

PRACTICE EXAM 30: MPRE SIMULATION

Time Allotted: 2 hours

Format: Multiple choice — select the best answer

1. A lawyer has been representing a corporate client for years. The lawyer learns that the corporation is engaged in regulatory violations that are causing environmental harm to surrounding communities. The violations do not involve the lawyer's services, fraud, or imminent harm rising to the level of reasonably certain death or substantial bodily harm. The lawyer wants to report the violations to regulators.

A. The lawyer may freely report the violations because environmental violations affecting communities create an implicit exception to Rule 1.6 confidentiality in the matter being handled

B. The lawyer must report the violations because Rule 1.6 imposes a mandatory whistleblower duty when corporate clients engage in regulatory violations of significance

C. The lawyer may report the violations because Rule 1.6 allows disclosure of any conduct that could harm third parties through corporate activity in the practice generally

D. Under Rule 1.6, the lawyer cannot disclose the violations absent client consent or fitting an enumerated exception, and no general whistleblower exception exists in the rule

2. A lawyer is asked to bring a civil lawsuit on behalf of a client. After investigating the facts and researching the law, the lawyer concludes that the client has a reasonable factual basis and a colorable legal theory supporting the claim. The lawyer also believes the claim is unlikely to succeed at trial given the high evidentiary standards required in the case.

A. The lawyer must decline the case because Rule 3.1 prohibits bringing any claim that is unlikely to succeed at trial under the applicable standards in the jurisdiction generally

B. Under Rule 3.1, the lawyer may pursue the claim because the rule prohibits only frivolous claims, and a claim with a reasonable factual basis and colorable legal theory is not frivolous regardless of likelihood of success

C. The lawyer may pursue the claim only if she obtains independent confirmation from another attorney that the claim has a high probability of success at trial in the matter

D. The lawyer must decline the case if the lawyer's reasonable assessment is that the client will not prevail on the merits of the underlying claim being asserted in the matter

3. A lawyer at Firm Y has a personal interest in a particular litigation matter because her sibling is a key witness who would be cross-examined by Firm Y in the case. The conflict is purely personal and does not present a significant risk of materially limiting other firm lawyers from representing the client effectively in the matter being handled.

A. Under Rule 1.10(a)(1), the imputation does not apply because the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting representation by the remaining lawyers in the firm

B. The firm is fully disqualified because all conflicts impute to all firm lawyers under Rule 1.10 without exception under the rules of conduct in the jurisdiction at all times

C. The firm may continue only if the conflicted lawyer formally resigns from the firm before any other lawyer begins work on the matter being handled by the firm in the case

D. The firm may continue only if the client gives oral consent to the firm's representation despite the conflicted lawyer's personal interest in the matter being handled by the firm

4. A lawyer attempts to bribe a witness to alter testimony but is unsuccessful because the witness refuses the bribe and reports the attempted bribe to the authorities. The lawyer's attempt is documented through the witness's testimony and supporting recordings. The lawyer argues that her attempt was unsuccessful and should not be subject to discipline.

A. The lawyer is not subject to discipline because the bribery attempt was unsuccessful and no actual altered testimony resulted from the failed effort by counsel in the case

B. The lawyer is not subject to discipline because witness refusal demonstrates that no completed misconduct actually occurred against the witness in the matter being investigated

C. Under Rule 8.4(a), it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, and attempted violations are within the scope of the rule

D. The lawyer is subject to discipline only if her bribery attempt would have been successful in actually altering witness testimony in the case being prosecuted by the state

5. A lawyer requires all clients to pay a "non-refundable retainer" of \$10,000 at the outset of representation, regardless of how much or how little work the lawyer ultimately performs. The lawyer's standard hourly rate suggests that for many matters, the actual work performed represents only a small fraction of the \$10,000 retainer paid by the client.

A. The arrangement is permissible because clients have agreed to the non-refundable nature of the retainer in their engagement letters at the outset of representation

B. Under Rule 1.5(a) and related authority, blanket non-refundable retainer arrangements may violate the reasonableness requirement when the fee is retained regardless of work performed, with most jurisdictions requiring that unearned fees be returned upon termination

C. The arrangement is permissible because lawyers have professional discretion to set fee structures that include non-refundable features in any matter being undertaken by the firm

D. The arrangement is permissible if the lawyer characterizes the payment as a "true retainer" for availability rather than as a fee for specific work in the underlying engagement matter

6. A lawyer is briefing an issue in federal district court. The lawyer is aware of a recent decision by the U.S. Court of Appeals for the relevant circuit that is directly adverse to her client's position. The decision is controlling on the federal district court. Opposing counsel has not cited the decision in his brief in the matter.

A. The lawyer has no obligation to disclose the decision because she has no duty to make her opponent's case for him in adversarial briefing in any matter being litigated by counsel

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

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

D. Under Rule 3.3(a)(2), the lawyer must disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel

7. A lawyer represents a plaintiff in a civil case against a defendant who is currently incarcerated. The defendant is represented by counsel. The plaintiff's lawyer wants to communicate with the incarcerated defendant directly through prison mail about settlement options because the lawyer believes prison conditions limit the defendant's communications with his attorney.

- A. The plaintiff's lawyer may freely communicate with the incarcerated defendant because the defendant's restricted communication with counsel creates an exception to Rule 4.2 in the matter
- B. The plaintiff's lawyer may communicate with the incarcerated defendant if the lawyer first informs prison officials of her intention to communicate with the inmate about the matter being settled
- C. Under Rule 4.2, the lawyer may not communicate with the represented defendant about the subject of the representation without consent of defense counsel, regardless of the defendant's incarceration status or limitations on prison communication
- D. The plaintiff's lawyer may communicate with the incarcerated defendant if she sends a copy of any correspondence to defense counsel immediately after the original communication is delivered

8. A lawyer admitted only in State A regularly handles complex commercial transactions for State A clients. One particular transaction involves significant State B aspects, including negotiations with State B parties and review of State B law issues. The lawyer's work on the State B aspects is reasonably related to her home-state representation of the State A client.

- A. Under Rule 5.5(c)(4), the lawyer may provide legal services on a temporary basis in another jurisdiction that are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted
- B. The lawyer must associate with State B counsel for any work she performs in State B regardless of the nexus to her State A representation of the client at hand in the matter
- C. The lawyer must obtain pro hac vice admission in State B before performing any legal work in State B for her State A client in the transaction being handled by counsel
- D. The lawyer may not perform any State B work at all because she is not admitted in State B for legal practice in any capacity within the jurisdiction at this time

9. A lawyer is asked to represent a client whose business activities involve manufacturing products the lawyer finds morally objectionable. The lawyer's personal views may significantly affect her willingness to advocate vigorously for the client's interests. The lawyer is uncertain whether she can effectively represent this client given her personal moral concerns.

- A. The lawyer must accept the representation regardless of her personal moral concerns because lawyers cannot decline clients based on the nature of the client's business activities under the rules
- B. The lawyer must decline the representation if she has any personal moral concerns about the client's business regardless of any analysis of her ability to provide competent representation in the matter

C. The lawyer may accept the representation if she discloses her personal moral concerns to the client at the outset of the engagement in writing for the file at the firm

D. Under Rule 1.7(a)(2), if there is a significant risk that the lawyer's representation will be materially limited by her personal interests, including strongly held personal moral beliefs, she must analyze the conflict and obtain informed consent confirmed in writing if she can reasonably believe she will provide competent representation

10. A lawyer's client has not heard from her in over two months despite the client's repeated requests for updates on the status of the matter. During this period, several material developments occurred in the case, including new evidence and a partial summary judgment ruling. The lawyer has been busy with other matters and has not had time to respond to the client's inquiries.

