

PRACTICE EXAM 7: MPRE SIMULATION

(60 QUESTIONS)

Time Allotted: 2 hours

Format: Each question presents a fact pattern followed by four options. Select the option that BEST states the rule, MOST accurately resolves the issue, or STRONGEST supports the lawyer's position. Multiple options may be partially correct; choose the strongest.

1. A lawyer is convicted of misdemeanor falsification of records on her personal tax return. The conduct had no connection to any client matter or to her law practice generally. What is the MOST likely outcome of a disciplinary inquiry?

- A. The lawyer will not be disciplined because the conduct was unrelated to her law practice
- B. The lawyer will be disciplined only if the conviction resulted in significant prison time
- C. The lawyer will be subject to discipline because Rule 8.4(b) covers criminal acts that reflect adversely on the lawyer's honesty, trustworthiness, or fitness, regardless of any practice connection
- D. The lawyer will be disciplined only if the falsification caused financial harm to a third party

2. A lawyer is at a mediation with her client present. The opposing party makes a final settlement offer of \$80,000, which the client and lawyer had previously discussed as acceptable in this range. The client steps out briefly to take a phone call. The mediator asks the lawyer for a final answer, indicating the offer will expire at the close of business. Which course of action is BEST?

- A. Accept the offer immediately because the client previously discussed this range as acceptable
- B. Decline to accept the offer until the client returns and personally authorizes the specific terms
- C. Request a brief delay to text the client a summary, then accept based on the text response
- D. Ask the mediator for written confirmation that the offer will remain open for 24 hours, then accept

3. A lawyer jointly represents two business partners in dissolving their partnership. The partners' positions become so antagonistic during negotiation that the lawyer realizes the conflict cannot be cured by consent. Which course of action is BEST?

- A. Continue representing both partners as long as no actual ethical violation has yet occurred
- B. Continue representing the partner who first retained her and refer the other to outside counsel
- C. Continue representing the partner whose position the lawyer believes is legally stronger
- D. Withdraw from representing both partners, since continuing with either against the other would violate Rule 1.9 duties to the former joint client

4. During trial, a lawyer realizes that a witness she called gave testimony she now believes is false on a material point. The lawyer first attempts to persuade the witness to correct the testimony, but the witness refuses. The trial is ongoing. Which course of action is BEST?

- A. Take reasonable remedial measures, including, if necessary, disclosure to the tribunal under Rule 3.3(a)(3)
- B. Move to withdraw without disclosing the basis to the tribunal
- C. Continue the trial but refrain from using the false testimony in closing argument
- D. Cross-examine her own witness on the disputed testimony to undermine its weight without disclosing it as false

5. A lawyer learns from her current client during a confidential meeting that the client plans to commit financial fraud against an investor by falsifying account statements. The client has been using the lawyer's services to draft investment documents. The lawyer warns the client; the client proceeds anyway. The fraud has not yet been completed but is imminent. Which course of action is MOST consistent with the Rules?

- A. The lawyer must remain silent because Rule 1.6 protects all communications between client and lawyer
- B. The lawyer may disclose information to prevent the fraud under Rule 1.6(b)(2), because the client is using the lawyer's services to commit financial crime
- C. The lawyer must immediately disclose the fraud to the intended victim, regardless of any Rule 1.6 considerations
- D. The lawyer may disclose only after the fraud is actually completed and the victim has suffered loss

6. A solo practitioner has taken on a complex commercial litigation matter for the first time in her career. The matter involves substantial financial stakes and complex regulatory issues she has not encountered. Six weeks into the engagement, she realizes she cannot complete the matter competently within her budget and timeframe. Which course of action is BEST?

- A. Continue the engagement and absorb the additional time as a learning opportunity
- B. Charge the client an increased hourly rate reflecting the matter's complexity
- C. Inform the client only after the matter has progressed further, to avoid alarming her
- D. Promptly inform the client and either associate with experienced counsel with the client's informed consent or withdraw with steps to protect the client's interests

7. A lawyer has been working on a contingent fee personal injury matter for nine months. The client decides to discharge the lawyer and hire new counsel. The lawyer has incurred substantial costs and put in significant hours. Which statement BEST describes the lawyer's rights upon discharge?

- A. The lawyer may continue to work on the matter despite discharge until paid in full for past work
- B. The lawyer is entitled to no compensation because contingent fee agreements require recovery for any fee to be earned
- C. The lawyer may impose a lien on the client's case for the full contingent fee originally agreed upon, regardless of work performed
- D. The lawyer may seek reasonable compensation for work performed under a quantum meruit theory, subject to jurisdiction-specific rules limiting recovery in discharged-contingent-fee cases

8. A large corporation has signed a comprehensive advance waiver of any conflicts that might arise from the lawyer's representation of other clients adverse to the corporation in unrelated matters. The waiver was drafted by sophisticated in-house counsel, and the corporation regularly uses such waivers with multiple firms. Which statement BEST describes the validity of the advance waiver?

- A. The advance waiver is per se invalid because Rule 1.7 informed consent must be obtained at the time the specific conflict arises
- B. The advance waiver is fully valid because the corporation is a sophisticated party with experienced counsel

C. The advance waiver may be valid as to future conflicts the corporation could reasonably anticipate, but generally cannot reach unforeseen substantial conflicts even for sophisticated clients

D. The advance waiver is valid as to all future conflicts because the corporation's sophistication makes informed consent presumptively adequate

9. A lawyer represents a plaintiff suing a corporation for employment discrimination. She wishes to interview several former employees of the corporation whose recollections may support the plaintiff's claim. The corporation is represented by counsel; the former employees are not currently affiliated with the corporation and are not individually represented. Which statement BEST describes the lawyer's obligations?

A. The lawyer may contact former employees directly without corporate counsel's consent, but must avoid eliciting privileged information and must comply with Rule 4.3 regarding the lawyer's role

B. The lawyer must obtain corporate counsel's consent before contacting any former employee, regardless of when the employment ended

C. The lawyer may contact only former employees whose departure preceded the events giving rise to the lawsuit

D. The lawyer may contact former employees only after providing the corporation written notice and an opportunity to object

10. A potential client approaches a lawyer claiming her employer discriminated against her based on a category not recognized as protected under federal or state law. The client wants the lawyer to file a discrimination claim. The lawyer believes there is a colorable argument that the relevant statute should be interpreted to cover the new category, though no court has yet so held. Which course of action is BEST?

A. The lawyer may bring the claim under Rule 3.1, which permits a good-faith argument for an extension, modification, or reversal of existing law

B. The lawyer must decline because the claim has no current legal support under existing case law

C. The lawyer may bring the claim only if she can find at least one persuasive (non-controlling) opinion supporting the theory

D. The lawyer may bring the claim only with a written waiver from the client acknowledging the unsettled nature of the theory

11. A lawyer admitted in three states is publicly censured in State A for misconduct that all three states recognize as violating their professional conduct rules. State B and State C open their own reciprocal discipline proceedings. The lawyer claims her State A proceeding violated due process. Which statement MOST accurately describes the reciprocal discipline framework in States B and C?

