

IPI #1

1. Barbara Barrister practiced law in St. Louis, Missouri for four years. She has now moved to Fayetteville and joined the law school faculty and teaches 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 documents as co-counsel with the public defender.
 - E) No. All of the above are forbidden or improper.

2. Dr. Robert has just passed the bar exam and been admitted to practice. He will open a small office where he will practice law and medicine. Which of the following marketing techniques are permitted?
 1. He calls his office, "Robert's Medical and Legal Services of Benton County."
 2. His business card says, "Experienced ER physician. Newly admitted, but committed attorney."
 3. His slogan on his business card is "I can sew you up, or sue them. Your choice."
 4. His newspaper ad has a picture of Dr. Robert, in surgical garb, standing next to an ambulance at a Benton County Emergency Department sign. "Need a physician? How about a deposition? Call me, Dr. Robert, at 1-479-LAW-DOC1."

Which techniques are permitted under the Rules of Professional Conduct?

- A) All are permitted.
- B) Only (1) and (3) are permitted.
- C) Only (2) and (4) are permitted.
- D) Only (1) and (4) are permitted.
- E) None are permitted. They involve misleading statements, improper solicitation, and violation of the rules regulating multi-disciplinary practice.

3. Paula Prosecutor worked for the Prosecutor's office for five years after law school. All her work there involved prosecuting felonies. Due to a cutback in public funding, her position was eliminated, and she hung out her shingle to practice law.

Her first client asked Paula to research and draft a memorandum covering a complicated corporate reorganization. Paula never took any corporate or tax courses in law school, but she needed the work and the money. She therefore accepted the case after receiving a \$3,500 cash retainer.

Which of the following is the most acceptable course of action for Paula?

- A) Attend a seminar on corporate reorganizations read all the references contained in the seminar workbook, and charge the client for the time.
 - B) Attend a seminar on corporate reorganizations, read all the references contained in the seminar workbook, and not charge the client for the time.
 - C) Associate with another lawyer with extensive corporate reorganization experience without informing the client.
 - D) Decide the engagement is too difficult and withdraw from the case after tendering the client a fee statement for \$2,500.
4. Sarah Senior was a partner in a major law firm specializing in white collar criminal defense. She was in charge of the defense of a former CEO of a large corporation charged with financial statement reporting fraud. Sarah hired a new associate, Alice, to assist in the defense for an agreed \$25 per hour compensation. Four months later, the case settled and Alice left the firm for a much higher-paying position with another defense firm.

Two months later, the corporate CEO complained about the magnitude of the legal bill for the defense. Sarah reviewed the time slips and discovered that her former associate, Alice, had been triple billing her time. Apparently, the payroll clerk made out the hourly associates' paychecks without requiring approval by the supervising lawyer. Sarah instructed the billing department to give the client credit for all the extra time Alice had billed.

- A) Sarah must report Alice's fraudulent time slips to the appropriate professional authority because they involve dishonesty.
- B) Sarah may report Alice's fraudulent time slips to the appropriate professional authority because they involve dishonesty.
- C) Sarah is not required to report Alice's fraudulent time slips because Alice has left the law firm, and there was no harm done.
- D) Sarah must not report Alice's fraudulent time slips if the CEO and corporate client insist that the billing information detail is to be kept confidential.

5. Everything Law Firm encouraged its lawyers to specialize in various areas of the law. The firm had this policy so that the firm could better market the member's expertise.

Which of the below statements in an advertisement would subject an attorney (or the firm) to discipline?

- A) Connie Carpenter, Attorney-CPA.
 - B) Paula Pepper, Patent Attorney.
 - C) Thelma Taxing, Corporate Tax Specialist Attorney.
 - D) Alice Always, accepting only matters in Admiralty.
 - E) None of the statements are a basis for discipline.
6. Olive Optimistic hired Albert Attorney to file a lawsuit for defamation and agreed to pay his standard hourly fee for all time spent. Olive believed her case was worth \$500,000. After most of the case was dismissed on summary judgment, Albert strongly recommended that Olive accept the defendant's settlement offer of \$50,000. Olive reluctantly accepted, and the defendant paid the \$50,000 into Albert's trust account. Albert sent his bill for fees of \$30,000 to Olive, who disputed half his bill.

