

IPI #1

Instructions:

Choose the best answer for each question. Put the letter on the answer sheet. If you feel a question is misleading or ambiguous, place an asterisk (*) next to your answer and write your qualification on the back of the answer sheet. You may choose any of the lettered responses. You have 30 minutes for this IPI.

1. Which of the following will be permitted to take the Bar Examination? (All have good moral character and are mentally and emotionally stable).
 - 1) Jennifer, a Tennessee resident who graduated from the University of Tennessee law school.
 - 2) Rafael, a citizen of Mexico who has legal and permanent resident status in the United States, and is a graduate of the University of Arkansas law school
 - 3) Kate, a Nebraska resident. As a stay at home mom, she took on line courses and earned her J.D. from Concord Law School.

Who will be permitted to take the Arkansas Bar Exam?

- A) Only (1).
 - B) Only (1) and (2).
 - C) Only (1) and (3).
 - D) All will be permitted to take the exam.
 - E) None will be permitted to take the exam.
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2. Cathy Rodriguez is an attorney who practices in civil rights litigation. She learns that several students have been suspended from an elite local private high school for wearing shirts supporting medical marijuana. She wants to represent the students to establish important precedent, but she also needs the fees that the wealthy parents of the students could pay.

Which of the following statements most accurately describes her options?

- A) Cathy may solicit the students because she is not motivated entirely by pecuniary gain.
- B) She may solicit the students because this matter involves civil rights.

- C) She may not solicit the students because pecuniary gain to her is a significant motive for doing so.
 - D) She may not solicit the students because they are not existing clients.
3. Joshua Sands is an Arkansas attorney who has just obtained a certification as a specialist in "Therapeutic Lawyering" from the Moon Beam Institute of Therapeutic Institute. The Institute is not accredited or approved by any state authority or by the American Bar Association. What forms of advertising or announcements are permitted?
- 1) Joshua may advertise that he practices therapeutic law.
 - 2) Joshua may advertise that his practice is "limited to therapeutic law".
 - 3) He may advertise that he is "a specialist in therapeutic law, as certified by the Moon Beam Institute of Therapeutic Institute", because he actually acquired the certification and the statement is not false or misleading..
- A) None of the three statements are permitted by Arkansas Rules of Professional Conduct.
 - 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) All are permitted.
4. A lawyer has an obligation to keep a client reasonably informed about the status of a matter. In which of the following circumstances would a lawyer be justified in delaying transmission of information to a client?
- A) The lawyer's busy personal schedule prevents communication with the client on a regular basis.
 - B) The client's requests for information have become bothersome and annoying to the lawyer.
 - C) The client would likely react imprudently to an immediate communication.
 - D) The lawyer's busy business schedule prevents communication with the client on a regular basis.
 - E) The attorney's last bill for legal services has not been timely paid by the client.

5. Doug Oyler is an estate planning attorney in Arkansas. He frequently receives calls from individuals in a retirement community in Oklahoma. He regularly travels to Oklahoma to meet them and prepare their estate plans. He does not have an office in Oklahoma, and always tells the clients that he is not licensed in Oklahoma.

Which of the following statements most accurately describes the propriety of Doug's conduct under the Arkansas Rules of Professional Conduct?

- A) Doug did not commit misconduct because he has no office in Oklahoma.
 - B) Doug did not commit misconduct because he truthfully informed the Oklahoma clients about his lack of an Oklahoma license.
 - C) Lawyers can never practice law in a state where they are not licensed; it is the unauthorized practice of law.
 - D) Doug committed misconduct by his continuous and systematic presence in Oklahoma for the practice of law.
 - E) His conduct in Oklahoma will be ignored by the Arkansas authorities.
6. Sean is a personal injury attorney. On the last day to file a complaint before the statute of limitations would run, he hurried to the courthouse in an adjoining county. On the route, he was arrested by a state trooper for going 80 miles per hour on I-40.

Is Sean subject to discipline under the Arkansas Rules of Professional Conduct?