- A. States B and C must conduct entirely independent factual investigations of the underlying conduct
- B. States B and C may impose comparable discipline unless the lawyer establishes a recognized ground for departure such as due process denial, no violation under their rules, or grave injustice
- C. States B and C are required to defer to State A's findings without any independent review
- D. States B and C must wait until State A's discipline becomes final on appeal before imposing any discipline of their own

12. A corporation's general counsel emails an outside legal consultant who provides regulatory compliance services but is not licensed to practice law. The email discusses sensitive corporate strategy and seeks the consultant's input. Several years later, the email is subpoenaed in litigation. Which statement BEST describes the privilege analysis?

- A. The email is protected by attorney-client privilege because in-house counsel sent it
- B. The email is protected by attorney-client privilege because it discusses sensitive corporate information
- C. The email is protected because all communications with consultants assisting corporate counsel are privileged
- D. The email is not protected by attorney-client privilege because the recipient consultant is not a lawyer and the communication was not made for the purpose of obtaining legal advice from a qualified attorney

13. A lawyer joins a new firm after previously representing a corporation in a major contract dispute at her old firm. Her new firm represents the opposing party in litigation against that same corporation arising from the same dispute. The new firm wishes to continue the representation. Which course of action is BEST to comply with the Rules?

- A. The new firm must withdraw from representing the opposing party because the conflict is imputed and cannot be cured
- B. The new firm may continue the representation with the conflicted lawyer providing background consultation under careful supervision

C. The new firm may continue if the conflicted lawyer is timely screened from any participation, apportioned no part of the fee, and written notice is given to the former client

D. The new firm may continue if the conflicted lawyer obtains a written waiver from her former client

14. A bank asks a lawyer to provide an opinion letter about whether her corporate client has properly executed certain loan documents. The lawyer's evaluation may reveal weaknesses in the documents that would affect the bank's decision. The client has agreed to the opinion letter generally. Which course of action is BEST?

A. The lawyer may provide the opinion without further consultation since the client consented generally

B. The lawyer may provide the opinion only if the bank agrees to keep its contents confidential

C. The lawyer must reasonably believe the evaluation is compatible with the client relationship, and must obtain informed consent if the evaluation is likely to materially and adversely affect the client's interests

D. The lawyer may not provide an evaluation for a third party while representing the client on the same subject matter

15. A lawyer completes a real estate transaction for a client at an agreed flat fee of \$4,500. The client refuses to pay, claiming the lawyer's work was substandard, although the transaction closed successfully and on schedule. Which course of action is BEST?

A. The lawyer may sue the client to collect the unpaid fee under jurisdiction-specific attorney lien rules, protecting confidential client information except as necessary to establish the claim

B. The lawyer must withdraw from the engagement and write off the unpaid amount

C. The lawyer may publish a list of clients who have failed to pay her fees as a deterrent to future nonpayment

D. The lawyer may unilaterally claim a security interest in the client's home as collateral for the unpaid fee

16. A lawyer represents a client in a complex transaction that requires specialized tax expertise the lawyer does not have. She estimates that hiring an outside tax specialist will cost \$8,000 in fees that would significantly reduce her own profitability on the matter. Which course of action is BEST?

- A. The lawyer may handle the tax issues herself based on standard treatises, since cost considerations justify the choice
- B. The lawyer may have her associate, who has no tax background, learn the necessary law as she goes
- C. The lawyer may complete the transaction without addressing the tax issues, since her engagement letter did not specifically mention tax matters
- D. The lawyer should either associate with a tax specialist (whose fee may be passed through to the client with consent) or refer the client to specialized counsel to ensure competent representation

17. A lawyer wishes to describe her practice in marketing materials. She has practiced family law for fifteen years and has not been certified by any specialty certifying organization. Which statement BEST describes the permissible language she may use?

- A. She may describe herself as a "certified specialist in family law" because of her years of experience
- B. She may describe herself as a lawyer "whose practice concentrates on family law" or "whose practice is limited to family law," provided these statements are accurate
- C. She may describe herself as an "expert family law attorney" without restriction because the word reflects her actual experience
- D. She may describe herself as "the leading family law attorney in the region" if she believes that statement to be true

18. A judge presides over a civil suit involving a corporation in which her brother-in-law works as a mid-level manager. Her brother-in-law has no involvement in the disputed matter and would not be financially affected by the outcome. The judge believes she can decide the case impartially. Which course of action is BEST?

- A. The judge may continue presiding because her brother-in-law has no direct involvement in the matter
- B. The judge should disclose the relationship on the record and may continue if no party objects after disclosure, since the brother-in-law's position alone does not present a Rule 2.11 mandatory disqualification ground
- C. The judge must disqualify herself in all circumstances because of the family connection
- D. The judge may continue without any disclosure because impartial intent is the controlling factor

19. A lawyer represents a defendant in a criminal trial. The lawyer believes the defendant intends to take the stand and testify falsely about a material fact. The lawyer has discussed the matter with the defendant, who insists on testifying as planned. Which course of action is BEST?

- A. The lawyer should not call the defendant to testify under any circumstances
- B. The lawyer should withdraw from the representation immediately, regardless of stage of trial
- C. The lawyer should permit the defendant to testify in narrative form, without questioning, and not use the testimony in closing argument
- D. The lawyer should first attempt to persuade the defendant; if that fails, seek to withdraw, and if withdrawal is not permitted, follow jurisdiction-recognized methods of compliance with Rule 3.3 while preserving the defendant's right to testify

20. A lawyer is notified by the state bar that her trust account will be audited as part of a random compliance review. She knows her records are complete and her account is in order. Which course of action is BEST upon receiving the notice?

- A. The lawyer should refuse to cooperate until the bar provides specific grounds for the audit
- B. The lawyer should cooperate fully with the audit, providing all requested records and information
- C. The lawyer should consult with malpractice counsel and limit cooperation through that counsel
- D. The lawyer should request that the audit be delayed for at least six months to permit her to prepare

21. A lawyer represents Client A in negotiating a commercial lease. Client B, who has been a long-standing client of the firm in unrelated matters, has just filed a lawsuit against Client A in an unrelated tort matter handled by another lawyer at the firm. Client A and Client B are currently active clients of the firm. Which statement MOST accurately states the firm's position?

- A. The firm has a concurrent conflict requiring informed consent in writing from both Client A and Client B before either representation may continue
- B. The firm has no conflict because the lease negotiation and tort suit are unrelated subject matters
- C. The firm must withdraw from representing Client A in the lease but may continue representing Client B
- D. The firm must withdraw from representing Client B in the tort suit but may continue representing Client A

22. A client asks her lawyer to send case updates to her spouse, who has been actively involved in supporting the client through the litigation. The case involves potentially embarrassing personal information. Which statement BEST describes the lawyer's obligations?

