

PRACTICE EXAM 24: MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer is negotiating a commercial settlement on behalf of her client. During the negotiation, the lawyer affirmatively states that her client has only \$50,000 in available liquid assets when the lawyer knows that the client actually has approximately \$5 million in liquid assets readily available. Opposing counsel relies on the misrepresentation in evaluating settlement.

- A. The lawyer's statement is permissible because settlement negotiations involve recognized "puffing" about case value and asset positions in commercial matters generally
- B. The lawyer's statement is permissible because no formal court proceeding is in progress at the time of the negotiation between the parties involved in the dispute
- C. Under Rule 4.1(a), the lawyer's statement violates the rule because a lawyer shall not knowingly make a false statement of material fact or law to a third person during the course of representing a client
- D. The lawyer's statement is permissible if her client specifically authorized the asset misrepresentation as part of the negotiation strategy in advance of the meeting

2. A lawyer represents a client in a divorce. The client wants the lawyer to accept favorable settlement terms. The lawyer threatens to disclose embarrassing personal information about the spouse to the public unless the spouse agrees to the settlement terms favorable to the lawyer's client. The information was learned during the representation.

- A. Under Rule 1.6 and Rule 8.4(b)/(d), the lawyer's threat is impermissible because it involves both improper use of client information and potentially criminal extortion-type conduct
- B. The lawyer's threat is permissible because it is part of vigorous representation of the client's interests in the divorce settlement negotiations being conducted in the matter

C. The lawyer's threat is permissible because the embarrassing information about the spouse is unrelated to attorney-client confidentiality protections under Rule 1.6 directly in the matter

D. The lawyer's threat is permissible if the spouse responds by accepting the settlement terms favorable to the lawyer's client following the threat being made to them

3. A lawyer represents a defendant in a debt collection action. The lawyer's strategy is to file extensive procedural motions, request multiple continuances, and engage in voluminous discovery requests primarily to delay the proceedings and exhaust the plaintiff's resources, rather than to advance any legitimate legal defense in the case being litigated.

A. The lawyer's strategy is permissible because delay tactics are a recognized aspect of debt collection defense work in the field and accepted in the practice generally

B. Under Rule 3.2, the lawyer's strategy violates the rule, which requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client

C. The lawyer's strategy is permissible because every motion and request filed has some technical procedural basis under the applicable rules of court in the jurisdiction

D. The lawyer's strategy is permissible because the client has authorized the delay tactics as part of the chosen litigation strategy in the matter being defended by counsel

4. A lawyer is handling a complex business litigation matter. The lawyer wants to acquire a personal ownership interest in the disputed intellectual property that is the subject of the litigation, in exchange for reducing her hourly fees during the representation. The client is willing to grant the lawyer the ownership interest.

A. The arrangement is permissible because the client has agreed to the ownership interest as part of an arms-length fee arrangement between them in writing at the outset

B. The arrangement is permissible because contingent compensation structures are commonly used in complex business litigation matters with high economic stakes for the firm

C. The arrangement is permissible if the lawyer's ownership interest does not exceed 25% of the disputed intellectual property in the matter being litigated by the firm

D. Under Rule 1.8(i), the lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except for a lien to secure fees and a reasonable contingent fee

5. A managing partner at a law firm has not implemented any conflict-checking procedures, has no policies regarding handling of client funds, and has not established any guidelines for lawyer supervision within the firm. Multiple compliance problems have arisen at the firm as a result of these missing structural safeguards in place at the firm.

A. Under Rule 5.1(a), partners and lawyers with comparable managerial authority in a firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct

B. The managing partner has no specific obligation regarding firm-wide policies because individual lawyers are responsible for their own compliance with the rules of conduct under all circumstances generally

C. The managing partner's obligation extends only to direct supervisory relationships rather than to broader firm-wide policy implementation under the rules of conduct of the jurisdiction generally

D. The managing partner is not subject to discipline because compliance problems must be specifically attributable to her personal conduct rather than to absent management structures at the firm in the matter

6. A lawyer represents a client in a contract negotiation. The client must decide whether to accept a settlement offer that involves complex tax consequences, intricate intellectual property provisions, and several years of post-closing obligations. The lawyer provides a brief, one-paragraph summary of the offer and asks the client to make a quick decision.

A. The lawyer's approach is permissible because clients ultimately make all final decisions about settlement offers under Rule 1.2 of the rules in any matter being handled by counsel

B. The lawyer's approach is permissible if the client expresses confidence in the lawyer's judgment regarding the substantive terms of the offer being considered for acceptance in the matter

C. The lawyer's approach is permissible if her brief summary captures the essential financial terms of the offer regardless of the complexity of other provisions in the offer received

D. Under Rule 1.4(b), the lawyer's approach is problematic because the rule requires the lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation

7. A lawyer's services were used by a former client to perpetrate a fraud against investors that resulted in significant financial harm. The fraud has now been completed and the harm has been inflicted. The lawyer learned of the fraud only after it was completed by the former client without her knowledge or participation.

A. The lawyer cannot disclose any information about the fraud because the representation has concluded and Rule 1.6 confidentiality continues after the representation ends in the matter

B. Under Rule 1.6(b)(3), the lawyer may reveal information relating to the representation to the extent reasonably necessary to prevent, mitigate, or rectify substantial injury to the financial interests of another that has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services

C. The lawyer must immediately report the fraud to law enforcement authorities because the criminal conduct has been completed and concealment would constitute obstruction by counsel of justice

D. The lawyer must obtain a court order before making any disclosure because Rule 1.6 confidentiality cannot be overridden without judicial authorization in the matter being addressed by counsel

8. A lawyer is representing her client at trial in a fee dispute case. The lawyer is also likely to be called as a witness to testify about the nature and value of legal services rendered to the client during the underlying representation that is now in dispute between them in the case being heard.

A. Under Rule 3.7(a)(2), the lawyer may serve as both advocate and witness because the rule includes an exception when the testimony relates to the nature and value of legal services rendered in the case

B. The lawyer must withdraw immediately because Rule 3.7(a) categorically prohibits any combination of advocate and witness roles in the same proceeding regardless of context or content

C. The lawyer may serve as both advocate and witness only if her testimony is restricted to documentary evidence rather than oral testimony at the trial in the matter being adjudicated

D. The lawyer may serve as both advocate and witness only if the trial court formally consents to the dual role after disclosure to opposing counsel and the parties involved in the matter

9. A senior partner directly supervises a paralegal who, during the representation of a client, conducts an unauthorized interview with a represented party in violation of Rule 4.2. The partner knew of the planned interview in advance but did not direct or prohibit it. The conduct's consequences could have been avoided by partner intervention at the time.

A. The partner is not responsible because the paralegal independently conducted the interview without explicit direction from the partner to do so in the matter

B. The partner is not responsible because nonlawyer personnel are not directly bound by the Rules of Professional Conduct in their work activities at the firm

C. Under Rule 5.3(c), the partner is responsible for the paralegal's conduct because the partner had direct supervisory authority and knew of the conduct at a time when its consequences could have been avoided or mitigated but failed to take reasonable remedial action

D. The partner is responsible only if she expressly authorized the paralegal's interview with the represented party in advance of the conduct occurring in the matter

10. A lawyer engages in a sustained pattern of submitting court filings that are so badly drafted, error-ridden, and incoherent that the court must dedicate significant time to deciphering them, delaying other matters before the court. The conduct continues despite court admonitions about the quality of her filings in multiple cases over time.

A. The lawyer's conduct is permissible because court filings are within the lawyer's professional autonomy regarding work product quality and presentation in the matter

B. Under Rule 8.4(d), the lawyer's conduct may be professional misconduct because the rule defines conduct prejudicial to the administration of justice as misconduct

C. The lawyer's conduct is permissible if the underlying substantive arguments could be construed as legitimate when carefully analyzed by the court receiving them in the matter

D. The lawyer's conduct is permissible if individual clients accept the level of representation she provides regardless of court burden or administrative impact on the system

11. A trial judge regularly makes comments during proceedings reflecting her personal disdain for criminal defendants of a particular racial group, including remarks during sentencing about the supposed predispositions of that group to commit crimes. The comments are part of the judge's expressed worldview during her judicial work over time.

