlying matter being handled

21. A lawyer's marketing materials describe her as a "Certified Workers' Compensation Specialist." The lawyer obtained this designation from a private organization that is not approved by any state authority or accredited by the ABA for purposes of attorney specialization. The lawyer has substantial workers' compensation experience.

- A. The lawyer's designation is permissible because the lawyer's substantial workers' compensation experience supports the descriptive term used in her marketing communications
- B. The lawyer's designation is permissible because the private organization conferring the designation is a real entity that has evaluated the lawyer's qualifications and credentials
- C. Under Rule 7.2(c), a lawyer shall not state or imply that she is certified as a specialist unless certified by an organization approved by an appropriate state authority or accredited by the ABA
- D. The lawyer's designation is permissible if her marketing materials also include a small disclaimer noting the certifying organization is not state-approved or accredited by the ABA

22. A prosecutor is handling a high-profile criminal case. Following the indictment, the prosecutor holds a press conference during which she states that the evidence against the defendant is "overwhelming" and that "anyone who looks at this evidence will conclude the defendant is guilty." The trial is scheduled to begin in two months from the date of the conference.

- A. Under Rule 3.8(f), a prosecutor shall refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused, except for statements reasonably necessary to inform the public and serving a legitimate law enforcement purpose
- B. The prosecutor's statements are permissible because prosecutors have First Amendment rights to discuss their cases publicly with the press during ongoing proceedings in any jurisdiction
- C. The prosecutor's statements are permissible because they accurately reflect the prosecutor's good-faith assessment of the evidence in the case against the defendant at this time
- D. The prosecutor's statements are permissible because they were made following indictment, which is the formal beginning of the prosecution process and authorizes such commentary publicly

23. A lawyer has an initial consultation with a potential client about a contract dispute. The potential client shares detailed strategic information about her position in the dispute. The lawyer decides not to take the case after the consultation. One month later, the opposing party in that contract dispute approaches the lawyer to represent her in the same matter.

- A. The lawyer may represent the opposing party because no formal attorney-client relationship was established with the potential client during the initial consultation about the dispute
- B. Under Rule 1.18(c), the lawyer is generally prohibited from representing the opposing party if the lawyer received from the potential client information that could be significantly harmful to her in the same matter

C. The lawyer may represent the opposing party if she promises not to use any information received from the potential client during the initial consultation in her representation

D. The lawyer may represent the opposing party only if the potential client signs an oral waiver of any conflict-of-interest concerns regarding the new representation in the matter

24. A lawyer represents a defendant in a civil case. The lawyer's pretrial investigation has identified two witnesses who would testify favorably to the defendant. The lawyer wants to disclose the witnesses' identities only in compliance with the formal discovery rules. Opposing counsel asks informally during pre-discovery negotiations whether any helpful witnesses have been identified.

A. The lawyer must disclose the witnesses' identities to opposing counsel because Rule 3.4(a) prohibits obstructing opposing parties' access to evidence in any form whatsoever

B. The lawyer must disclose the witnesses' identities to opposing counsel because Rule 4.1 requires truthfulness in statements made to third persons during litigation negotiations

C. The lawyer must disclose the witnesses' identities to opposing counsel because lawyers have a duty of candor regarding the existence of relevant witnesses in any litigation matter

D. The lawyer has no obligation outside formal discovery rules to identify favorable witnesses to opposing counsel during pre-discovery negotiations, and Rule 1.6 protects information learned during the investigation

25. A lawyer agrees to represent a homeowner in a real estate transaction on a limited-scope basis. The lawyer will draft the closing documents but the homeowner will handle all communications with the buyer's lawyer directly. The lawyer and homeowner sign a written agreement detailing the limited scope, and the homeowner gives informed consent after the lawyer explains the limitations and risks.

A. The arrangement is impermissible because Rule 1.2(c) categorically prohibits limited-scope representation in real estate transactions due to their inherent complexity for clients

B. The arrangement is permissible under Rule 1.2(c) provided the limitation is reasonable under the circumstances and the client gives informed consent to the limited representation

C. The arrangement is permissible only if the trial court formally approves the limited-scope arrangement before any closing documents are drafted by the attorney in the matter

D. The arrangement is impermissible because limited-scope representation effectively constitutes unauthorized practice of law by the unrepresented homeowner during direct communications with opposing counsel

26. A lawyer is asked by a client to file a lawsuit asserting damages for "psychic damage" caused by an alleged encounter with an extraterrestrial being. The client offers no factual evidence for the alleged encounter, and the lawyer can find no legal theory under existing law that would support recovery on such allegations. The client wants to file the suit to gain publicity.

A. The lawyer's filing of the suit would violate Rule 3.1, which prohibits bringing a proceeding unless there is a basis in law and fact for doing so that is not frivolous, and a publicity-only motive does not satisfy that standard

B. The lawyer may file the suit because clients have a constitutional right to access the courts to assert any claim they wish to pursue in any court of the jurisdiction

C. The lawyer may file the suit provided she includes a disclaimer in the complaint stating that the claims may lack adequate evidentiary or legal support under the rules

D. The lawyer may file the suit only if opposing counsel objects in writing before the filing is made with the court, which would then alert the lawyer to revise the complaint

27. A lawyer is delivering closing arguments in a civil trial. During the argument, the lawyer states to the jury, "Based on my many years of experience handling cases like this, I personally believe my client's version of events is the truth and that the defendant's witnesses are lying to you here today."

A. The lawyer's statement is permissible because closing arguments are not subject to the same restrictions on lawyer commentary that apply to opening statements during trial

B. The lawyer's statement is permissible because vouching for one's own client based on professional experience is a recognized aspect of effective trial advocacy in practice

C. The lawyer's statement is permissible provided the lawyer believes in good faith that her client is in fact telling the truth in the underlying case being argued

D. The lawyer's statement violates Rule 3.4(e), which prohibits a lawyer in trial from stating a personal opinion as to the credibility of a witness or the justness of a cause

28. A lawyer represents an injured plaintiff in a personal injury action. The plaintiff has lost her job and asks the lawyer to lend her \$5,000 from the lawyer's personal funds to help with her ordinary monthly living expenses, including rent and groceries. The plaintiff has no current ability to pay back the loan but plans to do so after recovery from the case.