- A. The lawyer should confirm the scope of the authorization in writing — what information may be shared, with whom, and any limitations — before sharing any confidential information with the spouse
- B. The lawyer may share all information with the spouse based on the client's general oral authorization
- C. The lawyer may not share any information with the spouse because doing so could waive the attorney-client privilege
- D. The lawyer should refer the spouse to publicly filed court documents for any updates

23. A lawyer is subpoenaed to testify about communications with a former client in a civil case. She asserts the attorney-client privilege and the duty of confidentiality. The court rules the privilege does not apply and orders her to testify. The former client demands the lawyer refuse to comply. Which course of action is BEST?

- A. The lawyer must follow the former client's instruction to refuse compliance because the privilege belongs to the former client
- B. The lawyer should comply with the court order after making and exhausting reasonable challenges, because Rule 1.6(b)(6) permits disclosure to comply with court orders
- C. The lawyer must seek the former client's express written consent before complying with the order
- D. The lawyer may comply only after providing the former client thirty days' written notice to seek alternative counsel

24. A lawyer represents a corporation in commercial litigation. Discovery requests have been served, and the lawyer is overseeing document production. She discovers that a senior corporate manager has been "cleaning up" emails relevant to the dispute by deleting them. Which course of action is BEST?

- A. The lawyer should advise the manager to continue routine document management practices
- B. The lawyer should instruct the corporation to immediately suspend any document destruction, implement a litigation hold, and take reasonable steps to recover or preserve relevant materials
- C. The lawyer should withdraw from the representation to avoid any association with the destruction
- D. The lawyer should report the manager's conduct to opposing counsel immediately

25. Five years ago, a lawyer represented Inventor X in obtaining a patent on a particular widget design. The lawyer's work involved detailed knowledge of X's manufacturing process, cost structure, and competitive strategy. The lawyer is now approached by Competitor Y, who wishes to retain the lawyer to challenge X's patent in an inter partes review. Which statement MOST accurately describes the lawyer's position?

- A. The lawyer may accept because the inter partes review is a different proceeding from the original patent application
- B. The lawyer may accept because the five-year gap has eliminated any continuing duty to X
- C. The lawyer is disqualified under Rule 1.9(a) because the new matter is substantially related to the prior representation and would require the lawyer to use confidential information against the former client
- D. The lawyer may accept if X has actually used the patent commercially in the intervening period

26. A prosecutor learns on the eve of trial that a key prosecution witness has a prior conviction for perjury that was not previously disclosed in the discovery responses. The prosecutor believes the conviction is admissible impeachment evidence. Which course of action is BEST?

- A. The prosecutor may withhold the information until the witness is cross-examined, allowing the defense to discover it through its own efforts
- B. The prosecutor may rely on the defense's ability to investigate the witness's background independently
- C. The prosecutor must disclose the prior perjury conviction promptly because Rule 3.8(d) requires disclosure of evidence tending to negate guilt, including impeachment evidence going to the credibility of a key witness
- D. The prosecutor must disclose only if the defense specifically requests information about prior convictions

27. A lawyer specializing in elder law learns that a particular senior living facility has many residents who may need estate planning services. She wishes to develop business at the facility. Which course of action is MOST consistent with Rule 7.3?

- A. The lawyer may give a free educational lecture about estate planning at the facility, provide written materials with her contact information, and follow up with attendees who request information
- B. The lawyer may visit individual residents door-to-door at the facility to discuss their estate planning needs

C. The lawyer may pay the facility's activities coordinator a per-resident referral fee for each resident who retains her

D. The lawyer may post staff in the facility's common areas to identify residents who appear to need legal services and approach them individually

28. A lawyer learns from a credible third-party source that another lawyer in her community has been involved in serious financial irregularities at his firm that suggest theft of client funds. The information was not obtained during the representation of any client. The reporting lawyer reasonably believes the conduct raises a substantial question about the other lawyer's honesty. Which course of action is BEST?

A. The lawyer must report the other lawyer's conduct to the appropriate disciplinary authority because Rule 8.3(a) requires reporting of conduct raising substantial questions about another lawyer's honesty

B. The lawyer may report only after personally confronting the other lawyer to allow him to provide an explanation

C. The lawyer should report the conduct to the other lawyer's firm rather than to the disciplinary authority

D. The lawyer has no reporting obligation because the information came from a third party rather than from her own observation

29. During settlement negotiations in a commercial dispute, a lawyer represents to opposing counsel that her client "absolutely will not accept less than \$1.2 million" to settle the case. In fact, the client has authorized the lawyer to settle for \$900,000. Which statement BEST describes the lawyer's conduct under Rule 4.1?

A. The lawyer's statement violates Rule 4.1 because it is a knowing false statement of material fact

B. The lawyer's statement violates Rule 4.1 only if opposing counsel actually relies on it to reduce the demand

C. The lawyer's statement is improper if discovered but does not constitute a Rule 4.1 violation

D. The lawyer's statement does not violate Rule 4.1 because statements about a party's negotiating positions and reservation prices are generally treated as non-actionable puffery, not statements of material fact

30. A lawyer fails to file a complaint within the statute of limitations, causing the client's claim to be barred. The client sues the lawyer for malpractice and also files a disciplinary complaint. Which statement BEST describes the relationship between the two proceedings?

- A. The disciplinary proceeding must be resolved before the malpractice action can proceed
- B. A favorable malpractice judgment for the client conclusively establishes a Rule 1.3 disciplinary violation
- C. A disciplinary finding of no violation conclusively establishes that no malpractice occurred
- D. The malpractice action and disciplinary proceeding are independent: each has its own elements, standards of proof, and consequences, and a finding in one does not automatically determine the other

31. A self-represented litigant approaches a lawyer for help drafting a single brief in an ongoing appeal. The litigant cannot afford full representation. The lawyer is willing to help with the brief only, and the litigant will file and present argument herself. Which statement BEST describes the lawyer's obligations?

- A. The lawyer must enter a formal appearance with the court before drafting any pleading
- B. The lawyer may undertake the limited scope representation if the limitation is reasonable under the circumstances, the client gives informed consent, and the lawyer can competently provide services within the limited scope
- C. The lawyer may draft the brief but must label it clearly as having been prepared with attorney assistance
- D. Limited scope representation is not permitted in appellate matters because of their complexity

32. An insurance company retains a lawyer to defend its insured under a liability policy. The insurer instructs the lawyer to share with it all developments in the litigation, including the insured's confidential communications relating to defense strategy. Which statement BEST describes the lawyer's obligations?

- A. The lawyer must follow the insurer's instructions because the insurer is paying the fees
- B. The lawyer's primary duties run to the insured-client, and confidential information may be shared with the insurer only with the insured's informed consent, consistent with Rule 1.8(f) and Rule 1.6
- C. The lawyer must withdraw from the representation because the insurer's interests will inevitably conflict with the insured's
- D. The lawyer may share all information with the insurer because tripartite insurance defense relationships are exempted from Rule 1.6

33. A lawyer holds \$200,000 in trust from a settlement. The lawyer's contingent fee, undisputed, is \$80,000. The settlement is subject to a hospital lien of \$40,000; the lawyer believes the lien is valid, but the client disputes the lien entirely. Which distribution is BEST?