A. Under Rule 1.4(a)(3)–(4), the lawyer must keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information

B. The lawyer's conduct is permissible because lawyers have professional discretion to manage client communications based on their broader caseload demands at the firm during the year

C. The lawyer's conduct is permissible if she plans to provide a comprehensive update to the client at the next significant case milestone in the matter being handled by the firm in the case

D. The lawyer's conduct is permissible if her work on the client's matter has been progressing well even without the regular client communication being requested by the client repeatedly

11. A trial judge is presiding over a controversial case attracting substantial public attention. The judge receives a letter from a prominent local political figure expressing strong views about how the case should be decided. The judge considers the political figure's views during her deliberations on the matter pending before her in the case.

A. The judge's conduct is permissible because letters from political figures provide useful community context for high-profile cases being heard by the court in the jurisdiction

B. The judge's conduct is permissible because she has not formally announced any decision in the case before considering the various views being expressed by community members in the area

C. Under Rule 2.4 of the Code of Judicial Conduct, a judge shall not be swayed by partisan interests, public clamor, or fear of criticism, and shall not permit family, social, political, financial, or other interests to influence judicial conduct

D. The judge's conduct is permissible because political input on controversial cases is a recognized aspect of the judicial process in democratic societies generally in the country

12. A lawyer's former client has alleged malpractice and is considering legal action against the lawyer. The lawyer wants to settle the potential claim. The former client has no current representation in connection with the claim against the lawyer. The lawyer wishes to negotiate the settlement directly with the unrepresented former client.

A. The lawyer may negotiate the settlement directly because Rule 1.8(h) addresses only prospective limitation of liability, not settlement of claims after they arise between attorney and client in any matter

B. Under Rule 1.8(h)(2), the lawyer shall not settle a claim or potential claim for malpractice liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith

C. The lawyer may negotiate the settlement directly because malpractice claims involve the lawyer's own work product and judgment about the representation rendered to the client previously

D. The lawyer may negotiate the settlement directly if the proposed settlement amount is fair and reasonable in light of the underlying allegations against the lawyer in the matter

13. A lawyer formerly represented a client in a transaction that has now received extensive media coverage. The lawyer is asked to write an article for a legal publication discussing specific strategic decisions made during the representation. Some of these strategic decisions have been reported in the media, while others remain known only to the lawyer.

A. The lawyer may discuss all aspects of the matter because media coverage places the information in the public domain available for legal commentary purposes in any matter

B. The lawyer may discuss only strategic decisions that have been reported in the media without restriction because public reporting eliminates confidentiality under the rule of conduct

C. Under Rule 1.6 and ABA Formal Opinion 480, the duty of confidentiality applies to all information relating to the representation regardless of public availability, with disclosure requiring client consent or an applicable exception

D. The lawyer may discuss strategic decisions if she does not identify the former client by name in the legal publication article being written for the audience in the field

14. A lawyer represents a defendant in a commercial dispute. The lawyer's strategy includes serving the plaintiff with extensive interrogatories, requests for production, and deposition notices that have no genuine purpose related to the case. The discovery requests are designed primarily to impose burden on the plaintiff and exhaust the plaintiff's resources during the litigation.

- A. The lawyer's strategy is permissible because vigorous discovery is a recognized aspect of defense strategy in commercial disputes between businesses generally in the field
- B. The lawyer's strategy is permissible because the individual requests have some technical compliance with discovery rules even if motivated by burden imposition in the case
- C. The lawyer's strategy is permissible because the plaintiff has the option of filing protective motions if the discovery is genuinely abusive of the rules being applied in the matter
- D. Under Rule 3.4(d), the lawyer's conduct violates the rule, which prohibits a lawyer from making a frivolous discovery request or failing to make reasonably diligent effort to comply with a legally proper discovery request

15. A person who has been disbarred from the practice of law continues to work in a "consulting" capacity at a law firm. The disbarred person has business cards and a firm email signature that identify her as a "legal consultant" without any indication that she is not licensed to practice law. The cards and email signature are seen by clients of the firm.

- A. The disbarred person's conduct is permissible because she is identified as a "consultant" rather than an attorney in the materials being distributed to clients of the firm
- B. Under Rule 5.5(a), the disbarred person and the lawyers who supervise her may be violating the rule against unauthorized practice of law if her self-presentation suggests she is authorized to practice law
- C. The disbarred person's conduct is permissible because consulting work is recognized as appropriate for disbarred persons under most jurisdiction rules of professional conduct
- D. The disbarred person's conduct is permissible if she discloses her disbarment to clients only when specifically asked about her credentials during meetings with the firm

16. A lawyer at a large firm volunteers with a court-annexed limited-scope program. During a brief consultation through the program, the lawyer provides advice to a client whose matter has limited overlap with a current firm client. The lawyer does not know about the conflict at the time, and no continuing representation is contemplated through the program.

- A. Under Rule 6.5(b), the lawyer's conflict in providing short-term limited legal services is not imputed to other lawyers in her firm, allowing the firm to continue representing the related current firm client
- B. The conflict imputes to all firm lawyers under Rule 1.10 regardless of the short-term nature of the program involvement during the volunteer work being conducted by the lawyer

C. The lawyer must immediately disqualify her firm from the related firm client representation as a result of her volunteer work in the matter being handled by the firm

D. The lawyer must obtain advance consent from all firm clients before engaging in any pro bono volunteer work that could potentially create conflicts in the future during her practice

17. A lawyer has filed twelve substantively identical motions over a six-month period seeking the same relief that has been denied at each previous filing. Each motion makes essentially the same arguments that have been repeatedly rejected by the court. The trial court has admonished the lawyer for the repetitive nature of the filings but the lawyer continues to file them.

A. The lawyer's conduct is permissible because lawyers have professional discretion to bring repeated motions in the hope of obtaining different rulings over time in the matter

B. The lawyer's conduct is permissible if each motion makes some technical compliance with applicable procedural rules of the court for filing motions generally in the matter

C. Under Rule 8.4(d), the lawyer's conduct may be professional misconduct because the rule defines conduct prejudicial to the administration of justice as misconduct, and repeated frivolous filings burden the court system inappropriately

D. The lawyer's conduct is permissible because the trial court has not issued formal sanctions against her for the repetitive filings despite repeated admonishments in the case being heard

18. A lawyer has been representing a client in a complex litigation matter for two years. The client suddenly informs the lawyer that she wants to terminate the representation and hire different counsel. The client provides no specific reason for the change. The lawyer believes she has been providing excellent representation and wants to continue working on the matter.

A. Under Rule 1.16(a)(3), the lawyer must withdraw from the representation because a client has the right to discharge the lawyer, and a lawyer shall not represent a client if the lawyer is discharged

B. The lawyer may continue the representation if she believes she is providing excellent service regardless of the client's expressed desire to terminate the relationship in the matter

C. The lawyer may continue the representation if the client cannot provide a specific reason for terminating the lawyer-client relationship at the time of termination of the engagement

D. The lawyer may continue the representation if she charges the client a reduced fee as an incentive to maintain the existing relationship through the matter being handled by the firm

19. A lawyer learns that a close personal friend has recently been injured in an accident and may need legal representation. The lawyer contacts the friend by phone to offer her services for any potential personal injury claim. The friend and the lawyer have known each other personally for many years and the contact involves no high-pressure tactics.

A. The lawyer's contact violates Rule 7.3 because the rule categorically prohibits all in-person solicitation of accident victims by lawyers regardless of relationship between them

B. Under Rule 7.3, the lawyer's contact is permissible because the rule permits live person-to-person contact when the person solicited is another lawyer or has a family, close personal, or prior professional relationship with the lawyer

C. The lawyer's contact is impermissible because the friend's injury occurred recently and creates a vulnerable circumstance that solicitation rules protect against in the matter being considered

D. The lawyer's contact is permissible only if she reduces her offer to writing and labels it as "Advertising Material" in compliance with solicitation rules before sending it to her friend

20. A lawyer is retained by an insurance company to defend the insured under a liability policy. The insurance company wants the lawyer to take particular settlement positions that the lawyer believes would not be in the insured's best interest. The lawyer is uncertain whether to follow the insurance company's instructions or to advocate for the insured.