It is proper for Albert to

- A) Give Olive all \$50,000 and let her then decide how much to pay Albert.
 - B) Give Olive \$20,000 and transfer \$30,000 to his operating account.
 - C) Give Olive \$20,000, transfer \$15,000 to Albert's operating account, and retain \$15,000 in the trust account.
 - D) Keep the \$50,000 in the trust account pending a final resolution of the fee dispute.
7. In 1890 Simon DeGrande and Louis Foster founded a law firm under the name DeGrande & Foster. Simon and Louis passed away early in the 20th century, but the firm continued. Over the years, there have always been various descendants of the two founders as partners and/or associates at the firm. At the present time, Tammie and Tommy DeGrande are partners at the firm, but there are no lawyers there with the surname of "Foster" who are direct descendants of Louis Foster. Tammie DeGrande has just been offered a lifetime appointment as a federal bench.

If Tammie accepts the appointment, may the DeGrande & Foster law firm continue to use the same trade name?

- A) Yes, but only as long as Tommy DeGrande remains a partner in the firm.
 - B) Yes, unless use of the trade name would be misleading.
 - C) No, if Tammie DeGrande accepts the lifetime appointment and surrenders her partnership interest.
 - D) No, unless there is a partner at the firm with the last name Foster.
8. Attorney A is representing C. Judgment at the trial court is against C. C wants to appeal the case. The appellate court rules provide a 30 day deadline for the filing of appeals, and no exceptions are ever granted. During the first 15 days of the period, A is frantically busy in his office on other matters, and he has no chance to file the appeal. Then, during the second 15 days, he went on vacation and simply forgot to file the appeal. The trial court's error was so obvious that the appellate court would undoubtedly have reversed the case and entered judgment in C's favor. Which of the following statements is most nearly correct?
- A) A is both subject to discipline and liable for malpractice.
 - B) A is neither subject to discipline nor liable for malpractice.
 - C) A is subject to discipline, but he is not liable for malpractice.
 - D) A is liable for malpractice, but he is not subject to discipline.
9. Alice represents Client Carla. A lawyer has a duty to keep a client informed and to abide by the client's decision. Nevertheless, which of the following actions or inactions on the part of Attorney Alice would most likely be acceptable?
- A) Failure to inform Client Carla of a settlement offer based on Carla's initial reluctance to accept any offer.
 - B) Failure to inform Client Carla that the judge has ordered a hearing on the opponent's motion for a temporary injunction.
 - C) Failure to immediately inform Client Carla, based on the advice of Carla's doctor, of a recent psychiatric exam which showed Carla to have a mental illness.
 - D) Failure to gain Client Carla's consent before placing her mentally handicapped son on the witness stand to give necessary testimony.
10. The corporate client has agreed to pay "all reasonable expenses" connected with the representation. According to the rules of the profession and the professional traditions, which of the following charges would not be acceptable?

- 1) The attorney charges the client for 8 hours at the normal hourly fee for driving from Fayetteville to Little Rock to attend a 30 minute hearing.
 - 2) The attorney charges the client for the cost of first class air fare for travel from Fayetteville to New York City.
 - 3) The attorney charges the client for travel time to Chicago and sleeps on the plane.
 - 4) The attorney charges the client for travel time to Los Angeles and reads a magazine during the evening flight.
 - 5) The attorney charges the client for travel time to Detroit and during the flight does an hour's work for another client and bills the second client for the hour of work.
- A) Only 1 and 2 are impermissible.
 - B) Only 1 and 4 are impermissible.
 - C) Only 2 and 5 are impermissible.
 - D) Only 3 and 4 are impermissible.
 - E) Only 3 and 5 are impermissible.

11. Each of the following six individuals has just graduated from law school and has passed the Arkansas Bar exam.

Which are likely to be denied admission to practice in Arkansas?