- A. Distribute the entire \$200,000 to the client and let the lien dispute be resolved through separate proceedings
- B. Distribute the entire amount to the parties involved according to the lawyer's belief about the lien's validity
- C. Hold the entire \$200,000 in trust until the lien dispute is resolved
- D. Distribute \$80,000 to the lawyer, distribute \$80,000 to the client (the undisputed client portion), and hold \$40,000 in trust pending resolution of the lien dispute

34. A lawyer in a personal injury case wishes to retain a treating physician as an expert witness. The physician requests payment of \$400 per hour for preparation and testimony, plus reimbursement of travel costs. The lawyer's client has agreed to bear the witness expense. Which statement BEST describes the permissibility of the arrangement?

- A. The arrangement violates Rule 3.4(b) because no payment to a witness beyond statutory fees is permitted
- B. The arrangement is permitted because Rule 3.4(b) allows reasonable compensation to expert witnesses for professional time and reasonable expenses, provided the payment is not contingent on the case outcome
- C. The arrangement is permitted only if opposing counsel consents in writing to the fee
- D. The arrangement is permitted only if the court approves the rate as reasonable for the locality

35. A sitting state court judge is running for re-election in a contested race. She wishes to engage in campaign activities to defend her record. Which course of action is BEST?

- A. The judge may form a campaign committee that solicits and accepts contributions on her behalf, while she personally refrains from soliciting funds from bar members
- B. The judge may personally solicit contributions from lawyers who do not regularly appear before her, since the coercion concern does not apply to those lawyers
- C. The judge may personally solicit contributions from any source as long as she does not promise specific rulings in exchange
- D. The judge may not engage in any campaign activity because doing so necessarily compromises her impartiality

36. A lawyer represents a regional hospital in employment matters. A nurse who has worked at the hospital for ten years approaches the lawyer to represent her in a wage-and-hour claim against the hospital. The wage-and-hour claim involves issues distinct from the lawyer's employment matters work for the hospital. Which statement BEST describes the lawyer's position?

- A. The lawyer may accept the representation because the matters are factually unrelated
- B. The lawyer may accept the representation provided she does not disclose any of her work for the hospital to the nurse
- C. The lawyer has a Rule 1.7(a)(1) conflict because the representation would involve directly suing a current client; the lawyer may not undertake the matter absent informed consent confirmed in writing from both
- D. The lawyer may accept the representation if she discloses to the nurse that she also represents the hospital in other matters

37. A lawyer is approached by a new client about a complex commercial matter. The client requests an estimate of fees and the lawyer projects approximately \$40,000 based on time at \$400 per hour. Which course of action is BEST?

- A. An oral fee agreement is sufficient because the lawyer and client have discussed the rate
- B. The fee should be put in writing only if the matter becomes contentious
- C. The lawyer may proceed without any documentation as long as her standard practices are followed
- D. The lawyer should communicate the scope of the representation and the basis or rate of the fee in writing before or within a reasonable time after commencing the representation, as Rule 1.5(b) requires for new clients

38. A solo practitioner has accepted nearly twice the typical workload over the past year and has begun missing deadlines and providing reduced quality work on multiple matters. She believes she can pull through if she works harder. Which course of action is BEST?

- A. The lawyer should reduce her caseload by transitioning matters, declining new engagements, and assessing whether her existing clients are receiving competent representation; continuing at this load violates Rules 1.1 and 1.3
- B. The lawyer should continue accepting all new matters and address the workload concerns through harder work

- C. The lawyer should hire an unsupervised paralegal to handle the increased workload
- D. The lawyer should raise her rates significantly so she can take fewer matters while maintaining her income

39. A married couple approaches a lawyer to draft mutual wills. The couple's interests appear aligned. During the initial consultation, the lawyer learns that the husband has been secretly supporting an estranged adult child whom the wife does not know about, and the husband wishes to include that child in his will without telling the wife. Which course of action is BEST?

- A. The lawyer should explain to the husband that she cannot keep the bequest secret from the wife if she undertakes joint representation, then determine whether either or both want individual representation or whether to disclose the bequest as a condition of joint representation
- B. The lawyer may proceed with joint representation, keeping the husband's secret bequest confidential under Rule 1.6
- C. The lawyer should refuse to draft any will for either spouse if the husband insists on secrecy
- D. The lawyer should draft separate wills without disclosing to either spouse the contents of the other's will

40. A lawyer in pending litigation receives a phone call from the judge's law clerk asking whether the lawyer can move a scheduled hearing from Wednesday to Thursday because of a conflict in the judge's calendar. Opposing counsel is not on the call. Which course of action is BEST?

- A. The lawyer should answer the question without further consideration since scheduling is administrative
- B. The lawyer may respond to the scheduling inquiry but must promptly inform opposing counsel of the substance of the communication and the response provided
- C. The lawyer must refuse to discuss any scheduling matter without opposing counsel on the line
- D. The lawyer may agree to the new date based on her own calendar and inform opposing counsel only when she serves the new notice

41. A two-lawyer firm uses the name "Smith Law Group" on its letterhead and website. The firm has no other lawyers, only one paralegal, and a part-time bookkeeper. The website's "Our Team" section lists the two lawyers, the paralegal, and the bookkeeper with their photos and titles. Which statement BEST describes the firm name's permissibility?

- A. The name violates Rule 7.1 because "Group" implies multiple lawyers
- B. The name is permissible because "Smith Law Group" is a recognizable trade name and the website accurately discloses who is in the firm; "Group" does not specifically imply a particular number of lawyers
- C. The name is permissible only if the website omits all reference to non-lawyer team members
- D. The name violates Rule 7.1 because trade names are categorically banned in attorney advertising

42. Three months into a complex litigation matter, the client's circumstances change materially — she is now considering bankruptcy, which would substantially affect the lawyer's collection of fees and may also affect the litigation strategy. Which course of action is BEST?

- A. The lawyer should promptly communicate with the client about the implications of the change and consult on next steps under Rule 1.4, recognizing the change may raise personal-interest conflict concerns under Rule 1.7
- B. The lawyer should immediately withdraw from the representation to protect her fee
- C. The lawyer should continue working without addressing the change because the client has not asked her to do so
- D. The lawyer should report the change to the court so it can rule on appropriate adjustments to the litigation schedule

43. A state bar receives an inquiry about a lawyer who has performed no pro bono work in her 25-year career, has refused all court appointments, and has declined every voluntary opportunity to serve persons of limited means. The lawyer's other professional conduct is unobjectionable. Which statement BEST describes the likely disciplinary outcome?

- A. The lawyer will be publicly censured for failure to meet the 50-hour pro bono aspiration
- B. The lawyer will be suspended for one year as a sanction for the prolonged refusal
- C. The lawyer will be required to perform a specific minimum number of pro bono hours over the next year
- D. No discipline will be imposed because Rule 6.1's pro bono service expectation is aspirational and not enforceable through the disciplinary process

44. A lawyer for a publicly traded corporation discovers that the chief financial officer is misrepresenting financial results in ways that may expose the corporation to significant regulatory liability. The CFO refuses to take corrective action when confronted. Which course of action is BEST under Rule 1.13?