A. The lawyer must follow the insurance company's instructions because the insurance company is paying the legal fees and directs the defense strategy in the matter being handled by counsel

B. The lawyer must follow the insurance company's instructions because the insurance company is the lawyer's primary client in the defense relationship being handled at the firm during the engagement

C. The lawyer must split her loyalty equally between the insurance company and the insured to address both parties' interests in the matter being defended by the firm

D. Under Rule 5.4(c), a lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services

21. A lawyer is participating in a criminal trial that has received some local media attention. The trial is scheduled to begin in three months. The lawyer makes public statements characterizing key prosecution evidence as "fabricated" and "deliberately misleading" without providing any specific basis for the characterizations. The trial has not yet started.

- A. Under Rule 3.6(a), the lawyer's statements may violate the rule because the rule prohibits an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding
- B. The lawyer's statements are permissible because the trial is three months away and any prejudicial effect will dissipate by the time the trial begins in the matter being prosecuted
- C. The lawyer's statements are permissible because they reflect her professional assessment of the evidence and her duty to advocate for her client during the proceedings being conducted
- D. The lawyer's statements are permissible if she reasonably believes the characterizations are accurate based on her review of the underlying evidence in the case being prepared for trial

22. A lawyer who has been representing a corporation as outside counsel is offered a senior in-house counsel position with the corporation. The lawyer is currently working on a significant matter for the corporation that would continue under the in-house position. The lawyer is considering whether and how to negotiate the employment offer with the corporation.

- A. The lawyer must immediately resign from the current representation before any negotiation about the in-house position with the corporation occurs in the matter at hand
- B. Under Rule 1.13 and related authority, the lawyer should evaluate whether the employment negotiation creates a personal interest conflict under Rule 1.7 that requires disclosure to and possibly consent from her client
- C. The lawyer may freely negotiate the employment offer because in-house positions are a natural progression for outside counsel and create no conflict considerations in the rules
- D. The lawyer may freely negotiate the employment offer because the corporation is currently her client and there is no third party adverse to consider in the engagement being negotiated

23. A lawyer represents a criminal defendant. The prosecutor has offered a plea agreement involving reduced charges. The lawyer believes the plea offer is favorable and recommends acceptance, but the defendant insists on going to trial despite the lawyer's contrary advice. The lawyer is uncertain how to proceed in the face of the disagreement.

- A. The lawyer should accept the plea offer on behalf of the defendant because the lawyer's professional judgment about plea deals is binding on the criminal defendant in the matter being handled
- B. The lawyer should withdraw from the representation because the disagreement creates an irreparable conflict between the lawyer's professional judgment and the defendant's stated preference in the case

C. The lawyer should refer the matter to another attorney willing to accept the plea offer on behalf of the defendant in the criminal proceeding being handled by counsel

D. Under Rule 1.2(a), the lawyer must abide by the client's decision in a criminal case as to a plea to be entered, whether to waive jury trial, and whether the client will testify

24. A lawyer is retained by a spouse in a divorce matter. The spouse offers to pay the lawyer a contingent fee equal to 25% of any alimony or property settlement the lawyer secures through the divorce proceedings. The lawyer is considering whether to accept the contingent compensation arrangement.

A. The arrangement is permissible because the spouse has voluntarily agreed to the contingent fee structure in the divorce matter being handled by counsel for her in the case

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

C. Under Rule 1.5(d)(1), the lawyer cannot enter into the arrangement because the rule prohibits a contingent fee in a domestic relations matter where payment is contingent on securing a divorce or upon the amount of alimony, support, or property settlement

D. The arrangement is permissible if the contingent percentage does not exceed 30% of the property or support amount being secured through the divorce proceedings in the matter at hand

25. A lawyer worked for a federal regulatory agency for several years before joining a private firm. While at the agency, she personally and substantially participated in regulatory enforcement actions against a particular company. The firm now wants to represent that company in matters substantially related to her prior enforcement work at the agency.

A. The lawyer may represent the company because her government employment has ended and she no longer has any obligations to the agency at this point in her career

B. Under Rule 1.11(a), the lawyer is subject to Rule 1.9(c) and shall not otherwise represent a client in connection with a matter in which she participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent confirmed in writing

C. The lawyer may represent the company if she promises not to use specific information learned during her government work in the new representation being undertaken by the firm

D. The lawyer may represent the company if the firm screens her from the matter and apportions no part of the fee to her personally during the representation being conducted by the firm

26. A lawyer is taking the deposition of a non-party fact witness who is appearing unrepresented. During the deposition, the witness expresses confusion about whether to answer certain questions. The witness asks the lawyer for guidance about whether she has any legal grounds to refuse to answer specific questions in the proceeding.

A. Under Rule 4.3, the lawyer should not give legal advice to the unrepresented witness, other than the advice to secure counsel, given that the witness's interests may be in conflict with those of the lawyer's client in the matter

B. The lawyer may freely provide guidance to the witness because depositions are formal legal proceedings where lawyer advice is expected of all attorneys present at the proceeding being conducted

C. The lawyer may provide guidance if she also tells the witness that the lawyer represents the deposing party and is not the witness's attorney in any capacity

D. The lawyer may provide guidance only if the deposing party's lawyer also provides guidance to balance the input received by the unrepresented witness during the proceeding

27. A lawyer has a thirty-minute consultation with a prospective client about a potential legal matter. The lawyer decides not to take the case. Several months later, the lawyer is unexpectedly retained by a different client whose interests are adverse to the former prospective client in an unrelated matter that shares no substantial relationship to the consultation.

A. The lawyer is permanently disqualified from representing any party adverse to the former prospective client regardless of the substantive relationship between the matters being considered

B. The lawyer must obtain the former prospective client's informed consent in writing before representing any party in any unrelated matter going forward in the practice generally

C. The lawyer cannot represent the new client because all subsequent matters involving the former prospective client are imputed under prospective client rules under any circumstances

D. Under Rule 1.18, the lawyer may represent the new client because Rule 1.18(c) restrictions apply only to matters that are the same as or substantially related to the prospective client consultation

28. A lawyer is the only attorney in a small firm who has been working on a complex case for over a year. The lawyer is likely to be a necessary witness on a contested factual issue at trial. The client has invested substantial resources in the representation and would suffer significant hardship if forced to engage new counsel at this stage of the litigation being handled.

- A. The lawyer must withdraw immediately regardless of any hardship to the client because Rule 3.7 categorically prohibits the dual role of advocate and witness in trial proceedings being conducted
- B. The lawyer may continue as advocate only if the trial court formally consents to her dual role after disclosure to opposing counsel and the parties in the matter being heard by the court
- C. Under Rule 3.7(a)(3), the lawyer may continue as advocate because the rule includes an exception when disqualification of the lawyer would work substantial hardship on the client
- D. The lawyer may continue as advocate only if the client formally waives any conflict resulting from the dual role in a signed writing executed before the testimony is given at trial

29. A lawyer is preparing a will for an elderly client. The client wants to include a substantial bequest to the lawyer's daughter, who is the client's longtime housekeeper. The lawyer and the housekeeper are not related to the client in any way, and the lawyer is the one preparing the testamentary document for the elderly client.

- A. Under Rule 1.8(c), the lawyer shall not prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift unless the lawyer or recipient is related to the client
- B. The lawyer may prepare the will because the housekeeper relationship justifies the bequest based on services provided to the elderly client over many years of employment
- C. The lawyer may prepare the will if she discloses the relationship between the lawyer and the housekeeper to the client at the time the will is being prepared for execution by the client
- D. The lawyer may prepare the will if she obtains a written acknowledgment from the client that the client understands the relationship between the lawyer and the housekeeper completely

30. A lawyer at Firm X did not personally work on Client A's matter, but during her time at the firm, she attended general partnership meetings where Client A's strategy was discussed. The lawyer has moved to Firm Y. Firm Y now wants to represent a client adverse to Client A in a substantially related matter that touches on the strategy issues discussed at the meetings.