A. The judge's comments are permissible because judges have constitutional rights to free expression of their views during judicial proceedings in court at any time

B. The judge's comments are permissible because they reflect the judge's good-faith assessment of broader societal patterns relevant to sentencing decisions made by her

C. The judge's comments are permissible if her formal sentencing decisions in individual cases are independently supported by the facts of those cases at the time of decision

D. Under Rule 2.3 of the Code of Judicial Conduct, a judge shall perform the duties of judicial office without bias or prejudice and shall not, in the performance of judicial duties, manifest bias or prejudice by words or conduct based on race or other protected characteristics

12. A lawyer represents a client in a civil litigation matter. The client wishes to accept a settlement offer for \$50,000 even though the lawyer believes the case is worth substantially more on the merits. The lawyer disagrees with the client's decision and would prefer to continue litigating the matter to a higher recovery for the client.

A. The lawyer may continue the litigation despite the client's preference because the lawyer's professional judgment about case value is binding on the client in this scenario in the matter

B. The lawyer must convene a meeting with the client, the client's family, and an independent third party to attempt to convince the client to continue the litigation in the case at trial

C. Under Rule 1.2(a), the lawyer must abide by the client's decision concerning whether to accept an offer of settlement, even when the lawyer believes the case is worth more on the merits than the offered amount

D. The lawyer must withdraw from the representation because the disagreement about settlement value creates an irreparable conflict between her and the client in the matter being handled

13. A lawyer represents a client on a contingent fee basis. The case settles for \$200,000. The lawyer disburses the funds to the client and her firm without providing the client with any written statement showing the outcome of the matter, the remittance to the client, or the method of its determination at the conclusion.

A. The lawyer's approach is permissible because contingent fee payment structures are typically straightforward and do not require formal documentation at the conclusion of the matter in writing

B. The lawyer's approach is permissible because she has provided the client with the actual settlement proceeds owed under the contingent fee arrangement they signed at the outset of the representation

C. The lawyer's approach is permissible because Rule 1.5 imposes documentation requirements only at the inception of the contingent fee representation rather than at its completion in the matter

D. Under Rule 1.5(c), upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination

14. A lawyer is admitted only in State A. She accepts a position as in-house counsel for a corporation headquartered in State B. Her job duties involve providing legal advice exclusively to the corporation about matters affecting the corporation, without representing other clients in State B or appearing in State B courts at any time.

- A. The lawyer's State B employment constitutes unauthorized practice of law because she is not admitted in State B for any legal practice activities in the jurisdiction
- B. The lawyer's State B employment is permissible because in-house counsel positions are generally exempt from all state admission requirements applicable to private practice in the field
- C. Under Rule 5.5(d), the lawyer may provide legal services through an office or other systematic and continuous presence in State B for her employer's matters that are not services for which the forum requires pro hac vice admission
- D. The lawyer's State B employment is permissible if she obtains pro hac vice admission in State B for each individual matter she handles for the employer in the state where she is now located

15. A lawyer at Firm X consulted with a prospective client about a potential matter but did not undertake the representation. Firm X now wants to represent the opposing party in the same matter. The firm timely screens the lawyer from the new representation, apportions no part of the fee to her, and provides written notice to the prospective client about the screening procedures.

- A. Under Rule 1.18(d)(1), the firm may continue the representation despite the prospective-client conflict if the disqualified lawyer is timely screened, apportions no part of the fee, and written notice is promptly given to the prospective client
- B. The firm is permanently disqualified from the representation because Rule 1.18 creates an absolute bar to representation adverse to former prospective clients in the same matter regardless of screening
- C. The firm may continue the representation only if the prospective client formally consents in writing to the firm continuing the representation despite the screening procedures implemented
- D. The firm may continue the representation only after a 60-day waiting period during which the prospective client may object to the firm's screening of the lawyer in the matter at hand

16. A lawyer is asked to represent two clients who are forming a new business venture together. The clients have differing roles in the venture, will contribute different assets, and will share profits and losses according to a complex formula. The clients want the lawyer to represent them jointly throughout the formation process for the venture.

- A. The lawyer may proceed with the joint representation without further inquiry because the clients are voluntarily working together on the venture at hand and have aligned interests
- B. Under Rule 1.7, the lawyer may proceed only after evaluating whether the representation creates a significant risk of material limitation, explaining the implications of common representation, and obtaining informed consent confirmed in writing from each client

C. The lawyer must decline the joint representation because Rule 1.7 categorically prohibits common representation of business venture partners in any formation context regardless of disclosure or consent

D. The lawyer may proceed if she obtains oral consent from each client before commencing any work on the venture formation matter being undertaken on their behalf during the engagement

17. A lawyer receives an email attachment from opposing counsel that, upon brief inspection, is clearly a privileged communication between opposing counsel and her client that was inadvertently sent. The communication contains information potentially damaging to the lawyer's case opponent. The lawyer is uncertain about the appropriate response to this discovery.

A. The lawyer may use the inadvertently received privileged communication because opposing counsel's negligent disclosure waives any privilege protections that previously applied to the communication

B. The lawyer may use the inadvertently received privileged communication only if it would substantially benefit her client in the underlying matter being litigated against opposing counsel

C. The lawyer must immediately destroy the inadvertently received privileged communication without reviewing its contents or notifying opposing counsel of the receipt of the document

D. Under Rule 4.4(b), the lawyer must promptly notify opposing counsel of the inadvertently sent document so that the sender can take protective measures regarding the privileged communication

18. A lawyer is retained by a corporation to defend its officers in an internal investigation. During the representation, she learns of potential additional misconduct by other officers that is unrelated to the matters she is defending. The misconduct could be substantial and ongoing within the corporation she is defending in the matter.

A. Under Rule 1.13(d), the requirements of Rule 1.13(c) regarding reporting up do not apply with respect to information relating to a lawyer's representation of an organization to investigate or defend an alleged violation

B. The lawyer must immediately report all discovered misconduct to the corporation's board of directors regardless of the scope of her retention for the matter being defended by counsel

C. The lawyer must report the discovered misconduct to outside regulators because internal corporate management has not been notified of the additional misconduct yet by counsel handling the matter

D. The lawyer has no obligation regarding the discovered information because she did not personally observe the misconduct described in the underlying communications she received

19. A lawyer in a small town tells potential clients that he is "very close personal friends" with the chief judge of the local trial court and routinely socializes with the judge outside court. The lawyer suggests this relationship will result in favorable rulings in his clients' cases pending before that judge in the matter.

A. The lawyer's representations are permissible because they accurately describe his personal relationship with the local trial judge and how the relationship operates in practice

B. The lawyer's representations are permissible because clients value lawyers with strong relationships in the local legal community regardless of how those relationships are portrayed for marketing

C. Under Rule 8.4(e), the lawyer's representations are professional misconduct because the rule makes it misconduct to state or imply an ability to influence improperly a government agency or official

D. The lawyer's representations are permissible if his clients ultimately receive rulings consistent with the merits of their cases regardless of the personal relationship between counsel and the judge

20. A prosecutor obtained a conviction of a defendant five years ago. New, credible, and material evidence has come to light that creates a reasonable likelihood that the convicted defendant did not commit the offense for which he is currently serving a substantial prison sentence. The prosecutor is the original handling prosecutor of the matter.

A. The prosecutor has no continuing obligation regarding the conviction because the appeals process is the proper mechanism for raising new evidence in concluded cases through formal motion practice

B. Under Rule 3.8(g), when a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense, the prosecutor shall promptly disclose that evidence to an appropriate court or authority, and undertake further investigation in the prosecutor's jurisdiction

C. The prosecutor's only obligation is to refrain from opposing any new trial motion the defendant might file based on the new evidence in the matter being raised post-conviction

D. The prosecutor must wait for the defendant to discover and present the new evidence through post-conviction proceedings rather than initiate disclosure proactively to the court

21. A lawyer represents a client in a publicly disclosed transaction. The client wants the lawyer to discuss the substantive details of the matter with a journalist preparing a feature story about the transaction. The client provides clear, written, informed authorization for the lawyer to discuss the matter with the journalist openly for the story.

- A. Under Rule 1.6(a), the lawyer may reveal information relating to the representation if the client gives informed consent to the disclosure being made in the matter at hand
- B. The lawyer cannot discuss the matter with the journalist regardless of client authorization because confidentiality protections continue throughout the representation period for clients
- C. The lawyer may discuss the matter only if the journalist signs a formal confidentiality agreement protecting the lawyer-client relationship covering the published material from disclosure
- D. The lawyer may discuss the matter only if the trial court formally approves the disclosure of any confidential information through the published story about the transaction

22. A lawyer at a firm has a personal-interest conflict regarding a particular matter due to her own relationship with one of the parties involved. The conflict is not based on substantive duties owed to a client of the firm but on the lawyer's personal interests. The firm wants other lawyers to handle the matter without the conflicted lawyer's involvement.