- A. Refer the matter up the chain to higher authority within the corporation, including, if warranted by the seriousness of the misconduct, to the board of directors or other highest authority that can act on the corporation's behalf
- B. Resign from the representation without addressing the misconduct further
- C. Immediately disclose the misconduct to the SEC and other relevant regulators
- D. Continue the representation and warn the CFO that any continued misconduct will be reported

45. A lawyer's deceased client's estate has been subpoenaed in a civil suit. The subpoena seeks communications between the lawyer and the deceased client. The client's executor instructs the lawyer not to disclose the communications. Which statement BEST describes the lawyer's obligations?

- A. The attorney-client privilege expired with the client's death; the lawyer must comply with the subpoena
- B. The lawyer must comply with the subpoena because the dispute is between third parties and not between the lawyer and the deceased client
- C. The lawyer should assert the privilege on the estate's behalf because attorney-client privilege survives the client's death and is held by the personal representative
- D. The lawyer should comply with the subpoena only if the deceased client's family unanimously consents to the disclosure

46. A lawyer admitted to practice only in State A opens a regularly staffed office in State B and begins routinely providing legal services to State B clients on State B law matters without admission. She does not represent that she is admitted in State B but does not specifically correct that misimpression. Which statement BEST describes her position?

- A. The lawyer's conduct is permitted because she does not affirmatively claim to be admitted in State B
- B. The lawyer's conduct violates Rule 5.5(b), which prohibits a lawyer not admitted in a jurisdiction from establishing an office or other systematic and continuous presence for the practice of law in that jurisdiction

C. The lawyer's conduct is permitted because the temporary multijurisdictional practice rules cover ongoing client service

D. The lawyer's conduct is permitted because she maintains her State A admission

47. During closing argument in a personal injury case, a lawyer makes the following statements: "I have personally interviewed every witness in this case. I can tell you that the plaintiff was telling you the truth. In my twenty years of practice, I have never seen a more deserving plaintiff." Which statement BEST describes the propriety of the lawyer's argument?

A. The argument is proper because closing argument permits broad latitude for rhetorical flourish

B. The argument is proper because the lawyer's professional experience is relevant context for the jury

C. The argument is proper because every statement made by the lawyer was a true statement of her honest belief

D. The argument violates Rule 3.4(e), which prohibits asserting personal knowledge of facts in issue and stating personal opinions on witness credibility

48. A lawyer worked for the FTC for seven years, during which she personally and substantially participated in negotiating consent decrees with several large companies. After leaving the FTC, she joins a private law firm. One of those companies wishes to retain her new firm to seek modifications to the consent decree she negotiated. Which statement BEST describes the firm's position?

A. The firm may freely undertake the representation because the lawyer is no longer with the government

B. The firm may undertake the representation because the lawyer's prior work was on behalf of the company's interests

C. The firm may undertake the representation only with government agency informed consent in writing, timely screening of the lawyer with no fee apportionment, and written notice to the agency

D. The firm is permanently barred from representing any company against which the lawyer worked at the FTC

49. A client tells her lawyer that she wishes to settle a personal injury case for the highest amount possible, but she does not want to give a deposition because she finds the process emotionally difficult. Opposing counsel has noticed her deposition. Which statement BEST describes the lawyer's obligations?

- A. The lawyer must defer to the client's preference and seek to avoid the deposition because the client controls the means of the representation
- B. The lawyer must conduct the deposition exactly as the client prefers, including coaching answers if the client requests
- C. The lawyer should consult with the client about the importance of testimony and how to manage her discomfort; the client decides objectives, the lawyer's judgment guides means
- D. The lawyer should refuse to attend the deposition unless the client agrees to follow all of the lawyer's instructions

50. A former client sues her lawyer for malpractice, alleging the lawyer's negligent advice caused her to lose a business opportunity. The lawyer concedes the advice was negligent. The lawyer's defense is that the business opportunity would have failed even with proper advice. Which statement BEST describes what the client must prove?

- A. The client need only prove that the advice was negligent because liability follows from breach of duty
- B. The client must prove that the lawyer acted with intent to harm her business
- C. The client must prove that the lawyer was subsequently disciplined for the conduct
- D. The client must prove that she would have realized the business opportunity but for the negligent advice — the "case within a case" causation requirement — and that she suffered actual damages

51. A judge presiding over a complex civil case becomes aware of a unique procedural question that has arisen mid-trial. She wishes to consult with a colleague judge in the same courthouse who has expertise in similar procedural matters. The colleague has no involvement in the case. Which statement BEST describes whether the consultation is permitted?

- A. The consultation is permitted under Rule 2.9(A)(3), which allows a judge to consult with court personnel or other judges not involved in the proceeding, provided the consulting judge does not abrogate her responsibility to decide
- B. The consultation is permitted only if the parties consent in advance
- C. The consultation is permitted only if the colleague is the chief judge or presiding judge
- D. The consultation is not permitted because it would constitute an improper ex parte communication

52. A lawyer represents a buyer in a residential real estate transaction. The seller's lawyer asks her whether her client is aware of any defects in the property. The lawyer's client has told her about significant water damage in the basement that the seller's pre-listing inspection apparently missed. Which statement BEST describes the lawyer's obligations?

- A. The lawyer must immediately disclose the water damage to the seller's lawyer in the spirit of professional cooperation
- B. The lawyer must disclose the water damage because failing to do so would violate Rule 4.1
- C. The lawyer may neither confirm nor deny knowledge of any defects
- D. The lawyer is not required to volunteer information adverse to her client's position; she may decline to answer or deflect without making any false statement, since Rule 4.1 prohibits false statements but does not impose an affirmative duty to disclose information harmful to the client

53. A lawyer maintains an IOLTA account into which she pools small or short-term client funds. Interest earned on the IOLTA account is paid to the state's legal services foundation. A client whose funds are pooled in the IOLTA account asks the lawyer to pay her the interest earned on her portion of the funds. Which statement BEST describes the lawyer's response?

- A. The lawyer must pay the interest to the client because she earned it on the client's funds
- B. The lawyer should refuse the request and continue depositing the interest with the legal services foundation
- C. The lawyer should explain that IOLTA-qualifying funds generate interest going to the legal services foundation under state authorization; if the client's funds warrant separate handling, an interest-bearing account should be established for the client
- D. The lawyer should withdraw the client's funds from the IOLTA account and place them in her operating account to avoid the interest issue

54. A lawyer who has practiced patent law for twelve years and is registered with the USPTO wishes to advertise her practice. Which statement BEST describes the language she may use under Rule 7.4 (or the equivalent provision in jurisdictions that have consolidated Rule 7.4 into Rule 7.1)?