- A. The lawyer is not disqualified because she did not personally work on Client A's matter while at Firm X regardless of any information she may have acquired during her time
- B. The lawyer is disqualified, but Firm Y is not affected because the lawyer's involvement was indirect rather than personal during her time at the previous firm in the past
- C. Under Rule 1.9(b), the lawyer is disqualified if she actually acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter, even without personal involvement at the prior firm

D. The lawyer's disqualification depends solely on whether Client A formally objects to her involvement at Firm Y by giving written notice within thirty days of the move to the firm

31. A lawyer gives a small holiday gift basket to a long-time client to express appreciation for their continued business with the firm. The gift basket contains modest food items and is valued at approximately \$50. The gift is provided as a gesture of personal appreciation rather than as compensation for any specific business referral from the client.

A. The gift is impermissible because Rule 7.2 categorically prohibits all gifts from lawyers to clients regardless of value or context being provided in the relationship at the firm

B. The gift is impermissible because any item of value provided to a client raises concerns about improper inducement under the rules of conduct in the jurisdiction generally

C. The gift is impermissible because it could be interpreted as compensation for the client's continued business with the firm in the practice generally during the year

D. Under Rule 7.2(b)(3), a lawyer may give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending the lawyer's services

32. A managing partner at a small firm has not implemented any written policies regarding conflict-checking, client confidentiality protections, or supervision of associates. Several compliance problems have emerged at the firm as a result of the absence of these structural safeguards in place during operations. The partner believes individual lawyers should manage their own compliance.

A. The managing partner has no specific obligation regarding firm-wide policies because individual lawyers are responsible for their own compliance with rules of conduct in all matters

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

C. The managing partner's obligation extends only to direct supervisory relationships rather than to broader firm-wide policy implementation under the rules in the jurisdiction where she practices

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

33. A lawyer maintains a comprehensive database of her legal research and analysis from past client matters. The database includes specific strategies, arguments, and insights developed during prior

representations. The lawyer wants to use information from the database to assist in advising current clients on similar matters that arise during her ongoing practice.

- A. The lawyer may freely use the database because legal research and analysis from prior matters constitute the lawyer's professional work product available for any use in the practice
- B. The lawyer may freely use the database because the underlying legal principles are matters of public law not subject to confidentiality protections under the rules of conduct
- C. Under Rule 1.6 and related authority, the lawyer must analyze whether use of specific information from the database against the interests of the original client or in a manner that would identify the original client is consistent with confidentiality obligations
- D. The lawyer cannot use any information from the database for any current client matter because Rule 1.6 absolutely prohibits any reuse of prior client work product in any practice context

34. A lawyer represents a defendant in a civil case. During trial preparation, the lawyer learns that a witness called by the plaintiff has been engaged in extortion of other prosecution witnesses to alter their testimony. The misconduct is related to the proceeding and involves criminal activity directed at the witnesses for the opposing side in the case.

- A. The lawyer has no obligation regarding the witness's misconduct because the witness was called by the opposing party rather than by her own client in the matter being defended
- B. 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
- C. The lawyer's only obligation is to argue against the credibility of the witness's testimony at the appropriate stage of the proceeding through cross-examination methods in the case
- D. The lawyer has no obligation because Rule 3.3 addresses only the lawyer's own client and witnesses called by the lawyer's side in the case being handled by the firm in the matter

35. A lawyer is asked by her client to prepare a written legal opinion about the client's compliance with applicable securities regulations. The client intends to provide the opinion to potential investors to support an investment offering. The lawyer recognizes that her opinion will be relied upon by the third-party investors, not just by her client.

A. Under Rule 2.3, the lawyer may provide an evaluation for use by a third person if the lawyer reasonably believes that making the evaluation is compatible with the lawyer's other responsibilities to the client, and obtains client informed consent when the evaluation is likely to affect the client's interests materially and adversely

B. The lawyer must decline to prepare the opinion because preparing legal opinions for use by third parties creates an inherent conflict of interest under the rules of conduct in the jurisdiction

C. The lawyer may prepare the opinion provided that she states in the opinion that no third party may rely on its contents in any way for any purpose whatsoever in the matter

D. The lawyer may prepare the opinion without further analysis because legal opinions are routinely prepared for client use in business transactions of various kinds in the practice

36. A lawyer at a major firm asks a sophisticated corporate client with experienced in-house counsel to provide an advance waiver of conflicts that might arise from the firm's representation of other clients in unrelated matters. The advance waiver is specifically worded and explains the types of conflicts that might arise during the firm's ongoing practice.

A. Advance waivers are categorically prohibited because clients cannot knowingly consent to conflicts that have not yet materialized in any specific matter at the firm being handled

B. Advance waivers are categorically permissible because all clients can navigate any conflict that might arise through their consent procedures with counsel in the practice

C. The advance waiver is permissible only if the sophisticated corporate client signs a separate confirmation of the waiver each time a specific conflict arises during the representation by the firm

D. Under Rule 1.7 Comment [22], an advance waiver may be effective if the client reasonably understands the material risks involved, with effectiveness generally enhanced by greater specificity in the consent and greater sophistication in the client

37. A lawyer is negotiating a contract on behalf of her client. During negotiations, the lawyer states that her client "will not accept anything less than \$100,000" when in fact the client has authorized the lawyer to accept any amount above \$75,000. The statement is about the client's negotiating position rather than about underlying material facts of the matter being negotiated.

A. Under Rule 4.1 Comment [2], statements regarding a party's intentions as to an acceptable settlement of a claim and estimates of price or value are ordinarily not considered statements of fact and are within the recognized "puffing" exception to the rule

B. The lawyer's statement violates Rule 4.1(a) because all misrepresentations during negotiations are prohibited under the rule regardless of context or content of the statement

C. The lawyer's statement is permissible only if she ultimately accepts no less than \$100,000 to maintain consistency with her negotiation position throughout the talks with the other party

D. The lawyer's statement is permissible only if her client formally authorizes the specific misrepresentation in writing before the negotiation begins between the parties to the contract

38. A trial judge is approached by a personal friend who is involved in a complex business dispute and asks the judge for informal legal advice about how to handle the situation. The judge has not been assigned the friend's case and the friend's matter is not pending before her court. The friend is not seeking formal legal representation from the judge.

A. The judge may provide informal legal advice to her personal friend because the matter is not pending before her court and the assistance is informal in nature at the time

B. The judge may provide informal legal advice if she does not charge any fee for the assistance provided to her personal friend during the discussion of the matter at issue

C. Under Rule 3.10 of the Code of Judicial Conduct, a judge shall not practice law, with limited exceptions for the judge acting pro se and giving uncompensated legal advice to certain family members

D. The judge may provide informal legal advice provided the friend acknowledges that the advice does not create a formal attorney-client relationship between them in any matter being handled

39. A lawyer subscribes to a cloud-based document management service for her practice. The service stores all client documents on remote servers operated by a third-party technology company. The lawyer has not investigated the security practices of the cloud service provider, the location of the servers, or the contractual protections for client data on the service.

A. The lawyer's use of cloud computing is permissible because cloud services are widely used in modern legal practice without specific supervisory requirements at all in the field

B. The lawyer's use of cloud computing is permissible because the cloud service provider is a sophisticated technology company presumed to maintain appropriate security measures

C. The lawyer's use of cloud computing is permissible if she uses any cloud service that is generally marketed to lawyers as appropriate for legal practice in the field at the time

D. Under Rule 5.3 and related authority, the lawyer must make reasonable efforts to ensure that the conduct of nonlawyer service providers is compatible with the lawyer's professional obligations, including reasonable due diligence regarding the cloud service's security practices

40. A lawyer's advertisement features a client's testimonial stating "I won my case in record time thanks to this lawyer's amazing skills!" The lawyer paid the client \$500 for the testimonial. The advertisement does not disclose the payment or that the client received compensation in exchange for providing the testimonial endorsing the lawyer's services.

