

# PRACTICE EXAM 27: MPRE SIMULATION

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**Time Allotted: 2 hours**

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

1. A lawyer at a small law firm represents Manufacturer A in ongoing patent licensing matters. A new client, Manufacturer B, approaches the firm seeking representation in a contract dispute against Manufacturer A. The contract dispute is entirely unrelated to the patent licensing work the firm handles for Manufacturer A at the time.

A. The firm may accept the new representation because the contract dispute is unrelated to the patent licensing work being handled for the existing client in the matter

B. Under Rule 1.7(a)(1), the firm must decline absent informed consent confirmed in writing from both clients because representation of Manufacturer B would be directly adverse to a current client

C. The firm may accept the new representation if it screens the lawyers working on the Manufacturer A patent matters from any involvement with the Manufacturer B dispute in the matter

D. The firm may accept the new representation provided that the original patent licensing work for Manufacturer A is in a phase that does not require active attention from counsel at this time

2. A law firm's email system has a misconfigured filter that occasionally sends client emails to the wrong external recipient. The firm has been aware of intermittent misdirection issues for several months but has not investigated or corrected the technical problem. A client's confidential settlement strategy is sent to opposing counsel as a result of the misconfiguration.

A. The firm is not subject to discipline because the misdirection was a technical error rather than intentional disclosure of client information by the firm in the matter

B. The firm is not subject to discipline because email systems inherently carry some risk of misdirection that clients implicitly accept by using electronic communication in the practice

C. The firm is not subject to discipline if it promptly notifies the client of the misdirection after it occurs in the matter being handled by counsel at the firm

D. Under Rule 1.6(c), the firm's failure to make reasonable efforts to prevent the unauthorized disclosure of client information is itself a violation of the rule

3. A lawyer at trial offered documentary evidence supporting her client's position. The document was provided by the client. After the document was admitted into evidence, the lawyer learned with certainty that the document had been fabricated by the client. The proceeding is still ongoing. The client refuses to allow disclosure of the falsity to the tribunal.

A. The lawyer must remain silent because the client's instruction not to disclose is binding under Rule 1.6 confidentiality requirements in the matter being handled by counsel

B. The lawyer must immediately withdraw all of her client's evidence from the trial regardless of which specific evidence was fabricated by the client in the matter being tried

C. Under Rule 3.3(a)(3), if a lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal

D. The lawyer must continue the trial without disclosure and report the fabrication to the disciplinary authority after the proceeding concludes with a final judgment in the matter

4. A lawyer admitted only in State A is representing a client on a complex acquisition that requires legal work in State B. The lawyer has associated with a State B-admitted lawyer who actively participates in the State B portions of the work. The State A lawyer's services in State B are temporary and tied to the specific transaction at hand.

A. Under Rule 5.5(c)(1), the lawyer may provide legal services on a temporary basis in another United States jurisdiction that are undertaken in association with a lawyer who is admitted to practice in that jurisdiction and who actively participates in the matter

B. The lawyer's activities constitute unauthorized practice of law because she has not obtained pro hac vice admission in State B for the transactional work being performed by her firm

C. The lawyer's activities require formal admission in State B through her firm's compliance committee before any work can be performed on the matter being handled by counsel

D. The lawyer's activities are permissible only if she limits herself to advisory roles and does not negotiate any documents directly with State B parties in the transaction

5. A lawyer represents a low-income client on a simple uncontested name change petition that takes approximately 30 minutes of work to prepare and file. The lawyer charges the client \$5,000 for the work. The local market rate for similar uncontested name change petitions is approximately \$300 to \$500 in the area.

A. The fee is permissible because the client has agreed to pay it through a signed engagement letter executed at the outset of the representation by counsel for the client

B. The fee is permissible because lawyers retain discretion to set their own fees for legal services in any matter being undertaken in the practice generally in the field

C. The fee is permissible because the engagement involved a court filing rather than purely advisory work between counsel and the client in the matter being handled

D. Under Rule 1.5(a), the fee likely violates the rule because the amount is grossly disproportionate to the time required, the customary local fee, and the simplicity of the matter

6. A lawyer represents a plaintiff in a commercial dispute with a corporation. The corporation is represented by outside litigation counsel. The corporation's general counsel is the person who supervises and regularly consults with the outside litigation counsel about the matter on behalf of the corporation as its representative in the case.

A. The plaintiff's lawyer may freely communicate with the general counsel because in-house lawyers are not protected by Rule 4.2 against direct contact in the matter being litigated

B. Under Rule 4.2, the plaintiff's lawyer needs consent from outside litigation counsel before communicating with the general counsel about the matter because the general counsel supervises and consults regarding the matter

C. The plaintiff's lawyer may communicate with the general counsel if she first informs the general counsel that the lawyer represents the adverse plaintiff in the matter being handled by counsel

D. The plaintiff's lawyer may communicate with the general counsel if the contact is initiated by the general counsel rather than by the plaintiff's lawyer in the matter at hand in the case

7. A lawyer has been representing a client in various legal matters for several years. The client offers the lawyer the opportunity to purchase a 20% ownership interest in the client's small business at a discounted price. The lawyer is considering whether and how to proceed with the proposed business transaction with her client.

- A. Under Rule 1.8(a), the lawyer may proceed only if the terms are fair and reasonable to the client, fully disclosed in writing, the client is advised in writing to seek independent counsel and given a reasonable opportunity to do so, and the client gives signed informed consent
- B. The lawyer may freely proceed because the long-standing client relationship justifies relaxed conflict procedures for routine business investments together between attorney and client in the practice
- C. The lawyer must decline regardless of any procedural compliance because Rule 1.8(a) prohibits all business transactions between attorneys and current clients in the same firm in any matter
- D. The lawyer may proceed if she charges the client a reduced fee for legal services in exchange for the discounted business interest received by counsel during the engagement between them

8. A lawyer's case is being tried before a jury. During a recess in the trial, the lawyer encounters one of the jurors in the courthouse hallway. The lawyer engages the juror in casual conversation about non-case topics including weather and local events. The trial has not yet concluded at the time of the encounter between them.

- A. The casual conversation is permissible because it does not involve any discussion of the substantive case being tried at the time of the encounter between counsel and the juror
- B. The casual conversation is permissible because the encounter occurred outside the courtroom and during a normal recess between trial sessions on the calendar in the matter
- C. Under Rule 3.5(b) and related authority, the lawyer should not communicate ex parte with a juror during the proceeding except as permitted by law or court order, even regarding apparently innocuous topics
- D. The casual conversation is permissible if the lawyer reports the encounter to opposing counsel and the trial court after the trial concludes for the day on the record in the matter

9. A lawyer's advertisement claims that her firm has "the highest success rate of any law firm in the city" for personal injury cases. The lawyer has not conducted any verification of this claim through formal study or empirical analysis. The claim is based on the lawyer's general impression of her firm's performance compared to others in the area.

- A. The advertisement is permissible because lawyers may engage in comparative marketing claims that reflect their general professional opinions of their own work in any practice
- B. Under Rule 7.1, the advertisement likely violates the rule because it makes a false or misleading comparison claim that cannot be factually substantiated by the lawyer

C. The advertisement is permissible if the lawyer's firm has had recent favorable outcomes in personal injury matters supporting her general impression of success in the area

D. The advertisement is permissible provided that the lawyer's firm is in fact among the better-performing firms in the city for personal injury cases handled in the local market

10. A lawyer formerly represented Client X in a comprehensive business divestiture transaction involving Company Y. The representation included extensive analysis of Company Y's operations, financial position, and strategic plans. Two years later, Client Z approaches the lawyer to represent it in a hostile takeover attempt against Company Y in which the lawyer would utilize her knowledge of Company Y.

A. Under Rule 1.9(a), the lawyer cannot accept the Client Z representation without Client X's informed consent because the two matters are substantially related given the overlapping subject matter and the lawyer's prior access to confidential information about Company Y

B. The lawyer may accept the Client Z representation because Client X has not formally objected to the new representation within a reasonable time of being informed of the planned engagement

C. The lawyer may accept the Client Z representation if she screens herself from sharing any specific confidential information learned during the prior Client X representation in the matter

D. The lawyer may accept the Client Z representation provided that two years have passed since the conclusion of her prior work for Client X on the divestiture transaction in the matter

11. A lawyer's friend is a sitting trial judge. The judge confides in the lawyer that the judge has been accepting cash payments from a particular litigant in exchange for favorable rulings. The lawyer continues to socialize with the judge and helps the judge identify additional opportunities to receive similar payments from other litigants in the area.