- A. She may describe herself as a "certified specialist in patent law" because of her experience
- B. She may describe herself as an "expert patent attorney" without restriction

C. She may identify herself as a registered patent attorney before the USPTO, since federal patent practice involves a recognized form of registration that the rules permit identifying

D. She may describe herself as having "patent law specialty designation" without further qualification

55. A lawyer is critical of a recent appellate court decision and wishes to publish an analysis in a bar journal. Her article will state that the court's ruling "demonstrates a troubling pattern of result-oriented decision-making by certain members of the court." Her statement is based on a series of identifiable rulings and represents her honest, reasoned interpretation. Which statement BEST describes Rule 8.2 implications?

A. The lawyer must withdraw the statement because any criticism of a court's reasoning violates Rule 8.2

B. The lawyer must omit any references to specific judges to avoid Rule 8.2 implications

C. The lawyer must obtain prior approval from the court before publishing her analysis

D. The statement is permissible under Rule 8.2 because the rule prohibits only statements that the lawyer knows to be false or makes with reckless disregard for truth, and reasoned critical analysis grounded in identified decisions falls outside that prohibition

56. A lawyer accidentally sends a privileged email to opposing counsel instead of co-counsel. Opposing counsel realizes upon opening the email that it was clearly inadvertent. Which statement BEST describes opposing counsel's obligations under Rule 4.4(b)?

A. Opposing counsel may read the email carefully and use the information learned to her client's advantage

B. Opposing counsel must immediately delete the email without further review or notification

C. Opposing counsel must promptly notify the sending lawyer of the inadvertent disclosure; further questions about returning or sequestering the document are governed by case law and procedural rules, not Rule 4.4(b) itself

D. Opposing counsel may share the email with her client but must keep it confidential from third parties

57. A lawyer's standard engagement letter includes a clause stating that "the lawyer's total liability shall not exceed the total fees actually paid by the client for the matter." The client signs the agreement without consulting any other counsel. After a malpractice claim arises, the lawyer asserts the clause as a complete defense limit. Which statement BEST describes the clause's enforceability?

- A. The clause is fully enforceable because the client signed the engagement letter voluntarily
- B. The clause is unenforceable under Rule 1.8(h)(1), which prohibits prospectively limiting the lawyer's malpractice liability to a client unless the client is independently represented in making the agreement
- C. The clause is enforceable up to the cap amount, with damages above that limit unrecoverable
- D. The clause is enforceable only if the lawyer notified the client orally of the limitation before signature

58. A lawyer serves as a mediator in a commercial dispute between Companies X and Y. The mediation is unsuccessful, and Company X subsequently approaches the lawyer to represent it in the related litigation that has now begun. Which statement BEST describes the lawyer's position?

- A. The lawyer may freely represent Company X because the mediation produced no resolution
- B. The lawyer may represent Company X if Company Y is notified of the prior mediation
- C. The lawyer may represent Company X only if all parties to the mediation give informed consent confirmed in writing, under Rule 1.12(a)
- D. The lawyer is permanently barred from representing either party in any subsequent matter, regardless of consent

59. A lawyer is preparing her own client to testify at deposition. The lawyer wants to ensure the client gives accurate, complete, and helpful testimony. Which course of action is BEST?

- A. The lawyer should tell the client what to say on specific factual points to maximize favorable testimony
- B. The lawyer should rehearse the client's testimony word-for-word until the answers are memorized
- C. The lawyer may review the facts with the client, explain the deposition process, discuss likely questions, instruct the client to tell the truth, and provide guidance on how to listen carefully and answer only what is asked
- D. The lawyer should provide the client with a written script of all potential answers to anticipated questions

60. A managing partner of a 30-lawyer firm becomes aware that one of her associates has begun displaying patterns of substance abuse that are starting to affect his work. Several clients have complained about returned phone calls and missed deadlines. Which course of action is BEST?

- A. Under Rule 5.1(a) and (b), the managing partner must take reasonable remedial measures, which may include intervention, assistance through a lawyer assistance program, reassigning matters, and ensuring client matters are competently handled
- B. The managing partner should immediately fire the associate to protect the firm's clients
- C. The managing partner has no obligations because the associate is responsible for his own conduct under Rule 5.2
- D. The managing partner should wait until the associate's conduct rises to a clear Rule violation before taking action

Practice Exam 7 — Answer Key and Explanations

1. C — Rule 8.4(b) covers criminal acts that reflect adversely on a lawyer's honesty, trustworthiness, or fitness, regardless of any connection to the lawyer's practice. Falsification of personal tax records is precisely the kind of dishonesty-related conduct the rule reaches; the lack of practice connection does not insulate the lawyer.
2. B — Rule 1.2(a) reserves the settlement decision to the client and requires specific authorization for the particular offer, not merely prior discussion of a range. Acting before the client returns and personally authorizes the specific terms would substitute the lawyer's judgment for the client's reserved decision.
3. D — Once a conflict between joint clients becomes non-consentable and cannot be cured, Rule 1.7 with Rule 1.16 requires withdrawal from both representations. Continuing to represent one against the other would convert the former joint client into an adverse former client, violating Rule 1.9 duties of loyalty and confidentiality.
4. A — Rule 3.3(a)(3) imposes a graduated duty when the lawyer learns that material evidence she offered was false: remonstrate with the client, then withdraw if that will rectify the situation, then disclose to the tribunal if necessary. The duty extends through the conclusion of the proceeding and overrides Rule 1.6 confidentiality.
5. B — Rule 1.6(b)(2) permits disclosure of confidential information to prevent the client from committing a crime or fraud reasonably certain to result in substantial injury to the financial interests of another, where the client is using the lawyer's services. The lawyer's prior warning to the client did not eliminate the lawyer's discretion to disclose to prevent the ongoing fraud.
6. D — Rule 1.1 (competence), Rule 1.4 (communication), and Rule 1.16 (withdrawal) work together when a lawyer recognizes she cannot competently complete a matter. Promptly informing the client and either associating with experienced counsel (with consent) or withdrawing protects the client and complies with the rules.
7. D — In most jurisdictions, a discharged contingent-fee lawyer may recover on a quantum meruit basis for the reasonable value of work performed, subject to jurisdiction-specific limitations (such as recovery only upon the client's eventual recovery). Continuing work after discharge, charging the full contingent fee, or recovering nothing all overstate or understate the lawyer's rights.
8. C — Rule 1.7 Comment 22 recognizes that advance waivers from sophisticated clients with experienced counsel are more likely valid, but the doctrine generally limits enforceability to

conflicts the client could reasonably anticipate. Unforeseen substantial conflicts typically require renewed consent even when the client is sophisticated.