- A. The firm is permanently disqualified because all conflicts of any kind impute to all firm lawyers under Rule 1.10 without exception of any sort under the rules
- B. The firm may continue only if all firm lawyers are individually screened from the personal-interest conflict using formal procedures throughout the representation
- C. The firm may continue only if the lawyer with the personal-interest conflict formally resigns from the firm before any work begins on the matter being handled
- D. Under Rule 1.10(a), the imputation does not apply when the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation by the remaining lawyers in the firm

23. A lawyer enters into a reciprocal referral arrangement with a financial planner. Under the arrangement, the lawyer refers her clients to the financial planner for financial advice, and the financial planner refers his clients to the lawyer for legal services. No money is exchanged between them and the arrangement is non-exclusive.

- A. The arrangement is impermissible because Rule 7.2 categorically prohibits all referral arrangements between lawyers and other professionals regardless of compensation structures between them
- B. Under Rule 7.2(b)(4), a reciprocal referral agreement with a nonlawyer professional is permissible if the agreement is not exclusive and the client is informed of the existence and nature of the agreement

C. The arrangement is impermissible because the financial planner profits from the referrals from the lawyer regardless of whether money is exchanged between them in the relationship

D. The arrangement is permissible only if the lawyer and financial planner share office space and maintain a formal joint business operation between them in the same location

24. A lawyer asks a sophisticated corporate client to provide a broad advance waiver of conflicts that might arise in the future from the lawyer's representation of other clients in unrelated matters. The corporate client has its own in-house legal department and significant experience with complex legal arrangements involving advance waivers in practice.

A. Advance waivers are categorically prohibited because clients cannot knowingly consent to conflicts that have not yet materialized in any specific matter being represented by counsel

B. Advance waivers are categorically permissible because corporate clients with sophistication can navigate any conflict that might arise during representation by the lawyer in any matter

C. Under Rule 1.7 Comment [22], advance waivers may be effective if the client reasonably understands the material risks involved, with the effectiveness varying based on the specificity of the consent and the sophistication of the client

D. Advance waivers are permissible only if the corporate client signs a separate confirmation of the advance waiver each time a new potential conflict arises during the representation by counsel

25. A lawyer represents a criminal defendant who informs the lawyer just before testifying that the testimony the defendant intends to give will be perjurious. The lawyer is unable to persuade the defendant to testify truthfully. The defendant insists on taking the stand and giving the false testimony anyway despite the lawyer's counsel.

A. The lawyer must allow the defendant to testify in narrative form to satisfy the constitutional right to testify, without affirmatively eliciting the false testimony from the defendant during the proceeding

B. Under Rule 3.3, the lawyer must take reasonable remedial measures, which may include refusing to offer the false testimony, with the precise application varying based on jurisdiction and the constitutional rights of the criminal defendant

C. The lawyer must facilitate the defendant's testimony because criminal defendants have an absolute constitutional right to testify in their own defense regardless of truthfulness concerns

D. The lawyer must withdraw immediately because the defendant's planned perjury creates an irreparable conflict between the lawyer's duties to the client and to the tribunal in the matter

26. A lawyer represents a client in a divorce. The client insists that the lawyer engage in tactics that the lawyer finds personally repugnant — including harassing tactics against the spouse and intimidation of the spouse's witnesses. The conduct may be technically legal but is morally objectionable to the lawyer personally.

A. The lawyer must continue the representation because Rule 1.16 permits withdrawal only for technical violations of the rules of professional conduct or by formal court order

B. The lawyer must continue the representation because clients have the right to determine the means used in their cases regardless of lawyer preferences in the matter being represented

C. The lawyer may withdraw only if she can find a replacement lawyer willing to undertake the requested tactics in the divorce case at hand for the client

D. Under Rule 1.16(b)(4), the lawyer may withdraw if the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement

27. A lawyer receives a properly served interrogatory request from opposing counsel. The lawyer believes some of the interrogatories are overly broad but does not file any objection, fails to respond at all within the required time period, and ignores follow-up communications from opposing counsel. There is no legitimate basis for the complete non-response.

A. Under Rule 3.4(d), the lawyer's conduct violates the rule, which prohibits failing to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party

B. The lawyer's conduct is permissible because failure to respond to overly broad discovery is a recognized defensive litigation tactic in adversary proceedings throughout the profession

C. The lawyer's conduct is permissible because opposing counsel has the burden of seeking judicial intervention to compel discovery responses through motion practice in the matter

D. The lawyer's conduct is permissible if she ultimately responds before any court-imposed sanction is entered for non-response in the matter being litigated against the opposing party

28. A criminal defense lawyer is retained by a defendant charged with serious felony offenses. The defendant offers to pay the lawyer a contingent fee equal to a percentage of any monetary savings achieved through a favorable plea negotiation or acquittal at trial. The lawyer agrees to the contingent compensation structure for the case.

- A. The arrangement is permissible because contingent fees provide criminal defendants access to representation when they lack upfront resources for legal fees in the matter
- B. The arrangement is permissible because the contingent fee is calculated on cost savings achieved through the lawyer's effective advocacy in the criminal case being defended
- C. Under Rule 1.5(d)(2), the lawyer shall not enter into an arrangement for a contingent fee for representing a defendant in a criminal case under any circumstances
- D. The arrangement is permissible if the contingent percentage does not exceed 25% of the cost savings achieved through the lawyer's advocacy efforts in the matter being handled

29. A lawyer is under investigation by the state's lawyer disciplinary authority for alleged misconduct. The disciplinary authority sends the lawyer a formal request for information about the underlying allegations and supporting documents. The lawyer ignores the request, fails to respond, and provides no explanation for her non-cooperation with the investigation.

- A. The lawyer's non-cooperation is permissible because lawyers retain the right against self-incrimination during disciplinary investigations as a matter of constitutional law applicable to her
- B. The lawyer's non-cooperation is permissible because formal disciplinary proceedings have not yet been instituted against her at the time of the requests for information
- C. The lawyer's non-cooperation is permissible if she believes the allegations under investigation are without merit or factual support as a matter of substance
- D. Under Rule 8.1(b), the lawyer's non-cooperation may constitute professional misconduct because the rule prohibits knowingly failing to respond to a lawful demand for information from a disciplinary authority

30. A prosecutor handles cases for the government. A defense attorney asks the prosecutor for information learned during the prosecutor's investigation that would be helpful to the defense in unrelated matters not currently being prosecuted by her office at the time of the request being made.

- A. The prosecutor must share the information because government information is publicly available and not subject to confidentiality restrictions in the practice
- B. Under Rule 1.6 and applicable government confidentiality rules, the prosecutor's information about investigations is generally protected and cannot be shared without authorization, regardless of its potential helpfulness to other defenses

C. The prosecutor must share the information because Brady disclosure obligations extend to all cases the prosecutor's office handles regardless of relationship to the current matter

D. The prosecutor may share the information freely because the inquiry comes from another lawyer rather than from a member of the general public seeking information from the office

31. A lawyer at Firm Y is asked to represent a client against Firm Y's existing major corporate client in an unrelated matter. The lawyer personally has never worked on any matter for the corporate client. The proposed new client and the corporate client are direct adversaries in the new matter being considered for representation.

A. The lawyer may proceed because she has no personal attorney-client relationship with the corporate client and Rule 1.7 applies only to lawyers with direct client relationships under the rule

B. The lawyer may proceed if she promises not to share information from her work with the new client with other lawyers at the firm representing the corporate client in their matter

C. Under Rule 1.7 and Rule 1.10(a), the conflict imputes to all firm lawyers, and the proposed new representation would create direct adversity to a current firm client requiring informed consent from both clients

D. The lawyer may proceed if she charges the new client a reduced fee that reflects any limitations on the firm's ability to provide full service due to the existing relationship with the firm

32. A lawyer admitted only in State A is representing a State A client in a complex litigation matter. As part of the representation, the lawyer needs to negotiate a settlement with parties located in State B and conduct related preparatory work in State B for the State A litigation. She does not hold herself out as admitted in State B at any time.

A. Under Rule 5.5(c)(2), the lawyer may provide legal services on a temporary basis in another jurisdiction if the services are reasonably related to a pending or potential proceeding in a tribunal in which the lawyer is authorized to practice

B. The lawyer's State B activities constitute unauthorized practice of law because she has not obtained pro hac vice admission in State B for these activities related to her home jurisdiction matter

C. The lawyer's State B activities require formal consent from State B's bar disciplinary authority before any negotiation or preparatory work can be conducted in the state by counsel

D. The lawyer's State B activities require association with State B counsel for any work that is performed in the State B jurisdiction during the representation of the home-state client

33. A lawyer files a pleading with the court that contains a material factual statement she knows is false. The false statement is intended to support a procedural motion. Opposing counsel discovers the falsity and brings it to the court's attention through a motion practice in the matter being litigated by the parties.