A. The lawyer's conduct is permissible because she is not a participant in the judge's underlying judicial misconduct as a matter of formal involvement in the proceedings at issue

B. The lawyer's conduct is permissible because Rule 8.4 applies only to lawyer's own actions and not to assistance provided to judicial misconduct by colleagues in the practice

C. The lawyer's conduct is permissible because her personal friendship with the judge falls outside the scope of professional conduct rules generally applicable to attorneys

D. Under Rule 8.4(f), it is professional misconduct for a lawyer to knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law

12. A lawyer's representation of a client has ended. The lawyer is reviewing the client's file. The client has requested return of original documents she provided to the lawyer during the representation, including original contracts, identification documents, and family photographs that were used as evidence in the case being handled.

A. The lawyer may retain the original documents indefinitely as part of her permanent file maintenance and record-keeping system for the firm's records in the practice

B. The lawyer must retain the original documents until any potential malpractice claim period has expired under the applicable statute of limitations in the jurisdiction where she practices

C. Under Rule 1.16(d), upon termination of representation, a lawyer shall surrender papers and property to which the client is entitled, including original documents the client provided during the representation

D. The lawyer may retain the original documents until the client pays any outstanding fees owed for legal services rendered during the representation period of the matter

13. A lawyer is offered the opportunity to form a "consulting partnership" with a non-lawyer business strategist. The partnership would provide both legal and business strategy services to clients, with revenue divided equally between the partners. The non-lawyer partner would have substantial input into the legal services aspects of the partnership.

A. Under Rule 5.4(b), the lawyer cannot form the partnership because the rule prohibits a lawyer from forming a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law

B. The lawyer may form the partnership provided that the legal services are clearly separated from the business strategy services through internal procedures and policies at the firm being formed

C. The lawyer may form the partnership if the non-lawyer partner agrees in writing not to interfere with the lawyer's professional judgment in legal services for the clients being served

D. The lawyer may form the partnership if she discloses the non-lawyer partner's role to each client at the outset of the engagement and obtains written acknowledgment of the arrangement

14. A paralegal moves from Firm X to Firm Y. While at Firm X, the paralegal worked on a matter for Client A. Firm Y currently represents Client B in a substantially related matter adverse to Client A. Firm Y wants to continue the Client B representation and screens the paralegal from any involvement in the matter at the firm.

A. Firm Y is disqualified from continuing the representation regardless of the screening because paralegals are not subject to formal screening procedures under the rules of professional conduct

B. Under Rule 1.10 Comment [4] and related authority, nonlawyer screening is generally recognized as permissible to avoid firm-wide imputation when a nonlawyer with prior firm involvement joins a new firm

C. Firm Y must terminate the paralegal's employment because the paralegal's mere presence at the firm creates an irreparable conflict regardless of screening procedures implemented at the firm

D. Firm Y may continue only if Client A formally consents to the paralegal's employment at the firm and the firm's continued representation of Client B in the matter being handled

15. A lawyer represents a defendant in civil litigation. The trial court has issued a discovery order requiring the defendant to produce specific documents by a certain date. The lawyer believes the order was improperly issued and that her client should not have to comply. She instructs her client to refuse production and does not seek any further court ruling.

A. The lawyer's conduct is permissible because she believes the discovery order was improperly issued by the court in the matter being litigated against her client

B. The lawyer's conduct is permissible because she has an obligation to protect her client's interests against improper court orders during the representation in the matter

C. The lawyer's conduct is permissible if the disputed documents would harm her client's position in the underlying litigation being handled by the firm in the matter

D. Under Rule 3.4(c), the lawyer's conduct violates the rule, which prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists

16. A lawyer at a private firm represents a municipality on regulatory matters. The lawyer is asked to represent a private developer who is seeking approvals from that same municipality on a real estate project. The municipality has not yet been asked to formally approve the developer's project, but the project will require the municipality's approval through the regulatory process.

A. The lawyer may freely represent the developer because government client representations do not create the same conflicts as private client representations under Rule 1.7 of the rules of conduct

B. The lawyer may represent the developer if she limits her representation to areas not directly involving the municipality's approval process for the underlying project being pursued

C. Under Rule 1.7, the lawyer must analyze whether representing the developer is directly adverse to her municipal client or would create a significant risk of material limitation, with informed consent confirmed in writing typically required

D. The lawyer may represent the developer if she charges each client a separate fee for the work she performs in their respective matters being undertaken at the firm

17. A lawyer represents a client who is contemplating a business decision that is legally permissible. The lawyer is concerned that the decision, while legal, is likely to be financially disastrous and damage important business relationships. The lawyer is uncertain whether to share these concerns with the client beyond providing strictly legal advice.

A. Under Rule 2.1, the lawyer should render candid advice and may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation

B. The lawyer should limit her advice strictly to legal permissibility because clients are responsible for their own business judgments outside of legal counsel in any matter

C. The lawyer should refuse to provide any advice because she finds the contemplated decision problematic and her professional view may bias the underlying analysis being provided to the client

D. The lawyer should report the decision to appropriate regulators because the decision may harm third parties even though it is technically legal in the jurisdiction at hand

18. A lawyer is admitted to practice in States A and B. While appearing pro hac vice in State C in a federal litigation matter, the lawyer engages in conduct that allegedly violates the rules of professional conduct. The relevant disciplinary authorities are considering how to handle the matter under choice-of-law principles applicable to the conduct at issue.

A. Only State A's rules apply because that is the lawyer's primary state of admission to practice law in the jurisdiction where she is admitted formally

B. Only State C's rules apply because that is where the conduct occurred during the litigation matter being handled by the lawyer in the proceeding

C. Under Rule 8.5(b), for conduct in connection with a matter pending before a tribunal, the rules to be applied shall be the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or where the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall apply

D. Both State A and State B rules apply because the lawyer is admitted in both jurisdictions and engaged in conduct violating the professional standards generally in the practice

19. A lawyer is regularly retained by a corporate client to handle various legal matters as they arise. The lawyer has communicated her hourly rate and the basis for her fees in writing during their first engagement. A new matter arises within the lawyer's existing scope of representation for the corporate client. The lawyer does not provide a new written fee communication.

A. The lawyer's approach is impermissible because Rule 1.5(b) requires a separate written fee communication at the outset of each new matter undertaken for any client during the year

B. Under Rule 1.5(b), the lawyer's approach is permissible because the rule exempts representation where the lawyer will charge a regularly represented client on the same basis or rate as previously communicated

C. The lawyer's approach is impermissible because Rule 1.5(b) requires written fee communications for all corporate client matters regardless of prior representations between them in the firm

D. The lawyer's approach is impermissible because Rule 1.5(b) requires the same fee writing to be re-executed by each authorized corporate officer for each new matter undertaken during the engagement

20. A lawyer represents a seller in a complex commercial transaction. The buyer is unrepresented by counsel. During negotiations, the unrepresented buyer asks the lawyer specific questions about how certain provisions would operate. The lawyer's view is that the questions are technical and the buyer might benefit from understanding the legal mechanics.

A. The lawyer may freely answer the unrepresented buyer's questions because the buyer has voluntarily chosen to participate without counsel in the transaction being negotiated

B. The lawyer may answer the unrepresented buyer's questions provided she also discloses that she represents the seller in the underlying transaction being negotiated by the parties

C. The lawyer may answer the unrepresented buyer's questions if the answers reflect accurate descriptions of the legal mechanics under applicable law in the matter being handled

D. Under Rule 4.3, the lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client

21. A lawyer represents a corporation. During an internal investigation interview, a corporate officer begins to share information that the officer evidently believes is being conveyed to her personal lawyer.

The officer is not separately represented and assumes the lawyer represents her personally during the interview process at the firm.

