

IPI #2

1. Attorney has represented Client Conrad for 10 years on various business transactions; Conrad is an on-going client. Attorney knows nothing about Conrad's family or personal life.

Client Uncle has now come to Attorney and says: "I obtained your name from my friends at the Senior Citizen Center. I would like you to prepare my will. I am a life-long bachelor, with only 3 relatives. Divide my property between my niece Alice and my nephew Ben. I do not wish to leave anything to my nephew Conrad." [Attorney realizes that nephew Conrad is the same as Client Conrad.]

Which of the following best states Attorney's dilemma and course of action under the governing rules?

- A) Attorney has a non-waivable conflict; his actions in preparing the will would harm his client Conrad; therefore he must tell Uncle that he cannot draft the will.
 - B) Attorney has a conflict that can be waived; Attorney can draft the will only if he tells Uncle that he represents Conrad on unrelated business matters.
 - C) Attorney's first responsibility is to Conrad; he must inform Conrad and seek the consent of Conrad before drafting the will.
 - D) Drafting the testamentary document will not interfere with his continuing relationship with Client Conrad; therefore attorney may draft the will as Uncle wishes and need not inform either person.
2. Jacquelyn is a new associate at the ABC law firm. She has been assigned to a major case on prescription drugs. Jury selection is expected to be crucial. She has obtained from the court the list of 50 potential jurors. She has planned the following steps to prepare for voir dire.

Which of these steps are proper?

- 1) She hires an investigator to do background research and gather information on the potential jurors.
- 2) She personally visits neighbors of the potential jurors, and asks questions, such as "Does your neighbor ever talk about her opinions on drug companies?"

- 3) She uses Google, Face book, and other social media sites and search engines to obtain information.
- 4) One potential juror is Patricia. Jacquelyn knows the sister of Patricia from their days in the sorority, calls the sister on the phone, and the conversation leads to Patricia.

Which of these are proper and permitted under the Arkansas Rules?

- a) All are prohibited. Any investigation of potential jurors is only done in open court during voir dire.
- b) Only (1) and (3) are permitted.
- c) Only (3) is permitted.
- d) All are permitted, except (2).
- e) All are permitted, except (4).
- f) All are permitted.

3. Plaintiff Pauline is injured in a car accident; her lawyer sues Defendant Douglas. Douglas has motor vehicle insurance with All Country Insurance. To defend Douglas, All Country Insurance assigns Attorney Alicia to the case. Alicia is an experienced defense attorney, and is a full time employee of All Country Insurance. Douglas is delighted that he will be defended by Alicia.

The attorney for the plaintiff moves to disqualify Attorney Alicia from representing Douglas.

Under the governing Rules and case law, will the court grant the motion?

- A) No, the client Douglas has a right to an attorney of his choice.
 - B) No, provided that All Country Insurance permits attorney Alicia to exercise independent professional judgment in her representation of Douglas.
 - C) No, the plaintiff has no standing to challenge the attorney representing the defendant.
 - D) No, provided that Alicia maintains the confidentiality of information given her by Douglas.
 - E) Yes. Alicia has a non-waivable conflict of interest.
4. Killer Karl comes into your office and tells you that he has just stabbed his girlfriend to death and that he would like you to help him. Karl hands you a bloody towel and tells you that it contains the knife in the murder.

If you decide to represent Karl, you should:

- A) Take the knife and tell Karl to go home and not to worry about it unless he is contacted by the police.
 - B) Take the knife and once Karl has left the office, contact the authorities, tell them that a murder has been committed, and give them the location of the body.
 - C) Refuse to take the knife and tell Karl that it is a criminal offense to destroy or hide evidence.
 - D) Refuse to take the knife and tell Karl that the prosecution's case would be weaker if no murder weapon was found.
 - E) Tell Karl to bury the towel and knife in his back yard.
5. The following statements are made in closing arguments to the jury. Are they proper and permitted under the governing law and Rules?
- A) A prosecutor: "When the police officer approached the car, the defendant ran away. That act is a sign of guilt. As the Bible says, "the guilty flee when no man pursueth while the righteous stand bold as a lion." Proverbs 28:1"
 - B) A plaintiff's attorney: "How much money would you want to spend the rest of your life in a wheelchair? That's the future of the plaintiff after the negligence of the defendant."
 - C) The attorney for a civil defendant: "I have gotten to know my client well over the past months. I know he is telling the truth. He has always been a careful driver, and he certainly was on the night in question."
- a) All statements are prohibited.
 - b) Only 1 and 2 are prohibited.
 - c) Only 1 and 3 are prohibited.
 - d) Only 2 and 3 are prohibited.
 - e) All are permitted.
6. The law firm of ABC has a practice that is dedicated primarily to defending manufacturers in products liability cases. Bill Clerk worked for ABC during his final summer in law school. Upon graduation, however, Bill received an offer to work as an attorney with the firm of XYZ, which primarily represents plaintiffs in products liability cases.
- A) If Bill accepts the offer from XYZ, the firm would be prohibited from representing any more plaintiffs in products liability cases because Bill's

knowledge obtained at ABC would be imputed to them.

