

IPI #1

1. Barbara Barrister practiced law in St. Louis, Missouri for four years. She has now joined the law faculty in Fayetteville and practices 4th Amendment law. She has not taken the Arkansas Bar examination. She has been asked to assist the public defender in a complex search and seizure matter now pending before the circuit judge. May she do so?
 - A) Yes; she qualifies for admission by reciprocity (assuming that Missouri reciprocates).
 - B) Yes, provided she is admitted pro hac vice.
 - C) Yes, provided she only makes arguments in front of the judge (and does not appear in front of a jury).
 - D) Yes, provided she only signs court submissions as co-counsel with the public defender.
 - E) She can write court motions and other documents, for the public defender to submit under his name.
 - F) No. All of the above are forbidden or improper.

2. Andrea Attorney has just passed the bar and is excited to open her new office in Altus, Arkansas. She hopes to spend her time doing adoptions, estate planning for new families and custody matters. She has employed the following three methods of attracting clients. Are these methods ethical?
 - 1) The daily weather report on the local radio station begins: “this weather report is sponsored by the law office of Andrea Attorney, who centers her law practice on helping families.”
 - 2) She has represented Dave Disc Jockey, and he is well pleased. At her request, his voice over is now heard at the end of the weather forecast: “I am Dave Disc jockey, and I have used Andrea Attorney for my legal needs, and I was pleased.” Dave is not paid by Andrea.
 - 3) She has made a special business card with her photo and office information on the front. On the back it has a famous poem entitled “Mothers” and a outline of a baby’s footprint. She puts a stack of the cards in the hospital nursery waiting room.

Which methods are ethical?

- a) All three are permitted.
 - b) Only 1 is permitted.
 - c) Only 2 is permitted.
 - d) Only 3 is permitted.
 - e) Only 1 and 2 are permitted.
 - f) Only 1 and 3 are permitted.
 - g) Only 2 and 3 are permitted.
 - h) None are permitted.
3. Attorneys Alpha and Beta practiced law under the firm name of Alpha and Beta. When Beta died, Alpha did not change the firm name. Thereafter, Alpha entered into an arrangement with another attorney, Gamma. Gamma pays Alpha a certain sum each month for office space and use of Alpha's law library and for secretarial services, but Alpha and Gamma each has his own clients, and neither participates in the representation of the other's clients or shares in fees paid. On the entrance to the suite of offices shared by Alpha and Gamma are the words "Law Firm of Alpha, Beta, and Gamma."

Is Alpha subject to discipline?

- A) Yes, because Beta was deceased when Alpha made the arrangement with Gamma.
 - B) Yes, because Gamma is not a partner of Alpha.
 - C) No, because Alpha and Beta were partners at the time of Beta's death.
 - D) No, because Gamma is paying a share of the rent and office expenses.
4. Farmer Crawford needed to borrow money. A lender agreed to lend the money, provided that the farmer gave an adequate security interest in his farm machinery. The lender required the farmer to obtain a letter from a lawyer, assuring the lender that there were no prior liens on the machinery.

Farmer Crawford went to Attorney Alan and asked him to prepare the letter. Alan wrote a letter, on his legal stationery, to the lender stating: "On behalf of my client Farmer Crawford, I have conducted a UCC, tax and judgment search. In my opinion the machinery is free and clear of any liens or encumbrances." A copy of the letter was sent

to Farmer Crawford. The lender loaned \$1,000,000 to Farmer Crawford. The \$800 attorney's fee was paid by Farmer Crawford.

A year later Farmer Crawford defaulted on the loan and went into bankruptcy. The lender then learned that most of the farm machinery had previously been pledged to other lenders. The lender has sued Attorney Alan for malpractice. The evidence reveals that the law clerk for Attorney Alan forgot to examine one book at the courthouse when conducting the search.

In the legal malpractice suit against Attorney Alan, the lender is likely to:

- A) Lose, because the lawyer did not personally make a mistake.
 - B) Win, because the lawyer knew that the lender was to be benefitted and he personally notified the lender.
 - C) Lose, because any mistake was only one of opinion.
 - D) Win, because the lawyer committed fraud.
 - E) Lose, because there was no attorney-client relationship between the attorney and the lender.
 - F) Lose, because of the Barrister's Rule.
5. An attorney was retained by a client to incorporate client's business, which previously had been operated as a sole proprietorship. The attorney noticed in the client's file copies of some correspondence from the client to another attorney [Zeus] concerning the possibility of that attorney incorporating the client's business. The attorney questioned the client to make certain that any attorney-client relationship between Zeus and the client had been terminated. The client told the attorney.

"It certainly has been terminated. When I discussed the matter with Zeus six months ago, he asked for a retainer of \$1,000, which I paid him. He did absolutely nothing after he got the money, even though I called him weekly, and finally, last week when I again complained, Zeus returned the \$1,000. But don't say anything about it because Zeus is an old friend of my family."

Is the attorney subject to discipline if she does not report her knowledge of Zeus' attorney's conduct to the appropriate authority?

