

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. The answer sheet must be turned in by the time written on the blackboard.

1. Larry Litigator is an attorney licensed to practice in the State of Oklahoma. After 10 successful years in private practice, Larry has met and fallen in love with Sue Stunning, who lives in Bentonville, Arkansas. To be near his love, Larry moves to Bentonville and accepts a job in the legal department of Wal-Mart. Which of the following statements is true?
 - (a) Larry can represent Wal-Mart in an Arkansas deposition because the doctrines of pro hac vice and reciprocity allow him to make an appearance.
 - (2) Larry can represent Wal-Mart in an Arkansas state court because he is only representing his new employer Wal-Mart, which is based in Arkansas, but he can only represent Wal-Mart in the county in which Wal-Mart's headquarters is located.
 - (3) Larry cannot represent Wal-Mart in an Arkansas state court or in a deposition because he had not been licensed to practice in Arkansas.
 - (4) Larry cannot represent Wal-Mart in an Arkansas state court unless he consults with the opposing party and gains their permission.

2. Attorney Alan commences an advertising campaign. It has five elements:
 - (1) On television, a famous former Razorback athlete says: "If I has legal problems, I would go to Alan. Why don't you?" The athlete is not paid.
 - (2) On a country and western music station, a singer croons "Us Rednecks Got Our Rights" and the punch line is "Al

is a good ole boy; he can take care of our legal problems."

- (3) He puts an ad in the newspaper: "If you have been ripped off by your Chevrolet dealer, come to me. I've handled these type of cases before."
- (4) His newspaper ad includes a photograph of himself, his wife and children, his dog, his rifle and his pick-up truck.
- (5) His ad is a cartoon about Al standing up for the little guys against the establishment.

Which are ethically permitted?

- (1) None are permitted.
- (2) Only (1), (3) & (5) are permitted.
- (3) Only (1), (2) & (4) are permitted.
- (4) Only (2), (3) & (5) are permitted.
- (5) All five are permitted.

3. Ed is an attorney who operates a bowling alley in Malvern, Arkansas. In an attempt to generate business for both professions, he has developed four marketing techniques. Which of the following are permitted?

- (1) He gives free legal advice to anyone who bowls four games.
 - (2) His bowling ad in the Yellow Pages of the phone book says "Owned and Operated by Attorney Ed."
 - (3) He sponsors a girls' softball team and their jerseys say "Attorney Ed."
 - (4) He visits bowlers at their homes and asks to do their legal work.
- (a) All four are permitted.
 - (2) Only (2) and (3) are permitted.
 - (3) Only (1) and (4) are permitted.
 - (4) All but (4) are permitted.
 - (5) Only (3) is permitted.

(6) All are prohibited.

4. The ABC Law Firm is a 20 person firm in Little Rock that practices in a variety of areas. About half of the firm handles personal injury and domestic relations litigation. Several other members work exclusively in the area of commercial law. Three of the partners devote virtually all of their time to tax matters. All three of these attorneys have worked in the tax field for at least ten years, and they are highly regarded by their peers.

Business at the firm has not been what the partners would like. They decide to advertise on National Public Radio's "Morning Edition with Bob Edwards." Which of the following are permissible advertisements?

- (1) "Morning Edition is underwritten in part by ABC, a Little Rock law firm specializing in the areas of personal injury, domestic relations, commercial law, and tax law."
- (2) "Morning Edition is underwritten in part by ABC, a Little Rock law firm with concentrations in the areas of personal injury, domestic relations, commercial law, and tax law."
- (3) "Morning Edition is underwritten in part by ABC, a Little Rock law firm specializing in tax law, with concentrations in the areas of personal injury, domestic relations, and commercial law."
- (4) "Morning Edition is underwritten in part by ABC, a Little Rock law firm limiting its services to the specialized practice of tax law, personal injury, domestic relations, and commercial law."

(1) Only (2) and (3) are permitted.

(2) Only (1) and (4) are permitted.

(3) Only (2) are permitted.

(4) Only (3) are permitted.

(5) None are permissible.

(6) All are permissible.

5. Joe Smith is the only attorney in a law firm. He has not

hired another partner, but has interviewed several law students for a possible position. He, also, has continually hired law clerks to assist him. Smith's Office is located in Little Rock. He shares a secretary with the lawyer in the office next door, John Williams. His law practice primarily focuses on family law. Which firm name, or names, are appropriate under the Arkansas Rules of Professional Conduct?