A. The lawyer's conduct is permissible because court filings represent advocacy positions rather than factual representations to the court directly in the matter being handled

B. Under Rule 8.4(c) and Rule 3.3, the lawyer's conduct involves dishonesty and false statements to a tribunal and is subject to discipline

C. The lawyer's conduct is permissible because opposing counsel ultimately brought the falsity to the court's attention through motion practice in the case being litigated by the parties

D. The lawyer's conduct is permissible because the false statement supports a procedural motion rather than substantive merits of the case being litigated by counsel for the parties

34. A lawyer is suing a former client for unpaid legal fees. To establish her claim, the lawyer needs to disclose certain information from the underlying representation, including details about the work performed and the basis for the charges. The former client has refused to authorize disclosure of any information from the matter.

A. The lawyer cannot disclose any information about the representation in a fee collection action because Rule 1.6 confidentiality applies indefinitely after termination of the matter

B. The lawyer may disclose all information from the representation freely because the former client's refusal to pay terminates Rule 1.6 protections for the case file going forward in the matter

C. Under Rule 1.6(b)(5), the lawyer may reveal information relating to the representation to the extent reasonably necessary to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client

D. The lawyer must obtain a court order before disclosing any information about the representation in connection with the fee collection action against the former client in the matter

35. A lawyer holds funds in her client trust account that are subject to a dispute between her client and a third party who claims a portion of the funds. The third party has provided notice of the claim. The lawyer's client also claims entitlement to the disputed portion of the funds being held in the trust account by the lawyer's firm.

- A. Under Rule 1.15(e), when a lawyer is in possession of property in which two or more persons claim interests, the property shall be kept separate by the lawyer until the dispute is resolved, and the lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute
- B. The lawyer must release all funds to her client because she is required to advocate for her client's interests in any dispute with third parties to the matter being held in the account
- C. The lawyer must release all funds to the third party to avoid any appearance of conflict between her client and the competing claimant in the matter at hand under the rules
- D. The lawyer must immediately file an interpleader action in court to resolve the dispute about the funds being held in the client trust account by her firm during the dispute

36. A lawyer regularly appears before a particular trial judge. To "build a positive relationship," the lawyer sends the judge an expensive bottle of wine and a personal note of appreciation. The lawyer also offers to take the judge to lunch at an expensive restaurant during the upcoming holiday season for their continued personal acquaintance.

- A. The lawyer's gestures are permissible because they reflect ordinary social courtesies between members of the legal community in the area where the lawyer practices regularly
- B. The lawyer's gestures are permissible because no specific case is currently pending in which the lawyer is seeking a favorable ruling from the judge involved at the time
- C. The lawyer's gestures are permissible because expensive gifts to judges are common practice in many local legal communities at holiday times in many jurisdictions
- D. Under Rule 3.5(a), the lawyer shall not seek to influence a judge by means prohibited by law, and the lawyer's conduct may also implicate the judicial conduct rules restricting gifts to judges

37. A prosecutor learns of new credible evidence that a defendant convicted three years ago is actually innocent of the crime for which she is currently serving a lengthy prison sentence. The evidence comes from a witness who recently came forward with information that exonerates the defendant. The prosecutor was the original handling attorney in the matter.

- A. The prosecutor has no continuing obligation because the conviction has become final and the appeals process is the proper mechanism for raising new evidence after the conviction
- B. The prosecutor's only obligation is to refrain from opposing any new trial motion the defendant might file based on the new evidence in the matter being raised post-conviction

C. Under Rule 3.8(g)–(h), the prosecutor must promptly disclose the new evidence to a court or other appropriate authority and undertake further investigation, with additional remedial obligations under Rule 3.8(h) when the evidence clearly and convincingly establishes the defendant was wrongfully convicted

D. The prosecutor must wait for the defendant to discover and present the new evidence through her own post-conviction proceedings rather than initiate disclosure herself proactively

38. A lawyer sends a direct-mail solicitation letter to a list of homeowners who have recently filed insurance claims following severe weather damage in the area. The letter offers her legal services to handle disputed insurance claims. The solicitation letter is sent through regular postal mail to each homeowner on the targeted list of potential clients.

A. The solicitation is impermissible because Rule 7.3 categorically prohibits all targeted written solicitation of persons known to need legal services in particular matters before the firm

B. Under Rule 7.3, the targeted written solicitation is generally permissible if it includes the words "Advertising Material" on the outside envelope and at the beginning of any recorded or electronic communication, with no coercive or harassing content

C. The solicitation is permissible only if the recipients have specifically requested information about legal services from the lawyer before receiving the targeted communication in the mail

D. The solicitation is impermissible because direct-mail solicitation to weather damage victims constitutes per se prohibited contact with vulnerable persons under the rule of conduct

39. A lawyer represents a corporation in ongoing transactional matters. The corporation announces the divestiture of one of its subsidiaries. After the divestiture is complete and the subsidiary is now a separate company, the lawyer wants to represent the now-separate former subsidiary in litigation against the original corporate parent in the matter.

A. The lawyer may represent the former subsidiary because the corporate divestiture has ended the former subsidiary's status as a current client of the firm in the matter handled

B. The lawyer may represent the former subsidiary because the divestiture has created a separate legal entity not subject to confidentiality protections under the rules of conduct in the matter

C. The lawyer may represent the former subsidiary if the original parent corporation gives oral consent to the new representation in the litigation matter being undertaken by counsel

D. Under Rule 1.9 and related authority, the lawyer must analyze whether the litigation is substantially related to the prior representation and whether confidential information from the prior representation could be used against the former client, with informed consent confirmed in writing typically require

40. A lawyer is representing two clients in unrelated matters. Through no fault of the lawyer, the clients become adversaries in a new matter that arises after both representations have already commenced. The lawyer was not aware of any potential adversity between the clients when she undertook the original representations for them.

A. Under Rule 1.7 Comments [4]–[5], when an unforeseeable conflict arises ("thrust-upon conflict") after representations have begun, the lawyer must take steps to address the conflict, which may include withdrawal from one or both matters, with allocation considering factors such as the timing of the conflict's emergence

B. The lawyer must continue both representations because the conflict arose through no fault of her own and Rule 1.7 applies only to conflicts the lawyer knowingly created in advance

C. The lawyer may continue both representations if she immediately implements an internal screen between the two matters within her practice during the time of the conflict situation

D. The lawyer must withdraw from both representations regardless of any other considerations because thrust-upon conflicts always require dual withdrawal under the rule of conduct in the matter

41. A lawyer's client provides her with a packet of documents he claims to have "found." The lawyer reasonably suspects the documents were stolen from the opposing party in pending litigation. The documents would be highly relevant to the case the lawyer is litigating against the opposing party at the time of the receipt of the documents.

A. The lawyer may freely use the documents because relevance and admissibility are the only criteria for using documentary evidence at trial in any litigation matter

B. Under Rule 3.4(a) and related authority, the lawyer's possession and use of suspected stolen documents implicates the rule's prohibition on unlawfully obstructing access to evidence and unlawfully concealing or altering material, and the lawyer should not knowingly use or retain stolen documents

C. The lawyer must withhold the documents from her client's case file but may otherwise use the information they contain in her advocacy work going forward in the matter

D. The lawyer may use the documents provided she discloses their existence to opposing counsel before the trial begins in the matter being litigated by the firm against the opposing party

42. A law firm offers an attorney an employment agreement that includes a non-competition clause prohibiting the attorney from practicing in the same geographic area for three years after leaving the firm. The clause does not include any exception for retirement benefits or similar arrangements applicable to the lawyer's departure from the firm.

- A. Under Rule 5.6(a), the lawyer cannot enter into the agreement because the rule prohibits a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination, except for an agreement concerning benefits upon retirement
- B. The lawyer may enter into the agreement because Rule 5.6 applies only to settlement agreements between lawyers and clients in litigation matters being handled by counsel
- C. The lawyer may enter into the agreement if the three-year duration is reduced to two years or less in the actual employment contract executed between them in the matter
- D. The lawyer may enter into the agreement if the firm provides substantial signing bonus compensation in exchange for the non-competition restriction in the contract being executed

43. A lawyer represents a client in a complex commercial litigation matter with potential damages of \$50 million. The lawyer charges \$1.5 million in legal fees over the course of the representation. The fee is high in absolute terms but represents 3% of the potential damages. The matter required extensive specialized work over two years of representation.

