

Instructions

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1. Attorney Theodore graduated from an Ohio law school and is licensed to practice in Ohio. After practicing there for five years, he has moved to central Arkansas to be a full time professor of business law at a state university. In a high profile case involving consumer fraud issues, which is his specialty, he wishes to enter an appearance before the Arkansas Supreme Court and file an amicus brief on behalf of an interested party explaining legislative intent.

May he do so?

- a) Yes, under the reciprocity provisions.
  - b) Yes, under the pro hac vice provisions.
  - c) Yes, under the First Amendment.
  - d) Yes, with the permission of the court.
  - e) Yes, with the permission of the other attorneys on the matter.
  - f) Yes, provided he passes the mini bar exam for practitioners.
  - g) Yes, because he is not appearing at the trial court level.
  - h) No.
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2. Which of the following advertisements by Attorney Wilfred is prohibited? (Assume the statements are factually correct):
    - a) "I limit my practice to personal injury cases."
    - b) "My focus is in tax law."

- c) "My concentration of practice is labor law."
- d) "My specialty is domestic relations."
- e) "My considerable experience is in criminal law."
- f) "In domestic relations matters, I only represent defendants."
- g) "I studied international law issues in law school."

3. As a result of a criminal plea, George the gun owner is placed on probation and as a result is not permitted to possess any guns for 12 months. He asks his lawyer (who has represented him during the criminal matter) to take possession of his gun collection (three shotguns and two rifles) for 12 months.

George's lawyer agrees, takes the guns, and stores them in a wooden chest in the family room at his house. A television and computer are also set up in the family room. George understands and agrees with this arrangement. (Criminal law does not prohibit a citizen or a lawyer from possessing guns in a private residence). Six months later, a burglar breaks into the lawyer's house and steals the television, the computer and George's guns.

Has the lawyer violated any ethical rules?

- a) Yes, a lawyer cannot help a client violate the terms of probation.
  - b) No, he was not at fault. He used reasonable safeguards.
  - c) Yes, he did not appropriately safeguard the guns.
  - d) No, because George knew and consented to the storage.
4. Attorney Allison is traveling from her office in Little Rock to a meeting in California for Client A. She is traveling at night by plane. May she ethically bill Client A at her normal hourly rate for the following activities? (Each of these is separate from the others; they are not cumulative or overlapping).
- (1) She spends four hours traveling.
  - (2) She sleeps for two hours on the plane.
  - (3) She watches a movie for two hours on the plane.

- (4) She sleeps for eight hours in the hotel in California after arriving.
- (5) She does two hours of work for Client B on the plane.

In which situation(s) is she ethically permitted to bill Client A at her normal hourly rate?

- a) None are permitted.
  - b) Only (1) is permitted.
  - c) Only (1), (2) and (3) are permitted.
  - d) Only (1) and (5) are permitted.
  - e) All are permitted.
5. 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, she 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) Yes, but she is paying her new attorney an established fee of 15% of any recovery.
  - d) No, because the Client Security Fund only reimburses victims whose lawyers have been convicted of a felony.
  - e) No, because her attorney was not suspended or disbarred.
6. Criminal defense attorneys have restrictions on their attorney fees. Which of the following fee arrangements are permitted?
- (1) Take a credit card for a fee.
  - (2) Take cash up front.

- (3) Require a mortgage on the defendant's house as security for a promised fee.
- (4) Bill by the hour.
- (5) Bill by the task.
- (6) Take a bonus if the defendant is acquitted.

- a) All are permitted.
- b) Only (2) and (5) are permitted.
- c) Only (2) and (4) are permitted.
- d) All are permitted except (1).
- e) All are permitted except (3).
- f) All are permitted except (6).

7. Lenny the Lawyer founded a professional corporation. Lenny and two other lawyers are the sole shareholders. Lenny employed a CPA on a full time basis to work on the taxes of the corporation's clients. Lenny's law firm has established a compensation plan with a profit sharing arrangement that included the employed CPA. The law firm has an ice cream parlor and a hot dog stand in the entrance of the law offices. Lenny runs an advertisement in the local newspaper which reads as follows: "Practice limited to tax and food poisoning cases. We also sell ice cream and hot dogs. Lenny the Lawyer, 123 Oak Street, Little Rock."

Eventually, Lenny died. Lenny had an agreement with his law firm that upon his death, the corporation would give his brother (a non-lawyer) \$800 per month for four months.