9. A — Rule 4.2 Comment 7 permits direct contact with former employees of a represented organization without organizational counsel's consent. The lawyer must still avoid eliciting privileged information of the organization and must comply with Rule 4.3's requirements regarding her role when dealing with unrepresented persons.
10. A — Rule 3.1 explicitly permits a lawyer to bring a claim that has no current legal support if the lawyer can make a good-faith argument for an extension, modification, or reversal of existing law. A colorable argument for a novel statutory interpretation falls squarely within this exception.
11. B — The reciprocal discipline doctrine creates a presumption that comparable discipline is warranted, with the respondent bearing the burden of establishing a recognized ground for departure. Recognized grounds include denial of due process in the original proceeding, no violation under the receiving jurisdiction's rules, or that imposition of the same sanction would work a grave injustice.
12. D — The attorney-client privilege requires that the communication be made to a lawyer (or person working under lawyer direction) for the purpose of obtaining legal advice. Communications with a non-lawyer consultant for non-legal-advice purposes do not satisfy the privilege's requirements, regardless of the in-house origin or the sensitivity of the content.
13. C — Rule 1.10(a)(2) creates a screening exception for migratory lawyers' Rule 1.9 conflicts. The exception requires timely and effective screening of the conflicted lawyer, no apportionment of fee, and written notice to the affected former client with prescribed certifications.
14. C — Rule 2.3 permits a lawyer to undertake an evaluation of a matter for a third person's use only if the lawyer reasonably believes the evaluation is compatible with the client relationship. Informed consent is required when the evaluation is likely to materially and adversely affect the client's interests.
15. A — Rule 1.6(b)(5) permits disclosure of confidential information to establish a claim by the lawyer in a controversy between the lawyer and the client, including fee disputes. Attorney lien rights are jurisdiction-specific but generally recognized, and the lawyer may pursue collection through proper civil channels.
16. D — Rule 1.1 establishes competence as the operative duty; cost considerations cannot displace the obligation. The lawyer must either associate with a tax specialist (with client consent and disclosure of fee passing) or refer the client to specialized counsel to ensure adequate representation in the unfamiliar area.
17. B — Rule 7.4 (or post-consolidation Rule 7.1) permits accurate practice-concentration claims such as "practice concentrates on" or "practice is limited to" particular areas, provided the statements are truthful. "Certified specialist" requires actual certification; "expert" and "leading" risk creating unjustified expectations about results.
18. B — Rule 2.11(A)(2) requires mandatory disqualification only when the family member is a party or an officer, director, or trustee of a party — not when a relative is a mid-level employee with no connection to the dispute. The catch-all standard supports disclosure on the record with potential remittal, which is the safer practice given the family connection.
19. D — Rule 3.3 imposes a graduated framework when the lawyer faces a defendant who intends to testify falsely. The lawyer must first remonstrate, then seek to withdraw if possible, and if withdrawal is denied may use jurisdiction-recognized compliance methods that preserve the defendant's constitutional right to testify while satisfying the duty of candor.

20. B — Random compliance audits are an accepted regulatory mechanism, and a lawyer must cooperate. Refusing to cooperate would itself violate Rule 8.1's prohibition on knowingly failing to respond to a lawful demand from a disciplinary authority.
21. A — Rule 1.7(a)(1) creates direct adversity when a firm represents one client suing another current client, regardless of whether the underlying matters are factually related. The conflict is consentable, but informed consent confirmed in writing from both clients is required before either representation may continue.
22. A — Rule 1.6 disclosure must be expressly authorized. Confirming the scope of the authorization in writing — what information may be shared, with whom, and any limitations — protects against later misunderstandings and helps preserve any applicable privileges that could be affected by third-party disclosure.
23. B — Rule 1.6(b)(6) permits a lawyer to disclose otherwise-confidential information to comply with a court order after making and exhausting reasonable challenges. Once the lawyer has done so, compliance is permitted; the former client's instruction does not override the court's order.
24. B — Once litigation is reasonably anticipated, the duty to preserve relevant evidence attaches, and Rule 3.4(a) prohibits unlawful obstruction of evidence and counseling or assisting another to do so. The lawyer must direct the corporation to halt destruction, implement a litigation hold, and preserve relevant materials.
25. C — Rule 1.9(a) bars representation when the new matter is substantially related to the prior representation and the new client's interests are materially adverse. Confidential information about manufacturing process, cost structure, and competitive strategy from the patent work would materially advance the competitor's position in the inter partes review.
26. C — Rule 3.8(d) requires timely disclosure of evidence tending to negate guilt, and courts interpret this duty to include impeachment evidence affecting the credibility of material witnesses. Prior perjury convictions of a key prosecution witness fall squarely within the disclosure obligation, regardless of defense request.
27. A — Rule 7.3 permits educational presentations and written communications to potential clients with truthful content. Following up with attendees who voluntarily request information is consistent with the rule; in-person door-to-door solicitation, paying referral fees, and staff-directed identification of clients are all impermissible under Rule 7.2 and 7.3.
28. A — Rule 8.3(a) requires reporting of another lawyer's misconduct when the lawyer knows that the conduct raises a substantial question about that lawyer's honesty, trustworthiness, or fitness. The source of the information (third party vs. direct observation) does not affect the reporting duty as long as the lawyer's knowledge meets the threshold.
29. D — Rule 4.1 Comment 2 expressly recognizes that statements about a party's negotiating positions and reservation prices are conventionally treated as non-actionable puffery rather than material fact. Aggressive positioning during negotiation is part of accepted practice; the rule reaches fabricated facts about a third party or transaction, not strategic statements about the client's own bottom line.
30. D — Malpractice and disciplinary proceedings are independent processes with separate elements, standards of proof, and consequences. A finding in one does not automatically determine the other; the Scope provision of the Model Rules expressly states that violation of a disciplinary rule does not give rise to civil liability by itself.
31. B — Rule 1.2(c) permits limited scope representation if the limitation is reasonable under the circumstances and the client gives informed consent. Drafting a discrete pleading for a self-

represented litigant is a recognized form of unbundled service, and competence (Rule 1.1) must still be satisfied within the limited scope.