- A) No; the Rules have nothing to do with driving practices.
 - B) No; a speeding ticket does not reflect adversely on his honesty, truthfulness or fitness as a lawyer.
 - C) Yes; he committed misconduct by showing disrespect for the law.
 - D) Yes; he broke the law while he was acting as a lawyer on behalf of a client.
7. Randy Sanders is an attorney who handles only divorce and related matters. He recently undertook to collect overdue alimony for a new client, who signed a contingent fee contract of one third. Randy was able to conclude the matter with one forceful phone call to the ex-spouse's attorney.

Which of the following most accurately describes Randy's options under the Arkansas Rules of Professional Conduct?

- A) Randy must not charge the client the one-third fee because it would be unreasonable for services that only took a few minutes.

- B) Randy may charge and keep the fee of one-third because the client agreed to that fee in writing.
 - C) Randy may charge and collect the one-third fee if the fee is reasonable given the risks of recovering nothing that existed at the time the contract was signed.
 - D) Randy may not charge or collect a contingent fee for collection of overdue alimony.
8. Rick has started his own law firm. He hires Cindy, a CPA, as a full time employee of the firm. Paul agrees to pay her an hourly wage, plus 13% of the annual net profits. Is this financial arrangement permitted?
- A) No; an attorney cannot hire a CPA.
 - B) No; Paul cannot share his firm profits with a non-lawyer.
 - C) No; 10% is the maximum amount that can be shared with a non-lawyer.
 - D) Yes; this agreement is permitted by the Arkansas Rules of Professional Conduct.
9. Snooki has moved from Jersey Shore to Fayetteville, Arkansas, and is excited to learn that she has passed the Arkansas bar exam and is now licensed to practice law in Arkansas. She opens a firm called GymTan Law Firm and sets her standard hourly rate at \$100/hour. She is interested in representing clients who may have experienced personal injuries due to malfunctioning fitness or tanning equipment and wants to find creative ways to obtain new clients.

Which methods are ethical?

1. Snooki's friend Pauly D sells nutritional supplements and frequently holds parties at his home to promote them. Snooki goes to one of the parties where she hands out tank tops that say "GymTan Law Firm, Snooki Polizzi, 200 Dickson St., Fayetteville, AR, 72701," passes out flyers about the dangers of faulty tanning equipment, and offers free spray tans to the guests.
2. Snooki hears that another attorney in town just settled a huge personal injury case resulting from malfunctioning fitness equipment for a former member of Meatball Gym. Snooki wants to get in on the action because spray tans in Arkansas cost her more than they did in Jersey. She sets up a display of the malfunctioning fitness equipment in front of the gym, stops the gym's members as they are about to walk inside, and asks the members if they have experienced injuries from the type of equipment displayed.

3. Snooki arranges to have a coupon deal email sent out to all of Groupon's Northwest Arkansas subscribers. The deal advertises discounted legal services. The deal allows the purchaser to buy 1 hour of legal services for a discount fee of \$50/hour and is available to an unlimited number of purchasers.
4. Snooki prints business cards stating that her legal field is personal injury suits arising from fitness and tanning equipment injuries, and asking "have you been injured with tanning equipment?" With permission of the owner, she leaves a stack of the business cards on the counter of the nail salon she uses.
 - A) All four are permitted.
 - B) Only (1) is prohibited.
 - C) Only (2) is prohibited.
 - D) Only (3) is prohibited.
 - E) Only (4) is prohibited.

10. Eastern Corporation is an Arkansas corporation with 100 employees, including Lawyer Larry. The CEO, Kelsey, is also a lawyer. But neither lawyer is admitted in Arkansas.

Eastern Corporation has been sued in federal court in Arkansas in a breach of contract dispute. Who may represent Eastern Corporation in federal court?

- A) Kelsey, as the CEO and the representative of Eastern Corporation.
- B) Larry, under the Wal-Mart exception.
- C) Larry, under the federal supremacy exception.
- D) Either Larry or Kelsey.
- E) Neither Larry nor Kelsey.

IPI #2

Instructions:

Choose the best answer for each question. Put the letter on the answer sheet. If you feel a question is misleading or ambiguous, place an asterisk (*) next to your answer and write your qualification on the back of the answer sheet. You may choose any of the lettered responses. You have 30 minutes for this IPI.