A. The advertisement is permissible because client testimonials are commonly used in lawyer marketing materials and add credibility to the practice generally in the field

B. Under Rule 7.1 and Comment [3], the advertisement is misleading because the lawyer paid the client for the testimonial without disclosure, and undisclosed compensated endorsements may violate the false-or-misleading prohibition

C. The advertisement is permissible because the testimonial accurately reflects the client's experience with the lawyer's representation in the matter being handled by the firm

D. The advertisement is permissible if the lawyer includes a small disclaimer noting that "results may vary" without specifically disclosing the compensation arrangement between counsel and the client

41. A lawyer's client is engaged in an ongoing fraudulent scheme involving fake investment opportunities. The client asks the lawyer to draft documents that would help facilitate continued fraudulent solicitation of new investors. The lawyer knows the documents would be used in furtherance of the ongoing fraud against new investors.

A. The lawyer may draft the documents because clients have a right to fully informed legal counsel about any documents they wish to use in their business activities being conducted

B. The lawyer may draft the documents if she also explains the potential criminal consequences of the fraudulent solicitation to the client at the time of the drafting work being performed

C. Under Rule 1.2(d), a lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client

D. The lawyer may draft the documents provided she clearly states in the engagement letter that the documents may be used in furtherance of illegal activity by the client during the engagement

42. A lawyer represents a client who, during a routine consultation, makes vague statements suggesting frustration with a former business partner and mentions that he sometimes thinks about "doing something" about the partner. The lawyer is uncertain whether the statements indicate a credible threat of harm or merely venting expressions of frustration about the business dispute.

A. The lawyer must immediately disclose the statements to law enforcement because Rule 1.6(b)(1) applies whenever any client mentions potential harm to another person at any time during representation

B. The lawyer must immediately disclose the statements to the former business partner because Rule 1.6(b)(1) creates an absolute duty to warn potential victims of any expressions of frustration in any matter

C. The lawyer must immediately withdraw from the representation because the client's statements create an irreparable conflict between her duties to the client and to third parties in the matter being handled

D. Under Rule 1.6(b)(1), the lawyer may reveal information relating to the representation to prevent reasonably certain death or substantial bodily harm, with the operative standard being "reasonable certainty" rather than mere possibility of harm

43. A lawyer receives anonymous emails making allegations of misconduct against a particular attorney at another firm. The allegations, if true, would raise substantial questions about the other lawyer's honesty and fitness to practice. The emails are unsigned and the lawyer has no way to verify the underlying allegations through independent sources at the time of receipt.

A. Under Rule 8.3(a), the lawyer's reporting obligation requires actual knowledge 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

B. The lawyer must immediately report the allegations to the disciplinary authority regardless of her uncertainty about the veracity of the underlying claims being made in the emails

C. The lawyer must conduct her own investigation of the allegations to determine whether they are true before any reporting obligation can be triggered in the matter being considered

D. The lawyer must forward the anonymous emails directly to the targeted lawyer to allow them to respond to the allegations before any formal report being made by her in the matter

44. A lawyer at trial repeatedly interrupts the judge during the judge's rulings, makes loud comments to opposing counsel during witness testimony, and uses disrespectful language toward court staff during recesses. The judge has admonished the lawyer multiple times but the conduct continues throughout the trial proceedings being conducted in the matter.

- A. The lawyer's conduct is permissible because vigorous advocacy includes confrontational behavior that may be necessary in adversarial proceedings being handled by counsel at trial
- B. Under Rule 3.5(d), the lawyer's conduct violates the rule, which prohibits engaging in conduct intended to disrupt a tribunal
- C. The lawyer's conduct is permissible if the underlying substantive positions she is advocating are legally meritorious and support her client's case being presented at trial
- D. The lawyer's conduct is permissible if the trial judge has not issued formal sanctions against her for the disruptive behavior in the proceeding being conducted at the time

45. A lawyer begins representing a new client in a complex commercial matter. She charges \$500 per hour and bills monthly. She begins work immediately and provides the client with her first detailed invoice three months into the representation. The invoice is the first written communication about the lawyer's fee structure that the client has received.

- A. The lawyer's practice is permissible because Rule 1.5(b) does not impose any specific timing requirements for fee communications to clients about the structure of fees in the practice
- B. The lawyer's practice is permissible because three months falls within the "reasonable time" that Rule 1.5(b) recognizes for fee communications generally in the practice for new clients
- C. The lawyer's practice is permissible because the invoice provides the actual fee details that are most important to the client during the engagement being undertaken by the firm
- D. Under Rule 1.5(b), the lawyer's practice may violate the rule because the basis or rate of the fee should be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation

46. A lawyer represents two long-time clients who have aligned interests in most respects but increasingly diverging interests on certain aspects of an ongoing joint matter. The divergences are not yet directly adverse but create a significant risk that the lawyer's representation of one client could be materially limited by her responsibilities to the other client.

- A. Under Rule 1.7(a)(2), a concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, requiring analysis and informed consent confirmed in writing if proceeding
- B. The lawyer must immediately terminate one of the representations because diverging interests automatically require withdrawal regardless of any conflict analysis being conducted by the firm

C. The lawyer may continue both representations without further analysis because the diverging interests have not yet ripened into direct adversity in the matters being handled by counsel

D. The lawyer must obtain a court order before continuing either representation due to the diverging interests between her clients during the ongoing matter being handled by the firm

47. A law firm offers a partner an agreement that includes a provision conditioning the partner's retirement benefits on her agreement not to compete with the firm for a specified period after retirement. The partner is being asked to sign the agreement as part of her continued partnership at the firm during her remaining years of practice.

A. The agreement is impermissible because Rule 5.6(a) categorically prohibits all restrictions on a lawyer's right to practice after termination of the relationship under any circumstances in the rules

B. Under Rule 5.6(a), agreements restricting practice may be permissible when conditioned on retirement benefits, which is an explicit exception in the rule's prohibition on practice restrictions in lawyer agreements

C. The agreement is impermissible regardless of the retirement benefits exception because the practice restriction is too broad and would unduly limit her ability to continue practicing after leaving the firm

D. The agreement is permissible only if the non-compete period does not exceed two years from the date of the partner's retirement from the firm during her career in the practice

48. A lawyer wishes to withdraw from representing a client in a matter that does not involve any court filings. The lawyer has determined that she has good cause for withdrawal under Rule 1.16(b). The lawyer has not yet given the client any notice of her intention to withdraw or provided time for the client to retain replacement counsel for the matter.

A. The lawyer may immediately terminate the representation without notice because Rule 1.16(b) permissive withdrawal grounds authorize immediate withdrawal in any matter being handled by the firm

B. The lawyer may immediately terminate the representation because the matter does not involve court filings requiring formal substitution procedures by counsel in the matter

C. Under Rule 1.16(d), upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, including giving reasonable notice to the client and allowing time for employment of other counsel

D. The lawyer may immediately terminate the representation if she returns any unearned fees to the client at the time of termination of the representation by the firm in the matter

49. A lawyer's client provides her with documents from his employer that are clearly subject to a litigation hold and that should not have been removed from the company's premises. The client claims he obtained them as part of "self-help" investigation of his employment dispute. The lawyer is considering how to handle the documents that should not have been taken from the company.

A. The lawyer may use the documents freely because relevance to the litigation is the operative criterion for evidentiary use in adversary proceedings being conducted at trial

B. Under Rule 3.4(a), the lawyer's retention or use of documents she knows were improperly removed from the company in violation of a litigation hold may violate the rule's prohibition on unlawfully obstructing access to or concealing evidence

C. The lawyer must immediately return the documents to the company without preserving copies for use in the underlying litigation being prepared by counsel for the client

D. The lawyer may use the documents if she discloses to the company that her client provided them to her during the representation being undertaken by the firm

50. A lawyer represents a corporation. The CEO of the corporation contacts the lawyer for legal advice regarding her own personal tax situation, unrelated to the corporation's interests or activities. The CEO suggests that since the lawyer "represents the company," the lawyer should also help with her personal matter at no separate charge to the company.