Which of the firm's activities, if any, are unethical?

- a) Hiring the CPA to work on the taxes of the corporation's clients.
- b) Allowing the corporation to sell ice cream and hot dogs at the law office.
- c) Allowing the corporation to engage in the compensation plan with the CPA.
- d) The advertisement in the newspaper.
- e) Allowing the brother to share legal fees with the law firm.

f) None. (i.e., they are all ethical).

8. Jeremy, a recent law school graduate, decides to open a firm under the name, "The Estate Planning Firm". It is a professional corporation located in Fayetteville. He hires accountants, financial analysts, and stockbrokers. He pays each a salary and also provides health and life insurance and a 401K program. They are also included in a bonus program in which they will receive a 5% bonus if the firm has net profits in excess of \$200,000.

What ethical violations has Jeremy committed?

- (1) Jeremy is involved in the unauthorized practice of law because he has formed a professional corporation with non-lawyers.
- (2) The name "The Estate Planning Firm" violates the rules governing firm names.
- (3) Jeremy cannot allow accountants, financial analysts and stockbrokers to participate in the bonus program.
- (4) As a recent law school graduate, Jeremy is not competent to have an estate planning firm.
- (5) His salaried bookkeeper manages his law firm trust accounting firm.

Which of the above are improper and in violation of the ethical standards?

- a) All are improper.
  - b) Only (1) and (2) are improper.
  - c) Only (3) and (5) are improper.
  - d) Only (2) and (5) are improper.
  - e) Only (3) and (4) are improper.
  - f) None are improper.
9. Attorney Arthur's practice focuses primarily on the drafting of Wills and the planning of estates. Eloise is a client who hired Arthur to draft her Will.

In 1996 he drafted a Will leaving her estate to her three children, and she signed it. In June 2001 she returned to Attorney Arthur and asked him to modify the Will to exclude

one of the children who had been disobedient. He agreed to do it and drafted the changes, but his office neglected to have Eloise come in and sign the revised Will. Eloise died in December 2001.

While sorting through their mother's papers, her two loyal children found a copy of the revised Will. These two children have brought a legal malpractice suit against Attorney Arthur for failing to have the revised Will properly and timely executed. (They claim they have lost approximately \$10,000). They are represented by Attorney Wilbur, and have given Attorney Wilbur express authority to accept any settlement offer of at least \$8000.

In conversations with Attorney Wilbur the defense lawyer has offered \$5000 in complete settlement. Without communicating with the two children, Attorney Wilbur declined the offer.

- (1) A legal malpractice suit against Attorney Arthur is not likely to succeed because the two loyal children lack privity with him.
- (2) A legal malpractice suit against Attorney Arthur is likely to succeed because the Arkansas statutes permit claims by third party beneficiaries.
- (3) Attorney Wilbur acted unethically by not communicating the \$5000 offer even though it was less than the childrens' stated amount.
- (4) Attorney Wilbur acted within the scope of his authority and within the guidelines of ethical standards by rejecting the offer.

- a) Only (1) and (3) are correct.
- b) Only (1) and (4) are correct.
- c) Only (2) and (3) are correct.
- d) Only (2) and (4) are correct.
- e) None are correct.

10. Attorney Alan commences an advertising campaign. It has five elements:

- (1) On television, Tommy Touchdown, a famous former Razorback athlete says : "If I have legal problems, I would go to Attorney Alan. Why don't you?" The athlete is not paid.

- (2) His advertisement says, "I may be young and fresh out of law school, but I'm as good as any other lawyer in town and I'll fight for you."
- (3) He puts an ad in the newspaper: "If you have been ripped off by your Chevrolet dealer, come to me. I can handle these types of cases."
- (4) His newspaper ad includes a photograph of himself, his dog, his rifle and his pick-up truck.
- (5) His ad is a cartoon depicting himself standing up for the little guys against the establishment.

Which are ethically permitted?

- a) None are permitted.
- b) Only (1), (2) and (3) are permitted.
- c) Only (2), (3) and (4) are permitted.
- d) Only (3), (4) and (5) are permitted.
- e) Only (1), (3) and (5) are permitted.
- f) Only (2), (4) and (5) are permitted.
- g) All are permitted.

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1. Client Claude has retained Lawyer Lamb to represent him in divorce proceedings instituted by Claude's wife. Claude has moved out of the family home and is living in Texas; he no longer sees his wife or his children. Claude tells Lamb in confidence that, one year ago, before the separation, he 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 statements is correct according to the Rules of Professional Conduct?