- A. The fee is unreasonable in absolute terms because \$1.5 million in legal fees is excessive regardless of the underlying case value or work performed during the representation
- B. The fee is unreasonable because legal fees should never exceed 1% of the potential damages in any complex commercial litigation matter being handled by counsel for clients
- C. The fee is reasonable if the lawyer charged her standard hourly rate throughout the representation regardless of the total amount accumulated over time during the engagement
- D. Under Rule 1.5(a), the reasonableness of the fee is evaluated against multiple factors including the time and labor required, the amount involved and the results obtained, the experience and ability of the lawyer, and the customary fee for similar legal services

44. A lawyer is arguing a motion before the court. During argument, the lawyer affirmatively misrepresents the holding of a recent appellate decision, describing the case as supporting a proposition that the case actually rejects. The lawyer knows the actual holding of the case but states the contrary holding to support her client's position in the matter.

- A. The lawyer's misrepresentation is permissible because oral argument involves persuasive interpretation rather than precise factual recitation of legal authorities being cited in the matter
- B. The lawyer's misrepresentation is permissible because the court has independent capacity to verify the cited case if the court chooses to do so during the proceedings in the matter

C. Under Rule 3.3(a)(1), the lawyer's conduct violates the rule because she has knowingly made a false statement of law to a tribunal

D. The lawyer's misrepresentation is permissible if opposing counsel has the opportunity to correct the record through subsequent argument or briefing in the matter being heard before the court

45. A lawyer wants to enter into a business transaction with a current client involving a small loan. The transaction terms are favorable to the client. The lawyer fully discloses the terms in writing and the client signs a written acknowledgment. The lawyer does not advise the client to seek independent counsel and the client does not consult independent counsel.

A. The transaction is permissible because the terms are favorable to the client and the client has signed a written acknowledgment of the terms involved in the transaction at hand

B. The transaction is permissible because the small loan amount makes the formal Rule 1.8(a) procedures unnecessary for such a minor financial transaction between attorney and client

C. The transaction is permissible because the client has not requested independent counsel and a small loan does not warrant such formality in the engagement between them in the matter

D. Under Rule 1.8(a), the lawyer must ensure the terms are fair and reasonable to the client and fully disclosed in writing, advise the client in writing of the desirability of seeking the advice of independent legal counsel and give a reasonable opportunity to do so, and obtain the client's informed consent in a signed writing

46. A lawyer represents a client in a personal injury case. Settlement offers and updates from opposing counsel arrive frequently over a six-month period. The lawyer responds to all communications with opposing counsel but does not inform her client about most of the developments, including several settlement offers that were received from the defense side of the case.

A. Under Rule 1.4(a)(3), the lawyer's conduct violates the rule, which requires the lawyer to keep the client reasonably informed about the status of the matter, including settlement offers and material developments

B. The lawyer's conduct is permissible because settlement strategy is within the lawyer's professional autonomy and discretion under the rules of conduct in the jurisdiction

C. The lawyer's conduct is permissible if she will inform the client about all developments at the conclusion of the representation in the matter being handled by the firm

D. The lawyer's conduct is permissible if she believes the settlement offers received are not worth communicating to the client during the negotiation process between the parties

47. A lawyer who is currently serving as a government attorney is offered the opportunity to handle a private matter on the side that involves an issue substantially related to her current government work. She would handle the private matter outside of work hours and bill the private client separately from her government employment activities for the day.

- A. The lawyer may handle the private matter without restriction because government attorneys may engage in outside practice as a matter of right in the jurisdiction
- B. The lawyer may handle the private matter if she discloses her government position to the private client at the outset of the representation in writing to the new client
- C. Under Rule 1.11(d), a lawyer currently serving as a public officer or employee is subject to restrictions including not participating in a matter in which the lawyer participated personally and substantially while in private practice or another government position, and not negotiating for private employment in a matter in which the lawyer is participating personally and substantially
- D. The lawyer may handle the private matter if she screens her government work files from any review of the private matter she handles during the period of dual practice

48. A lawyer at a large firm volunteers with a court-annexed nonprofit program providing brief legal advice to indigent clients. During a clinic session, she provides limited advice to a client whose interests are adverse to a current firm client. The lawyer does not know about the conflict at the time of the consultation due to time constraints in the session.

- A. The lawyer's involvement constitutes a Rule 1.7 violation that imputes to all firm lawyers regardless of the short-term nature of the consultation with the indigent client
- B. Under Rule 6.5(a), the conflict-of-interest rules are modified for short-term limited services through court-annexed or nonprofit programs, with full conflict-checking applying only when the lawyer knows of the conflict, and the conflict not being imputed to other firm lawyers
- C. The lawyer must immediately terminate her involvement with the court-annexed program because Rule 6.5 has no exceptions for unknown conflicts during such sessions of brief advice
- D. The lawyer's involvement is permissible only if she obtains advance consent from her firm clients to all potential conflicts that might arise during pro bono work undertaken by counsel

49. A lawyer represents a client who, the lawyer discovers, has been using the lawyer's services for an ongoing fraud against third parties. The lawyer is withdrawing from the representation. The lawyer wants to send a notice to the third parties stating that the lawyer is no longer associated with the client and that she withdraws any prior opinions or documents she provided.

- A. Under Comment [10] to Rule 1.6 and the "noisy withdrawal" concept, the lawyer may give notice of withdrawal and disaffirm any opinion, document, affirmation, or the like she prepared that the lawyer reasonably believes is being used in furtherance of the fraud
- B. The lawyer cannot disaffirm prior work product because doing so reveals confidential client information protected by Rule 1.6 in all circumstances regardless of the underlying fraud
- C. The lawyer must obtain client consent before disaffirming any prior work product even when the client is using the work product to perpetuate ongoing fraud against third parties
- D. The lawyer must obtain a court order before disaffirming any prior work product in connection with the withdrawal from the representation in the matter being addressed

50. A lawyer represents a corporation. The corporation's CFO has requested that the lawyer also represent her personally in a related matter that potentially involves the corporation's interests. The lawyer wants to undertake the dual representation. The corporate constituent who would need to authorize the joint representation is the CFO herself.

- A. The lawyer may proceed with the dual representation because the CFO has the authority to represent the corporation's interests in routine matters affecting both parties in the matter
- B. The lawyer may proceed with the dual representation if the CFO signs a written acknowledgment of the joint representation on behalf of both the corporation and herself personally in the matter
- C. Under Rule 1.13(g), the lawyer may represent the corporation and its constituents jointly subject to Rule 1.7, and where consent is required, it must be given by an appropriate official of the organization other than the individual who is to be represented or by the shareholders
- D. The lawyer may proceed with the dual representation provided she obtains a court order approving the joint representation of the corporation and its CFO in the matter being handled

51. A lawyer learns that a colleague has serious substance abuse issues. The colleague is currently enrolled in a state-approved lawyers assistance program (LAP). The information about the substance abuse came to the lawyer through her own participation in the LAP, where confidentiality protections apply to information shared during the program activities by participants.

- A. The lawyer must immediately report the substance abuse to the disciplinary authority despite the LAP confidentiality because Rule 8.3 reporting obligations supersede all confidentiality protections under the rules
- B. The lawyer must report the substance abuse only if the colleague has been demonstrating impairment in actual client matters as a result of the substance abuse issues during her practice

C. The lawyer may report or not report at her discretion because LAP participation does not affect the Rule 8.3 reporting obligation under any circumstances applicable in the jurisdiction

D. Under Rule 8.3(c), the reporting requirement does not require disclosure of information gained by a lawyer while participating in an approved lawyers assistance program

52. A lawyer dies and his estate is owed compensation for legal services he performed before his death. The firm continues to receive payments from clients for those services and forwards a portion of the payments to the deceased lawyer's estate as required under the lawyer's employment agreement at the firm at the time of his death.

A. The arrangement violates Rule 5.4(a) because the rule prohibits all fee sharing between lawyers and nonlawyer recipients regardless of the source or context of the funds being transferred to the recipient

B. Under Rule 5.4(a)(2), a lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation that fairly represents the services rendered by the deceased lawyer

C. The arrangement is permissible only if the deceased lawyer's estate beneficiary is also a licensed attorney admitted in the jurisdiction where the firm practices law on a regular basis

D. The arrangement requires court approval before any payments can be made from client fees to the deceased lawyer's estate or its beneficiaries in any amount during the period

53. A lawyer represents a plaintiff in a lawsuit against a corporation. The corporation is represented by counsel. The lawyer wants to communicate directly with a low-level employee of the corporation who has factual knowledge of the events at issue. The employee does not supervise the matter, direct any aspect of it, or have authority to bind the corporation in any way.