- A. The lawyer may continue the interview without further clarification because she has no formal representation relationship with the officer in any capacity at the firm being conducted
- B. The lawyer must terminate the interview immediately because any individual misperception about lawyer representation creates an irreparable conflict situation requiring termination
- C. Under Rule 1.13(f), the lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing
- D. The lawyer may continue the interview if she records the officer's information without disclosing her actual representational relationship with the corporation at any time during the matter

22. A lawyer represents a criminal defendant in a high-profile case. To the press, the lawyer states the name of the defendant, the general nature of the charges that have been filed, the date and location of the next scheduled court appearance, and that her client maintains his innocence and intends to plead not guilty at trial.

- A. The lawyer's statements violate Rule 3.6 because the statements identify the defendant by name in a high-profile criminal matter being handled by counsel for the defendant
- B. Under Rule 3.6(b), the lawyer's statements are within the safe harbor, which permits statements about the general nature of the charge, information contained in a public record, scheduling, and certain identifying information about the accused in criminal cases
- C. The lawyer's statements violate Rule 3.6 because the statements include a denial of guilt before any trial has been held in the case being handled by counsel in the matter
- D. The lawyer's statements are permissible only if the prosecutor consents in writing to each specific statement before it is made to the press in the matter being handled

23. A lawyer encounters a complex ethical dilemma involving how to handle certain information from a client. She wants to seek confidential advice from a professional responsibility attorney at another firm. The consultation will require disclosing some specific facts about the client's situation. The client has not been informed of the planned consultation in advance.

- A. The lawyer must obtain the client's express written consent before consulting with any outside professional responsibility attorney about the client's specific matter being handled
- B. The lawyer may not consult about the matter under any circumstances because Rule 1.6 prohibits sharing client information with any outside party regardless of purpose in any matter
- C. The lawyer may consult freely about the matter because Rule 1.6 does not protect information shared with other lawyers in confidential discussions between professionals in the field
- D. Under Rule 1.6(b)(4), a lawyer may reveal information relating to the representation to the extent the lawyer reasonably believes necessary to secure legal advice about the lawyer's compliance with these Rules

24. A lawyer at Firm X had a brief consultation with a prospective client about a potential matter. The lawyer received limited information from the prospective client and did not undertake the representation. The prospective client has explicitly given informed consent in writing for Firm X to represent the opposing party in the same matter.

- A. Under Rule 1.18(d)(2), Firm X may represent the opposing party because the affected person (the prospective client) has given informed consent, confirmed in writing
- B. Firm X is permanently disqualified from the representation because Rule 1.18 creates an absolute bar to representation adverse to former prospective clients regardless of any consent given by them
- C. Firm X may represent the opposing party only if all firm lawyers individually receive consent from the prospective client to handle the matter going forward in the representation
- D. Firm X may represent the opposing party only if the trial court formally approves the firm's continued involvement after notice to the prospective client of the planned representation in the matter

25. A lawyer represents a client in a civil litigation matter. The lawyer is likely to be called as a witness regarding an undisputed and uncontested factual matter — the date and time when certain documents were delivered. There is no dispute between the parties about the date and time, and the testimony will be brief and non-substantive in nature.

- A. The lawyer must withdraw immediately because Rule 3.7 categorically prohibits any combination of advocate and witness roles in trial regardless of the testimony's content in the matter
- B. The lawyer may continue as advocate only if the trial court formally consents to the dual role after disclosure of the planned testimony to the parties in the matter

C. Under Rule 3.7(a)(1), the lawyer may serve as both advocate and witness because the rule includes an exception when the testimony relates to an uncontested issue

D. The lawyer may continue as advocate only if her client formally waives any conflict resulting from the dual role in a signed writing executed before the testimony in the matter

26. A lawyer is convicted of perjury arising from false testimony she gave in a personal civil dispute unrelated to her law practice. The conviction is for a felony involving a sustained pattern of falsehood during the proceeding. The conviction does not involve any client matter or any aspect of her legal practice in any capacity at the firm.

A. The lawyer is not subject to discipline because the perjury occurred in her personal life rather than during her professional practice as an attorney at her firm

B. The lawyer is not subject to discipline because the conviction is for a felony rather than for any direct violation of the Rules of Professional Conduct in the jurisdiction where she practices

C. The lawyer is subject to discipline only if the perjury caused identifiable financial harm to clients of her firm or her practice during the period of representation at her firm

D. Under Rule 8.4(c), the lawyer is subject to discipline because the rule prohibits conduct involving dishonesty, fraud, deceit, or misrepresentation, and Rule 8.4(b) also applies because perjury reflects adversely on honesty, trustworthiness, or fitness as a lawyer

27. A lawyer's client wants to bring an unprecedented constitutional challenge to a state statute. The current case law is uniformly against the client's position, but the lawyer believes there are colorable arguments for changing the law based on developments in related areas and shifting societal considerations relevant to the analysis at issue in the matter.

A. The lawyer cannot bring the challenge because all current case law is uniformly against the client's position in the matter being considered for litigation by the client

B. Under Rule 1.2(d) and Rule 3.1, the lawyer may pursue the challenge because the rules permit advocacy that includes a good faith argument for an extension, modification, or reversal of existing law

C. The lawyer may bring the challenge only if she can identify at least one trial court decision favorable to her client's position from any jurisdiction in the country

D. The lawyer may bring the challenge only if she obtains advance approval from her state bar's professional responsibility committee for the novel legal theory being advanced in the matter

28. A lawyer maintains a single business account for her law firm's operations. She receives a client's settlement check made payable to the client trust account but deposits the check into the business account. She tracks the client's funds through internal accounting records and disburses the appropriate amount to the client when due to the client in the matter.

A. Under Rule 1.15(a), the lawyer's approach violates the rule because the rule requires a lawyer to hold property of clients separate from the lawyer's own property, with funds kept in a separate account

B. The lawyer's approach is permissible because her careful internal accounting ensures that no client funds are actually misused during the brief period of commingling in the firm's account

C. The lawyer's approach is permissible because Rule 1.15 requires only careful tracking of client funds rather than physical separation in distinct accounts at the firm

D. The lawyer's approach is permissible because she disburses the appropriate amount to the client promptly upon completion of any settlement disbursement period in the matter

29. A senior partner learns that an associate at her firm has been making misrepresentations to opposing counsel in ongoing settlement negotiations. The partner has direct supervisory authority over the associate. Rather than instruct the associate to correct the misrepresentations, the partner congratulates the associate on the aggressive negotiation strategy and tells the associate to continue.

A. The partner is not subject to discipline because the misrepresentations were made by the associate personally rather than by the partner directly to opposing counsel in the matter

B. The partner is not subject to discipline because she did not personally participate in any of the specific negotiation sessions where misrepresentations were made to opposing counsel

C. The partner is not subject to discipline because Rule 5.1 imposes liability only when partners affirmatively direct improper conduct rather than passively accept it from associates

D. Under Rule 5.1(c), a lawyer is responsible for another lawyer's violation if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved

30. A lawyer represented a client in a publicly reported case that received extensive media coverage. The case concluded years ago, and detailed facts about the matter were widely publicized in news reports. The lawyer is now asked by a law review to write a scholarly article discussing the case and referring to publicly reported facts only.

- A. Under Rule 1.9(c) and related authority, the duty of confidentiality continues to apply to information relating to the representation regardless of whether the information has become publicly known, with the "generally known" concept applying narrowly to use against the former client
- B. The lawyer may freely discuss the matter because confidentiality protections always terminate when matters become publicly known through media coverage at the time of the events being reported
- C. The lawyer may freely discuss the matter because Rule 1.6 has no continuing protection for cases that concluded more than five years before the planned discussion in the article being written
- D. The lawyer may freely discuss the matter provided that she does not identify the former client by name in the article being written for the law review publication on the case

31. A lawyer is delivering her opening statement at trial. She tells the jury: "Based on the evidence we will present, I personally believe that my client is innocent of any wrongdoing, and I am confident that you will reach the same conclusion after hearing the testimony in this matter."

- A. The lawyer's statement is permissible because opening statements may include the lawyer's personal assessment of the upcoming evidence presentation in the matter being tried
- B. The lawyer's statement is permissible because vouching for one's own client is recognized as effective advocacy in the opening phase of trial in the matter
- C. Under Rule 3.4(e), the lawyer's statement violates the rule, which prohibits a lawyer in trial from stating a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused
- D. The lawyer's statement is permissible if she believes in good faith that her client is in fact innocent based on her review of the underlying evidence in the case being tried

32. A lawyer leaves the Department of Justice to join a private law firm. The firm now wants to represent a client in a matter substantially related to a matter the lawyer worked on while at the Department. The firm timely screens the lawyer from the matter, apportions no part of the fee to her, and provides notice to the relevant government agency.