- (1) Little Rock Legal Clinic
- (2) Smith & Associates
- (3) Smith & Williams, Attorneys at Law
- (4) The Smith Firm
- (5) The Family Law Clinic

- (1) Only (1) and (2) are permitted.
- (2) Only (3) and (4) are permitted.
- (3) Only (2) and (5) are permitted.
- (4) Only (4) and (5) are permitted.
- (5) Only (1) and (3) are permitted.
- (6) All are permitted.
- (7) None are permitted.

6. A, an attorney, and B, a real estate broker, decided to form a corporation called A & B Real Estate Development, Inc. to develop subdivisions. Each contributed \$25,000 to the corporation, and each was issued 50% of the stock. Each receives 50% of the corporation's net profits. A is the CEO of the corporation and B is the Chairman of the Board of Directors, which consists of A and B. A drafts loan agreements for the corporation and represents the corporation before regulatory agencies. B manages the day-to-day operations of the business. Is A ethically allowed to form such an association with B?

- (7) No, because A is splitting legal fees with a non-lawyer.
- (8) No, because B is not allowed to be an officer or shareholder in a corporation which practices law for profit.

(9) No, because A's professional judgment is under the control of a non-lawyer.

(10) There is nothing wrong with this arrangement.

7. A new client comes into your office and asks to hire you as counsel in a pending divorce action. The client says, "I've heard you're the best in the business, here's \$10,000 for starters". The client also said, "I'll pay you double if you can end this mess in a month". You tell her your normal fee is \$100 an hour, and you will get on the case immediately. In the next four weeks, you spend 15 hours on the case, and true to your reputation, you complete the divorce proceedings in a month.

To what fee are you entitled?

- (1) \$1500, based on your normal hourly fee.
- (2) \$3000, which is double your fee because you complete the matter in less than a month.
- (3) \$10,000, which is the amount she gave you for "starters".
- (4) \$20,000, because you completed the divorce in a month.
8. After graduating from law school, and passing the Arkansas bar examination, Mary Merriweather set up a solo practice in Hogeye, Arkansas. Mary was successful and won a lot of cases for her clients. Over the next two years her good reputation was noted by a large firm in Fayetteville, and they asked Mary to join their firm as top litigator. Mary asks for time to consider the offer (she really likes solo practice but there is big money to be made in Fayetteville) and eventually accepts. She is in the process of vacating her office in Hogeye. Mary boxes all of her client files from two years of solo practice.

Which of the following options best describes what Mary should do with her files?

- (9) Throw them all away because the cases are finalized and they are not necessary anymore.
- (2) Save all files and records because a lawyer can never dispose of client property due to client confidentiality.

- (3) Keep selected important client records for five years, [such as original documents and trust accounting records,] but throw the rest of the files away.
 - (4) Call up the clients and say, "Come get your paperwork, otherwise, I will toss it."
9. The following statements concerning the Arkansas disciplinary process. One statement is correct. Which one?
- (a) A disbarred attorney who receives a Presidential Pardon is automatically restored to practice.
 - (2) The statute of limitations for disciplinary matters is five years.
 - (3) A disbarred attorney cannot be licensed to practice in another state.
 - (4) Under principles of res judicata or collaeral estoppel, an attorney who is acquitted on criminal charges cannot face disciplinary proceedings on the same basic facts.
 - (5) The standard of evidence in a disciplinary proceeding is a preponderance of the evidence.
10. 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 stationary, to the lender stating: "On behalf of my client Farmer Crawford, I have conducted a UCC, tax and judgment search and the machinery is free and clear of any liens or encumbrances." The lender loaned \$1,000,000 to Farmer Crawford. The \$300 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:

- (1) Lose, because the lawyer did not personally make a

mistake.

- (2) Win, because the lawyer knew that the lender was to be benefitted and he personally notified the lender.
- (3) Lose, because any mistake was only one of judgment.
- (4) Win, because the lawyer committed fraud.
- (5) Lose, because there was no attorney-client relationship between the attorney and the lender.

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1. Lawyer Larry and Client Conrad have confidential communications concerning a partnership dispute. Litigation follows.