1. Marvin Adler is an attorney who is handling visitation litigation for Carol Brown. Carol made an advance payment of fees to Marvin of \$5,000. Marvin put the money into his trust account. Marvin believes that he has earned \$3,000 of his fee, but his client disputes that. She believes that he has earned only \$1,000.

Which of the following statements most accurately describes Marvin's options under the Arkansas Rules of Professional Conduct?

- A) Marvin may withdraw \$1,000 from the trust account but must keep the other funds in the trust account until the dispute over his fee is resolved.
 - B) Marvin may not withdraw any of the funds from the trust account until the dispute over the fees is resolved.
 - C) Marvin may withdraw the \$1,000 immediately but only if he is willing to waive his claim to the remaining \$2,000.
 - D) Marvin may withdraw the \$3,000 from the account as long as the balance of his trust account remains above \$3,000 after the withdrawal.
2. Florence Flamboyant was a well-known criminal defense attorney. She was approached by a rock star who had just been charged with child molestation. Florence agreed to undertake the defense. The Government was successful in convincing two of the victims to testify as witnesses, and the jury found the star guilty.

A television reporter approached Florence and her rock star client right after the trial and asked, "Why did you lose the case?" The rock star client stated, "I lost because this lawyer was incompetent, and I will hold her responsible for this travesty of justice." The reporter then asked if Florence had any reply, and she said, "If this defendant would have paid those two witnesses not to testify, as he did the others, he would not have been convicted, so it's his own fault."

Is Florence Flamboyant subject to discipline for making this reply?

- A) Yes, because she made the comment in a public forum.
 - B) Yes, because an attorney is prohibited from revealing a client's confidential information.
 - C) No, because Florence also admitted her own wrongdoing.
 - D) No, because Florence has a right to reveal client confidential information to defend herself against allegations of wrongful malpractice liability.
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. You are representing Amber the Accuser, the plaintiff in a civil lawsuit. Amber says she loaned Ramon \$5,000 which Ramon now refuses to pay. You have become suspicious that Amber is not telling you the complete truth. You also suspect that she may lie when you call her as a witness tomorrow. You counsel her, and you tell her that lying on the stand is a criminal act; she merely says "Thank you for your advice."

Under the governing ethical standards, which actions are you now permitted to take?

- A) Do nothing. Put Amber on the stand and treat her as a normal witness.

- B) Notify opposing counsel that Amber may lie tomorrow when she is on the stand.
 - C) Do not allow Amber to testify.
 - D) Either A or B is permitted.
 - E) Either B or C is permitted.
 - F) Either A or C is permitted
 - G) Any of the three options are permitted.
5. Your client, Veronica Victim, was severely injured in an automobile accident when the cruise control on her Toyota Highlander would not disengage. The resulting accident was both quite serious and quite spectacular having been caught on tape by an overhead traffic helicopter that caught sight of the out of control vehicle while delivering the rush hour traffic report. Veronica has not been able to work because of multiple injuries she sustained. It's been months since you took her on as a client and it will be many more months before a settlement is likely reached. She told you today she can no longer make ends meet - her savings are drained. You know when the settlement is finalized, it will be quite substantial. As her attorney, what options, if any, are you ethically able to offer Veronica?
- A) Offer to pay her rent and other monthly living expenses until a settlement is secured and then deduct the money from the settlement.
 - B) Make an offer to buy book and media rights from her since you know that this case will be made into a Hollywood blockbuster. This way you have each provided consideration in return for something you both want from the other.
 - C) Explain to her that while you personally cannot forward or advance any money from the potential settlement to her to use for living expenses. However, if there is no one else she can turn to for financial assistance, there are "lawsuit loan" companies who specialize in lawsuit cash advances and she can seek financial assistance through one of them.
 - D) Recommend your personal banker and offer to be a co-signer on the loan.
 - E) None of the above are permitted.
 - F) Both A and B are permitted.
 - G) Both C and D are permitted.

6. Todd is the senior partner of a small law firm. Todd is very active in the animal rights movement. He was recently asked to represent a criminal defendant in a case involving mistreatment of animals. Todd declined to undertake the representation because he thought that his beliefs about animal rights might prevent him from giving the defendant effective representation.