- A. The firm is permanently disqualified from the representation because Rule 1.11 creates an absolute bar to representation in matters substantially related to former government work in the area
- B. Under Rule 1.11(b), the firm may continue the representation because 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 appropriate government agency

C. The firm may continue only if the lawyer formally terminates her employment with the firm before any work begins on the matter being handled by the firm in the case

D. The firm may continue only if the relevant government agency formally consents in writing to the firm's representation despite the screening procedures implemented at the firm

33. A lawyer serves on the board of directors of a legal services organization that provides free legal services to indigent persons. The organization is considering whether to take on a new program that may involve serving persons whose interests are adverse to current clients of the lawyer's private practice. The lawyer is concerned about the implications of her board service.

A. The lawyer must immediately resign from the board because any potential conflict between her firm's clients and the organization's prospective clients creates an irreparable conflict situation

B. The lawyer must abstain from all board votes regardless of subject matter because of her private practice obligations to her firm clients during her tenure on the board

C. The lawyer may continue board service without restriction because legal services organization service is categorically exempt from conflict-of-interest analysis under the rules of conduct

D. Under Rule 6.3, the lawyer may serve as a director despite the fact that the organization serves persons having interests adverse to her client, subject to limitations, including not knowingly participating in a decision incompatible with her obligations to a client under Rule 1.7

34. A lawyer at Firm A refers a complex matter to a lawyer at Firm B who has specialized expertise. The two lawyers agree to divide the fee. The Firm B lawyer will perform all the actual legal work on the matter, while the Firm A lawyer will not perform any substantive work but will retain joint responsibility for the representation in the matter.

A. Under Rule 1.5(e), the fee division is permissible if either each lawyer's share is in proportion to the services performed or each lawyer assumes joint responsibility for the representation, with client agreement in writing and a reasonable total fee

B. The fee division is impermissible because Rule 1.5(e) requires both lawyers to perform substantive work proportional to their share of the fee in the matter being handled

C. The fee division is impermissible because Rule 1.5(e) prohibits all referral fees regardless of the responsibility arrangements between the lawyers involved in the matter

D. The fee division is impermissible because Rule 1.5(e) requires the referring lawyer to actively supervise the work performed by the receiving lawyer during the matter being handled

35. A lawyer represented Seller in the sale of a business to Buyer. The transaction has now closed. Six months later, Buyer approaches the lawyer to represent Buyer in a dispute against Seller arising from undisclosed financial issues with the business that emerged after closing. The lawyer learned of Seller's financial position during the original sale representation.

A. The lawyer may freely represent Buyer in the dispute because the sale transaction has closed and Seller is no longer a current client requiring confidentiality protection in the matter

B. Under Rule 1.9, the lawyer cannot represent Buyer in the dispute without Seller's informed consent because the new matter is substantially related to the prior representation and the lawyer's prior knowledge of Seller's financial position is material

C. The lawyer may freely represent Buyer if she discloses to Buyer that she previously represented Seller in the underlying sale transaction during the engagement

D. The lawyer may freely represent Buyer because Buyer was also involved in the original transaction and is therefore not adverse to the prior representation context in the matter

36. A lawyer learns from another firm's former client that the other firm's senior partner allegedly engaged in a pattern of charging unreasonable fees to multiple clients over many years. The former client provides specific factual details supporting the allegation. The conduct, if true, raises a substantial question about the senior partner's honesty and fitness to practice law.

A. The lawyer has no obligation to report because the information came from a former client of another firm rather than from the lawyer's own observations of the conduct in the matter

B. The lawyer has no obligation to report because Rule 8.3 reporting applies only to misconduct directly observed by the reporting lawyer in the practice on a regular basis

C. Under Rule 8.3(a), the lawyer must report if she knows that the partner committed a violation that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, although Rule 8.3 reporting requires actual knowledge of the violation

D. The lawyer must conduct her own investigation of the allegations before any reporting obligation is triggered under Rule 8.3 of the rules in the jurisdiction where she practices

37. A lawyer represents a plaintiff in a defamation case. To gather evidence, the lawyer hires a private investigator to follow the defendant and his family throughout their daily activities, photograph them at locations including their home and children's schools, and obtain detailed information about their movements and personal lives over a sustained period of time.

- A. Under Rule 4.4(a), the lawyer's conduct violates the rule, which prohibits using means that have no substantial purpose other than to embarrass, delay, or burden a third person, or methods of obtaining evidence that violate the legal rights of such a person
- B. The lawyer's conduct is permissible because private investigators are commonly used in defamation cases to gather evidence supporting the plaintiff's claims in the matter being prosecuted
- C. The lawyer's conduct is permissible because the investigator, not the lawyer, performed the actual surveillance and information gathering during the period of investigation
- D. The lawyer's conduct is permissible because the gathered information may be admissible at trial regardless of the methods used to obtain the evidence in the matter being litigated

38. A lawyer is handling a routine commercial dispute. During the representation, an issue arises requiring the client's informed consent under the Rules of Professional Conduct — specifically, a potential conflict that has emerged from the firm's representation of another client in an unrelated matter. The lawyer is uncertain whether to bring the issue to the client's attention.

- A. The lawyer may handle the issue internally without informing the client because the conflict arose from another matter unrelated to the underlying representation being handled by the firm
- B. The lawyer may handle the issue internally if the lawyer can fully resolve the conflict through firm procedures without affecting the underlying representation in the matter being handled
- C. Under Rule 1.4(a)(1), the lawyer must promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by the Rules of Professional Conduct
- D. The lawyer may handle the issue internally because Rule 1.4(a)(1) applies only to decisions about the substantive direction of the underlying matter being represented by counsel for the client

39. A lawyer and an individual have been in a consensual sexual relationship for several years before the individual asks the lawyer to represent her in a personal injury case. The pre-existing sexual relationship continues during the representation. There is no other relationship factor (such as undue influence) that would affect their interaction during the engagement.

- A. The lawyer must immediately terminate the sexual relationship because Rule 1.8(j) prohibits all sexual relations between attorneys and clients regardless of when the relationship began in time
- B. The lawyer must decline the representation because Rule 1.8(j) categorically prohibits representing anyone with whom the lawyer has a sexual relationship at any time during the engagement in any matter

C. The lawyer must decline the representation unless an independent third-party attorney also represents the client throughout the personal injury matter being undertaken by counsel

D. Under Rule 1.8(j), the prohibition on sexual relations between lawyer and client does not apply if a consensual sexual relationship existed between them when the client-lawyer relationship commenced

40. A prosecutor is in the middle of preparing for a trial against a defendant. During pretrial discovery, the prosecutor learns of new evidence that may exonerate the defendant. The prosecutor is uncertain whether the evidence rises to the level of clearly exonerating but believes it is potentially significant and material to the defense in the case.

A. The prosecutor has no continuing obligation to disclose because the prosecutor's assessment is dispositive of materiality and the new evidence does not appear conclusive of innocence

B. Under Rule 3.8(d), a prosecutor in a criminal case shall make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, except when relieved of this responsibility by a protective order of the tribunal

C. The prosecutor's obligation is satisfied if she discloses the evidence only after determining that it is sufficiently compelling to warrant a potential change in the prosecution's case strategy in the matter

D. The prosecutor's obligation extends only to evidence that is conclusive of the defendant's innocence rather than evidence that may merely tend to negate guilt or mitigate the offense in the matter being tried

41. A lawyer agrees to provide limited representation to a client in a real estate transaction. The lawyer will review the purchase agreement and provide written advice about specific provisions, but will not negotiate terms with the seller or appear at the closing. The client gives informed consent to the limitation in a signed writing executed at the outset of the engagement.

A. Under Rule 1.2(c), the lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent

B. The lawyer cannot limit the scope because Rule 1.2(c) requires lawyers to provide complete representation in all real estate transactions undertaken for clients in the practice generally

C. The lawyer's limitation is permissible only if the trial court formally approves the limited scope agreement before any work commences in the matter at hand for the client

D. The lawyer's limitation is permissible only if the limitation does not exceed 50% of the typical scope of representation in similar real estate transactions handled by the firm in the area

42. A lawyer's representation of a corporate client involves matters that are extensively reported in the financial press during the representation. The lawyer would like to discuss the matter at a continuing legal education seminar to use as a case study, referring only to details that have been published in the financial press during the period of the matter.