- A. The arrangement is permissible because the financial assistance enables the plaintiff to continue with the litigation she has been suffering hardship over during the lawsuit
- B. The arrangement is permissible provided the plaintiff signs a written agreement to repay the funds with interest at the conclusion of the litigation matter being pursued
- C. 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
- D. The arrangement is permissible because routine living expenses are necessary for clients to continue with litigation and fall within recognized exceptions to financial-assistance rules

29. A lawyer is retained by an insurance carrier under a liability policy to defend the insured. The insurance carrier wants the lawyer to settle the case at a particular amount and the insured wants the lawyer to take the case to trial because the insured's reputation is at stake in the litigation. The lawyer cannot satisfy both demands.

- A. The lawyer must follow the insurance carrier's directive because the carrier is paying her fees and retains directing authority over defense strategy in the matter
- B. The lawyer's primary duty in most jurisdictions runs to the insured as the client, and the lawyer must work to protect the insured's legitimate interests even when in tension with the carrier's directives
- C. The lawyer must withdraw from the representation immediately because any disagreement between insurer and insured creates a per se non-consentable conflict requiring withdrawal
- D. The lawyer must follow the directive of whichever party — insurer or insured — first signed the engagement letter or initial retention agreement for the matter

30. A lawyer represents a client in an active matrimonial action. During the representation, the lawyer and client develop a mutual attraction. They begin a consensual sexual relationship while the representation is ongoing. They had no prior personal relationship before the representation began on the client's matter.

- A. The relationship is permissible because both parties are competent adults who have consented to the relationship voluntarily during the ongoing legal representation
- B. The relationship is permissible because the matrimonial action is not directly affected by the developing personal relationship between attorney and client during representation
- C. The relationship is permissible if the client signs an oral acknowledgment that she understands the personal relationship and the ongoing legal representation provided to her

D. The relationship violates Rule 1.8(j), which prohibits sexual relations between lawyer and client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced

31. A lawyer is retained to represent a husband in a contested divorce matter. The husband offers to pay a contingent fee equal to 25% of the value of property he ultimately obtains in the divorce settlement. The lawyer agrees and reduces the contingent fee arrangement to a signed writing executed by both parties at the outset.

A. The arrangement violates Rule 1.5(d)(1), which prohibits a contingent fee in a domestic relations matter where payment is contingent on securing a divorce or upon the amount of alimony, support, or property settlement

B. The arrangement is permissible because the contingent fee is reduced to a signed writing executed by both lawyer and client before the work begins on the matter

C. The arrangement is permissible because contingent fees in divorce cases provide essential access to representation for clients who lack upfront resources for legal fees

D. The arrangement is permissible if the percentage of property the lawyer receives does not exceed 30% of the value of the property recovered by the husband in the case

32. A lawyer represents a client in a long-running litigation matter. Over a six-month period, several significant procedural developments occur, including a partial summary judgment ruling against the client and the opposing party's filing of a motion to add additional claims. The lawyer does not inform the client of these developments, planning to address them at the next scheduled client meeting in three months.

A. The lawyer's conduct is permissible because lawyers may schedule regular client communications without immediate notification of each procedural development during the case

B. The lawyer's conduct is permissible if she believes the developments are not significant enough to warrant interrupting the client's daily schedule with case updates during the matter

C. The lawyer's conduct violates Rule 1.4(a), which requires a lawyer to keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information

D. The lawyer's conduct is permissible if the client has previously instructed the lawyer to "handle everything" without continuous updates between scheduled meetings with the firm

33. A lawyer represents Client X in an ongoing trademark dispute. A potential new client approaches the lawyer to bring a separate lawsuit against Client X for an unrelated breach of contract. The two matters

share no factual or legal issues, but representing the new client would put the lawyer directly adverse to her current client X.

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

B. The lawyer may accept the new representation because the breach-of-contract matter is unrelated to the trademark dispute and creates no conflict of interest under the rules

C. The lawyer may accept the new representation provided that she promises not to share information between the two representations of opposing parties in their respective matters

D. The lawyer may accept the new representation if she discloses both representations to opposing counsel in each matter without further client consent required to proceed

34. A lawyer in cross-examination begins to ask a witness questions about prior conduct that the lawyer knows the judge has previously ruled inadmissible in a pretrial motion. The lawyer hopes that the jury will hear the substance of the questions before opposing counsel objects, even if the questions are sustained on objection.

A. The lawyer's questioning is permissible because vigorous cross-examination is recognized as an essential aspect of trial advocacy and includes testing all possible avenues for impeachment

B. The lawyer's questioning is permissible because the questions themselves do not introduce evidence — only the witness's answers would constitute evidence in the case

C. The lawyer's questioning is permissible provided the lawyer is prepared to withdraw the questions promptly if opposing counsel makes a timely objection at trial

D. The lawyer's questioning violates Rule 3.4(e), which prohibits a lawyer in trial from alluding to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence

35. A lawyer is litigating a complex motion. While traveling alone in an elevator at the courthouse, the lawyer happens to encounter the trial judge in the case. The lawyer takes the opportunity to discuss substantive issues regarding the pending motion with the judge, hoping to influence the eventual ruling on the matter favorably.

- A. The lawyer's communication is permissible because courthouse encounters between counsel and the bench are routine and not subject to formal restrictions on ex parte contact during the day
- B. The lawyer's communication is permissible because the elevator encounter was incidental and not a deliberate attempt to communicate with the judge outside official channels of the court
- C. The lawyer's communication violates Rule 3.5(b), which prohibits a lawyer from communicating ex parte with a judge concerning the merits of a pending matter unless authorized by law or court order
- D. The lawyer's communication is permissible if the judge subsequently rules adversely to the lawyer's position, demonstrating the communication did not actually influence the ruling in the case

36. A lawyer represents a defendant in a high-profile criminal trial. Following extensive prejudicial media coverage initiated by the prosecution and police sources, the lawyer makes a public statement aimed at mitigating the prejudicial effects of the prior coverage. The statement is limited to information she reasonably believes necessary to mitigate the recent publicity.

A. The statement is impermissible because Rule 3.6 prohibits all extrajudicial statements by lawyers about pending criminal matters reg 36. A lawyer represents a defendant in a high-profile criminal trial. Following extensive prejudicial media coverage initiated by the prosecution and police sources, the lawyer makes a public statement aimed at mitigating the prejudicial effects of the prior coverage. The statement is limited to information she reasonably believes necessary to mitigate the recent publicity.