Sandra is a young associate in the firm. She was raised hunting and fishing in Southwest Arkansas and does not have the same views on animal rights.

Under the governing ethical standards, may Sandra represent the criminal defendant?

- A) Sandra may undertake the representation, provided Todd's beliefs and views will not materially limit her representation of the defendant.
 - B) Sandra may not undertake the representation because Todd's disqualification is imputed to Sandra as a junior member of the firm.
 - C) Sandra may undertake the representation, only if Todd is screened from the case and is apportioned no share of the fee.
 - D) Sandra is not permitted to represent the defendant because the governing ethical standards are set by the senior member of the firm.
7. In an action pending in Arkansas state court, Attorney Adam is representing a man who was injured when an antenna he was installing touched a power line. When Adam picked up the antenna, he noticed a warning label on the mast. He said to the client, "I wish that wasn't there. It hurts our case." A week later when Adam visited the plaintiff again and saw the antenna, the warning label was missing. The plaintiff said, "A buddy of mine heard of its damaging effect and took it off and threw it in the lake."

Which of the following options describes what Adam must do?

- A) Drop the case and let another firm handle it.
- B) Promptly contact the court and the other party, and report that the warning label was removed.
- C) Ask a judge to hold the buddy in contempt.
- D) Say nothing, but have the client truthfully answer any questions if asked in discovery or at trial.
- E) Forget the incident and proceed with the case as if the label had never been there.

8. Lorraine Leaving was a partner in the law firm of Big & Fast. She had a small corporate client named Great Expectations that she represented in various business matters. Six months ago Lorraine left Big & Fast, and took the client Great Expectations with her to the new law firm.

Now Alice Aggressive, a partner in Big & Fast, has been offered the representation of a substantial claim against Great Expectations.

Is Alice Aggressive subject to discipline if she take on the representation against Great Expectations?

- A) Yes, because the disqualification of Lorraine is imputed to the law firm of Big & Fast, and all its attorneys.
 - B) Yes, because Big & Fast would be litigating against its prior client.
 - C) No, provided no member of Big & Fast has information related to Lorraine's representation of Great Expectations that would be material to the new claim.
 - D) No, because when a client leaves a firm, the conflict of interest rules terminate.
9. For many years, Tom the tax attorney has handled all of the tax work for his client, a sculptor. One evening, the sculptor invited the attorney to his studio to discuss some tax returns that had to be filed the next day. In the studio, the attorney saw a small sculpture that would be perfect for his office. At the close of their tax discussion, the attorney offered to buy the sculpture for \$10,000, its approximate fair market value. The sculptor told the attorney that it was not for sale. In due course, Tom sent the sculptor a bill for a \$750 fee for the tax work.

A few days later, the small sculpture was delivered to the attorney's office with a note from the sculptor, saying that he hoped the sculpture would satisfy the recent bill, and he wanted the attorney to have the sculpture as a token of his gratitude for the excellent tax advice.

Would Tom the tax attorney be subject to discipline for accepting the small sculpture from the sculptor?

- A) Yes, because the gift is of significant monetary value.
- B) Yes, because the value of the sculpture is far out of proportion to the \$750 worth of work the attorney did for the sculptor.
- C) No, because the attorney did not solicit the gift.
- D) No, because the \$10,000 is only an approximation of market value.

10. Angie contacts Lawyer Larry and claims she was assaulted by Donald Defendant. Angie wishes to file a civil action against Donald. However after several discussions, Angie is dissatisfied with Larry and leaves him. He was never formally retained to represent her.

She hires a different lawyer to represent her. Two months later, Larry happens to be in court when Angie's case comes to trial. Larry stays for the trial, and is shocked when Angie testifies to facts that are significantly different than what Angie disclosed to him.

What is Larry obligated to do under the Rules of Professional Conduct?

- A) He should contact the trial judge and inform the judge. Larry has a duty to prevent fraud on the court.
- B) He should contact Angie's new lawyer and inform the new lawyer of her false testimony.
- C) He should contact and inform the prosecutor of the perjury committed by Angie.
- D) Because he was never formally retained by Angie, he has no duty to her and has discretion to do what he wishes.
- E) He is obligated to keep the information confidential.