A. The lawyer may freely discuss the matter at the seminar because financial press coverage places the information in the public domain available for any discussion in the field of practice

B. Under Rule 1.6 and ABA Formal Opinion 480, the duty of confidentiality applies to all information relating to the representation regardless of whether the information has become public through other means, absent client consent

C. The lawyer may discuss the matter at the seminar provided that she does not add any analytical commentary beyond what was reported in the financial press during the matter being represented

D. The lawyer may discuss the matter at the seminar if the corporate client does not specifically object in writing to the planned presentation before the seminar occurs at the venue

43. A lawyer represents a plaintiff in a civil case. The lawyer learns that a witness called by the defendant has been engaging in conduct related to the proceeding that constitutes a fraud on the court — specifically, manufacturing documentary evidence supporting the defendant's testimony. The lawyer is unsure of her obligations regarding the witness's misconduct.

A. The lawyer has no obligation regarding the witness's misconduct because the witness was called by the opposing party rather than by the lawyer's own client in the matter being litigated

B. The lawyer has no obligation regarding the witness's misconduct because Rule 3.3 addresses only the lawyer's own client and witnesses called by the lawyer's side in the case being handled

C. Under Rule 3.3(b), a lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal

D. The lawyer's only obligation is to argue against the credibility of the witness's testimony at the appropriate stage of the proceeding through ordinary cross-examination methods at trial

44. A lawyer regularly contacts accident victims by phone at all hours of the day and night, offering legal services. Many of the contacted persons have asked the lawyer to stop calling them, but the lawyer continues to contact them with offers to handle their cases. The lawyer is convinced the persons would benefit from her legal services if they reconsidered her offers.

- A. The lawyer's conduct is permissible because persistent solicitation is sometimes necessary to overcome initial resistance to seeking legal counsel for one's case in the practice
- B. The lawyer's conduct is permissible if the contacted persons have viable legal claims that they would benefit from pursuing with the lawyer's professional assistance in the matter
- C. The lawyer's conduct is permissible if she limits her calls to reasonable daytime business hours rather than calling at all hours of the day and night routinely throughout the week
- D. Under Rule 7.3, a lawyer shall not solicit professional employment if the solicitation involves coercion, duress, or harassment, including persistent contact after a person has asked the lawyer to cease

45. A lawyer represents a corporation as outside counsel. During the representation, the lawyer learns that a mid-level manager is engaged in an ongoing illegal scheme involving the corporation's business that is reasonably certain to result in substantial harm to the corporation. The lawyer's reporting to the manager's immediate supervisor has not resulted in any remedial action.

- A. Under Rule 1.13(b)–(c), the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, the highest authority that can act on behalf of the organization
- B. The lawyer must immediately resign from the representation because higher organizational authority has not yet acted on the report to the immediate supervisor in the matter being investigated
- C. The lawyer must immediately disclose the misconduct to law enforcement authorities because the corporate hierarchy has failed to address the discovered scheme in the matter being investigated by the firm
- D. The lawyer has no further obligation because she already made one report to the manager's immediate supervisor within the corporation's chain of authority for the underlying issue

46. A lawyer is convicted of misdemeanor assault arising from a bar fight during personal time outside her legal practice. The conviction does not involve any client, work matter, or aspect of her legal practice. The lawyer believes the conviction is an isolated incident from her personal life that should not affect her professional standing in the field.

- A. The lawyer is not subject to discipline because the misdemeanor conviction occurred entirely outside her professional practice and involved no clients in the matter
- B. The lawyer is not subject to discipline because the conviction is for a misdemeanor rather than a felony involving more serious criminal conduct in the case

C. The lawyer is subject to discipline only if the assault directly involves any aspect of her legal practice or any of her clients during the period of representation in the firm

D. Under Rule 8.4(b), the lawyer is subject to discipline because the rule prohibits commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects

47. A lawyer wishes to withdraw from a representation due to her client's failure to pay agreed legal fees over several months. The matter is actively before the trial court. The lawyer files a motion to withdraw, and the trial court denies the motion on the ground that withdrawal at this stage would materially prejudice the client's case at this point in the proceedings.

A. The lawyer may withdraw despite the court's denial because Rule 1.16(b) authorizes permissive withdrawal for nonpayment of fees regardless of court orders to continue the representation

B. Under Rule 1.16(c), when ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation

C. The lawyer may withdraw if she files an appeal of the trial court's denial of her motion to withdraw before continuing any work on the matter being handled by counsel for the client

D. The lawyer may withdraw if she finds a replacement attorney willing to take over the matter without requiring formal substitution being approved by the court in the matter

48. A lawyer is negotiating settlement of a class action lawsuit. The defendant offers a substantially higher settlement amount in exchange for the class counsel's agreement not to represent any future plaintiffs in similar cases against the defendant for five years. The lawyer is considering whether to accept the offered terms in the matter.

A. The lawyer may accept the offered terms because the higher settlement amount substantially benefits the current class members in the matter being settled by counsel

B. The lawyer may accept the offered terms because she has not previously represented any other plaintiffs against the same defendant at the time of the settlement being offered to her

C. Under Rule 5.6(b), the lawyer cannot accept the offered terms because the rule prohibits an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy

D. The lawyer may accept the offered terms if she discloses the five-year practice restriction to the class members before the court approves the settlement agreement in the matter

49. A lawyer is asked to serve as an arbitrator in a commercial dispute. The lawyer has previously represented one of the parties in unrelated business matters. The party for whom the lawyer previously worked is not currently represented in the arbitration. The other party would not be aware of the prior representation absent disclosure by the lawyer.

- A. The lawyer may serve as arbitrator without restriction because arbitrators are not subject to the same disclosure obligations as advocates under the rules of professional conduct
- B. The lawyer may serve as arbitrator if she limits her substantive engagement with the parties to formal hearing sessions during the arbitration process being conducted between them
- C. The lawyer may serve as arbitrator provided she does not communicate ex parte with either party outside the formal arbitration proceedings she conducts in the matter
- D. Under Rule 2.4 and related authority, the lawyer must disclose her prior relationship with the party before agreeing to serve as arbitrator and may proceed only if the parties consent after disclosure

50. A lawyer represents a plaintiff in a personal injury case. To prepare for trial, the lawyer pays a key fact witness \$5,000 for the witness's time in attending pretrial meetings with the lawyer to prepare for testimony. The payment is contingent on the witness providing favorable testimony at trial.

- A. Under Rule 3.4(b), the lawyer's payment violates the rule, which prohibits offering an inducement to a witness that is prohibited by law, and contingent payment for favorable testimony is improper
- B. The lawyer's payment is permissible because witnesses are entitled to reasonable compensation for time spent preparing for trial testimony in the matter being prepared by counsel
- C. The lawyer's payment is permissible because she paid the witness directly rather than through an intermediary or runner arrangement involving a third party in the matter
- D. The lawyer's payment is permissible if the witness's testimony at trial is in fact accurate regardless of the contingent compensation arrangement between counsel and the witness in the case

51. A lawyer employs a contract paralegal who works remotely from her own home. The paralegal handles confidential client information from various clients. The lawyer has provided the paralegal with confidentiality training and written guidelines but has no ongoing direct supervision of the paralegal's home work environment or computer system security.

- A. The lawyer has no continuing obligation regarding the contract paralegal because remote independent contractors are not subject to firm supervision under the rules of conduct in the jurisdiction

B. The lawyer has no continuing obligation because she has provided initial training and written guidelines for the paralegal's handling of confidential information at the firm

C. Under Rule 5.3, the lawyer must make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the professional obligations of the lawyer, which may include ongoing monitoring of remote work arrangements with confidential information

D. The lawyer's obligation extends only to written policies rather than to ongoing operational monitoring of the paralegal's remote work activities during the engagement at the firm

52. A lawyer is asked to represent both Plaintiff and Defendant in the same pending litigation. The parties are unsophisticated individuals who claim they cannot afford separate legal representation. They both express willingness to give informed consent in writing for the lawyer to handle both sides of their dispute.