- A. If Lamb reports the child abuse to the police, he will be subject to discipline.
- B. Lamb *must* report the child abuse to the police, because the state policy favors protection of children.
- C. Lamb *may* report the child abuse to the police if he believes that the interests of justice will be served by doing so.
- 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.

2. Attorney Alexandra represents the client on a robbery charge. Client has disclosed nothing to Alexandra. But the client has a neighbor and the neighbor tells Alexandra that "the murder weapon is buried in the back yard next to the gas grill. I saw the client put it there the night of the robbery."

Alexandra knows that the location and the presence of the weapon would be damaging evidence against her client.

Is Alexandra obligated to reveal the location of the weapon

to the authorities?

- A. Yes, because the information from the neighbor is not privileged.
- B. No, because the information from the neighbor is confidential within the scope of Rule 1.6.
- C. Yes, because the attorney has a duty as an officer of the court to reveal this information to the judge.
- D. No. However, she would have a duty to report the location if the weapon had been used in a murder.
- E. Yes, because the information does not fall within Rule 1.6.

3. Defense attorney Deborah represents a corporation in a products liability suit. Numerous depositions are scheduled by the plaintiff's attorney and attended by Deborah. During a deposition the corporate president states that "no memos on the results of the tests were ever written by me." Two weeks later the corporate president tells Deborah, "I just remembered that I did write a memo on the results of the tests, but I shredded the memo a year ago, long before this law suit started."

What, if anything, should Deborah do now?

- A. Nothing, because the memo was shredded before the lawsuit started.
- B. She must take reasonable remedial measures and, if necessary, notify the other attorney.
- C. Nothing, because the question asked by the plaintiff's attorney did not ask about shredded or destroyed memos.
- D. If the question is asked again, she must tell the corporate president to revise this answer.
- E. Nothing, because a corporation may destroy memos and writings as it wishes, provided no investigation or discovery is on-going.
- F. She must take reasonable remedial measures and, if necessary, notify the judge.

4. Attorney is drafting a trust for Client. The attorney selects the bank as the trustee. In which of the following situations must the attorney make disclosure and seek consent of the client?

- (1) Attorney rents office space in Bank.
- (2) Attorney has law office and trust checking account in Bank.
- (3) Attorney represented Bank in the past.
- (4) Attorney owns 5% of stock in Bank.

Attorney must disclose and seek client consent in:

- A. All four situations.
- B. None of the four situations.
- C. Only (2), (3) and (4).
- D. Only (3) and (4).
- E. Only (3).
- F. Only (4).

5. The firm of XYZ has just discovered that one of its associates has misappropriated funds from its clients. The clients have not yet discovered the misappropriation. The associate has admitted the facts to the partners.

- (1) The firm is obligated to discharge the associate from the firm.
  - (2) The firm is obligated to reimburse the clients.
  - (3) The firm is obligated to report the associate to the Supreme Court Committee on Professional Conduct.
- A. All three statements are correct.
  - B. Only (1) and (2) are correct.
  - C. Only (2) and (3) are correct.
  - D. Only (1) and (3) are correct.

6. "Chinese walls" are occasionally permitted in conflicts of interests situations. Each of the following situations involves law firm ABC (which has 50 attorneys). In which of the following will a "wall" be permitted?

- (1) The attorney saw an assault and will be a witness in the criminal case. Her partner will represent the criminal defendant.
- (2) A secretary has just left another firm and will work for ABC. ABC has been and continues to oppose the other firm in a major case.
- (3) ABC has just hired an associate who worked for the other firm (described in 2), but did not work on the major case.

(4) A partner in ABC is married to the attorney who is representing the other side in the major case (described in 2).

- A. Chinese walls are not permitted in any of these.
- B. Chinese walls are permitted in (1) and (2).
- C. Chinese walls are permitted in (1) and (3).
- D. Chinese walls are permitted in (1) and (4).
- E. Chinese walls are permitted in (2) and (3).
- F. Chinese walls are permitted in (2) and (4).
- G. Chinese walls are permitted in (3) and (4).
- H. Chinese walls are permitted in all of these.