Which of the following statements are correct according to the Arkansas Rules of Professional Conduct:

- (1) If Conrad has died, Larry may disclose what Conrad told him.
 - (2) If Conrad has died, Larry may disclose what he told Conrad.
 - (3) If Larry has died, Conrad may disclose what Larry said to him.
 - (4) If Larry has died, Conrad may disclose what he told Larry.
- A. All four are correct.
 - B. Only (1) and (2) are correct.
 - C. Only (3) and (4) are correct.
 - D. Only (1) and (3) are correct.
 - E. Only (2) and (4) are correct.
 - F. None of the four statements are correct.

2. Doug is a partner with the ABCD Law Firm. With the permission of the law firm, he is a part-time city prosecutor and prosecutes misdemeanors. His city salary goes directly to him and is not shared with other members of the ABCD Law Firm.

Alice is the senior partner with the firm. On behalf of a former city employee, she wishes to bring an action against the city for wrongful discharge. Any fee earned will be partnership revenues.

May Alice represent the former city employee in this action?

- A. Yes, because the proposed lawsuit and the misdemeanor prosecutions are unrelated.
- B. No, because the actions are directly adverse.
- C. Yes, because Doug's city salary is not shared with the firm.
- D. No, because the actions would constitute an impermissible concurrent conflict.
- E. Yes, because the concept of loyalty applies differently to government attorneys.

3. Betsy Barrister and Candy Client have been best friends since grade school. Candy's mother died when Candy was nine, and Betsy's mother, Barb, became very close to Candy in order to ease the loss. Due to the nurturing of Barb, Candy has become a fine citizen with a successful career.

In the past, Betsy has handled many of Candy's legal needs. Candy now wants Betsy to draw up a deed granting a lovely piece of land to Barb in appreciation of Barb's care during Candy's fragile youth.

Is Betsy ethically permitted to do so?

- A. Yes, since Betsy and Candy have been friends for such a long time, there will be no appearance of impropriety.
- B. No, because clients cannot give property to the family of their attorney.
- C. Yes, as long as another attorney is present and watches the transaction and ensures that Barb is acting competently.
- D. No, because attorneys cannot draft deeds for clients that give land to family members of the attorney.
- E. Yes, because Candy has made it common knowledge that she is planning to grant the land to Barb, and Barb has consented to the transfer.
- F. No, but another lawyer in Betsy's firm may draw up the deed.

4. Attorney Allen worked for Bank of America from 1981 to 1989. In 1983, Allen drafted a promissory note for Bank of America for an agreement it made with Brandon Borrower. When Allen left Bank of America in 1989, he started a partnership. In May 2001, Brandon came to visit Allen. Brandon said Bank of America had sued him on the note issued by the Bank 18 years earlier, and he asked Allen to represent him in this matter. Can Allen represent Brandon?

- A. Yes, enough time has passed since Allen worked for Bank of America and his work for the Bank is over and done with.
- B. No, Allen cannot challenge the note because he would be undermining his own work product.

- C. Yes, the representation for Bank of America in the matter did not involve litigation.
- D. No, but another lawyer in his firm may represent Brandon.

5. Lawyer has thoroughly prepared his case and feels confident that he will be successful. However, hours before the trial is to take place his new law clerk does some additional research and discovers the following:

- (1) A decision from the Arkansas Court of Appeals which is in direct opposition to the lawyer's argument.
- (2) A law review article that was written only last year by an expert in the state who disagrees with the construction of a statute that the lawyer plans to argue.
- (3) A crucial witness to the other side, but fortunately only the law clerk has located the witness.
- (4) Upon searching Westlaw, law clerk found an unpublished Arkansas Supreme Court decision that was just last week handed down that is adverse to lawyer's argument.
- (5) A statute that the lawyer inadvertently overlooked that is directly on point and discredits the lawyer's argument.

Which of the above, if any, must the lawyer disclose to the trial judge?

- A. None must be disclosed, because they were located by the law clerk.
- B. Only (1) and (4) must be disclosed.
- C. Only (3) and (4) must be disclosed.
- D. Only (1) and (5) must be disclosed.
- E. Only (2) and (3) must be disclosed.
- F. Only (2) and (4) must be disclosed.
- G. All must be disclosed, because the obligation of the attorney is to assist the court in its search for justice.

