

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. Patsy Plaintiff of Walnut Ridge wishes to file a products liability action against a Fort Smith dishwasher manufacturer. Her attorney is her brother, Pete, a resident of Kansas City and a graduate of the University of Arkansas Law School. Pete is licensed to practice law only in Missouri.
  - A) Pete may represent the plaintiff, because he is an Arkansas graduate.
  - B) Pete may represent the plaintiff, because of their relationship.
  - C) Pete may represent Patsy pro hac vice if he consents to local discipline and accepts local counsel if required by the trial court.
  - D) Patsy has a constitutional right to select her own attorney and to employ him in her Arkansas lawsuit.
  - E) Pete may not represent the plaintiff, because he is not licensed in Arkansas.
  
2. Linda Lawyer is eager to attract clients. She engages in the following activities. Which are prohibited by the Arkansas Rules?
  - (1) She goes to a widow and says, "You are being treated unfairly by the IRS. I will represent you for no charge."
  - (2) She sends announcements to every real estate professional in town, announcing a free seminar on "Current Developments in Real Estate Law."
  - (3) She has a home page on the Internet. It says, "I'll try to answer your questions on Arkansas law. Contact me by e-mail for a quick, short and free response."
  - (4) She reads the birth announcements, writes all new parents and says "Come see me for a free book on child rearing and a free simple will. No obligation."
  - (5) She calls every CPA in town and says, "Please refer to me any of your clients who need legal help."
  - (6) She tells her hairdresser, "Send me a client and I'll give you \$25."
  - A) Only (2) and (3) are prohibited.

- B) Only (1) and (4) are prohibited.
- C) Only (5) and (6) are prohibited.
- D) Only (1) and (5) are prohibited.
- E) Only (3) and (6) are prohibited.
- F) All are prohibited.

3. 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 children's 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.

4. Lawyer Leo practices law in Walnut Ridge. He is happily married to Wanda and they have two children. He also has a consulting business in Tulsa, Oklahoma and is there from Sunday evening to Wednesday afternoon.

After a disappointing courtroom loss in Walnut Ridge, he drinks too much, walks down Main Street, and throws bricks through three plate glass windows. After his arrest, and after the front page story in the local paper, it is revealed that for the past five years he has had a secret "double life." Theresa, who lives in Tulsa, believes she is his common law wife; they never obtained a marriage certificate or had a wedding ceremony; they have a child. Both Wanda and Theresa are completely innocent.

Can Leo be professionally disciplined in Arkansas?

- A) No. Nothing he did involves the practice of law.
  - B) He cannot be disciplined for breaking windows because it is only a misdemeanor.
  - C) He cannot be disciplined for having a double life, because he violated no law. Theresa was the equivalent of a girlfriend.
  - D) Yes, he can be disciplined because his conduct reflects poorly on the legal profession.
  - E) Yes, he can be disciplined.
5. Lawyer Lyle is drunk and fries his cat in the microwave. After a hearing, the Committee suspends him from the practice of law for 18 months. He appeals.

Which of the following arguments are likely to be persuasive?

- A) He was denied a jury trial.
- B) The standard of proof that was used was only a preponderance of evidence.
- C) The event took place 15 months before the disciplinary proceedings were commenced.

- D) He lacked the requisite criminal intent.
- E) The penalty exceeds the maximum authorized.
- F) None of the arguments are likely to be successful. The suspension will be affirmed.

6. A written and signed contract between attorney and client contains the following provisions. Which provisions are valid under the Arkansas Rules of Professional Conduct?

- 1) "I agree to pay \$5000 in advance and 20% of any net recovery in the dispute against defendant.
- 2) I agree to pay \$5000 in advance and an additional \$15,000 if I am acquitted of the felony charges.
- 3) I agree to pay 30% of all amounts of back child support that attorney collects from my ex-husband.
- 4) I agree to pay \$10,000 and an extra \$25,000 if the verdict in the civil suit against me is less than \$100,000.
- 5) I agree to pay \$10,000 if the attorney persuades the City Council to re-zone the parcel of land for commercial purposes.

- 1. Only 1, 3 and 5 are valid.
- 2. Only 2, 4 and 5 are valid.
- 3. Only 1, 3 and 4 are valid.
- 4. All but 1 are valid.
- 5. All but 2 are valid.
- 6. All but 3 are valid.
- 7. All but 4 are valid.
- 8. All but 5 are valid.

7. The following statements involve attorney fees. Two of the acts described are unethical. Select one of them.

- a) Attorney Nicole bills her client \$1000 for a Rule 56 motion. But the motion is written by her law clerk, who is paid \$90.
- b) Attorney Nicholas bills his client \$25 (one quarter of his hourly fee) for a 3 minute telephone call.

- c) Attorney Olivia bills her client her normal hourly fee for traveling to and from Little Rock for a 15 minute meeting in Little Rock.
  - d) Attorney Oliver bills his client for a share of the office law library expenses and his secretary's time in typing legal documents.
  - e) Attorney Paige adds to her client's bill a 50% surcharge for the cost of outside consultants.
  - f) Attorney Peyton charges his client travel time at his normal rate for taking an evening plane to New York City and sleeping on the plane.
  - g) Attorney Ruth works for 50 minutes, takes a 10 minute break, and bills her client for one hour.
  - h) Attorney Russell bills government clients and charitable clients a rate lower than he charges other clients.
8. Attorney Will practices with the XYZ law firm. He has personal problems; he needs money; he misappropriates \$5000 from a client's account. The taking is discovered by the law firm. The partners confront Will; he confesses; he promises to make amends and seek treatment; the firm decides to give him a second chance.

The firm makes complete restitution to the client's account (but without disclosing the conduct of Will). The firm makes a full disclosure to the Supreme Court Committee on Professional Conduct. The firm does not tell the law enforcement authorities.

Has the firm acted properly?

- A) No; it had an obligation to fire him.
- B) No; it had an obligation to tell the law enforcement authorities.
- C) No; it had an obligation to make a full disclosure to the client.
- D) Both (a) and (b).
- E) Both (b) and (c).
- F) Both (a) and (c).
- G) Yes. It had acted properly.