- B) If Bill accepts the job, he will be prohibited from working on any products liability cases for a reasonable time.
- C) If Bill accepts the job, the XYZ firm must build a "Chinese wall" around him to shield him from any case which is the same matter or substantially related to cases handled by ABC while Bill clerked for the firm.
- D) If Bill accepts the job, there would be no restrictions on what cases he may handle because he wasn't a lawyer at the time he worked for ABC.

7. Harry Husband is seeking a divorce on grounds of 18 months separation. You represent Harry. You have instructed him to be truthful. The attorney for his wife takes Harry's deposition:

Attorney: Do you know Monica?
Harry: Yes. She is a co-worker.
Attorney: On the business trip to New Orleans during Mardi Gras, did you share a motel room with Monica?
Harry: No.
Attorney: Have you ever had sexual relations with Monica?
Harry: I have never had sexual relations with that woman.

Two days later, Harry tells you, "I don't want to go into any details, but I was not completely truthful during the deposition in answering the second and third questions."

What is your obligation under the Arkansas Rules?

- a) Keep quiet permanently and forever. It is only a deposition.
- b) Wait and see if there is a trial. When the trial is imminent, tell the judge quickly of Harry's false statements.
- c) Withdraw from representation of Harry and keep quiet.
- d) Keep quiet forever. The statements are personal in nature; the questions were designed to embarrass; the information is not relevant to the grounds for divorce.
- e) Call the prosecutor and report the crime of perjury (or false swearing under oath).
- f) In a timely fashion, correct the deposition answers or take other reasonable steps.

8. Walter Doplinger is an attorney who specializes in estate planning. His long-time client, Birdie Nash, who is not related to Walter, has come to him and asked him to revise her will, now that her husband and her children have all predeceased her. Birdie tells Walter that she would like to make a substantial bequest to Walter's daughter for purposes of the daughter's education.

Which of the following most accurately describes Walter's obligations under the Arkansas Rules of Professional Conduct?

- A) Walter must not permit Birdie to make a substantial bequest to his daughter.
 - B) Walter may prepare Birdie's revised will to provide the bequest as long as Birdie gives her informed consent to the gift to Walter's daughter and as long as Walter reasonably believes that Birdie has the mental capacity to give that consent.
 - C) Walter may not prepare the new will if it contains a substantial bequest to his daughter.
 - D) Walter may prepare the new will because it does not contain a substantial bequest to Walter.
9. XYZ is a 30 member law firm. Associate Ann handles "slip and fall" cases. She has been approached by Client, who is seriously injured in a fall at Pete's Pizza.

Pete's Pizza is represented by another law firm. However Pete's Pizza is owned by three siblings, Peter, Paul and Mary. Peter is the most senior partner in XYZ, handling tax matters. Peter owns 90% of the pizza business.

Ann and Peter have no meaningful interaction at the law firm, but Ann does have knowledge of Peter's ownership interest in the pizza business. His interest in the pizza business is maintained in the firm's conflicts records.

May Ann represent the client in suing Pete's Pizza?

- A) Yes, any disqualification of Peter is personal and is therefore not imputed to her.
- B) No, she would be opposing a current client of the law firm.
- C) No, Peter could not sue Pete's Pizza; and his disqualification is imputed to the entire firm. Because of loyalty to a partner, the associate cannot sue the partner's pizza business.
- D) Yes, she owes no loyalty to Pete's Pizza.

10. You represent Larry Songs, who was a prolific home run hitter for the Pirates. He is on trial for using performance enhancing drugs. He has denied using them, but you suspect he is lying. Mr. Songs can't even look you in the eyes when he denies using steroids, and he starts to cry every time you bring up the matter. Based on his baseball record, his actions and your evaluation, you believe that he is lying. But he wants to testify.

What do you do?

- A) Put Larry on the stand and allow him to testify; treat him as a normal witness.
- B) Refuse to allow him to testify because the right to testify does not include the right to testify falsely.
- C) Call the prosecutor and discuss your dilemma.
- D) Move to withdraw from representation.
- E) Ask the court for permission to use "narrative testimony".