A. The lawyer must obtain consent from the corporation's lawyer before contacting any employee of the corporation regardless of the employee's role in the matter being litigated by counsel

B. The lawyer may freely contact any corporate employee because Rule 4.2 applies only to communications with the corporation's officers or directors in the matter being handled

C. Under Rule 4.2 Comment [7], consent of the organization's lawyer is required for communications with constituents who supervise, direct, or regularly consult with the organization's lawyer concerning the matter, those with authority to obligate the organization, or those whose acts or omissions may be imputed to the organization for purposes of civil or criminal liability

D. The lawyer may contact the employee only if she first informs the employee that the lawyer represents the plaintiff in the matter being litigated against the corporation in court

54. A lawyer represents a client in an ongoing matter. The lawyer's spouse has become seriously ill and requires extensive care that conflicts with the lawyer's professional obligations. The client matter is not on a critical deadline and the client could find replacement counsel without material prejudice to the case being handled by counsel.

A. The lawyer cannot withdraw from the representation because Rule 1.16 limits permissive withdrawal to specific grounds that do not include personal family circumstances under the rules of conduct

B. Under Rule 1.16(b)(7), the lawyer may withdraw because the rule permits withdrawal when other good cause exists, and serious family illness affecting the lawyer's capacity to handle the matter typically qualifies as such good cause

C. The lawyer must continue the representation regardless of personal family circumstances because the lawyer's duty to the client supersedes all personal obligations during representation of the client

D. The lawyer may withdraw only after the client formally agrees in writing to release the lawyer from her professional obligations in the underlying representation by the firm

55. A lawyer wishes to advertise her legal services through television commercials, internet banner ads, social media posts, billboards, and newspaper advertisements. She wants to use multiple methods simultaneously to maximize reach to potential clients in her geographic market for legal services in the area where she practices law for clients.

A. Under Rule 7.2(a), a lawyer may communicate information regarding the lawyer's services through any media, subject to the requirements of Rules 7.1 (false or misleading) and 7.3 (solicitation rules)

B. The lawyer cannot use television commercials or social media because Rule 7.2 restricts lawyer advertising to traditional print and broadcast media platforms only in the jurisdiction

C. The lawyer must obtain pre-approval from the state bar for each advertising medium before deploying any specific advertisement to potential clients in the marketplace where she practices

D. The lawyer may use multiple advertising methods only if she limits her total annual advertising budget to a specific percentage of her gross revenue from legal services in the matter

56. A lawyer represents a criminal defendant in a high-profile case. The lawyer wants to make a public statement to the press identifying the defendant by name, providing the date and time of the next scheduled hearing, and stating that the defendant denies the allegations and intends to plead not guilty in the case.

- A. The statement is impermissible because all extrajudicial commentary by criminal defense lawyers is prohibited during ongoing criminal proceedings in the case at hand under the rules
- B. The statement is impermissible because identifying criminal defendants in extrajudicial statements is per se prohibited under Rule 3.6 in all situations regardless of content of the statement
- C. The statement is impermissible if the prosecutor does not consent to the statement before it is made to the press by counsel for the defendant in the matter
- D. Under Rule 3.6(b)(7), in a criminal case, certain statements are within the safe harbor including the identity of the accused, scheduling information, and certain statements regarding the lawyer's intentions

57. A lawyer at a firm has a personal interest conflict regarding a particular matter. The conflict is purely personal and would not significantly affect the ability of other firm lawyers to handle the matter for the client. The firm wants the other lawyers to undertake the representation without involving the conflicted lawyer.

- A. The firm is permanently disqualified from the matter because personal interest conflicts always impute to all firm lawyers under Rule 1.10 without exception of any kind in the matter
- B. Under Rule 1.10(a)(1), the imputation does not apply when the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation by the remaining lawyers in the firm
- C. The firm may proceed only if the lawyer with the personal interest formally resigns from the firm before any work begins on the matter being handled by the firm in the case
- D. The firm may proceed only if formal screening procedures are implemented with detailed written notice to all firm lawyers about the screened conflict in the matter being handled by counsel

58. A lawyer is obtaining client consent to a potential conflict of interest. To obtain effective informed consent, the lawyer must communicate adequate information about the material risks of the proposed course of conduct. The client must understand what she is consenting to and have a basis for evaluating the proposed action by counsel.

- A. Under Rule 1.0(e), "informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct
- B. Informed consent requires only the client's signature on a consent form regardless of the client's understanding of the consequences of the consent given in the matter at hand

C. Informed consent requires written consent from the client documenting the precise legal authority for the proposed course of conduct under the rules of professional conduct in the matter

D. Informed consent requires consultation with an independent attorney before the client can validly consent to any proposed course of conduct by the original attorney in the matter

59. A junior associate at a firm is directed by a senior partner to engage in conduct that the associate knows violates the Rules of Professional Conduct. The associate complies with the partner's direction and engages in the conduct. The conduct is a clear and unambiguous violation of the rules, not an arguable ethical question subject to interpretation in the matter.

A. The associate is not subject to discipline because the senior partner's direction overrides individual responsibility under Rule 5.2 of the rules of conduct in the jurisdiction

B. The associate is not subject to discipline because junior associates have no independent responsibility for compliance with rules until they become partners or senior lawyers at the firm in the profession

C. The associate is not subject to discipline if the associate raised concerns with the partner before engaging in the conduct and the partner overrode the concerns expressed by the associate

D. Under Rule 5.2(a), a lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person, and Rule 5.2(b)'s safe harbor applies only to arguable ethical questions with reasonable supervisory resolution

60. A trial judge personally and strongly dislikes a particular lawyer who appears regularly before her. The judge's dislike is based on personal disputes from many years before either entered the legal profession. The judge believes she can be fair and impartial in cases the lawyer handles despite her personal feelings.

A. The judge need not disqualify because her subjective belief in her ability to be impartial is dispositive under the rules of judicial conduct in any matter being heard

B. The judge need not disqualify because the personal dispute is from many years before either entered the legal profession and is not directly relevant to current cases in the matter

C. Under Rule 2.11(A)(1) of the Code of Judicial Conduct, the judge shall disqualify herself in any proceeding in which the judge has a personal bias or prejudice concerning a party or a party's lawyer

D. The judge need not disqualify if she discloses her personal dislike of the lawyer on the record and the parties consent to her continued participation in the matter being heard

ANSWER KEY – PRACTICE EXAM 24 (MPRE)

- 1. C** — Rule 4.1(a) provides that in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person. A specific misrepresentation of the client's liquid asset position is a material false factual statement, not protected "puffing" — which is limited to estimates of value and party intentions regarding settlement acceptability. Client authorization does not authorize a false statement that violates the rule.
- 2. A** — Using client information learned during representation to threaten public disclosure in order to extract a favorable settlement implicates Rule 1.6 (misuse of confidential information), Rule 8.4(b) (criminal act of extortion), and Rule 8.4(d) (conduct prejudicial to the administration of justice). The threat itself is the misconduct, regardless of whether the recipient capitulates. Vigorous representation does not extend to extortive tactics that misuse client confidences.
- 3. B** — Rule 3.2 requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of the client. Delay tactics primarily designed to wear down the opposing party, rather than to advance any legitimate substantive position, violate the duty. Technical procedural basis for individual filings does not cure the impermissible delay-only purpose.
- 4. D** — Rule 1.8(i) provides that a lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may acquire a lien authorized by law to secure the lawyer's fee or expenses and contract with a client for a reasonable contingent fee in a civil case. Acquiring ownership in the disputed intellectual property does not fit either exception. The rule prevents conflicts arising from the lawyer's personal stake in the litigation outcome distinct from fee structure.
- 5. A** — Rule 5.1(a) requires partners and lawyers with comparable managerial authority in a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct. The absence of conflict-checking, trust-handling, and supervision procedures is a structural failure of the management duty. The obligation is independent of any specific lawyer's individual conduct in a particular matter.
- 6. D** — Rule 1.4(b) requires a lawyer to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation. Complex tax, intellectual property, and multi-year obligation provisions require substantive explanation, not a one-paragraph summary. The client's reliance on the lawyer's judgment does not displace the explanation duty.
- 7. B** — Rule 1.6(b)(3) permits a lawyer to reveal information relating to the representation to the extent reasonably necessary to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services. The rule's "rectify" prong reaches past completed fraud where the lawyer's services were used in furtherance. Disclosure is discretionary, not mandatory.
- 8. A** — Rule 3.7(a)(2) provides that a lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness, except that the testimony relates to the nature and value of legal services

rendered in the case. A fee-dispute case where the lawyer testifies about her own services falls squarely within the value-of-services exception. The exception accommodates the practical reality that fee disputes require lawyer testimony.