A. The lawyer may proceed with both representations if the parties give signed informed consent acknowledging the inherent risks of dual representation in litigation between them

B. Under Rule 1.7(b)(3), the lawyer cannot proceed because the rule prohibits representation involving the assertion of a claim by one client against another client represented by the lawyer in the same litigation

C. The lawyer may proceed with both representations if she charges each party half her standard hourly rate to reflect the dual nature of the representation in the case being handled

D. The lawyer may proceed with both representations if she screens the work performed for each party from the other through internal procedures at the firm during the matter

53. A lawyer formerly served as a government attorney during which time she received confidential information about a private company that she knew at the time was confidential under government information rules. The lawyer is now in private practice and is asked to represent a client whose interests are adverse to that private company in a matter where the confidential information could materially disadvantage the company.

A. The lawyer may represent the new client because the government employment has ended and she is no longer bound by government confidentiality obligations in the matter

B. The lawyer may represent the new client if she promises not to use the specific government information against the company during the representation being undertaken by her

C. The lawyer may represent the new client if she discloses to the new client that she has prior government information about the adverse company in the matter being handled

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

54. A lawyer represents a defendant in a civil action. The lawyer asks an individual who is the defendant's longtime business associate (not the defendant's relative, employee, or agent) to refrain from voluntarily speaking with plaintiff's counsel about the events at issue. The business associate's interests would not be adversely affected by refraining from giving the information.

A. The lawyer's conduct is permissible because the business associate has voluntarily chosen not to speak with plaintiff's counsel based on the lawyer's request in the matter

B. Under Rule 3.4(f), the lawyer's conduct violates the rule, which prohibits requesting a person other than a client to refrain from voluntarily giving relevant information to another party, with limited exceptions for the lawyer's relative, employee, or agent whose interests will not be adversely affected

C. The lawyer's conduct is permissible because the business associate's interests would not be adversely affected by refraining from voluntarily providing the information being sought

D. The lawyer's conduct is permissible if the business associate independently consents to the lawyer's request without any coercive pressure being applied to the associate during the matter

55. A lawyer's client is involved in a civil litigation matter. The trial court has issued a discovery order compelling the lawyer to disclose certain information learned during the representation. The lawyer has objected on privilege grounds, but the court has overruled the objection and ordered production of the information at issue in the matter.

A. Under Rule 1.6(b)(6), the lawyer may reveal information relating to the representation to comply with other law or a court order, with the lawyer required to first assert all non-frivolous claims that the order is not authorized by other law or that the information is protected by applicable privilege

B. The lawyer must refuse to comply with the court order regardless of the consequences because Rule 1.6 confidentiality protections are absolute and cannot be overridden by any court order in any matter

C. The lawyer must comply with the court order without any prior assertion of privilege because court orders automatically supersede Rule 1.6 protections in litigation matters being handled

D. The lawyer may comply with the court order only if she obtains separate authorization from her state bar's ethics committee before disclosing the protected information in the case being handled

56. A trial judge is presiding over a high-profile criminal trial. During a recess, the judge gives a media interview discussing the credibility of certain prosecution witnesses, the strength of the defense case, and her preliminary view of how the evidence should be evaluated. The trial is ongoing at the time of the interview being conducted by the press.

A. The judge's interview is permissible because she has not yet rendered a final decision on the matter being tried at the time of the interview being conducted during the recess

B. The judge's interview is permissible because judges have constitutional rights to free expression regarding cases over which they preside in the matter being handled in court

C. Under Rule 2.10(A) of the Code of Judicial Conduct, a judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court

D. The judge's interview is permissible if the parties consent to her continued participation in the trial after disclosure of the media commentary during the recess in proceedings at the court

57. A lawyer enters into a contingent fee arrangement with a client. The arrangement is reduced to writing and signed by the client. The written agreement states the contingency percentage but does not specify the litigation costs and expenses to be deducted from the recovery or whether they are deducted before or after the contingent fee calculation occurs.

A. The fee agreement is sufficient because Rule 1.5(c) requires only the basic contingency percentage to be specified in writing at the outset of the matter being handled by counsel

B. Under Rule 1.5(c), the agreement is deficient because the rule requires the writing to state the method by which the fee is to be determined, including litigation and other expenses to be deducted from the recovery and whether such expenses are to be deducted before or after the contingent fee is calculated

C. The fee agreement is sufficient because the client signed the agreement with knowledge of the standard contingent fee practices in the local market for similar legal services in the area

D. The fee agreement is sufficient because litigation cost details can be addressed in a subsequent written communication after the initial signed contingency agreement is executed by the parties

58. A lawyer regularly makes substantial political contributions to judicial candidates and elected officials who control appointments to government legal positions. After making contributions, the lawyer expects favorable consideration for government legal appointments and judicial appointments to handle complex litigation matters that result from her contributions to candidates.

- A. The lawyer's conduct is permissible because political contributions are constitutionally protected free speech under the First Amendment of the United States Constitution as applied in the jurisdiction
- B. The lawyer's conduct is permissible because the lawyer's expectations regarding appointments are her personal expectations rather than formal agreements with the recipients of contributions
- C. Under Rule 7.6, a lawyer or law firm shall not accept a government legal engagement or appointment by a judge if the lawyer or firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment
- D. The lawyer's conduct is permissible if the political contributions do not exceed the maximum amounts permitted under applicable campaign finance laws for the specific candidates in question

59. A lawyer has been practicing exclusively in family law for many years. A long-time family law client approaches the lawyer requesting representation in a complex patent infringement matter. The lawyer has no background, training, or prior experience in patent law or any related intellectual property area whatsoever in her practice over the years.

- A. Under Rule 1.1, the lawyer must either acquire the requisite competence through necessary study or association with experienced counsel, or decline the representation, because the rule requires legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation
- B. The lawyer may accept the patent infringement matter because her long-standing relationship with the client justifies expansion of her practice area into new substantive fields in the firm
- C. The lawyer may accept the patent infringement matter if she charges a reduced fee that reflects her lack of expertise in the relevant patent law subject matter for the case being handled
- D. The lawyer may accept the patent infringement matter provided that she also performs basic research in patent law during the representation as the case proceeds through litigation

60. A trial judge belongs to a private social club that, as a matter of policy, excludes members on the basis of race and gender. The judge participates in the club's activities and serves on the club's membership committee. The club is well-known in the community for its discriminatory policies and the judge's role on the committee is publicly visible.

- A. The judge's membership is permissible because private social club membership is a matter of personal choice not subject to judicial conduct rules in the jurisdiction where she sits
- B. The judge's membership is permissible because the club's discrimination occurs in private membership decisions rather than in public official activities of the judge in the courtroom

C. The judge's membership is permissible provided that the judge does not participate directly in the membership committee decisions involving discriminatory criteria for new applicants to the club

D. Under Rule 3.6 of the Code of Judicial Conduct, a judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation

## ANSWER KEY – PRACTICE EXAM 27 (MPRE)

**1. B** — 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. Direct adversity to a current client triggers the conflict regardless of whether the new matter is substantively related to the existing representation. Informed consent confirmed in writing under Rule 1.7(b) is required from both clients for the firm to proceed.

**2. D** — Rule 1.6(c) requires a lawyer to make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client. A months-long awareness of an email misdirection issue without corrective action fails the reasonable-efforts standard. The structural duty applies even when the actual disclosure resulted from a technical malfunction rather than an affirmative act.

**3. C** — Rule 3.3(a)(3) provides that if a lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. The duty applies even when the client refuses consent to disclosure, because candor to the tribunal supersedes client preference in this context. Continued silence after acquiring knowledge of false evidence is not an option.

**4. A** — Rule 5.5(c)(1) permits a lawyer admitted in another United States jurisdiction to provide legal services on a temporary basis in this jurisdiction when the services are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter. Active participation by the locally admitted lawyer is the operative requirement of the safe harbor. No pro hac vice admission is required for these temporary transactional activities.

**5. D** — Rule 1.5(a) prohibits an unreasonable fee, evaluated against factors including the time and labor required, the customary local fee, and the nature and difficulty of the matter. A \$5,000 fee for thirty minutes of work on a simple uncontested name change, where local rates are \$300–\$500, is grossly disproportionate. Client signature on the engagement letter does not cure an objectively unreasonable fee.