- 1) Arnold, who has experienced depression but is dealing with the problem by seeing a psychiatrist and taking Prozac.
- 2) Becky, who graduated first in her class from Concord University whose classes are taught over the internet.
- 3) Carol, a University of Texas graduate who passed the bar exam, who caused an automobile accident last year when she rear-ended someone at a stop light; and Carol resides in Texas.
- 4) David, who after being the victim of a hit-and-run car accident two years ago had to undergo three surgeries. As a result he went into debt \$100,000 and declared bankruptcy.
- 5) Ella, who has four DWI convictions in the last two years.
- 6) Frank, who prior to law school was convicted of fraud for involvement in an investment scheme.

- A) Only 1, 4 and 6.
- B) Only 1, 5 and 6.
- C) Only 2, 3 and 4.
- D) Only 2, 3 and 6.
- E) Only 2, 5 and 6.

12. Attorney Adam is a member of the bar of Arkansas. While on vacation in Texas, Adam was arrested and convicted of misdemeanor theft - - defrauding an innkeeper (he left without paying his hotel bill). Is Adam subject to discipline in the State of Arkansas?

- A) No, because his conduct took place beyond the jurisdiction of Arkansas.
- B) Yes, because his conduct in Texas reflects on his honesty and trustworthiness and fitness as a lawyer.
- C) No, because his conduct in Texas was unrelated to the practice of law.
- D) Yes, because commission of any criminal act is grounds for professional discipline.
- E) No, because it was only a misdemeanor.

13. The following advertisements by a local attorney appear in a newspaper.

Which of the statements is most likely to be held unethical?

- A) "The victims of some abortions have suffered emotional and physical injuries. Women may have medical malpractice claims against the doctor who performed the abortion. Contact me for further information without any obligation."
- B) "The most I will charge is \$75 an hour. If your problem is not complicated, the hourly fee may be even less."
- C) "Divorces \$100."
- D) "I'm mean. I'm lean. I'm hungry for your green."
- E) "10% discount to any client who brings in a church bulletin."

14. Sally recently graduated and practices with a small firm in Jonesboro. In addition, she and her friend Virginia have started a local business known as "Kitchen Magic". They are equal partners. On behalf of the partnership, Sally prepares the partnership tax return, negotiates the lease and reviews contractual documents, and represents the partnership in court when it sues debtors. She does not bill the partnership for her services.

- A) Sally has acted unethically in doing the partnership tax returns because she is not a tax specialist.
 - B) Sally has acted unethically because she may not represent the partnership in court because she is one of the partners.
 - C) Sally has acted unethically in splitting legal fees with a non-lawyer.
 - D) Sally has acted unethically in forming a partnership with a non-lawyer.
 - E) Sally's actions do not violate the ethical standards.
15. Teresa Taxpayer owes \$10,000 to the IRS. She contacts Lawyer Lilly, gives her \$10,000, and asks her to pay it to the IRS. Lilly puts it in her office account and forgets to pay it to the IRS. Lilly is disciplined by the Arkansas disciplinary authorities for her mistakes and is given a public reprimand, but is also allowed to continue to practice. Unfortunately, Lilly has many other financial problems and is forced to go into bankruptcy.

Will Teresa be able to receive any funds from the Arkansas Client Security Fund to compensate her for Lilly's mistake?

- A) Yes, she has a right to \$10,000.
- B) Yes, but her recovery is limited to \$2000.
- C) No, because the Client Security Fund only reimburses victims whose lawyers have been convicted of a felony.
- D) No, because her attorney was not suspended or disbarred.

1. A plaintiff in a slander case retains the ABC law firm. The case is assigned to partner Susan. The client tells Susan a highly confidential piece of information (Item A). In addition, Susan learns another highly confidential piece of information (Item B) from a separate source. Both items are arguably relevant to the lawsuit, and both are not the type of information that anyone would wish revealed.

In which of the following instances has Susan acted unethically?