32. B — Rule 1.8(f) governs third-party fee payment and requires no interference with independent judgment, client informed consent, and Rule 1.6 protection of confidential information. The insurer's payment does not transform the insured into a secondary client; the lawyer's primary duties run to the insured, and sharing strategy information requires the insured's consent.
33. D — Rule 1.15(e) requires the lawyer to hold disputed portions of funds in trust pending resolution and to distribute undisputed portions promptly. The lawyer's \$80,000 fee is undisputed, the client's undisputed minimum portion is \$80,000 (the recovery less the fee and the maximum lien amount), and the disputed \$40,000 lien stays in trust.
34. B — Rule 3.4(b) permits reasonable compensation to expert witnesses for professional time and reasonable expenses, provided the payment is not contingent on the case outcome. Standard hourly rates for a treating physician acting as expert and reimbursement of travel costs are routinely permitted.
35. A — The Model Code of Judicial Conduct prohibits judicial candidates from personally soliciting campaign contributions but permits a campaign committee to solicit and accept contributions on the candidate's behalf. This mechanism exists specifically to address the coercion concern inherent in a sitting judge directly asking bar members for money.
36. C — Rule 1.7(a)(1) creates direct adversity when the lawyer would sue a current client on behalf of another client, regardless of subject-matter relatedness. The wage-and-hour claim's distinctness from the lawyer's other hospital work does not eliminate the conflict; informed consent confirmed in writing from both is required.
37. D — Rule 1.5(b) requires the lawyer to communicate the scope of the representation and the basis or rate of the fee in writing to new clients, before or within a reasonable time after commencing representation, except for fees that are predictably routine and similar to those previously charged. Documentation protects both client and lawyer and is now standard practice for substantial matters.
38. A — Rule 1.3 Comment 2 expressly requires lawyers to control their workload so that each matter can be handled competently. Once representation becomes inadequate, the lawyer's duty is to reduce intake, transition existing matters as appropriate, and ensure that current clients receive competent representation, not to work harder under the same load.
39. A — Joint representation cannot maintain secret information between the joint clients; confidentiality is held against third parties, not as between them. The lawyer must address the secrecy issue directly with the husband and determine the appropriate path forward, which may include separate representation or disclosure as a condition of joint representation.
40. B — Brief administrative or scheduling communications with court personnel are permitted under Rule 3.5(b)'s practical exceptions, but the lawyer must promptly notify opposing counsel of the substance of any such ex parte communication. This protects the no-ex-parte principle while allowing necessary court logistics to proceed.
41. B — Rule 7.1 prohibits misleading communications about a lawyer's services, including misleading firm names, but the historical categorical ban on trade names has been relaxed under the modern ABA approach. "Group" is a generic term that does not specifically imply any particular number of lawyers, and the website's accurate disclosure of who is in the firm prevents misleading impression.
42. A — Material changes in the client's circumstances trigger the Rule 1.4 communication duty to consult about implications for the representation. Bankruptcy may also affect the lawyer's fee

collection in ways that create personal-interest conflict concerns under Rule 1.7, warranting consultation with the client about next steps.

43. D — Rule 6.1 expresses an aspiration that every lawyer perform at least 50 hours of pro bono service annually, but the rule is expressly hortatory and not enforceable through discipline. Long-term refusal to perform pro bono service does not subject the lawyer to disciplinary action despite the rule's importance.
44. A — Rule 1.13(b) requires the organizational lawyer to refer matters involving substantial injury up the chain of authority, including, if warranted, to the highest authority that can act on the organization's behalf. The CFO's refusal to correct the misconduct triggers the reporting-up obligation, with the board of directors as the typical highest authority.
45. C — The attorney-client privilege belongs to the client, not the lawyer, and survives the client's death. The privilege passes to the personal representative of the estate, who controls its assertion or waiver. The executor's instruction to maintain the privilege is the controlling authority for the lawyer's response to the subpoena.
46. B — Rule 5.5(b) prohibits a lawyer not admitted in a jurisdiction from establishing an office or other systematic and continuous presence for the practice of law. Opening a regularly staffed office and routinely providing services to State B clients on State B law falls precisely within the prohibited conduct, regardless of whether the lawyer affirmatively misrepresents her admission status.
47. D — Rule 3.4(e) prohibits a lawyer in trial from asserting personal knowledge of facts in issue (except when testifying as a witness) and from stating personal opinions on the credibility of a witness, the justness of a cause, or the guilt or innocence of an accused. The lawyer's vouching for the plaintiff based on personal experience violates both prongs of the rule.
48. C — Rule 1.11(a) prohibits a former government lawyer from representing a private client in connection with a matter in which she participated personally and substantially as a government lawyer, absent appropriate agency consent confirmed in writing. Rule 1.11(b) extends the prohibition to the firm unless the lawyer is timely screened, apportioned no fee, and the agency receives written notice.
49. C — Rule 1.2(a) divides authority: the client decides the objectives, and the lawyer decides the means. The decision about whether to give a deposition is governed by court process — the lawyer's professional judgment guides the means while the client's objectives are pursued. Consultation about how to manage discomfort while complying with discovery obligations is required.
50. D — Legal malpractice requires duty, breach, causation, and damages. The "case within a case" doctrine requires the plaintiff to prove that the underlying outcome would have been different but for the lawyer's negligence. Conceded breach without proof of causation and damages is insufficient to support recovery.
51. A — Rule 2.9(A)(3) of the Model Code of Judicial Conduct permits a judge to consult with court staff and other judges who are not involved in the proceeding, provided the judge does not abrogate her responsibility to personally decide the matter. Consultation on procedural questions with an uninvolved colleague falls squarely within the exception.
52. D — Rule 4.1(a) prohibits knowingly making false statements of material fact, but does not impose an affirmative duty to volunteer information adverse to the client. The lawyer can decline to answer or deflect without violating the rule, provided she makes no false statement; Rule 4.1(b) only requires disclosure to avoid assisting client crime or fraud, which buyer-side awareness of seller-side defects does not present.

53. C — IOLTA programs operate under state authorization, with interest from pooled small or short-term client funds directed to legal services foundations. When client funds are substantial enough to generate net interest exceeding administrative costs, the lawyer must establish a separate interest-bearing account with the client as beneficiary; this is the IOLTA framework's standard answer to such inquiries.
54. C — Rule 7.4 (or modern equivalent) specifically permits a lawyer engaged in patent practice to identify herself as a registered patent attorney before the USPTO. This is one of the recognized exceptions to the "certified specialist" restriction; "certified specialist" requires actual certification, and "expert" and unqualified "specialty" claims risk misleading impressions.
55. D — Rule 8.2(a) prohibits known-false statements or statements made with reckless disregard for truth concerning a judge's qualifications or integrity. Reasoned, opinion-style critical analysis grounded in identifiable judicial decisions does not meet the reckless-disregard standard and falls within protected lawyer speech.
56. C — Rule 4.4(b) requires only that the receiving lawyer promptly notify the sending lawyer of an inadvertent disclosure. Whether the receiving lawyer must return, sequester, or refrain from using the document is governed by case law and procedural rules in the jurisdiction, not by Rule 4.4(b) itself.
57. B — Rule 1.8(h)(1) prohibits a lawyer from prospectively limiting her malpractice liability to a client unless the client is independently represented in making the agreement. A unilateral liability cap in a standard engagement letter signed by an unrepresented client falls squarely within the prohibition and is unenforceable.
58. C — Rule 1.12(a) prohibits a lawyer from representing anyone in connection with a matter in which the lawyer participated personally and substantially as a mediator or other third-party neutral, unless all parties to the proceeding give informed consent confirmed in writing. The unsuccessful outcome of the mediation does not eliminate the disqualification.
59. C — Standard witness preparation includes reviewing facts, explaining process, discussing likely questions, instructing the client to tell the truth, and providing procedural guidance — all permitted activities under Rule 3.4. Telling the client what to say, rehearsing memorized answers, or providing scripted answers crosses from preparation into improperly shaping testimony.
60. A — Rule 5.1(a) and (b) impose affirmative duties on partners and managerial lawyers to make reasonable efforts to ensure that lawyers in the firm conform to the Rules. Awareness of an associate's deteriorating performance triggers the supervisory duty to take remedial measures, including potentially intervention, lawyer assistance program referral, reassignment of matters, and ensuring client matters receive competent representation.