

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. Attorney Theresa graduated from an Ohio law school and is licensed to practice in Ohio. After practicing there for five years, she 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 her specialty, she 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 she do so?

- a) Yes, under the reciprocity provisions.
  - b) Yes, under the pro hac vice provisions.
  - c) Yes, based on the MDP provisions
  - d) Yes, based on the MJP provisions.
  - e) Yes, with the permission of the other attorneys on the matter.
  - f) Yes, provided she passes the mini bar exam for practitioners.
  - g) Yes, because she is not appearing at the trial court level.
  - h) No.
2. Connie drives up to Fayetteville for the football game and parks in a visible location with her Recreational Vehicle. On the side, it says "Connie, Attorney at Law, Practice Limited to Domestic Relations and Juvenile Matters. Wife and Mother of 2 adopted children." Another sign says, "Free ice cream," which she gives to anyone who asks. She answers legal questions to anyone who asks. She has her business cards sitting on a counter next to the ice cream.

Has she acted unethically?

- a) Yes. She cannot use an RV in this fashion.
- b) Yes. She cannot limit her practice.

- c) Yes. Her familial status is irrelevant and inappropriate.
  - d) Yes. She cannot give away ice cream.
  - e) Yes. She has improperly distributed business cards.
  - f) Yes. By answering questions, she is soliciting.
  - g) No.
3. Three young lawyers open a law office (XYZ). To generate business they go to J.B. Hunt Trucking management with the following proposal: "We will handle all divorces in Arkansas for any employees during this year. We will not be involved in any divorces if both spouses work for you. We will do competent work. You will pay us \$50,000 for the year. You will not control the manner in which we provide legal services."
- Have they violated the ethical standards?
- a) Yes. They have solicited legal business.
  - b) Yes. They have charged an unethical fee.
  - c) Yes. The general retainer is impermissible.
  - d) No.
4. Susan is a full time salaried attorney in the Trust Department of the bank. Which of the following activities are permitted?
- (1) With the permission of the Board of Directors, she handled an adoption for a bank vice-president, and does not charge the vice-president.
  - (2) On Saturdays, at her home, she drafts wills for bank employees and charges them a discount fee. The fee is paid to Susan.
  - (3) She defends the bank in employment discrimination actions.
  - (4) She represents the bank in court when it is named as the executor in a will.
- a) Only 1 and 2 are permitted.
  - b) Only 3 and 4 are permitted.
  - c) Only 1 and 3 are permitted.
  - d) Only 2 and 4 are permitted.
  - e) All but (1) are permitted.
  - f) All but (4) are permitted

5. Attorney Al is charged with conversion of a client's funds. After a jury trial, Al is acquitted. Subsequently the Committee on Professional Conduct proceeds against him on same factual charges. After a public hearing, and after a finding based on the preponderance of the evidence, the committee suspends him from the practice of law for 5 years and also fines him \$10,000.

Have the correct procedures been followed?

- a) No. After the jury acquittal, the committee cannot proceed against him.
  - b) No. The committee has no power to fine him.
  - c) No. The committee must conduct disciplinary hearings in private.
  - d) No. The committee's power of suspension is limited to two years.
  - e) No. The standards of proof in disciplinary hearings is clear and convincing evidence.
6. 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 act 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.
7. 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 2002 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 2002.

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 \$8,000.

In conversations with Attorney Wilbur, the defense lawyer has offered \$5,000 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 \$5,000 offer even though it was less than the childrens' stated amount.
- (4) Attorney Wilbur acted within the scope of this 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.

8. Susan Stardust is married to Brian Biggerstar and they have two children. Stardust caught Biggerstar engaging in an extramarital affair in their home. Subsequently, Stardust attacked Biggerstar with a paring knife, causing him severe bodily harm. Biggerstar has filed criminal charges and a civil lawsuit against Stardust. Stardust has asked Andrew Attorney to represent her in an action for divorce and child custody, to defend her in the criminal and civil lawsuits, and to file a counterclaim against Biggerstar for intentional infliction of emotional distress. Stardust has spent most of her money and is interested in paying Andrew on a contingency basis, if possible.

In which matters may Andrew accept a contingency fee, provided that the fee is reasonable and is in writing?

- (1) The divorce
- (2) Property settlement.
- (3) Collecting delinquent alimony and child support payments
- (4) Stardust's civil lawsuit
- (5) Stardust's defense at criminal trial

- a) A contingency fee is not permitted in any of the five instances
- b) A contingency fee is permitted only in (2) and (3)
- c) A contingency fee is permitted only in (4) and (5)
- d) A contingency fee is permitted only in (3) and (4)
- e) A contingency fee is permitted only in (1) and (4)
- f) A contingency fee is permitted in all five instances.

9. Mork and Mindy have both recently graduated from U of A Law School and have been admitted to the bar. Each wishes to have his and her own practice, but knows that the costs of renting office space, hiring a secretary, and purchasing equipment can quickly add up. For these reasons, they decide to rent office space in Fayetteville in the newly developed Fayetteville business park, but they will split the rent and share a legal secretary. They will have separate trust accounts, separate confidential files, and separate malpractice insurance.

Which of the following names are appropriate and permitted for the front door of their common waiting room?

- (1) Fayetteville Business Park Law Firm
  - (2) Ozark Law Firm
  - (3) Law Firm of Mork and Mindy
- (a) All are permitted.
  - (b) Only 1 and 2 are permitted.
  - (c) Only 2 and 3 are permitted.
  - (d) Only 1 and 3 are permitted.
  - (e) None are appropriate. None can be ethically used.
10. Laura Lawyer practices law in Fayetteville, Arkansas. She has a very successful and busy personal injury practice. There are several settlement checks which come in to her office every week. Paul Plaintiff is one of her most successful cases. His vehicle was hit head on by an eighteen wheeler. Due to the hard evidence as to the defendant's fault, as well as witnesses placing Paul's car square in his own lane going approximately the speed limit, the extent of Paul's injuries, and the fear of a substantial court judgment, the defendant settled for \$1.2 million. This check came to Laura's office on a Friday afternoon before a major holiday and was mixed in with several other pieces of mail.

Which of the following actions taken by Laura are improper under the Arkansas Rules? [Ignore all IOLTA issues.]

- (1) Laura does not deposit the check in her trust account that Friday, but discovers it the following Wednesday and immediately deposits it in her trust account and notifies Paul.
- (2) Laura goes to the bank Friday to deposit the check but discovers she's out of trust fund deposit slips but she has deposit slips from her office account with her. For safe-keeping, she decides to go ahead and deposit the check in her office account. She goes to Hot Springs for the long weekend, has a wonderful time, and once back to work the following Tuesday, transfers the \$1.2 million from her office account to her trust account and notifies Paul.
- (3) Laura discovers the check on Friday, but in her haste to get away for the long weekend, fails to deposit it in her trust account. She goes to visit her dad in Texas, who is another personal injury attorney, and deposits the check in his trust account for safe-keeping. When she gets home Tuesday, she has the \$1.2 million transferred to her trust account and promptly notifies Paul.
- (4) Laura deposits the check into her trust account, promptly notifies Paul, makes an accounting and distributes to Paul. Six years later, Laura cleans out her office and shreds all records and documentation of the deposit of the \$1.2 million check.
  - (a) All of the above are improper.
  - (b) None of the above are improper.
  - (c) Only (2) and (3) are improper.
  - (d) Only (3) and (4) are improper.
  - (e) Only (1) and (2) are improper.
  - (f) Only (2) and (4) are improper..