- A. The statement is impermissible because Rule 3.6 prohibits all extrajudicial statements by lawyers about pending criminal matters regardless of circumstances or underlying motivation for making it
- B. Under Rule 3.6(c), the statement may be permissible because a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the client
- C. The statement is permissible only if the lawyer first obtains the trial court's express written permission to issue any public response to the prior media coverage of the matter
- D. The statement is permissible only if the prosecutor agrees in writing to refrain from any further public commentary about the case during the remainder of the pretrial period

37. A lawyer creates a print advertisement that features a stock photo of a well-known actor who is not a client of the lawyer. The advertisement quotes the actor saying "This lawyer is the best in the business!" — except the quote was fabricated and the actor has no connection to the lawyer or her practice in any capacity.

- A. The advertisement is permissible because the photograph is a stock photo and the actor's image is in the public domain for advertising purposes generally in the industry
- B. The advertisement is permissible if the lawyer subsequently obtains the actor's consent to use the image and quotation in future advertising materials within a reasonable time
- C. The advertisement violates Rule 7.1, which prohibits making a false or misleading communication about the lawyer or the lawyer's services, including fabricated endorsements
- D. The advertisement is permissible provided the lawyer includes a small disclaimer at the bottom of the advertisement noting the actor's quotation is fictionalized for marketing purposes

38. A lawyer is representing a plaintiff in a civil case. The lawyer's adult sibling is a senior officer at the defendant corporation in the matter. The sibling is not personally a party to the litigation but has substantial personal interest in the corporation's outcome. The lawyer has not disclosed the family relationship to her client.

- A. Under Rule 1.7(a)(2) and Comment [11], the lawyer's relationship to a senior officer of the defendant corporation may create a personal-interest conflict requiring disclosure to and informed consent of her client
- B. The relationship creates no conflict because the sibling is not personally a party to the litigation and Rule 1.7 addresses only direct lawyer-client relationships in the case
- C. The relationship requires the lawyer to withdraw immediately because any family connection to an opposing party creates a per se non-consentable conflict under the rules of conduct
- D. The relationship requires disclosure to opposing counsel but not to the lawyer's own client, because the client benefits from the lawyer's family connection to the opposing party in the matter

39. A lawyer represented a client in estate planning matters for over a decade. The client died last year. The lawyer is now contacted by a researcher who is writing a biography of the late client. The researcher asks the lawyer to share information learned during the representation about the client's business dealings and personal affairs over the years.

- A. The lawyer may freely share the information because the client is now deceased and confidentiality terminates upon the client's death under the applicable rules of professional conduct
- B. The lawyer must continue to maintain the client's confidences because the duty of confidentiality survives the death of the client under Rule 1.6 and related authority

C. The lawyer may share information that is "generally known" but must maintain confidentiality regarding any information that would harm the client's reputation in the biography being prepared

D. The lawyer may share the information provided that the researcher agrees in writing not to identify the source of the information as the deceased client's lawyer in the published work

40. A lawyer is asked to represent two business partners in forming a new partnership. The partners have generally aligned interests but specific terms of their partnership agreement are not yet fully negotiated. The lawyer recognizes there may be material differences in their preferences for partnership terms.

A. The lawyer may proceed without further disclosure because the two clients have come to her together as a unified team for the formation of the new business venture

B. The lawyer must decline because Rule 1.7 prohibits common representation of two parties in any partnership formation context regardless of consent or disclosure to the parties

C. The lawyer may proceed if she obtains oral consent from each partner to the joint representation before commencing any work on the matter for the new business

D. The lawyer must explain the implications of common representation, including risks to confidentiality and the lawyer's ability to advance each partner's individual interests, and obtain each client's informed consent confirmed in writing

41. A lawyer represents a client in a real estate transaction. During the representation, the client insists that the lawyer prepare documents that contain material misrepresentations to the lender about the property's condition. The lawyer counsels against the misrepresentations but the client refuses to proceed without them and demands the lawyer comply with her wishes.

A. Under Rule 1.16(a)(1), the lawyer must withdraw from the representation because continuing the representation would result in violation of the rules of professional conduct or other law

B. The lawyer must continue the representation while declining to prepare the misrepresented documents, because withdrawal would harm the client's interests in the transaction at issue

C. The lawyer must prepare the documents as the client demands because Rule 1.2(a) makes the means of representation a client-reserved decision under the rules of professional conduct

D. The lawyer may withdraw at her discretion but is not required to do so under Rule 1.16 unless the trial court formally orders the lawyer to cease the representation in the matter

42. A lawyer represents a client in a regulatory matter pending before a state agency. The agency is represented by its general counsel's office on the specific matter. The lawyer wishes to communicate directly with an agency commissioner about the case without going through the general counsel's office on this contested matter.

A. The lawyer may freely communicate with any government official because Rule 4.2 does not apply to communications with elected or appointed government officials about pending matters

B. The lawyer may communicate with the commissioner provided she first notifies the agency's general counsel of her intention before initiating contact about the specific case

C. Rule 4.2 generally restricts communications with represented persons, but its application to government entities is subject to specific limitations and the right to petition government on policy matters

D. The lawyer may communicate with the commissioner only if she obtains a formal court order authorizing the direct communication outside agency counsel channels in the proceeding

43. A lawyer is briefing an issue before a state appellate court. The lawyer is aware of a recent state supreme court decision that is directly adverse to her client's position. The decision was issued only weeks before the briefing was due. Opposing counsel has not cited the decision in his briefing in the matter.

A. The lawyer has no obligation to disclose the decision because she has no duty to make her opponent's case for him in adversarial appellate briefing on legal issues

B. Under Rule 3.3(a)(2), the lawyer must disclose the decision because the rule requires disclosure of legal authority in the controlling jurisdiction known to be directly adverse to the client's position and not disclosed by opposing counsel

C. The lawyer must disclose the decision only if the appellate court specifically asks during oral argument whether the lawyer is aware of recent contrary authority on the issue being briefed

D. The lawyer must disclose the decision only if the trial court below also failed to consider the decision in its original ruling on the underlying legal issue being briefed on appeal

44. A lawyer is convicted of misdemeanor theft from a retail store. The theft involved goods worth approximately \$200 and occurred while the lawyer was on a personal shopping trip. The conviction is unrelated to her legal practice and did not involve any client funds, clients, or professional matters at all in any way.

- A. The lawyer is not subject to discipline because the conviction is a minor misdemeanor unrelated to her legal practice or any client interaction with the firm
- B. The lawyer is not subject to discipline because the criminal proceedings concluded with payment of the imposed fine without any further legal consequence to her professionally
- C. The lawyer is subject to discipline only if the misdemeanor conviction is subsequently elevated to a felony charge under applicable state law in the jurisdiction where she practices
- D. Under Rule 8.4(b), the lawyer is subject to discipline because the rule makes it professional misconduct to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness to practice

45. A lawyer hires a paralegal but provides no training, supervision, or written guidance regarding the paralegal's handling of client information, communications with clients, or appropriate paralegal duties. The paralegal begins giving clients legal advice and quoting fees on her own without lawyer involvement. The lawyer is aware of the paralegal's conduct.