- A) She reveals Item A to an associate who is working on the case.
 - B) She reveals Item B to a second year law student clerk who is working on the case.
 - C) After she properly objected, a court of record ordered her to reveal Item A to the opposing party. She did not appeal, but instead revealed the information to the opposing party.
 - D) After a few drinks at a holiday party for the partners, she jokingly revealed Item B to another partner.
 - E) She called a lawyer in another law firm for ethical guidance on the case, and revealed Item A in the course of seeking guidance.
2. Attorney Joan has been hired to represent McDonald's, which has purchased a tract of land and plans to open a restaurant. Joan is retained to draft an employment contract, review the contracts for the purchase of food and other supplies, and ensure that state and local regulations have been satisfied.

Before McDonald's opens, and while Joan is still representing the restaurant, she is contacted by representatives of Arby's. It has located a tract of land approximately ½ mile away from the McDonald's site. It plans to purchase the tract and open a restaurant. Arby's wishes to retain Joan to assist in purchasing the land.

May Joan represent Arby's?

- A) No, because her representation of Arby's would undermine the loyalty that she owes to McDonald's.
- B) Yes, but only if McDonald's consents.
- C) No, because the clients are directly adverse to each other.

- D) Yes, because the clients are generally adverse, but not directly adverse.
- E) No, because the two clients are in geographical proximity to each other.

3. Gayle Giftner is a lawyer specializing in estate planning. Most of her clients were quite wealthy and usually developed an attraction to Gayle because she was very friendly, helpful, and personable. Betty Bigbucks was especially appreciative of the work Gayle had accomplished in organizing her estate. Six months after completion of the engagement, Betty called Gayle, explaining she wanted to gift her with a parcel of valuable real property.

Gayle will be least likely to be subject to discipline if she:

- A) Accepts the gift herself directly from the former client.
- B) Suggests to Betty that she make a second large gift to Gayle's favorite charity.
- C) Drafts a warranty deed conveying the property from Betty to Gayle.
- D) Drafts a testamentary instrument conveying the property to Gayle upon Betty's death in the future.

4. Susan is in a large Little Rock firm (ABC) and defends a nursing home in Little Rock. The plaintiff is represented by the firm XYZ.

Susan leaves ABC and joins XYZ. The departure is unpleasant. ABC will not agree to any waivers.

In XYZ Susan is properly screened from the Little Rock nursing home case. Instead she is assigned to a case against a nursing home in Jonesboro. XYZ, her new firm, represents the plaintiff. The Jonesboro nursing home is defended by a Jonesboro firm.

Which of the following statements correctly explains the status of Susan and her new firm?

- A) Because of her intimate knowledge of nursing homes from the defense perspective, Susan is barred from working on the Jonesboro case for her new plaintiff firm.
- B) Because she has been screened from the Little Rock case, XYZ may continue to represent the plaintiff against the Little Rock nursing home.
- C) Screening is not permitted. Accordingly, XYZ will be disqualified and removed from any participation in the Little Rock case.

- D) Because she is tainted/disqualified/contaminated, XYZ will be disqualified from both nursing home cases in Little Rock and Jonesboro.
- E) Both (a) and (c) are correct.

5. Shortly after a bank robbery, a police dragnet picked up Carol Criminal and a number of other suspects in the area. They were taken to the local police station. At a lineup, one of the tellers at the bank identified Carol by saying, "I am not sure, but the bank manager said I need to identify someone, and Carol looks close." A criminal indictment later charged Carol with robbery. During the direct testimony at trial, the teller equivocated on the identification on the stand. During the next break in the trial, the prosecutor admitted to the defense attorney that there was some uncertainty in the lineup identification.

Is the Prosecutor's conduct subject to discipline?

- A) Yes, because the prosecutor's disclosure was not made timely.
 - B) Yes, because the Prosecutor revealed evidence to the opponent that could have been damaging to the government's prosecution.
 - C) No, because the Prosecutor complied with the obligation to make disclosure.
 - D) No, as long as the questionable identification was sufficient to support probable cause.
6. In a personal injury suit, Debbie is defending Driver Dave. Dave is alleged to have hit and injured Pete the Pedestrian. In preparation for the deposition of her client, Debbie asks him whether he was wearing his prescription glasses at the time of the accident, and he replies, "No, only my over-the-counter, non-prescription sun glasses." During the deposition, the following interchange takes place:

Attorney: Were you wearing your glasses at the time of the accident?