- A) Yes, if the attorney believes the other attorney was clearly guilty of professional misconduct.
- B) Yes, unless the attorney believes the other attorney does not usually neglect matters entrusted to him.

- C) No, if the client was satisfied by the other attorney's return of the retainer.
 - D) No, unless the client agrees that the attorney may report the information.
6. Attorney Abe represents Mother Mary in an ugly change of custody dispute. Mary sincerely and earnestly believes that the children (daughters aged 6 and 8) are at the risk of harm if the father is given custody. After the evidence is given, the judge says, "I will rule in a few days. I am ordering both parents to remain in Fayetteville, and I do not want the children to leave the county." Abe meets with his client: "I believe that the chances are better than 50-50 that your husband will end up with the children. We both heard what the judge ordered. As your lawyer I am telling you to stay here, and if necessary we can appeal. But I am telling you, as a parent myself, I would take the kids and leave Arkansas."

Has Abe acted ethically?

- A) No, he advised his client to do something illegal.
 - B) Yes, he correctly explained to her the judge's instructions.
 - C) No, he assisted in an illegal act.
 - D) Yes, he spoke as a parent and not an attorney.
7. The following statements involve attorney fees plus costs. Two of the acts described are unethical. Select one of them.
- A) Attorney Bob charges his client travel time at his normal rate for taking an evening plane to New York City and sleeping on the plane.
 - B) Attorney Barbara bills her client her normal hourly fee for traveling to and from Little Rock for a 15 minute meeting in Little Rock.
 - C) Attorney Carl bills his client for a share of the office law library expenses and his secretary's time in typing legal documents.
 - D) Attorney Connie bills government clients and charitable clients a rate lower than she charges other clients.
 - E) Attorney Debbie bills her client \$1000 for a Rule 56 motion. The fee is reasonable, and the client consented beforehand. But the motion is written by her law clerk, who is paid \$150.
 - F) Attorney David bills his client \$25 (one quarter of his hourly fee) for a 3 minute telephone call.
 - G) Attorney Elizabeth adds to her client's bill a 50% surcharge on the cost of outside consultants.

H) Attorney Edwin works for 50 minutes, takes a 10 minute break, and bills his client for one hour.

8. Linus sues the Purina Dog Food Company for breach of a contract Attorney. Bowser represents Linus, and the case is settled for \$50,000. Bowser receives the check (made payable to Bowser), deposits it in his law firm trust account, and schedules a meeting with Linus to distribute the proceeds.

But a problem develops. Bowser claims he is entitled to \$8000 in fees, but Linus strongly disagrees and says only \$5000 is owed.

How may Bowser properly and ethically handle this dispute?

- A) Give Linus \$42,000; transfer \$5000 to his office account; and leave the remaining \$3000 in the trust account.
 - B) Give Linus \$42,000 and transfer \$8000 to his office account
 - C) Retain the \$50,000 in the trust account until the fee dispute is resolved.
 - D) Either A or B is acceptable.
 - E) Either A or C is acceptable.
9. Ed, the executor of a family estate, hired Attorney Susan to help in the probate matter. Susan regularly provided him with copies of our court pleadings and documents. The matter is now concluded. Susan has been paid. But Ed is not convinced that she competently represented him, and he is considering a malpractice claim against her.

Ed now approaches Susan and asks for “the complete file, whether held in hard copy or electronic form”. In particular he requests (a) correspondence, including e-mail, with opposing counsel; (b) her legal research and memoranda on this matter, including all version and drafts; and (c) her handwritten notes on the yellow pad from meetings between Ed and Susan.

Under the governing law, which documents will Ed most likely be entitled to receive?

- A) He cannot recover anything, unless he files a malpractice claim and seeks discovery.
- B) Ed can recover (a) and (c), but (b) constitutes her work product and is exempt.
- C) Ed can recover (a) and (b), but (c) likely contains private matters and need not be given to Ed.

- D) Ed can recover only (a), but only the traditional correspondence, excluding e-mail communications.
- E) Ed can recover only (b), but only the final version.
- F) Ed can recover all three items sought.

10. Peter President of Ozark Retirement Homes comes to Alice Attorney and says, "Thank you for doing the legal work last year when we developed those 1000 lots. Unfortunately, things have not worked out as we expected. We only sold 325, and we are unable to complete the improvements and niceties that we promised the buyers last year. In particular the Olympic size natatorium will not be built."

What are the permissible options of Alice?

- 1) Call the appropriate authorities and say, "Peter committed fraud last year."
- 2) Notify appropriate individuals that she no longer represents Pete.
- 3) Disavow the legal documents that she prepared for Pete last year.
- 4) Say nothing. The fraudulent acts were committed in the past and any information is confidential. She has learned a valuable lesson, but she has broken no rules.

Which options are permissible?

- a) All of them.
- b) All but (1).
- c) All but (2).
- d) All but (3).
- e) All but (4).
- f) Only (4) is permissible.