**6. B** — Rule 4.2 Comment [7] provides that 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. A general counsel supervising and consulting with outside litigation counsel falls within the supervising-and-consulting category. Direct contact requires outside counsel's consent.

**7. A** — Rule 1.8(a) prohibits a business transaction with a client unless the transaction and terms are fair and reasonable and fully disclosed in writing, the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek independent counsel, and the client gives informed consent in a signed writing. All three conditions are cumulative procedural requirements. The long-standing relationship does not relax those requirements.

**8. C** — Rule 3.5(b) prohibits a lawyer from communicating ex parte with a juror or prospective juror during the proceeding unless authorized to do so by law or court order. The rule covers all communication with sitting jurors, not merely substantive discussion of the case. Apparently innocuous social topics fall within the prohibition during ongoing trial proceedings.

**9. B** — Rule 7.1 prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services. An unsubstantiated comparative claim of having "the highest success rate" of any local firm is misleading absent factual support. Subjective impressions and isolated favorable outcomes do not substantiate marketing claims of that scope.

**10. A** — Rule 1.9(a) prohibits a lawyer who has formerly represented a client from thereafter representing another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client, unless the former client gives informed consent confirmed in writing. The hostile takeover of Company Y is substantially related to the prior comprehensive divestiture analysis that gave the lawyer access to Company Y's operations and finances. Time elapsed alone and the lawyer's promise to refrain from using specific information do not cure the substantial-relationship problem.

**11. D** — Rule 8.4(f) makes it professional misconduct for a lawyer to knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law. Identifying additional opportunities for the judge to receive corrupt payments is direct assistance with the judicial misconduct. Personal friendship does not insulate the lawyer from the rule's reach.

**12. C** — Rule 1.16(d) requires that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, including surrendering papers and property to which the client is entitled. Original documents the client provided are quintessentially client property that must be returned. Retention as leverage for fees or for malpractice protection is not a permitted basis under the rule.

**13. A** — Rule 5.4(b) provides that a lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law. The structural prohibition cannot be cured by internal separation, written non-interference agreements, or client disclosure. The rule preserves lawyer independence and the integrity of the profession from nonlawyer control.

**14. B** — Comment [4] to Rule 1.10 indicates the rule's imputation provisions apply to lawyers, and authorities including ABA Formal Opinion 88-356 and the Restatement recognize that nonlawyer screening procedures may avoid the disqualification concerns that arise when a nonlawyer with prior firm involvement joins a new firm. Nonlawyer staff are treated differently from lateral lawyer movement for imputation purposes. The screening pathway accommodates legitimate nonlawyer employee mobility without forcing client consent or termination of employment.

**15. D** — Rule 3.4(c) prohibits a lawyer from knowingly disobeying an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists. Subjective belief that a discovery order was improperly issued does not authorize unilateral non-compliance with the order. The lawyer must seek modification, stay, or other relief through proper procedural channels, not self-help refusal.

**16. C** — Rule 1.7 governs current-client conflicts, and government clients are not categorically exempt from its analysis. The lawyer must evaluate whether representing the developer would be directly adverse to the municipal client or create a significant risk of material limitation, particularly where the developer requires municipal approvals. Informed consent confirmed in writing is typically required if the matter is to proceed under the rule.

**17. A** — Rule 2.1 provides that in rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation. The rule expressly authorizes broad-spectrum candid advice when relevant to the client's interests. Restricting advice strictly to legal permissibility underserves the client's actual decision-making needs.

**18. C** — Rule 8.5(b) provides that for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits shall be applied unless the rules of the tribunal provide otherwise; for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred apply, or if the predominant effect is in another jurisdiction, the rules of that jurisdiction. The choice-of-law framework operates by conduct location and tribunal sitting, not by states of admission. Multiple-jurisdiction admission alone does not control the choice-of-law analysis.

**19. B** — Rule 1.5(b) requires that the basis or rate of the fee and expenses be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. The regular-client exception applies when the rate has been previously communicated and is unchanged. No new fee writing is required for each subsequent matter on the established terms.

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

**21. C** — Rule 1.13(f) requires a lawyer dealing with an organization's constituents to explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing. The corporate officer's evident assumption of personal representation, combined with adverse interests, triggers the clarification duty. The Upjohn-type explanation prevents constituent misperception from harming both the organization's representation and the constituent's interests.

**22. B** — Rule 3.6(b) provides a safe harbor for statements containing the general nature of the claim or defense, information in a public record, the scheduling or result of any step in the litigation, and certain information about the accused identified in Rule 3.6(b)(7) for criminal cases. The lawyer's statements fall squarely within the safe-harbor categories. Identifying the defendant, providing scheduling information, and stating denial of charges are all expressly authorized in criminal cases.

**23. D** — Rule 1.6(b)(4) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to secure legal advice about the lawyer's compliance with these Rules. The exception is designed to allow lawyers to seek ethics guidance without separately violating confidentiality in the process. Client consent is not a prerequisite for the ethics-advice consultation.

**24. 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 both the affected client and the prospective client have given informed consent, confirmed in writing. The prospective client's express written informed consent is the threshold required from her side under the rule. No screening or judicial approval is required when consent is given.

**25. C** — Rule 3.7(a)(1) provides that a lawyer may act as advocate at a trial in which the lawyer is likely to be a necessary witness when the testimony relates to an uncontested issue. The undisputed date-and-time testimony falls squarely within the uncontested-issue exception. The dual-role concerns the rule guards against do not arise when the testimony will not be challenged.

**26. D** — Rule 8.4(c) prohibits conduct involving dishonesty, fraud, deceit, or misrepresentation, and Rule 8.4(b) makes it misconduct to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer. A felony perjury conviction implicates both rules regardless of practice context. The personal-life setting does not insulate the conviction from professional discipline.

**27. B** — Rule 1.2(d) permits a lawyer to discuss the legal consequences of any proposed course of conduct and to counsel a client to make a good faith effort to determine the validity, scope, meaning, or application of the law, and Rule 3.1 specifies that a lawyer's claim is not frivolous if it includes a good faith argument for an extension, modification, or reversal of existing law. Unprecedented constitutional challenges with colorable extension arguments are within the rules' protection. Uniform adverse case law alone does not render the position frivolous.

**28. A** — Rule 1.15(a) requires a lawyer to hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, with funds kept in a separate account designated as a client trust account. Commingling client trust funds with the firm's operating account violates the physical-separation requirement regardless of careful internal accounting. The structural rule protects client funds from creditor claims and lawyer financial difficulty.

**29. D** — Rule 5.1(c) provides that a lawyer is responsible for another lawyer's violation if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved. Congratulating the associate on the misrepresentations and instructing continuation is direct ratification of the prohibited conduct. The partner's failure to engage with the misrepresentations triggers personal responsibility under the rule.

**30. A** — Rule 1.9(c) prohibits a lawyer who has formerly represented a client in a matter from using information relating to the representation to the disadvantage of the former client, except as the Rules would permit or require or when the information has become generally known, and from revealing information relating to the representation except as the Rules would permit or require. The "generally known" exception is narrowly limited to use against the former client and does not authorize disclosure. ABA Formal Opinion 480 confirms that the duty of confidentiality applies to all information relating to the representation regardless of public availability, absent consent.

**31. C** — Rule 3.4(e) prohibits a lawyer in trial from stating a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused. Personal vouching for the client's innocence in opening statement falls squarely within the prohibition. Subjective good-faith belief in the client's innocence does not cure improper vouching to the jury.

**32. B** — Rule 1.11(b) provides that when a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom, and written notice is promptly given to the appropriate government agency. The firm's compliance with all three elements satisfies the rule. Government agency consent is not required when screening procedures are properly implemented.

**33. D** — Rule 6.3 provides that a lawyer may serve as a director, officer, or member of a legal services organization despite the fact that the organization serves persons having interests adverse to a client of the lawyer, subject to limitations including that the lawyer shall not knowingly participate in a decision or action of the organization if doing so would be incompatible with the lawyer's obligations to a client under Rule 1.7. The rule expressly permits board service while requiring abstention only on specific incompatible decisions. Mechanical resignation or blanket abstention is not required.