7. Anne has agreed to represent Mike and Martha in developing a partnership to form a new business. Both parties have consented to using Anne as their attorney during this transaction. However, after three weeks of trying to decide on the perfect location for the relaxing business, Mike and Martha start to severely disagree on the budget for the potential purchase of the real estate property. Mike wants to purchase in a highly expensive area of downtown Fayetteville. Martha wants to purchase a quiet spot that is more affordable near Siloam Springs. Anne tries to compromise with the partners. However, after a lengthy and heated telephone conversation with Mike, he requests that Anne withdraw as the attorney from this deal because she is too sympathetic to Martha's point of view. What action should Anne take?

- A. Call Martha and see if she also wants Anne off the transaction.
- B. Withdraw because Mike is a client and he has requested this action.
- C. Consult with both clients and try to discuss the matter further.
- D. Have an associate in the firm handle Mike, and Anne can then represent Martha's interests.

8. John the client is on trial for murder and is represented by Crosby the lawyer. John claims he did not commit the murder. The week before the trial, John tells Crosby that he remembers that he was shopping for his girlfriend's birthday present at the mall that night at the time of the shooting. Furthermore, John tells Crosby that he saw his friend Charles at the mall that night, and that Charles is willing to testify that he saw him at the mall. John wants to take the stand and testify that he was at the mall, and he wants Crosby to put Charles on the stand.

After questioning Charles and John, Crosby is convinced that neither of them is telling the truth.

Which of the following options best reflects what Crosby must do?

- (1) Crosby must allow John to testify.
- (2) Crosby may not allow John to testify.
- (3) Crosby may allow John to testify.
- (4) Crosby must allow Charles to testify.
- (5) Crosby may not allow Charles to testify.
- (6) Crosby may allow Charles to testify.

- A. Only (1) and (4) are correct.
- B. Only (1) and (5) are correct.
- C. Only (1) and (6) are correct.
- D. Only (2) and (4) are correct.
- E. Only (2) and (5) are correct.
- F. Only (2) and (6) are correct.
- G. Only (3) and (4) are correct.
- H. Only (3) and (5) are correct.
- I. Only (3) and (6) are correct.

9. Lawyer Lottie is involved in a case where she is trying to remove a child from the custody of her parents. Lawyer Lottie is in private practice and represents the maternal grandparents. The parents are both unemployed, they have no money, their roof leaks, and their heater does not work. In addition, they abuse the child. For the past month the temperatures have been in the 30's and 40's and the rainfall has set records.

While preparing for a trial on the matter, Lottie has visited the child's residence. The trial is tomorrow, and she has not yet located anyone who is willing to appear as a witness to tell the court of the substandard and abusive conditions of the household. The parents claim that they take good care of their child.

The judge is a nice guy, and would probably postpone the trial, but he's done that seven times in the last month for Lottie, and she is afraid he might be getting frustrated with her.

What should Lottie do?

- A. Act as an attorney at the trial, but also take the stand as an expert witness, testifying not about what she saw, but generally about how conditions such as the ones found in the home adversely affect children.

- B. Remain the attorney of record and submit an affidavit to the court recounting what she saw at the home.
- C. Let another attorney argue the case at the trial while she acts as a witness, then take over as a lawyer if the case is appealed.
- D. Act as the attorney only, or drop the whole case at this late stage and appear just as a witness.
- E. Represent her client in court, testify, and cross examine herself.
- F. Testify as a witness, but have another member of her firm act as the attorney of record.

10. Stark Ligon made numerous statements during his presentation on Friday, March 8. Three of the following statements are incorrect. Identify one of them.

- A. The most commonly violated Rule is 8.4(d), conduct prejudicial to the administration of justice.
- B. Arkansas does not enforce the "snitch" rule.
- C. Under the captain of the ship concept, lawyers can be disciplined for the acts or omissions of their office staff members.
- D. The failure to file a lawsuit within a timely period can be a basis for discipline.
- E. Lawyers can be disciplined for the failure to notify clients of the dismissal of a lawsuit because of the statute of limitations.
- F. Giving \$100 to the judge's staff members on their birthdays may be a violation of Rule 8.4.
- G. The average law firm in Arkansas has 2.3 lawyers.
- H. The Committee on Professional Conduct gives advisory opinions to attorneys.
- I. If the Committee finds that an attorney has stolen money from a client, it is obligated to institute disbarment action.
- J. Attorneys can be disciplined for paying their office rent out of their trust accounts.
- K. Attorneys may let their trust accounts go into a negative balance, as long as they correct it immediately.