Defendant: Yes.

Debbie observes this interchange and says nothing.

Has Debbie acted consistently with the Rules?

- A) No, because she knows her client has committed a fraud.
- B) Yes, but only because it is merely a deposition. If the same interchange takes place at trial, she must take remedial steps.
- C) No, because she has taken unfair advantage of her adversary's incompetence.

- D) Yes, because her client answered the question truthfully.
- E) No, because she has been a party to dishonesty.
7. 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 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.
8. Laurie Lawyer was defending Gale Guilty, who was charged with murder and had confessed to the police. Before trial, Gale demanded that Laurie call two witnesses who would testify that Gale was elsewhere at the time of the murder. Laurie asked Gale to explain the contradiction between the confession and the alibi witness statements. Gale's answer was, "Just present the case." Laurie refused to present the two witnesses. Gale lost at trial and during her first year in prison was murdered. Her personal representative has now sued Laurie for malpractice.
- May Laurie testify and present evidence of the attempt to suborn perjury by Gale?
- A) Yes, if breaching her confidence is necessary to defend the malpractice case.
- B) Yes, because the attorney-client privilege terminates at the death of the client.

- C) No, because the past attempted subordination of perjury is a client confidence that is protected information.
- D) No, unless the client has expressly waived the confidentiality rule.

9. On television, the prosecutor in the Descoine (defendant) murder trial was interviewed and made the following statements:

- 1. "Descoine was arrested in his home at 3:00 a.m."
- 2. "In my opinion, we have the right man. All the evidence points to him."
- 3. "Descoine was arrested by Office George E. Mulch."
- 4. "Descoine is an interior decorator."
- 5. "His accomplice will testify against him."

Which extrajudicial statements are ethically permitted?

- A) Only statements (1), (2) and (5) are permitted.
- B) Only statements (1), (3) and (4) are permitted.
- C) Only statements (1), (3) and (5) are permitted.
- D) Only statements (2), (3) and (4) are permitted.
- E) Only statements (2), (4) and (5) are permitted.

10. Art Attorney represents Carl Client in a racketeering case brought by Big Bank. Art has assisted Carl in legal aspects of software virus matters. Art learns from an unintentional disclosure by Carl that Carl has launched an internet worm virus in to the electronic network of Big Bank. When the virus becomes operational in 10 days, Big Bank will lose enormous sums of money and good will.

Evaluate the options available to Art:

- 1) Art may elect to keep quiet and to do nothing.
- 2) Art may tell Big Bank about the virus to enable it to minimize its losses.
- 3) Art is required to make disclosure to the law enforcement authorities.
- 4) Art is permitted to make any disclosure that he wishes.

Which options are permissible under the governing Rules?

- A) Only 1 and 2.

- B) Only 3 and 4.
- C) All but 1.
- D) All but 4.
- E) All the options are permitted.

11. Attorney Alice graduated from law school and worked for the prosecutor for five years. Last year she successfully prosecuted Charlie for a white collar felony.

She now works for ABC law firm. Charlie asks her to handle his appeal from the felony conviction. She explains that because she worked on his case personally and substantially, she cannot represent him. Charlie asks whether another experienced member of ABC will represent him. Which of the following are correct?

- A) ABC law firm may not represent Charlie. Alice's disqualification is imputed to the firm.
- B) ABC may represent Charlie. Her interest is personal, and is not imputed to any member of the firm.
- C) ABC law firm may represent Charlie, but only if a Chinese Wall is built around Alice, she receives no part of the fee, and notice is given to the prosecutor's office.
- D) ABC law firm may represent Charlie, but only if the prosecutor's office waives the conflict and consents to the creation of a Chinese Wall.

12. Same as above, but Alice worked for five years for a plaintiff's firm. The firm successfully obtained a money judgment against Charlie for common law fraud. Alice was not the primary counsel, but merely did some incidental research on some minor legal issues in the case.

She now works for ABC law firm. Charlie asks her to handle his appeal from the fraud judgment. Which of the following are correct?