- A. The lawyer is not subject to discipline because the paralegal is independently responsible for her own conduct under standard professional employment rules applicable in the jurisdiction
- B. The lawyer is not subject to discipline because nonlawyer employees are not subject to the same supervision requirements as junior lawyers under Rule 5.1 of the rules
- C. Under Rule 5.3, the lawyer is responsible for making reasonable efforts to ensure the paralegal's conduct is compatible with the lawyer's professional obligations, including avoiding unauthorized practice of law
- D. The lawyer is subject to discipline only if specific clients complain about the paralegal's conduct directly to the state's lawyer disciplinary authority through formal complaints with the bar

46. A lawyer who specializes in real estate is approached by a long-time client to represent her in a complex international tax matter. The lawyer has never handled an international tax case but believes she can do "some research" to learn what's needed. The matter is time-sensitive with significant tax exposure for the client at stake.

- A. The lawyer's acceptance is permissible because she is a licensed attorney and is presumptively competent to handle any legal matter that arises within her general jurisdiction of admission
- B. Under Rule 1.1, the lawyer's acceptance is problematic unless she can acquire the requisite competence through reasonable preparation, by associating with experienced international tax counsel, or by referring the matter to a competent practitioner

C. The lawyer's acceptance is permissible because the longstanding client relationship justifies the lawyer expanding her practice into new fields when requested by a familiar client of the firm

D. The lawyer's acceptance is permissible provided she charges a reduced fee that reflects her lack of prior experience in international tax matters for this particular client representation

47. A lawyer represents the seller in a real estate transaction. The buyer is unrepresented. During negotiations, the unrepresented buyer asks the lawyer for advice on specific contract provisions that the buyer finds confusing. The buyer's interests may diverge from the seller's interests on those particular contract provisions in the deal.

A. Under Rule 4.3, the lawyer must not give the unrepresented buyer legal advice other than the advice to secure independent counsel because the buyer's interests have a reasonable possibility of being in conflict with the seller's interests

B. The lawyer may give legal advice to the unrepresented buyer because the buyer requested the advice and is making informed decisions about her own transaction with the seller

C. The lawyer may give legal advice to the unrepresented buyer provided that she also tells the buyer she represents only the seller in the transaction at hand and is acting in good faith

D. The lawyer may give legal advice if the unrepresented buyer signs a written acknowledgment that the advice does not create any attorney-client relationship between them in the matter

48. A lawyer represents a client in a contract dispute. During settlement negotiations, the lawyer's own client makes a material misrepresentation to opposing counsel about the company's financial condition. The lawyer knows the statement is false. The lawyer says nothing to correct her client's misrepresentation, allowing opposing counsel to rely on the false statement.

A. The lawyer's silence is permissible because the duty of candor under Rule 3.3 applies only to statements made to a tribunal, not in private settlement negotiations between counsel

B. The lawyer's silence is permissible provided the misrepresentation involves only ordinary negotiation puffing about case value rather than specific factual claims about the company

C. The lawyer's silence is permissible because the client made the statement directly and the lawyer's silence does not constitute her own misrepresentation under the rules of professional conduct

D. Under Rule 4.1(b), the lawyer has a duty to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless prohibited by Rule 1.6

49. A lawyer maintains a single bank account into which she deposits client trust funds, her firm's operating revenue, and her personal funds. The lawyer keeps careful internal records of which deposits belong to which category. She has never failed to disburse any client funds when properly owed to a specific client in the practice.

A. The arrangement is permissible because the lawyer's careful bookkeeping has prevented any actual loss to clients during the entire period of operation of the account

B. The arrangement violates Rule 1.15(a), which requires lawyers to hold client funds separate from the lawyer's own property in a designated client trust account

C. The arrangement is permissible provided the lawyer maintains complete monthly reconciliation records showing the source and disposition of each deposit made to the account

D. The arrangement is permissible if the lawyer has never failed to disburse client funds when properly owed to any client matter she has handled during the firm's operation

50. A lawyer learns reliably that a judge presiding over an active case has been accepting personal cash payments from a litigant in a separate matter pending before the same judge. The misconduct is serious and raises substantial questions about the judge's fitness to remain on the bench. The lawyer was not personally involved in either matter.

A. The lawyer has no obligation to report because Rule 8.3 imposes reporting obligations only with respect to other lawyers, not judges, in the jurisdiction where she practices

B. The lawyer has an obligation to report only if she is personally involved in matters pending before the judge or has been personally harmed by the judge's conduct in some way

C. The lawyer has an obligation to report only after she has formally confirmed the misconduct through independent investigation she conducts personally before making any report to authority

D. Under Rule 8.3(b), the lawyer must inform the appropriate authority of the judge's misconduct because the conduct raises a substantial question as to the judge's fitness for office

51. A lawyer learns through public records of a recent business bankruptcy filing affecting many small businesses in her area. She sends personalized letters to each affected business owner offering legal representation in bankruptcy matters. The letters are clearly labeled "Advertising Material" on the envelope and at the top of the letter and contain accurate information about her services.

- A. Under Rule 7.3, the lawyer's targeted written solicitation to potential clients known to need legal services is generally permitted when properly labeled as advertising and not coercive or harassing
- B. The lawyer's letters violate Rule 7.3 because the rule categorically prohibits all targeted solicitation of business owners following public bankruptcy events regardless of labeling on the letters
- C. The lawyer's letters violate Rule 7.3 because the lawyer used contact information obtained from public records, which is a per se improper source for solicitation outreach to clients
- D. The lawyer's letters violate Rule 7.3 only if a recipient business owner specifically complains about the unsolicited targeted electronic communication received from the lawyer's firm

52. A lawyer is in active negotiations with a current client about expanding the client's business into a new venture. During the negotiation, the client offers the lawyer the opportunity to invest personally in the new venture at favorable terms. The lawyer is considering the investment offer while still actively representing the client on related matters.