9. C — Rule 5.3(c) provides that a lawyer with direct supervisory authority over a nonlawyer is responsible for conduct of the nonlawyer that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer, if the lawyer knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action. Advance knowledge of the planned Rule 4.2 violation triggers the remedial duty. The supervisor's failure to intervene constitutes ratification under the rule.

10. B — Rule 8.4(d) makes it professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. A sustained pattern of incoherent filings that consume court resources and delay other matters, continuing despite court admonitions, meets the prejudicial-to-administration standard. Professional autonomy over work product does not extend to systematic burdening of the court.

11. D — Rule 2.3 of the Code of Judicial Conduct requires a judge to perform the duties of judicial office without bias or prejudice and to not, in the performance of judicial duties, manifest bias or prejudice based on race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or other protected characteristics. Sentencing remarks reflecting racial prejudgments fall squarely within the prohibition. Free-expression rights and independent record support for individual sentences do not cure the rule violation.

12. C — Rule 1.2(a) provides that a lawyer shall abide by a client's decision whether to settle a matter. The settlement decision is reserved to the client even when the lawyer disagrees on case value. Withdrawal is not required merely because of disagreement about settlement when the client makes a permissible choice.

13. D — Rule 1.5(c) provides that upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. The conclusion-stage written statement is a separate requirement from the initial fee-agreement writing. Disbursing settlement proceeds without the closing statement violates the rule.

14. C — Rule 5.5(d) permits a lawyer admitted to practice in another United States jurisdiction to provide legal services through an office or other systematic and continuous presence in this jurisdiction that are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission. In-house counsel work for the corporate employer fits the rule directly. The exception accommodates corporate counsel mobility without requiring local bar admission in every employer-state.

15. A — Rule 1.18(d)(1) provides that when a lawyer has received disqualifying information from a prospective client, representation of a client with materially adverse interests in the same or substantially related matter is nonetheless permissible if the disqualified lawyer is timely screened from any participation in the matter, apportioned no part of the fee, and written notice is promptly given to the

prospective client. The three procedural elements together cure firm-wide imputation. Prospective-client consent is not required for the screening pathway to operate.

16. B — Rule 1.7 requires a lawyer providing common representation to evaluate whether the representation creates a significant risk of material limitation, explain the implications of common representation including effects on confidentiality and the privilege, and obtain each client's informed consent confirmed in writing. Business partners with differing roles, contributions, and profit allocations present material differences in their preferences that require disclosure. The writing-confirmed informed consent is the procedural requirement.

17. D — Rule 4.4(b) provides that a lawyer who receives a document or electronically stored information relating to the representation of the lawyer's client and knows or reasonably should know that the document or ESI was inadvertently sent shall promptly notify the sender. The notification allows the sender to take protective measures including claw-back motions. Unilateral use of the inadvertently received document is not the receiving lawyer's prerogative.

18. A — Rule 1.13(d) provides that paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law or to defend the organization or an officer, employee, or other constituent against a claim arising out of an alleged violation of law. The exception preserves the lawyer's ability to perform investigation or defense representation without triggering the reporting-up cascade. The exception does not eliminate other ethical obligations the lawyer may have.

19. C — Rule 8.4(e) makes it professional misconduct for a lawyer to state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law. Promising favorable rulings based on personal friendship with a judge implies improper influence regardless of whether such influence actually exists. The implication itself is the misconduct.

20. B — Rule 3.8(g) provides that when a prosecutor knows of new, credible, and material evidence creating a reasonable likelihood that a convicted defendant did not commit an offense, the prosecutor shall promptly disclose that evidence to an appropriate court or authority, and if the conviction was obtained in the prosecutor's jurisdiction, the prosecutor shall promptly disclose to the defendant and undertake further investigation. The post-conviction duty extends past the case's final judgment. The defendant's separate post-conviction proceedings do not relieve the prosecutor of the affirmative duty.

21. A — Rule 1.6(a) provides that a lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b). Express informed client consent authorizes disclosure to a journalist for a feature story. No court order or formal third-party agreement is required when the client validly consents.

22. D — 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, unless the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the

firm. Personal-interest conflicts that do not infect other lawyers' work are expressly carved out of imputation. Resignation and formal firm-wide screening are not the operative requirements.

23. B — Rule 7.2(b)(4) permits a lawyer to refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if the reciprocal referral agreement is not exclusive and the client is informed of the existence and nature of the agreement. Reciprocal referral arrangements are expressly permitted within those parameters. No money exchange is required, and the non-exclusivity and disclosure terms govern compliance.

24. C — Rule 1.7 Comment [22] provides that whether a lawyer may properly request a client to waive conflicts of interest that might arise in the future is subject to the test of Rule 1.7(b), with effectiveness generally determined by the extent to which the client reasonably understands the material risks that the waiver entails. Greater specificity in the consent and greater sophistication in the client both enhance effectiveness. Advance waivers are neither categorically prohibited nor categorically valid.

25. B — Rule 3.3 governs candor to the tribunal and applies when a lawyer's client intends to commit perjury. The lawyer must take reasonable remedial measures, which may include refusing to offer the false testimony, with the application varying by jurisdiction and accounting for the defendant's constitutional right to testify. The "narrative" approach is one historically recognized option but is not the only or universal application.

26. D — Rule 1.16(b)(4) permits a lawyer to withdraw if the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement. The rule recognizes a moral-objection ground for withdrawal independent of any technical rule violation. The availability of a replacement lawyer willing to undertake the conduct is not a precondition.

27. A — Rule 3.4(d) prohibits a lawyer from making a frivolous discovery request or failing to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party. Complete non-response without objection or response, where no legitimate basis exists, fails the diligence standard. The obligation to engage with discovery is not contingent on opposing counsel's motion practice.

28. C — Rule 1.5(d)(2) prohibits a lawyer from entering into an arrangement for, charging, or collecting a contingent fee for representing a defendant in a criminal case. The prohibition is absolute and does not permit contingent fees based on monetary savings, plea outcomes, or any other contingent metric. The rule protects against distortion of defense counsel's professional judgment by financial outcomes tied to case results.

29. D — Rule 8.1(b) prohibits a lawyer, in connection with a disciplinary matter, from knowingly failing to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6. Complete non-response without invocation of any privilege or other basis violates the rule. Self-incrimination privileges must be properly invoked, not ignored.

30. B — Rule 1.6 protects all information relating to the representation, and prosecutors are additionally bound by governmental confidentiality rules regarding investigations. Information learned during

prosecutorial investigations is generally not shareable with defense counsel for unrelated matters absent authorization. The Brady disclosure duty operates within specific cases, not as a generalized sharing obligation across all defense matters.

31. C — 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, and Rule 1.10(a) imputes that conflict to all lawyers associated in the firm. The proposed representation creates direct adversity to a current firm client through Rule 1.10 imputation, regardless of the individual lawyer's personal lack of involvement. Informed consent confirmed in writing from both clients is required to proceed.

32. A — Rule 5.5(c)(2) permits a lawyer admitted in another United States jurisdiction to provide legal services on a temporary basis in this jurisdiction that are reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized. Settlement negotiations and preparatory work in State B for State A litigation fit the temporary-practice safe harbor. The home-jurisdiction nexus is the controlling factor.

33. B — Rule 8.4(c) makes it professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, and Rule 3.3(a)(1) prohibits knowingly making a false statement of fact or law to a tribunal. A knowingly false material factual statement in a court pleading violates both rules. The procedural rather than substantive nature of the supported motion does not insulate the false statement.

34. C — Rule 1.6(b)(5) permits a lawyer to reveal information relating to the representation to the extent reasonably necessary to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client. A fee collection action is a paradigm self-defense situation under the rule. The former client's refusal to authorize disclosure does not foreclose the lawyer's self-defense exception.

35. A — Rule 1.15(e) provides that when, in the course of representation, a lawyer is in possession of property in which two or more persons claim interests, the property shall be kept separate by the lawyer until the dispute is resolved, and the lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute. The rule mandates segregation of disputed portions and prompt distribution of undisputed portions. Interpleader is one available resolution mechanism but is not always required.