6. Deck Shiffler is one savvy trial litigant. It took him a long time to actually become a licensed attorney, but once he did, he has been on a roll and has not lost a case in the past three years.

Deck's boss, Rudy, has just assigned him to a big medical malpractice suit that, if he wins, will make him a millionaire. Deck wants to make sure he does everything right. He is

especially concerned with the jury.

- (1) Before trial, Deck goes to the court house to obtain the jury questionnaires and then shows them to his secretary and law clerk.
- (2) Before the trial, Deck sees a potential juror's husband and introduces himself and then proceeds to ask him how he and his wife are doing.
- (3) During the trial, Deck sees a group of the jurors eating lunch at a restaurant. He passes by their table smiles and says, "hi", and then goes and sits at the opposite end of the restaurant out of the jurors sight.
- (4) During the trial, Deck passes one of the jurors in the hallway outside the courtroom and doesn't report it to the judge.
- (5) After the trial, Deck sends each of the jurors a questionnaire asking them to rate his performance.

Which actions violate the Rules?

- A. None of the above.
- B. Only (1) and (2).
- C. Only (4) and (5).
- D. Only (1) and (4).
- E. Only (2) and (3).
- F. Only (3) and (5).
- G. All of the above.

7. Doubting Thomas is a criminal defense attorney who prides himself not only on his excellent acquittal record, but also on his ethical and moral position regarding defendants whom he knows or reasonably believes to be guilty. He simply will not represent such a defendant. Surprisingly, Thomas has agreed to represent Suspicious Sam in defense of a car jacking charge because he believes Sam's claim of innocence. On the eve of trial, Sam tells Thomas he has just remembered that on the night of the alleged car jacking he was at the Hogs Breath Saloon between the hours of 8:00 p.m. and 9:30 p.m. (The car jacking occurred at 8:30 p.m.) However, nobody at the Hogs Breath that night can remember seeing Sam there, nor can anyone say with certainty that he was not there. After counseling Sam as to the legal and moral ramifications of perjury, Sam maintains his alibi story and reinforces his desire to testify to such alibi at trial.

The best thing for Doubting Thomas to do is:

- A. Ask to withdraw, because Doubting Thomas does not believe Sam's story.

- B. Inform the judge he believes his client is about to perjure himself.
- C. Not allow Sam to testify because he plans to perjure himself.
- D. Treat Sam's alibi story as normal testimony, but write himself a memo addressed to File describing his dilemma.
- E. Allow Sam to testify about his alibi in a narrative fashion. During closing arguments, Doubting Thomas simply will avoid mentioning the alibi portion of his testimony.

8. Client Colbert has retained lawyer Lamb to represent her in divorce proceedings instituted by Colbert's husband. Colbert has moved out of the family home and is living in a distant town; she no longer sees her husband or her children. Colbert tells Lamb in confidence that, before the separation, she had been physically abusing the children. A state statute requires physicians and psychotherapists to report to the police all suspected cases of child abuse. The statute makes no mention of attorneys. Which of the following is most nearly correct?

- A. If Lamb reports the child abuse to the police, he will be subject to discipline.
- B. Lamb *may* report the child abuse to the police if he believes that the interests of justice will be served by doing so.
- C. Lamb *must* report the child abuse to the police, because the state policy favors protection of children.
- D. Lamb *must* report the child abuse to the police, because child abuse is a crime that may result in death or serious bodily injury.

9. Attorney Kirk is defending an assault and battery case. In the course of investigation, Kirk's law clerk happens upon a surprise witness, whose testimony would be very helpful to the plaintiff. The witness was a customer in the tavern where the assault took place. The law clerk tells Kirk of the new witness.

Which of the following responses by attorney Kirk is consistent with the Rules?

- A. "Hide him at the Holiday Inn in Springdale under an assumed name until the trial is over."
- B. "Give him instructions not to talk to anyone from the other side."
- C. "I don't like this ridiculous rule, but as officers of the court we are compelled to tell the plaintiff about the witness."
- D. "Keep quiet and perhaps no one will find him."
- E. "Thank the witness for his help and give him \$100."

- F. "Do what you think is best for our client; you're only a law clerk, and I'm not responsible."

10. 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.