- A. The lawyer may accept the investment offer without further analysis because the client initiated the offer at fair-market terms favorable to the lawyer making the investment in the venture
- B. The lawyer may accept the investment offer provided that she discloses the terms orally to the client before signing the investment agreement at any point during the negotiation process
- C. Under Rule 1.8(a), the lawyer must ensure the terms are fair and reasonable, disclose them in writing, advise the client in writing to seek independent counsel, give a reasonable opportunity to do so, and obtain signed informed consent
- D. The lawyer is categorically prohibited from any business transactions with current clients under Rule 1.8 regardless of disclosure or independent counsel availability or any other procedure followed

53. A lawyer begins representing a new client in a complex commercial litigation matter. She charges \$400 per hour as her standard rate. She begins work immediately and does not communicate her hourly rate or other fee information to the client in writing or otherwise within any reasonable time after commencing the representation.

- A. The lawyer's conduct is permissible because Rule 1.5(b) imposes no specific requirement on the timing or form of fee communication with clients in commercial litigation matters
- B. The lawyer's conduct is permissible if the lawyer's standard rate is consistent with prevailing market rates for similar work in the local practice area where she practices

C. The lawyer's conduct is permissible if the lawyer ultimately bills the client at a reasonable hourly rate consistent with the work performed during the representation of the matter

D. Under Rule 1.5(b), the lawyer's conduct may violate the rule because the basis or rate of the fee should be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation

54. A lawyer is asked to draft a real estate purchase contract that two parties have already negotiated between themselves. The lawyer would prepare the documents reflecting the parties' agreement. The parties want the lawyer to act as a "neutral scrivener" without representing either side personally in the underlying transaction.

A. Under Rule 1.7 and its comments, the lawyer must explain the implications of common representation, including risks to confidentiality and the lawyer's inability to advance either party's individual interests, and obtain each client's informed consent confirmed in writing

B. The lawyer may proceed as a neutral scrivener without further analysis because the parties have already reached agreement on substantive terms of the purchase contract being prepared

C. The lawyer may proceed if she charges each party a separate fee for the document preparation services rather than a single combined fee for both clients in the transaction

D. The lawyer must decline because Rule 1.7 categorically prohibits dual representation of buyer and seller in any real estate transaction regardless of disclosure or consent from the parties

55. A lawyer represented a corporation in a major litigation that concluded several years ago. The case was widely reported in the press at the time. The lawyer is asked to give a CLE presentation discussing the trial strategy. The lawyer plans to refer only to facts that were publicly reported in the news media during the trial period.

A. The lawyer may discuss the matter freely at the CLE because publicly available information is not protected by Rule 1.6 and may be discussed without further authorization from the former client

B. The lawyer may discuss the matter provided her strategy commentary adds no information beyond what was reported in the news coverage of the trial proceedings at the time of the case

C. Rule 1.6 protects all information relating to the representation regardless of public availability, absent client informed consent or an applicable exception under the rule

D. The lawyer may discuss the matter provided that the former corporate client does not object in writing before the CLE presentation takes place at the scheduled venue

56. A lawyer is recruited to join a new law firm. While at her previous firm, the lawyer worked on a matter for Client X. The new firm currently represents Client Y in a matter substantially related to the Client X representation. The lawyer would not personally work on the Client Y matter at the new firm.

A. The new firm is not disqualified from continuing the Client Y representation because the lawyer would not personally work on the new firm's Client Y matter at any point during the lateral move

B. Under Rule 1.10(a), the lawyer's prior representation of Client X is imputed to the new firm such that, absent screening under Rule 1.10(a)(2), the new firm would be disqualified from continuing the substantially related Client Y matter

C. The new firm may continue the Client Y representation without restriction because the lawyer's prior work was at a different firm rather than at the new firm she is joining now

D. The new firm may continue the Client Y representation only if Client X gives oral consent to the lawyer's joining the new firm without any further procedural requirements being met

57. A lawyer represents a client in a complex civil litigation. After several months, the client has become unresponsive, fails to provide requested information, refuses to follow the lawyer's reasonable strategic advice, and is now several months behind on payment of legal fees. Trial is set for ten months in the future.

A. Under Rule 1.16(b), the lawyer may withdraw from the representation because the client's conduct makes representation unreasonably difficult and the trial is far enough away that withdrawal will not materially prejudice the client's interests

B. The lawyer may not withdraw because permissive withdrawal under Rule 1.16(b) requires the client's express written consent regardless of underlying grounds for withdrawal from the case

C. The lawyer may not withdraw because Rule 1.16(b) limits permissive withdrawal to cases involving the client's nonpayment of fees rather than to cases involving difficult client conduct generally

D. The lawyer may not withdraw because the matter is too complex to allow new counsel to prepare for trial in ten months, regardless of the client's conduct toward her during the case

58. A trial judge appoints a lawyer to represent an unpopular criminal defendant in a controversial case. The lawyer has no scheduling conflicts and no conflict of interest. The defendant has not violated any rule that would make representation untenable. The lawyer wants to decline solely because she fears the case will harm her firm's reputation.

A. The lawyer may decline the appointment because lawyers retain professional autonomy over which clients to accept regardless of court appointments in all situations under the rules of conduct

B. Under Rule 6.2, a lawyer shall not seek to avoid appointment by a tribunal except for good cause, and reputational concerns alone do not constitute good cause for declining when other ethical grounds are absent

C. The lawyer may decline the appointment because Rule 6.2 permits declining whenever a lawyer believes representation will harm her professional reputation in any way at all in the community

D. The lawyer may decline the appointment by providing the court with a brief written explanation of her reputational concerns at the time of the original appointment to the matter

59. A lawyer represents a client in a contract dispute. The lawyer agrees to file an appeal from the trial court's adverse decision. The lawyer becomes preoccupied with other matters and the filing deadline for the notice of appeal expires before the lawyer files the appeal. The client's appellate rights are now lost.

A. The lawyer is not subject to discipline because the rules of professional conduct address only intentional misconduct, not negligent oversight of deadlines in client matters being handled by the firm

B. The lawyer is not subject to discipline because the client's remedy is a malpractice action rather than a disciplinary proceeding for the missed appeal deadline in the matter

C. Under Rule 1.3, the lawyer is subject to discipline because the rule requires the lawyer to act with reasonable diligence and promptness in representing a client, and missing the appellate deadline violates that duty

D. The lawyer is subject to discipline only if the client formally files a complaint with the state's lawyer disciplinary authority within sixty days of the missed appellate deadline in the case

60. A lawyer is admitted to practice in States A, B, and C. While representing a client in State A, the lawyer engages in conduct that violates State A's rules of professional conduct. State A's disciplinary authority imposes a suspension. State B subsequently initiates a reciprocal discipline proceeding against the lawyer for the same conduct.