36. D — Rule 3.5(a) prohibits a lawyer from seeking to influence a judge, juror, prospective juror, or other official by means prohibited by law, and the Code of Judicial Conduct (Rule 3.13) imposes related limits on judges accepting gifts. Expensive gifts and meals offered to build relationships with sitting judges implicate both bodies of rules. The absence of a currently pending case does not cure the impropriety of relationship-building gifts.

37. C — Rule 3.8(g) requires the prosecutor to promptly disclose new, credible, and material evidence creating a reasonable likelihood of innocence, and Rule 3.8(h) requires the prosecutor to seek to remedy the conviction when the prosecutor knows of clear and convincing evidence establishing that a defendant was convicted of an offense the defendant did not commit. The original-handling-prosecutor status creates

direct remedial obligations under both subsections. Conviction finality does not extinguish the prosecutor's ongoing duty.

38. B — Rule 7.3 permits targeted written solicitation of persons known to need legal services, provided the communication is properly labeled as "Advertising Material" on the outside envelope and at the beginning of any recorded or electronic communication, and is not coercive or harassing. Direct-mail letters to weather-damage claimants meeting these requirements are permitted. The vulnerability concern that restricts live solicitation does not apply identically to written communications that recipients can ignore or set aside.

39. D — Rule 1.9 requires the lawyer to assess whether the current matter is substantially related to the prior representation and whether confidential information from the prior representation could be used against the former client, with informed consent confirmed in writing typically required. The post-divestiture status creates a former-client analysis with regard to the original parent corporation. Corporate restructuring does not eliminate confidentiality protections from the prior representation.

40. A — Rule 1.7 Comments [4]–[5] address the situation where an unforeseeable conflict arises after representations have begun, often called a "thrust-upon" conflict. The lawyer must address the conflict through informed consent where possible or by withdrawal from one or both matters, with the allocation considering factors such as the timing of the conflict's emergence and the prejudice to each client. Internal screens are not generally sufficient to resolve concurrent-client conflicts in this scenario.

41. B — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying, or concealing material having potential evidentiary value, and from counseling or assisting another person to do any such act. Knowing or reasonable-suspicion possession of stolen documents implicates concealment and obstruction concerns under the rule, and may also implicate other law. Relevance to the underlying matter does not authorize use of unlawfully obtained materials.

42. A — Rule 5.6(a) prohibits a lawyer from participating in offering or making a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement. A three-year geographic non-compete clause without a retirement-benefits exception falls squarely within the prohibition. The rule protects client choice of counsel by preventing lawyer-departure restrictions that would limit access to representation.

43. D — Rule 1.5(a) lists eight factors for evaluating fee reasonableness, including the time and labor required, the novelty and difficulty of the questions involved, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, the experience, reputation, and ability of the lawyer, and the time limitations imposed by the client or circumstances. Multi-factor analysis can support large fees in complex high-stakes matters where the amount involved and work performed justify the charge. No single-percentage rule controls reasonableness analysis.

44. C — 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. Affirmatively misrepresenting the holding of an appellate decision is a knowingly false

statement of law. The court's independent verification capacity does not relieve the lawyer's affirmative duty.

45. D — Rule 1.8(a) provides that a lawyer shall not enter into a business transaction with a client unless the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client, the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction, and the client gives informed consent, in a writing signed by the client, to the essential terms of the transaction. All three procedural elements are mandatory regardless of transaction size or favorability to the client.

46. A — Rule 1.4(a)(3) requires a lawyer to keep the client reasonably informed about the status of the matter. Material developments — particularly settlement offers — are core information clients are entitled to receive on an ongoing basis throughout the representation. The lawyer's communication with opposing counsel does not substitute for communication with the client.

47. C — Rule 1.11(d) provides that a lawyer currently serving as a public officer or employee is subject to Rules 1.7 and 1.9, and shall not participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless the appropriate government agency gives its informed consent, confirmed in writing, and shall not negotiate for private employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally and substantially. Simultaneous government service and private representation in substantially related matters falls within the rule's restrictions. The dual-role concerns are not cured by disclosure or file-screening alone.

48. B — Rule 6.5(a) provides that a lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation involves a conflict of interest, and is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter. The rule modifies both individual conflict-checking and firm-imputation for short-term programs. The modification facilitates volunteer participation in pro bono programs.

49. A — Comment [10] to Rule 1.6 recognizes that a lawyer may give notice of the fact of withdrawal and may also withdraw or disaffirm any opinion, document, affirmation, or the like prepared by the lawyer that the lawyer reasonably believes is being used in furtherance of a client's ongoing fraud. The concept, often called "noisy withdrawal," allows the lawyer to disengage from the fraud's instrumentalities without revealing protected information. Client consent and court orders are not required for the disaffirmation to operate.

50. C — Rule 1.13(g) provides that a lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders, or other constituents, subject to the provisions of Rule 1.7, and if the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be

represented, or by the shareholders. The rule prevents the conflicted constituent from authorizing her own dual representation. The protection avoids self-interested organizational consent.

51. D — Rule 8.3(c) provides that this rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program. The LAP confidentiality protection is built into the reporting framework to encourage participation in assistance programs. The protection operates regardless of the seriousness of the impairment observed.

52. B — Rule 5.4(a)(2) provides an exception to the general prohibition on fee sharing with nonlawyers, allowing a lawyer who undertakes to complete unfinished legal business of a deceased lawyer to pay to the estate of the deceased lawyer that proportion of the total compensation that fairly represents the services rendered by the deceased lawyer. The exception accommodates legitimate succession arrangements for legal services performed before death. No attorney status of the estate beneficiary or court approval is required.

53. C — Rule 4.2 Comment [7] provides that in the case of a represented organization, the rule prohibits communications with a constituent of the organization who supervises, directs, or regularly consults with the organization's lawyer concerning the matter, who has authority to obligate the organization with respect to the matter, or whose act or omission in connection with the matter may be imputed to the organization for purposes of civil or criminal liability. The protection is limited to those specifically enumerated categories. Low-level employees outside those categories may be contacted without organization-counsel consent.

54. B — Rule 1.16(b)(7) permits a lawyer to withdraw from representing a client when other good cause for withdrawal exists. Serious family illness materially affecting the lawyer's capacity to handle a non-urgent matter typically qualifies as good cause, particularly where withdrawal can be accomplished without material adverse effect on the client's interests. Personal circumstances can justify withdrawal under the general good-cause provision.

55. A — Rule 7.2(a) provides that subject to the requirements of Rules 7.1 and 7.3, a lawyer may communicate information regarding the lawyer's services through any media. Television, internet, social media, billboards, and print are all permitted media subject to the false-or-misleading and solicitation restrictions. No pre-approval of advertising media or budget limitations apply under the rule.

56. D — Rule 3.6(b)(7) provides that in a criminal case, in addition to subdivisions (1)–(6), a lawyer may state the identity, residence, occupation, and family status of the accused, information necessary to aid in apprehension if the accused has not been apprehended, the fact, time, and place of arrest, and the identity of investigating and arresting officers or agencies and the length of the investigation. Identifying the defendant, providing hearing information, and stating denial of allegations falls within the criminal-case safe harbor. Prosecutor consent is not required for safe-harbor statements.

57. B — Rule 1.10(a)(1) provides that the imputation of conflict to associated firm lawyers does not apply when the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

Personal-interest conflicts that do not infect other lawyers' work are carved out of imputation. The carve-out operates without the conflicted lawyer's resignation or firm-wide screening procedures.

58. A — Rule 1.0(e) defines "informed consent" as the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct. The definition focuses on substantive communication enabling client understanding, not merely on signed consent forms or formal documentation. Independent counsel consultation is not a definitional element of informed consent.

59. D — Rule 5.2(a) provides that a lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acted at the direction of another person, with Rule 5.2(b) providing a narrow safe harbor only for subordinate lawyers who act in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty. Clear and unambiguous violations are outside the Rule 5.2(b) safe harbor. Junior status and supervisory direction do not insulate the associate from individual responsibility.

60. C — Rule 2.11(A)(1) of the Code of Judicial Conduct provides that a judge shall disqualify herself in any proceeding in which the judge's impartiality might reasonably be questioned, including instances where the judge has a personal bias or prejudice concerning a party or a party's lawyer. The disqualification trigger is objective rather than dependent on the judge's subjective belief in her own impartiality. Disclosure-and-consent procedures do not cure mandatory personal-bias disqualification.