- 1. She may handle the appeal because she did not work on the fraud judgment personally and substantially.
- 2. Alice may represent Charlie if her former firm (who represents the plaintiff) waives the conflict.
- 3. Alice is disqualified from representing Client Charlie and her disqualification is imputed to all members of ABC law firm.
- 4. Alice is disqualified from representing Charlie; but ABC law firm may represent Charlie, provided a Chinese Wall is built around Alice, she receives no part of the fee, and notice is given to the other law firm.

- A) Only 1 and 3 are correct.
- B) Only 2 and 3 are correct.
- C) Only 2 and 4 are correct
- D) Only 3 is correct.
- E) Only 4 is correct.

13 Attorney Pete and Attorney Debbie are graduates of the University of Arkansas and enthusiastic Razorback supporters. (They attend games and contribute to the athletic program). A dispute has arisen between a student athlete and the NCAA. The student wishes to play; the NCAA determines that the student is not eligible. The athlete hires Pete to bring a lawsuit; the NCAA hires Debbie to defend the lawsuit. (The University of Arkansas is not a party to the lawsuit, but in its heart of hearts would like the athlete to be able to play and hope that he wins). Both the athlete and the NCAA are fully aware of the athletic loyalties of the attorneys, and neither the athlete nor the NCAA has any objection.

- 1) Pete has acted unethically in bringing the lawsuit because of his primary allegiance to the University.
- 2) Pete may represent the athlete.
- 3) Debbie should not be defending the lawsuit. The University wants this player. Defending this lawsuit is not in the best interest of the University because if Debbie (and the NCAA) are successful, the University will be deprived of the player.
- 4) If Debbie can act zealously for the NCAA, she can represent the NCAA.
- 5) Debbie cannot represent the NCAA without the consent of the University.

- A) Both (1) and (3) are correct.
- B) Both (1) and (4) are correct.
- C) Both (2) and (3) are correct.
- D) Both (2) and (4) are correct.
- E) Both (1) and (5) are correct.

14. Jane is really excited about her first trial in Arkansas state court, and is extremely confident about the outcome. It involves a novel issue of common law torts. She has a week before trial and decides to run one more query on Lexis just to be on the safe side. Unfortunately, the 8th Circuit Court of Appeals very recently handed down a case concerning her issue. The decision is right on point, and is unfavorable to her case. The federal court predicted how the Arkansas state courts would decide a similar case. The way the 8th Circuit decided the case would make Jane's clients's case a sure loser. Jane wrestled with her problem all night. She has to make a decision.

Jane:

- A) Must disclose the federal case to the state judge because it is directly adverse to her case.
- B) Should do nothing, because the opinion is not from a controlling jurisdiction.
- C) Must disclose it, but can make it hard to find by string citing it in her trial brief.
- D) Must do nothing because this would hurt her client and she has a responsibility as a zealous advocate.
- E) Should seek and follow the advice of her clients.

15. Attorney Sarah Mason represents Jane Smith in a civil rights claim against the City of Fayetteville. The trial is bifurcated, and the issues of liability and damages are decided separately. The judge finds the city liable, and, under the civil rights statute on which Jane's claim is based the trial court has the discretion to award reasonable attorneys fees to the prevailing party. At the damages phase of the trial, Sarah takes the stand and testifies, under direct examination by a partner in her firm, as to the amount of fees she has billed in the case.

Has Sarah violated the Rules of Professional Conduct?

- 1. Yes, because a lawyer may not act as an advocate at a trial where the lawyer is a necessary witness.
 - 2. Yes, because a lawyer may not assert personal knowledge of facts in dispute.
 - 3. No, because a lawyer may testify at a trial where the lawyer acts as an advocate if the testimony relates to the nature and value of legal services rendered in the case.
 - 4. No, because the lawyer may assert personal knowledge of the facts in issue if he or she testifies as a witness.
- A) Only 1 and 3 are correct.
 - B) Only 1 and 2 are correct.
 - C) Only 2 and 4 are correct.
 - D) Only 3 and 4 are correct.