A. State B has no authority to discipline the lawyer because the underlying conduct occurred in State A and is governed solely by State A's rules of professional conduct under the applicable framework

B. State B may discipline the lawyer only if the conduct also violated State B's rules of professional conduct as they would apply in identical circumstances under State B's authority

C. State B may discipline the lawyer but may not impose any sanction more severe than the original sanction imposed by State A's disciplinary authority in the underlying matter

D. Under Rule 8.5(a), the lawyer is subject to the disciplinary authority of every jurisdiction in which she is admitted, and State B may impose reciprocal discipline based on the State A sanction

## ANSWER KEY – PRACTICE EXAM 18 (MPRE)

**1. D** — Rule 3.6(b) enumerates safe-harbor statements that lawyers may make without violating the trial publicity rule, including the general nature of the claim or defense, information contained in a public record, the identity of the persons involved, and scheduling information. The lawyer's statement falls squarely within those enumerated categories. The rule recognizes that basic factual reporting about the case serves legitimate public information needs without prejudicing the proceeding.

**2. C** — Rule 1.3 requires a lawyer to act with reasonable diligence and promptness in representing a client throughout the representation, not just at deadline-driven moments. Inaction over nine months that causes serious harm to the client's litigation position constitutes a clear breach of the duty. The diligence obligation operates continuously, not merely when a formal deadline is in view.

**3. B** — Rule 1.5(c) requires that a contingent fee agreement be in a writing signed by the client and state the method by which the fee is to be determined, including the percentage that shall accrue to the lawyer and litigation expenses to be deducted. The writing requirement is formal and applies at the outset of the representation. An oral agreement does not satisfy the rule regardless of customary percentages.

**4. A** — Effective conflict checking is foundational to compliance with Rule 1.7 and Rule 5.1(a), which together require partners and supervisory lawyers to make reasonable efforts to ensure firm-wide compliance with conflict rules. Accepting matters without any conflict check exposes the firm to undetected direct adversity against existing clients. The failure to implement basic conflict-screening procedures is itself a structural compliance problem.

**5. D** — Rule 1.6(c) requires reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client. Conducting sensitive client conversations in a public firm cafeteria where uninvolved lawyers can overhear fails the reasonable-efforts standard. The duty extends to controlling access by lawyers within the firm who are not working on the matter.

**6. B** — Rule 1.10(a)(2) permits a firm to continue representation despite a migrating lawyer's prior conflict if the disqualified lawyer is timely screened from any participation in the matter, apportioned no part of the fee, and the affected former client receives prompt written notice describing the screening procedures. The three procedural conditions together cure imputation. Firm Y's compliance with all three elements satisfies the rule.

**7. A** — Rule 1.14(b) provides that when a client with diminished capacity is at risk of substantial physical, financial, or other harm unless action is taken, the lawyer may take reasonably necessary protective action, including consulting with appropriate individuals or entities and, in appropriate cases, seeking the

appointment of a guardian. The rule grants graduated protective discretion. Mechanical withdrawal abandons the vulnerable client without protective action.

**8. C** — Rule 1.8(c) prohibits a lawyer from soliciting any substantial gift from a client, including a testamentary gift, or preparing on behalf of a client an instrument giving the lawyer or related person any substantial gift, unless the lawyer or recipient is related to the client. Subtle but unmistakable solicitation falls within the bar. The non-related-party limitation prevents undue influence over vulnerable clients.

**9. D** — Rule 3.7(a) provides that a lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness, with limited exceptions for uncontested matters, services rendered in the case, and where disqualification would work substantial hardship on the client. The lawyer-witness rule protects against juror confusion about the lawyer's dual role. None of the recognized exceptions applies on these facts.

**10. A** — Rule 4.2 Comment [7] expressly states that consent of the organization's lawyer is not required for communication with a former constituent, while certain current constituents whose acts may be imputed to the organization or who supervise or direct the matter remain protected. The former employee falls outside the protected categories. The plaintiff's lawyer may contact the former employee directly without organizational counsel's consent.

**11. C** — Rule 1.15 and accompanying state IOLTA programs permit lawyers to hold nominal or short-term client funds in pooled interest-bearing trust accounts, with the interest remitted to the state legal services foundation rather than to individual clients. The structure is permissible because allocating interest on nominal funds to individual clients would generate administrative costs exceeding the interest itself. IOLTA programs are a recognized exception to the general interest-allocation rule.

**12. B** — Rule 7.1 prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services. A flyer claiming \$50 million in recoveries when the actual figure is \$5 million is a material misrepresentation about the lawyer's services. Past results disclaimers do not cure factual inaccuracy of the magnitude shown here.

**13. A** — Rule 7.3(a) permits a lawyer to solicit professional employment by live person-to-person contact when the person solicited is another lawyer, a person who has a family, close personal, or prior professional relationship with the lawyer, or a person who routinely uses the type of legal services involved for business purposes. Friends, family members, and a former classmate who is now a lawyer fall squarely within the permitted categories. The rule's restrictions on live solicitation target only contact with non-lawyer strangers.

**14. D** — Rule 8.1 prohibits an applicant for admission to the bar from knowingly making a false statement of material fact or failing to disclose a fact necessary to correct a misapprehension. The omission of a prior termination on a bar application is a Rule 8.1 violation, and post-admission discovery does not insulate the lawyer from discipline. The applicant's subjective belief that the termination was unfair does not authorize concealment of a material fact required to be disclosed.

**15. C** — Rule 8.3(a) requires 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 as a lawyer

to inform the appropriate professional authority. Systematic misappropriation of client trust funds is a paradigm Rule 8.3 trigger. The duty applies to colleagues within the lawyer's own firm and is not satisfied by internal firm management alone.

**16. B** — Rule 2.11 of the Model Code of Judicial Conduct requires disqualification where the judge has a personal economic interest that could be substantially affected by the proceeding. A direct competitor relationship between the judge's business and the corporate defendant creates exactly that economic interest. Subjective belief in one's own impartiality does not cure the structural conflict.

**17. A** — Rule 3.3(a)(1) prohibits a lawyer from knowingly making a false statement of fact or law to a tribunal or failing to correct a false statement of material fact or law previously made to the tribunal by the lawyer. Citing an overruled case without disclosure makes the citation a misleading statement of law. The duty of candor is not relieved by opposing counsel's eventual discovery of the overruling decision.

**18. C** — Rule 1.8(g) provides that a lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims unless each client gives informed consent, in a writing signed by the client, after disclosure of the existence and nature of all the claims and the participation of each person in the settlement. The requirement is per-client, not majority-rule. The traveling fifth client's signed written consent is non-negotiable.