A. Under Rule 1.13(a), a lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents, and the lawyer does not automatically represent individual constituents in their personal matters

B. The lawyer must assist the CEO with her personal tax situation because the CEO's directives bind the lawyer's professional obligations under the rules of conduct in the practice

C. The lawyer may assist the CEO with her personal tax situation because providing personal legal services to corporate officers is a recognized practice in corporate representation by outside counsel

D. The lawyer must assist the CEO if the assistance does not create any direct conflict with the corporation's interests in the underlying matters being handled by counsel for the corporation

51. A lawyer is admitted in State A. She conducts the bulk of her practice in State A but occasionally provides legal services in State B on a temporary basis. While doing work in State B, she engages in conduct that violates the rules of professional conduct. State B's disciplinary authority wishes to discipline the lawyer for the State B conduct.

A. State B has no authority to discipline the lawyer because she is not admitted in State B for regular legal practice in the jurisdiction at this point in her practice

B. State B may discipline the lawyer only if she is also admitted in State B at the time of the conduct in question between the states involved in the matter

C. Under Rule 8.5(a), a lawyer not admitted in a jurisdiction is also subject to the disciplinary authority of that jurisdiction if the lawyer provides or offers to provide any legal services in that jurisdiction, with the rules to be applied determined by Rule 8.5(b)

D. State B may discipline the lawyer but may not impose any sanction more severe than would be imposed by State A's disciplinary authority on the same conduct in the matter being handled

52. A lawyer receives a \$20,000 advance payment from a new client for legal services to be rendered over the next several months. The lawyer immediately deposits the entire \$20,000 into the firm's operating account, treating the funds as earned upon receipt. The lawyer plans to perform work justifying the advance over the coming months for the client.

A. The lawyer's approach is permissible because the advance payment represents fees the lawyer will earn through future work on the client's matters during the representation being undertaken

B. The lawyer's approach is permissible because the client has agreed to the advance payment structure in their signed engagement letter at the outset of the engagement with the firm

C. The lawyer's approach is permissible because advance payments are recognized as earned upon receipt under most fee arrangements in the jurisdiction generally in the practice

D. Under Rule 1.15(c), the lawyer's approach violates the rule because legal fees and expenses paid in advance shall be deposited into a client trust account and withdrawn only as fees are earned or expenses incurred

53. A lawyer receives an email attachment from opposing counsel. Upon opening the attachment, the lawyer immediately recognizes that it is a privileged communication between opposing counsel and their client that was inadvertently sent. The communication contains strategic information that would be useful to the lawyer's client in the underlying matter.

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

B. The lawyer may use the inadvertently received document because opposing counsel's negligent disclosure waives any privilege protections that previously applied to the document being sent

C. The lawyer may use the inadvertently received document only if it would substantially benefit her client in the underlying matter being litigated by the firm against the opposing party

D. The lawyer must immediately destroy the inadvertently received document without reviewing its contents or notifying opposing counsel of the receipt by the firm in the matter

54. A lawyer represents a plaintiff in a civil employment discrimination case. Before the trial begins, the lawyer makes public statements to local media characterizing the defendant company as a "racist organization" and stating that "any reasonable jury will see the evidence is overwhelming against them." The trial is scheduled to begin in two months from the statements being made.

A. The statements are permissible because civil cases are not subject to the same publicity restrictions as criminal cases under Rule 3.6 of the rules in the jurisdiction

B. The statements are permissible because the lawyer has First Amendment rights to discuss her cases publicly during pretrial proceedings before the matter is heard at trial

C. The statements are permissible because they reflect her assessment of the evidence based on her review of the underlying facts in the case being prepared for trial by the firm

D. Under Rule 3.6(a), the statements may violate the rule because the rule prohibits extrajudicial statements that the lawyer knows or reasonably should know will be disseminated by public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding

55. A lawyer is reviewing her annual practice activities. During the year, she has provided no pro bono legal services and has made no financial contributions to organizations that provide legal services to persons of limited means. The lawyer is uncertain whether her lack of pro bono service subjects her to discipline under the rules of professional conduct.

A. The lawyer is subject to discipline because Rule 6.1 imposes mandatory annual pro bono service requirements on all attorneys in active practice in the jurisdiction where she practices

B. The lawyer is subject to discipline because all states have adopted Rule 6.1 with mandatory annual pro bono service requirements for practitioners during their active practice years in the field

C. Under Rule 6.1, every lawyer has a professional responsibility to provide legal services to those unable to pay, with an aspirational goal of at least 50 hours per year, but the rule is aspirational rather than mandatory

D. The lawyer is subject to discipline only if she paid no fee in lieu of pro bono service to her state bar's legal services fund during the year under review by the state during the period

56. A lawyer is currently representing Client X. A new client offers a lucrative engagement that would create a non-consentable conflict with Client X. The lawyer wants to terminate Client X's representation in order to convert Client X into a former client and then accept the new representation without conflict considerations applying to her firm.

- A. The lawyer may terminate Client X's representation provided her work on the current matter is in a phase that does not require active attention from counsel at the time of the termination
- B. Under the "hot potato" doctrine, a lawyer cannot drop a current client like a hot potato to take on a more lucrative new representation that would create a conflict with the current client
- C. The lawyer may terminate Client X's representation if she provides Client X with sufficient time to find replacement counsel before the termination becomes effective in the matter being handled
- D. The lawyer may terminate Client X's representation if the new engagement will substantially benefit the firm financially compared to continued representation of Client X in the firm at the time

57. A lawyer is documenting a client's informed consent to a conflict of interest. The consent is communicated via an electronic email exchange between the lawyer and the client, with the client typing a clear affirmative confirmation of consent in the email. No paper documents are signed by either party in connection with the consent being provided.

- A. Under Rule 1.0(n) and (p), "writing" or "written" denotes a tangible or electronic record of a communication, and "signed" includes an electronic sound, symbol, or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing
- B. The electronic email exchange does not satisfy any "writing" requirement under the rules because Rule 1.0 requires tangible paper documents for written consents in all circumstances in the practice
- C. The electronic email exchange must be supplemented by a wet-signed paper document that confirms the electronic consent before being legally effective for the rule being applied in the matter
- D. The electronic email exchange satisfies the writing requirement only if both parties separately print and physically sign the electronic record produced by the exchange between them in the matter

58. A lawyer's services were used by a current client to perpetrate a fraud against investors that has caused substantial financial harm. The fraud is ongoing and additional investors may continue to be harmed unless disclosure occurs. The lawyer wants to consider whether to reveal information about the fraud to mitigate ongoing harm to investors.

A. The lawyer cannot disclose any information because Rule 1.6 confidentiality protections are absolute during ongoing representation of the client by counsel in the matter being handled

B. The lawyer must immediately disclose the fraud to law enforcement authorities because Rule 1.6(b)(3) creates a mandatory reporting duty for client fraud schemes that are ongoing

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

D. The lawyer must obtain a court order before disclosing any information about the fraud because Rule 1.6 protections cannot be overridden without judicial authorization in any matter being handled

59. A trial judge has developed a pattern of behavior including chronic tardiness to court proceedings, dismissive treatment of court staff, and demonstrably unprepared judicial work. The behavior does not involve any specific procedural violation or formal misconduct in individual cases. The behavior undermines the dignity of the courtroom and public perception of the judiciary in the area.

A. The judge's behavior is permissible because no specific procedural rule violation has occurred during any individual case being heard by the court at any time during the period

B. Under Rule 1.2 of the Code of Judicial Conduct, a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety

C. The judge's behavior is permissible because judicial discretion includes the manner and approach to courtroom proceedings adopted by the individual judge in the matter being heard

D. The judge's behavior is permissible if her formal rulings in individual cases are substantively correct on the merits being decided by the court during the proceedings being handled

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

A. The prosecutor has no continuing obligation because the conviction has become final and the appeals process is the proper mechanism for raising new evidence in the matter being reviewed

B. The prosecutor's only obligation is to refrain from opposing any new trial motion the defendant might file based on the new evidence in the matter being handled by counsel

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

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

ANSWER KEY – PRACTICE EXAM 30 (MPRE)

1. D — Rule 1.6 protects all information relating to the representation, with disclosure permitted only where the client consents or one of the enumerated exceptions in Rule 1.6(b) applies. The Model Rules contain no general whistleblower exception for client regulatory violations that fall short of the specific triggers in 1.6(b)(1) through (b)(7). Without consent or a specific exception, the lawyer cannot disclose the regulatory misconduct.