**34. A** — Rule 1.5(e) permits a division of fee between lawyers who are not in the same firm only if the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation, the client agrees to the arrangement in a writing signed by the client, and the total fee is reasonable. Joint responsibility is the operative alternative to proportional services. The rule recognizes referral arrangements within these structured conditions.

**35. B** — Rule 1.9(a) prohibits a lawyer who has formerly represented a client from thereafter representing another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client, unless the former client gives informed consent, confirmed in writing. A post-closing dispute about undisclosed financial issues is substantially related to the original sale transaction where the lawyer learned of Seller's financial position. Disclosure to Buyer does not substitute for the former client's informed consent.

**36. C** — Rule 8.3(a) requires a lawyer who knows that another lawyer has committed a violation of the Rules that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer to inform the appropriate professional authority. The reporting trigger is actual knowledge of the violation, not hearsay or unverified allegations alone. Independent investigation is not required, but actual knowledge is the threshold for the duty to attach.

**37. A** — Rule 4.4(a) prohibits a lawyer, in representing a client, from using means that have no substantial purpose other than to embarrass, delay, or burden a third person, or methods of obtaining evidence that violate the legal rights of such a person. Aggressive surveillance of a defendant and his family extending to children's schools may meet the harassment and rights-violation thresholds. Delegation to an investigator does not insulate the lawyer under Rule 8.4(a)'s "through the acts of another" prong.

**38. C** — Rule 1.4(a)(1) requires a lawyer to promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules. A potential conflict requiring client consent is a paradigm Rule 1.4(a)(1) trigger. Internal resolution without client notification deprives the client of the consent decision that the Rules reserve to the client.

**39. D** — Rule 1.8(j) provides that a lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced. The pre-existing relationship exception is explicitly built into the rule. Continuation of the pre-existing relationship during the representation does not violate the rule.

**40. B** — Rule 3.8(d) requires a prosecutor in a criminal case to make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, except when relieved of this responsibility by a protective order of the tribunal. The duty applies to all known potentially exculpatory information regardless of the prosecutor's assessment of how compelling it is. Materiality determination is not the prosecutor's gatekeeping function for disclosure.

**41. A** — Rule 1.2(c) permits a lawyer to limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Document review and written advice without negotiation or appearance is a recognized limited-scope arrangement. Real estate transactions are not categorically excluded from limited-scope representation.

**42. B** — Rule 1.6(a) protects all information relating to the representation regardless of source, and ABA Formal Opinion 480 specifically confirms that the duty of confidentiality applies even to information that is generally known or publicly reported. Public availability of facts does not constitute client consent or a Rule 1.6(b) exception. CLE seminar discussion requires the client's informed consent or fits an applicable exception under the rule.

**43. C** — Rule 3.3(b) requires a lawyer who represents a client in an adjudicative proceeding and who knows that a person, including a witness called by an opposing party, intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the proceeding to take reasonable remedial measures, including, if necessary, disclosure to the tribunal. The duty extends beyond the lawyer's own client and witnesses called by the lawyer's side. Cross-examination alone is insufficient to satisfy the remedial-measures duty.

**44. D** — Rule 7.3 prohibits solicitation that involves coercion, duress, or harassment. Persistent calling at all hours of the day and night after recipients have asked the lawyer to stop falls within the harassment prohibition regardless of the underlying merits of any claims the recipients might have. The lawyer's belief that the recipients would benefit from her services does not authorize harassing solicitation tactics.

**45. A** — Rule 1.13(b) requires a lawyer for an organization who knows that an officer, employee, or other person associated with the organization is engaged in action that is a violation of law reasonably imputable to the organization and likely to result in substantial injury to the organization to proceed as is reasonably necessary in the best interest of the organization. Rule 1.13(c) provides that if the responsible authority does not act, the lawyer's escalation duty extends to the highest authority that can act on behalf of the organization. The board of directors typically represents that highest authority.

**46. D** — Rule 8.4(b) makes it professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Comment [2] identifies offenses involving violence as the category that reflects adversely on fitness, distinguishing them from offenses concerning personal morality without specific connection to law practice. Misdemeanor assault falls within the violence category that implicates fitness regardless of practice context.

**47. B** — Rule 1.16(c) provides that when ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation. The court's denial of the motion to withdraw is binding on the lawyer regardless of the underlying Rule 1.16(b) grounds. The rule prioritizes tribunal direction over individual lawyer judgment about withdrawal.

**48. C** — Rule 5.6(b) prohibits a lawyer from participating in offering or making an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy. The rule protects the public's access to counsel by preventing defendants from buying off plaintiffs' counsel through settlement-conditioned practice restrictions. Higher settlement value, class member disclosure, or court approval do not authorize the restriction.

**49. D** — Rule 2.4 governs a lawyer serving as a third-party neutral, and related arbitration ethics standards require disclosure of prior relationships with the parties before agreeing to serve. Disclosure allows the parties to evaluate the lawyer's suitability and consent to her continued service in the neutral role. Non-disclosure of prior representation undermines the parties' informed selection of the neutral.

**50. A** — Rule 3.4(b) prohibits a lawyer from offering an inducement to a witness that is prohibited by law. Contingent payment for favorable testimony is improper regardless of the truthfulness of the eventual testimony or the form of the payment. Permissible witness compensation does not extend to contingent compensation tied to testimony content.

**51. C** — Rule 5.3 requires a lawyer to make reasonable efforts to ensure that the conduct of a nonlawyer assistant is compatible with the professional obligations of the lawyer. Reasonable efforts in a remote-work context generally include ongoing monitoring of the nonlawyer's handling of confidential information, not merely initial training. The duty is continuing rather than discharged by a one-time policy provision.

**52. B** — Rule 1.7(b)(3) provides that even with informed consent, a lawyer cannot represent two clients in the same litigation when one asserts a claim against the other client represented by the lawyer in the same proceeding. The structural prohibition is non-consentable in this scenario. Inability to afford separate counsel does not authorize representation that the rule categorically forbids.

**53. D** — Rule 1.11(c) prohibits a lawyer who has information that the lawyer knows is confidential government information about a person, acquired when the lawyer was a public officer or employee, from representing a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. The protection is independent of whether the matter is the same as one the lawyer worked on. Disclosure to the new client or non-use promises do not cure the prohibition.

**54. B** — Rule 3.4(f) prohibits a lawyer from requesting a person other than a client to refrain from voluntarily giving relevant information to another party, except where the person is a relative or an employee or other agent of a client and the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information. A non-relative, non-employee business associate fits no exception. The associate's lack of adverse effect does not move the relationship into the rule's exception category.

**55. A** — Rule 1.6(b)(6) permits a lawyer to reveal information relating to the representation to comply with other law or a court order. Comment [15] directs that the lawyer should first assert on the client's behalf all non-frivolous claims that the order is not authorized by other law or that the information is protected by privilege, and consult with the client where feasible. Compliance with a court order after privilege has been asserted and overruled is permitted under the rule.

**56. C** — Rule 2.10(A) of the Code of Judicial Conduct provides that a judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court. Mid-trial media commentary on witness credibility and case strength falls squarely within the prohibition. The pending-matter status is the triggering condition, not whether final judgment has been entered.

**57. B** — Rule 1.5(c) requires that a contingent fee agreement state the method by which the fee is to be determined, including the percentage that shall accrue to the lawyer in the event of settlement, trial, or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. The deduction-method specification is mandatory in the writing. Subsequent supplements do not cure the initial omission.

**58. C** — Rule 7.6 prohibits a lawyer or law firm from accepting a government legal engagement or appointment by a judge if the lawyer or firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment. The pay-to-play prohibition addresses the appearance and reality of contributions tied to government legal work. Compliance with campaign finance limits does not cure the rule violation.

**59. A** — Rule 1.1 requires that a lawyer provide competent representation, entailing the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Comment [2] recognizes that a lawyer can provide adequate representation in a wholly novel field through necessary study or by associating with a lawyer of established competence. Acceptance of complex patent infringement matters without acquiring competence or associating with experienced counsel fails the rule.

**60. D** — Rule 3.6 of the Code of Judicial Conduct prohibits a judge from holding membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national

origin, ethnicity, or sexual orientation. The prohibition operates regardless of whether the judge personally participates in the discriminatory decisions of the organization. The rule preserves the appearance and reality of judicial impartiality across constituent groups.