**19. D** — Rule 1.16(a)(1) requires a lawyer to withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law. Continued assistance with an ongoing fraud against the opposing party is exactly the type of representation that requires mandatory withdrawal. Discretionary withdrawal under Rule 1.16(b) does not apply when the conduct triggers mandatory withdrawal under 1.16(a).

**20. B** — Rule 5.5(c) permits a lawyer admitted in another U.S. jurisdiction to provide legal services on a temporary basis in a jurisdiction where the lawyer is not admitted when the services are reasonably related to a matter pending or potentially pending before a tribunal in the lawyer's home jurisdiction. Taking depositions in State B for a State A case fits the temporary-practice safe harbor. No pro hac vice admission or local counsel association is required for these limited activities.

**21. C** — Rule 7.2(c) provides that a lawyer shall not state or imply that the lawyer is certified as a specialist in a particular field of law unless the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or accredited by the American Bar Association. Certification by an unapproved private organization does not satisfy the rule. The lawyer's underlying experience does not authorize use of the "Certified Specialist" title.

**22. A** — Rule 3.8(f) requires a prosecutor to refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused, except for statements necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose. Telling the press the evidence is "overwhelming" and that anyone would conclude guilt heightens public condemnation. Subjective good faith does not authorize the prejudicial commentary.

**23. B** — Rule 1.18(c) provides that a lawyer who has had discussions with a prospective client shall not represent a client with interests materially adverse to those of a prospective client in the same or a

substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter. Strategic information shared in the consultation constitutes precisely such disqualifying information. The lack of a formal engagement does not eliminate the prospective-client protection.

**24. D** — A lawyer has no general duty to volunteer information about favorable witnesses to opposing counsel outside formal discovery procedures, and Rule 1.6 protects information relating to the representation. The duty of candor under Rule 3.3 applies to statements to a tribunal, and Rule 4.1 governs the lawyer's affirmative misstatements rather than mere silence in informal exchanges. Adversary system principles preserve the lawyer's ability to develop the case without volunteering opposing-party advantages.

**25. B** — Rule 1.2(c) permits a lawyer to limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Real estate closing services on a limited scope, with full disclosure and a signed written agreement, are permissible under the rule. The rule recognizes limited-scope representation as a valuable access-to-justice tool.

**26. A** — Rule 3.1 prohibits a lawyer from bringing or defending a proceeding, or asserting or controverting an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good-faith argument for an extension, modification, or reversal of existing law. A claim with no factual evidence and no supportable legal theory, brought for publicity, fits the definition of frivolous. A disclaimer in the complaint does not cure the absence of basis.

**27. D** — Rule 3.4(e) prohibits a lawyer in trial from stating a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused. The lawyer's personal vouching for her client and attack on opposing witnesses violates the rule directly. Good-faith belief in the client's truthfulness does not cure improper vouching to the jury.

**28. C** — 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. Ordinary living expenses such as rent and groceries are not court costs or litigation expenses. The prohibition prevents lawyer-client financial entanglement that could distort the lawyer's professional judgment.

**29. B** — In most jurisdictions, the lawyer retained by an insurance carrier to defend an insured represents the insured as the client, and the lawyer's primary duty runs to the insured. When the insured's reputational interests diverge from the carrier's settlement preference, the lawyer must protect the insured's legitimate interests. The fee-payer status of the carrier does not displace the client status of the insured.

**30. D** — Rule 1.8(j) provides that a lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced. The rule applies to all representations regardless of the matrimonial context or the parties' mutual consent during the representation. Mid-representation initiation of a sexual relationship violates the rule even when both parties consent.

**31. A** — Rule 1.5(d)(1) prohibits a lawyer from entering into an arrangement for, charging, or collecting any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof. A 25%-of-property contingent fee in a divorce matter falls squarely within the prohibition. A signed writing does not cure the structural prohibition.

**32. C** — Rule 1.4(a)(3) requires a lawyer to keep the client reasonably informed about the status of the matter, and Rule 1.4(b) requires the lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions. A partial summary judgment ruling and additional claims by the opposing party are significant developments. Delaying notification for three months violates the duty to keep the client reasonably informed.

**33. A** — Rule 1.7(a)(1) provides that a concurrent conflict of interest exists if the representation of one client will be directly adverse to another client. The conflict arises from direct adversity regardless of whether the new matter is substantively related to the existing representation. Informed consent confirmed in writing under Rule 1.7(b) is required from both clients for the lawyer to proceed.

**34. D** — Rule 3.4(e) prohibits a lawyer in trial from alluding to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence. Asking questions specifically designed to expose the jury to substance the court has ruled inadmissible falls within the prohibition. The strategic motivation to let the jury hear the substance before any objection is precisely what the rule targets.

**35. C** — Rule 3.5(b) prohibits a lawyer from communicating ex parte with a judge during the proceeding unless authorized to do so by law or court order. The merits of a pending motion are the substantive content the rule was designed to protect. An incidental encounter does not authorize substantive ex parte discussion of the pending matter.

**36. B** — Rule 3.6(c) provides that notwithstanding the general restrictions, a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the client, with the statement limited to such information as is necessary to mitigate. The provision is commonly called the right-of-reply safe harbor. Limited responsive statements to mitigate prosecution-initiated publicity fall within the exception.

**37. C** — Rule 7.1 prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services. A fabricated celebrity endorsement attributing a fictitious quote to a non-client is a paradigm Rule 7.1 violation. A small disclaimer cannot cure a directly fabricated endorsement.

**38. A** — Rule 1.7(a)(2) and its Comment [11] recognize that a close family relationship between a lawyer and a senior officer of an opposing party may create a personal-interest conflict that creates a significant risk of material limitation on the representation. Disclosure to the client and informed consent are required to address the personal-interest conflict. The sibling's non-party status does not eliminate the lawyer's personal interest in the corporation's outcome.

**39. B** — Comment [3] to Rule 1.6 confirms that the duty of confidentiality continues after the client-lawyer relationship has terminated, including after the death of the client. A researcher writing a biography

is not within any Rule 1.6(b) exception. The duty of confidentiality is not measured by whether disclosure would harm the deceased client's reputation.

**40. D** — Rule 1.7 Comment [29] provides that common representation of clients with potentially differing interests requires the lawyer to consider the implications of the common representation, including the effect on confidentiality and the attorney-client privilege, and to obtain each client's informed consent confirmed in writing. Even partners with generally aligned interests have material differences in their preferences requiring disclosure. The writing-confirmed informed consent is non-negotiable.