2. B — Rule 3.1 prohibits a lawyer from bringing or defending a proceeding unless there is a basis in law and fact that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A claim supported by reasonable factual basis and a colorable legal theory is not frivolous regardless of likelihood of success at trial. The rule sets a non-frivolous floor, not a likely-to-prevail threshold.

3. A — Rule 1.10(a)(1) provides that the imputation of conflict to associated firm lawyers does not apply when the prohibition is based on a personal interest of the disqualified lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm. Personal-interest conflicts that do not infect other lawyers' work are carved out of imputation. The carve-out operates without resignation or formal screening procedures.

4. C — Rule 8.4(a) makes it professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another. The rule expressly reaches attempts and does not require completed misconduct. The success or failure of the underlying scheme does not determine the lawyer's discipline exposure.

5. B — Rule 1.5(a) prohibits unreasonable fees and Comments to Rule 1.5 along with most jurisdictional authority require that unearned portions of fees paid in advance be refunded upon termination of the representation, regardless of "non-refundable" labeling. Blanket retention of advance payments without regard to work performed conflicts with the reasonableness requirement. Engagement letter language does not cure the underlying problem.

6. D — Rule 3.3(a)(2) requires a lawyer to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by

opposing counsel. Circuit court of appeals authority is controlling for a federal district court within that circuit. Adversarial silence is not permitted when opposing counsel has missed directly adverse controlling authority.

7. C — Rule 4.2 prohibits a lawyer from communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter without the consent of the other lawyer or authorization by law or court order. Incarceration of a represented defendant does not displace the protection. Limitations on prison communication with defense counsel are addressed through other channels, not through bypassing Rule 4.2.

8. A — Rule 5.5(c)(4) permits a lawyer admitted in another United States jurisdiction to provide legal services on a temporary basis in this jurisdiction when the services are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. Transactional work tied to a home-state client's matter falls within the safe harbor. No pro hac vice admission or association with local counsel is required.

9. D — Rule 1.7(a)(2) provides that a concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, a third person, or by a personal interest of the lawyer. Strongly held personal moral beliefs that may significantly affect advocacy fall within the personal-interest conflict provision. Informed consent confirmed in writing is required if the lawyer can reasonably believe she will provide competent representation despite the conflict.

10. A — Rule 1.4(a)(3) requires a lawyer to keep the client reasonably informed about the status of the matter, and Rule 1.4(a)(4) requires the lawyer to promptly comply with reasonable requests for information. A two-month silence ignoring client inquiries while material developments occur violates both subsections. Workload demands do not justify the failure to maintain the required communication.

11. C — Rule 2.4 of the Code of Judicial Conduct provides that a judge shall not be swayed by partisan interests, public clamor, or fear of criticism, and shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment. Considering a political figure's letter during deliberations on a pending case implicates the rule directly. Community context is not a permitted exception to the prohibition on political influence.

12. B — Rule 1.8(h)(2) provides that a lawyer shall not settle a claim or potential claim for malpractice liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith. The advice-of-counsel writing protects the unrepresented former client in a position of vulnerability. Direct negotiation without the required written advice is prohibited.

13. C — 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. Discussion of the representation at a legal publication requires the client's informed consent or fits an applicable exception under the rule.

14. D — Rule 3.4(d) prohibits a lawyer from making a frivolous discovery request or failing to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party. Discovery designed primarily to impose burden rather than to advance legitimate case purposes falls within the frivolous category. Technical procedural compliance with discovery rules does not cure the impermissible burden-only purpose.

15. B — Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. A disbarred person whose self-presentation as a "legal consultant" without indication of non-licensure suggests authorization to practice falls within the prohibition, and the supervising lawyers may violate the rule by assisting unauthorized practice. Consulting work is not a recognized exception when the presentation implies legal authorization.

16. A — Rule 6.5(b) modifies imputation rules for short-term limited services under court-annexed or nonprofit programs, providing that a lawyer is subject to Rule 1.10 only if the lawyer knows that another lawyer associated in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter. The non-imputation rule facilitates volunteer participation in pro bono programs. The firm's continued representation of the related current client is preserved.

17. C — Rule 8.4(d) makes it professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. A sustained pattern of repetitive frivolous motions seeking the same already-denied relief, continuing despite court admonitions, meets the prejudicial-to-administration standard. Lawyer discretion to file motions does not extend to systematic burdening of the court system.

18. A — Rule 1.16(a)(3) requires a lawyer to withdraw from the representation of a client if the lawyer is discharged. The client's right to discharge the lawyer is largely absolute, and the lawyer's belief about the quality of representation does not override the right. Mandatory withdrawal applies regardless of the lawyer's preference to continue or the absence of a stated reason for discharge.

19. B — Rule 7.3(b)(1) permits a lawyer to solicit professional employment by live person-to-person contact when the person solicited is a lawyer or has a family, close personal, or prior professional relationship with the lawyer. A close personal friend falls squarely within the permitted category. The rule's restrictions on live solicitation target only contact with non-lawyer strangers in vulnerable circumstances.

20. D — Rule 5.4(c) provides that a lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services. The insurance carrier's payment status does not authorize override of the lawyer's professional judgment serving the insured's interests. In most jurisdictions, the lawyer's primary duty runs to the insured as the client.

21. A — Rule 3.6(a) prohibits a lawyer who is participating or has participated in the investigation or litigation of a matter from making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Pretrial characterizations of prosecution

evidence as "fabricated" and "deliberately misleading" without specific basis meet that standard. Three-month timing does not dissipate the prejudicial risk identified by the rule.

22. B — Rule 1.13 governs representation of organizations, and Rule 1.7(a)(2) treats employment negotiations between the lawyer and a party in a current matter as creating a personal-interest conflict requiring analysis. The lawyer should evaluate whether the in-house employment negotiation creates a significant risk of material limitation on her continued outside representation. Disclosure to and possibly consent from the corporate client is the appropriate procedural response.

23. D — Rule 1.2(a) provides that in a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify. The plea decision is expressly reserved to the criminal defendant. The lawyer's professional judgment about the merits of the plea offer does not displace the client's reserved authority.

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

25. B — Rule 1.11(a) provides that a lawyer who has formerly served as a public officer or employee of the government is subject to Rule 1.9(c) and shall not otherwise represent a client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate government agency gives its informed consent, confirmed in writing, to the representation. Personal and substantial participation in regulatory enforcement against the company triggers the bar. Agency consent is the only path to representation in a matter within the rule.

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

27. D — Rule 1.18(c) restricts a lawyer who has received disqualifying information from a prospective client from representing a client with materially adverse interests in the same or a substantially related matter. The restriction does not extend to unrelated matters with no substantial relationship to the prospective client consultation. Permanent disqualification and blanket consent requirements do not arise from a single brief consultation about an unrelated matter.

28. C — Rule 3.7(a)(3) provides that a lawyer may act as advocate at a trial in which the lawyer is likely to be a necessary witness when disqualification of the lawyer would work substantial hardship on the client. Solo practice over a long period with significant client investment in the representation typically meets the substantial-hardship standard. The exception accommodates practical realities that would otherwise force unfair client outcomes.

29. A — Rule 1.8(c) prohibits a lawyer from soliciting any substantial gift from a client, including a testamentary gift, or preparing on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift, unless the lawyer or recipient is related to the client. The housekeeper, though personally connected to the client, is not "related" within the rule's definition. Drafting the testamentary instrument benefiting the lawyer's daughter is prohibited regardless of disclosure or client acknowledgment.

30. C — Rule 1.9(b) disqualifies a lawyer from representing a person in the same or substantially related matter in which a firm with which the lawyer was formerly associated had previously represented a client whose interests are materially adverse to that person and about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter. Information acquired through general partnership meetings can meet the threshold even without personal involvement. Indirect exposure to confidential strategy information is sufficient to disqualify.

31. D — Rule 7.2(b)(3) provides an exception to the general prohibition on giving anything of value for recommendations, permitting a lawyer to give nominal gifts as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending the lawyer's services. A modest \$50 holiday gift basket to a long-time client falls within the nominal-gift exception. The rule preserves customary professional courtesies without permitting improper inducements.

32. B — Rule 5.1(a) requires partners and lawyers with comparable managerial authority in a law firm to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct. The absence of conflict-checking, confidentiality, and supervision policies is a structural failure of the management duty. The obligation is independent of any specific lawyer's individual conduct in a particular matter.

33. C — Rule 1.6 protects all information relating to a representation, and Rule 1.9(c) prohibits a lawyer from using information relating to the representation of a former client to that client's disadvantage except as the Rules would permit or when the information has become generally known. The lawyer's database of past client work product must be analyzed against these confidentiality and former-client obligations. Comment [3] to Rule 1.9 supports use of general knowledge, skill, and experience, but specific client confidences require careful handling.

34. B — 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. Witness extortion of other witnesses is paradigm proceeding-related criminal conduct. The duty extends beyond the lawyer's own client and witnesses called by the lawyer's side.

35. A — Rule 2.3 provides that a lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client, and when the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent. The third-party

reliance framework is expressly authorized within these parameters. Categorical decline is not required, and contents disclaimers do not displace the substantive framework.

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

37. A — Rule 4.1 Comment [2] provides that under generally accepted conventions in negotiation, certain types of statements ordinarily are not taken as statements of material fact, including estimates of price or value placed on the subject of a transaction and a party's intentions as to an acceptable settlement of a claim. Statements about a party's negotiating position fall within this puffing recognition. The puffing exception is limited to position-related statements and does not extend to misrepresentations of underlying material facts.

38. C — Rule 3.10 of the Code of Judicial Conduct provides that a judge shall not practice law, with limited exceptions for the judge acting pro se and giving uncompensated legal advice to and drafting or reviewing documents for a member of the judge's family. Informal legal advice to a personal friend who is not a family member falls outside the exceptions. The prohibition operates regardless of whether the friend's matter is pending before the judge's court.

39. D — Rule 5.3 requires a lawyer to make reasonable efforts to ensure that the conduct of a nonlawyer assistant or service provider is compatible with the professional obligations of the lawyer. ABA Formal Opinion 477R and related authority confirm that cloud-based service providers handling client information are subject to the lawyer's reasonable-efforts duty, including due diligence regarding security practices. Subscription to a generally marketed cloud service does not satisfy the diligence requirement without inquiry into specific security practices.

40. B — Rule 7.1 prohibits a lawyer from making a false or misleading communication about the lawyer or the lawyer's services, and Comment [3] addresses compensated endorsements. Undisclosed payment for a client testimonial used in advertising is misleading because it conceals the financial inducement underlying the endorsement. A generic "results may vary" disclaimer does not cure the failure to disclose the compensation arrangement.

41. C — Rule 1.2(d) provides that a lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law. Drafting documents to facilitate ongoing fraudulent investor solicitation is direct assistance with fraud, not legal-consequences discussion. Engagement letter language does not authorize the assistance.

42. D — Rule 1.6(b)(1) permits a lawyer to reveal information relating to the representation to the extent the lawyer reasonably believes necessary to prevent reasonably certain death or substantial bodily harm. The operative threshold is "reasonable certainty," not mere possibility, of harm. Vague venting statements

without credible specifics typically do not meet the reasonable-certainty standard, while credible specific threats do trigger the permissive exception.

43. A — 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 in other respects to inform the appropriate professional authority. The reporting obligation is keyed to actual knowledge of the violation. Anonymous unverified allegations typically do not constitute the knowledge that triggers the reporting duty.

44. B — Rule 3.5(d) prohibits a lawyer from engaging in conduct intended to disrupt a tribunal. Repeated interruptions of the judge, loud comments during testimony, and disrespectful language toward court staff despite admonitions fall within the prohibition. Vigorous advocacy does not encompass conduct designed to disrupt orderly proceedings.

45. D — Rule 1.5(b) requires that the scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation. A three-month delay where the first written communication is an invoice typically exceeds the reasonable time. The rule's communication requirement is timing-sensitive and content-substantive.

46. A — Rule 1.7(a)(2) provides that a concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client. Diverging interests that have not yet ripened into direct adversity but create such risk are within the rule. The lawyer must analyze the conflict and obtain informed consent confirmed in writing if she can reasonably believe she will provide competent representation.

47. B — Rule 5.6(a) prohibits a lawyer from participating in offering or making a partnership, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement. The retirement-benefits exception is built into the rule's text. Practice restrictions conditioned on retirement benefits fall within the recognized exception.

48. C — Rule 1.16(d) provides that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, including giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering papers and property to which the client is entitled. The notice-and-time requirements apply regardless of whether court filings are involved. Immediate termination without notice does not meet the rule's protective duty.

49. B — Rule 3.4(a) prohibits a lawyer from unlawfully obstructing another party's access to evidence or unlawfully altering, destroying, or concealing material having potential evidentiary value, and from counseling or assisting another to do so. Documents improperly removed in violation of a litigation hold implicate access, concealment, and obstruction concerns under the rule. The lawyer's knowing retention or use of such documents may violate Rule 3.4(a) and other law.

50. A — Rule 1.13(a) provides that a lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents. The lawyer's client is the organization, not

its individual officers in their personal capacities. Personal legal services to a corporate officer require their own engagement analysis and do not flow automatically from the corporate representation.

51. C — Rule 8.5(a) provides that a lawyer admitted to practice in a jurisdiction is subject to the disciplinary authority of that jurisdiction, regardless of where the lawyer's conduct occurs, and a lawyer not admitted in a jurisdiction is also subject to the disciplinary authority of that jurisdiction if the lawyer provides or offers to provide any legal services in that jurisdiction. The host jurisdiction's disciplinary reach extends to temporary practitioners. The choice of which jurisdiction's rules apply is then determined by Rule 8.5(b).

52. D — Rule 1.15(c) provides that a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred. Advance payments remain the client's property until earned through actual work. Immediate deposit into the firm's operating account treats unearned funds as the lawyer's property prematurely.

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

54. D — Rule 3.6(a) prohibits a lawyer who is participating or has participated in the investigation or litigation of a matter from making an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Civil cases are within the rule's scope. Pretrial characterizations of the defendant as a "racist organization" and predictions of overwhelming evidence meet the substantial-likelihood standard.

55. C — Rule 6.1 provides that every lawyer has a professional responsibility to provide legal services to those unable to pay, with an aspirational goal of at least 50 hours per year. The rule is aspirational rather than mandatory in the Model Rules. Some jurisdictions have implemented mandatory variations, but the baseline Model Rule does not subject a lawyer to discipline for failing to perform a specific number of pro bono hours.

56. B — The "hot potato" doctrine, recognized in case law applying Rules 1.7 and 1.16, prohibits a lawyer from dropping a current client to convert that client into a former client in order to take on a more lucrative new representation that would otherwise create a current-client conflict. Withdrawal cannot be used to manufacture a more favorable conflicts position. The doctrine protects the integrity of loyalty owed to existing clients.

57. A — Rule 1.0(n) defines "writing" or "written" to denote a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording, and electronic communications. Rule 1.0(p) provides that a "signed" writing includes an electronic sound, symbol, or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing. Electronic email exchanges with affirmative typed confirmation satisfy both definitions.

58. C — Rule 1.6(b)(3) permits a lawyer to reveal information relating to the representation to the extent reasonably necessary to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services. Both the lawyer's-services prong and the substantial-injury prong are satisfied here. Disclosure is discretionary, not mandatory, and does not require a court order.

59. B — Rule 1.2 of the Code of Judicial Conduct requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and to avoid impropriety and the appearance of impropriety. Chronic tardiness, dismissive treatment of staff, and unprepared judicial work undermine public confidence even without a specific procedural violation. The duty extends across all aspects of judicial demeanor.

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