**41. A** — Rule 1.16(a)(1) requires a lawyer to withdraw from the representation if the representation will result in violation of the rules of professional conduct or other law. Preparing documents containing material misrepresentations to a lender would violate Rule 4.1 and potentially other law. Mandatory withdrawal applies, and the client's demand does not authorize continued representation that would require the lawyer to commit a violation.

**42. C** — Rule 4.2 generally restricts a lawyer from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer, but its application to government entities is nuanced. Comment [5] notes that communications authorized by law include constitutionally permissible communications with government officials, while specific contested matter communications remain restricted. The right to petition the government creates important limitations that distinguish government-entity application from private-party application.

**43. B** — Rule 3.3(a)(2) requires a lawyer to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel. Recent state supreme court authority is controlling for a state appellate court. Adversarial silence is not permitted when opposing counsel has missed directly adverse controlling authority.

**44. D** — Rule 8.4(b) makes it professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Misdemeanor theft directly implicates honesty regardless of the dollar amount or its connection to the lawyer's practice. The unrelated-to-practice nature of the conduct does not insulate the lawyer when the act reflects on honesty.

**45. C** — Rule 5.3 requires a lawyer with managerial authority to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the conduct of nonlawyer assistants is compatible with the professional obligations of the lawyer. A paralegal giving legal advice and quoting fees engages in unauthorized practice of law that the lawyer is required to prevent through appropriate supervision. Awareness of the unauthorized conduct without remedial action triggers Rule 5.3(c) responsibility.

**46. B** — Rule 1.1 requires that a lawyer provide competent representation, entailing the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Comment [2] recognizes that a lawyer can provide adequate representation in a wholly novel field through necessary study or by associating with a lawyer of established competence in the field. The lawyer cannot simply do "some research" on a complex, time-sensitive international tax matter without those affirmative measures.

**47. A** — Rule 4.3 provides that in dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of the unrepresented person are or have a reasonable possibility of being in conflict with the interests of the client. The buyer's interests have a reasonable possibility of conflicting with the seller's. The only permitted advice is to secure independent counsel.

**48. D** — Rule 4.1(b) provides that in the course of representing a client, a lawyer shall not knowingly fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6. The lawyer's knowing silence in the face of her client's material misrepresentation assists the fraud against opposing counsel. The duty extends beyond statements to a tribunal and reaches negotiation contexts.

**49. B** — Rule 1.15(a) requires a lawyer to hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, with client funds kept in a separate trust account. Commingling client trust funds with firm operating revenue and personal funds violates the separation requirement regardless of careful bookkeeping. The structural rule protects client funds from creditor claims and from the consequences of any lawyer financial difficulty.

**50. D** — Rule 8.3(b) requires a lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office to inform the appropriate authority. Accepting cash payments from a litigant in a matter before the judge is a paradigm Rule 8.3(b) trigger. The lawyer's lack of personal involvement does not eliminate the reporting duty.

**51. A** — Rule 7.3(c) permits targeted written solicitation to potential clients known to need legal services in a particular matter, subject to specific safeguards including conspicuous "Advertising Material" labeling. The labeling requirement and non-coercive content distinguish permitted targeted written solicitation from prohibited in-person solicitation of strangers. Use of public records for targeting is not categorically improper under the rule.

**52. C** — Rule 1.8(a) prohibits a lawyer from entering into a business transaction with a client unless the transaction and terms are fair and reasonable and fully disclosed in writing in a manner that can be reasonably understood by the client, the client is advised in writing of the desirability of seeking independent legal counsel and given a reasonable opportunity to do so, and the client gives informed consent in a signed writing to the essential terms of the transaction. All three conditions are required and procedural. The investment opportunity falls within the rule even when offered at favorable terms.

**53. D** — Rule 1.5(b) provides that the scope of the representation and the basis or rate of the fee and expenses shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. A new-client engagement at an undisclosed hourly rate violates the timing and content requirements. Market-rate alignment does not cure the failure to communicate.

**54. A** — Rule 1.7 and its Comment [29] require a lawyer providing common representation to explain the implications of common representation, including effects on confidentiality and the privilege and the lawyer's inability to advance either party's individual interests, and to obtain each client's informed consent

confirmed in writing. The "neutral scrivener" framing does not displace the dual-representation rules. The writing-confirmed consent and disclosure requirements apply.

**55. C** — Rule 1.6(a) protects all information relating to the representation, and ABA Formal Opinion 480 confirms that the protection applies even to information that is generally known or has been publicly disclosed during the litigation. Client informed consent or an applicable Rule 1.6(b) exception is required for the CLE discussion. Public availability of facts does not constitute consent or an exception under the rule.

**56. B** — Rule 1.10(a) provides that while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9. The lateral lawyer's prior Rule 1.9 disqualification from working against Client X in a substantially related matter imputes to the new firm. Rule 1.10(a)(2) screening must be implemented for the new firm to continue the Client Y representation.

**57. A** — Rule 1.16(b) permits a lawyer to withdraw from representation if the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning, if the representation has been rendered unreasonably difficult by the client, or if other good cause for withdrawal exists, provided withdrawal can be accomplished without material adverse effect on the client's interests. An unresponsive, non-cooperative, non-paying client meets multiple permissive-withdrawal grounds, and the ten-month trial timeline supports the no-material-prejudice finding. The rule grants discretionary withdrawal under these grounds.

**58. B** — Rule 6.2 provides that a lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause, such as a violation of the Rules of Professional Conduct that would result, an unreasonable financial burden, or a client or cause so repugnant to the lawyer as to impair the client-lawyer relationship. Reputational concerns about an unpopular client are insufficient grounds. The rule preserves access to representation for unpopular clients who would otherwise be unrepresented.

**59. C** — Rule 1.3 requires a lawyer to act with reasonable diligence and promptness in representing a client, and Comment [3] notes that perhaps no professional shortcoming is more widely resented than procrastination. Missing an appellate filing deadline through preoccupation with other matters violates the diligence duty. Negligent failure to act is within the scope of disciplinary review independent of any malpractice claim.

**60. D** — Rule 8.5(a) provides that a lawyer admitted to practice in a jurisdiction is subject to the disciplinary authority of that jurisdiction regardless of where the lawyer's conduct occurs. State B's disciplinary authority extends to all conduct by lawyers admitted in State B, and reciprocal discipline based on a sister-state sanction is a recognized exercise of that authority. The lawyer's admission in State B provides the jurisdictional hook for State B's disciplinary action.