

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. Husband comes to your office for a divorce. Which of the following statements by you is not permitted under the Rules of Professional Conduct?
 - A. "Divorce is a sin."
 - B. "Keep a diary of how she treats you. It will help support the claim of general indignities. Perhaps you can even go back and reconstruct prior events."
 - C. "Buddy, grow up. Leave the little bimbo and go back to your wife and kids."
 - D. "This property settlement that you two have agreed on is foolish. You're giving her too much."
 - E. "All the psychological evidence that I have read leads to the conclusion that the children of divorced parents are more likely to have lower self-esteem, lower education levels, worse nutrition, and higher crime rates. Is that what you want for your children?"
 - F. "This property settlement that you two have agreed on is foolish. You're cheating yourself."
 - G. "Now that you have signed the property settlement, tell your wife to come in. I'll explain it to her and she can sign it, and then we will go to court for the divorce."

2. Zoë, an attorney for the XYZ Firm, currently represents Bob, a building contractor and the plaintiff in an action in circuit court in Fayetteville for breach of contract.

Bob also has pending before the Rogers Zoning Commission a petition to rezone some property he owns. Sylvia, an attorney with the ABC Firm, represents Bob in that matter.

Wilson, who owns property next to Bob's land, has asked Zoë to represent him in opposing Bob's petition for rezoning.

Is it appropriate for Zoë to represent Wilson before the Rogers Zoning Commission?

- A. Yes, because there is no common law or fact between the two matters.
 - B. Yes, because one matter is a judicial proceeding and the other is an administrative proceeding.
 - C. Yes, because the proceedings are in different counties.
 - D. No, because Zoë is currently representing Bob in the contract action.
 - E. No, because there is a possibility that both matters will be appealed to the same court.
3. Lonnie Lawyer graduated from law school in 1990. After passing the bar exam, he and his wife Lisa moved to Bella Vista where he set up a small office and has been practicing ever since. He only handles divorces and DUI defense cases. Today Rhoda Retiree, Lonnie's neighbor, came into his office and asked Lonnie to draft a will for her. During their discussion Rhoda reveals, "You know Lonnie, I don't have any children of my own, and I've come to think of Lisa as a daughter. I'd like to leave Lisa my home and the 50 acres it sits on so that you two will have room to expand when you start a family." Lonnie is flattered and draws up the will immediately at no charge to Rhoda.

Lonnie has acted:

- A. Ethically, because he charged no fee for the preparation of the will.
 - B. Unethically, because an attorney can not prepare an instrument giving his spouse a substantial gift from a client.
 - C. Ethically, because neither he nor Lisa offered an inducement for the bequest.
 - D. Unethically, because Lonnie has never prepared a will before and therefore is not competent to represent Rhoda in her estate planning.
4. In 2003, Attorney Sally worked for a local firm that represented and still represents the school district. She handled matters involving student discipline and teacher termination. She did not do any work at all on a controversial tax to benefit the school. The tax was approved and enacted.

In 2005, she left the firm and opened her own office. In 2006 she was contacted by Attorney Jack, who intends to bring a lawsuit challenging the tax. Attorney Jack hires her to do research and draft pleadings challenging the tax. In addition, he asks her to put her name on the pleadings and to participate in the actual litigation. She agrees.

Has Attorney Sally acted ethically?

- A. Sally is absolutely barred from any participation in the matter because of her two year involvement with the law firm and her representation of the school district.
- B. Sally may participate in research and drafting, but is barred from any public participation in the trial.
- C. Sally may participate completely in the tax litigation because the one year cooling-off period has expired.
- D. Sally may participate completely in the tax litigation but only if her prior law firm consents.
- E. Sally is presumptively barred from any participation in the matter, unless she can establish that she received no confidential information about the tax matter while in the firm.

5. Alice worked in the law firm of AAA, which represented Patient. She received confidential information about the case of Patient v. Doctor. She has now joined the law firm of XYZ, which represents the defendant Doctor in the same lawsuit.

- (1) If Alice is an attorney, XYZ is disqualified.
 - (2) If Alice is an attorney, XYZ is not disqualified, provided the firm builds a Chinese wall around her.
 - (3) If Alice was a law clerk and is now an attorney, XYZ is disqualified.
 - (4) If Alice is a secretary, XYZ is disqualified.
- A) Only (1) is correct.
 - B) Only (1) and (3) are correct.
 - C) Only (1) and (4) are correct.
 - D) Only (1),(3) and (4) are correct.
 - E) Only (2) and (3) are correct.
 - F) Only (2) and (4) are correct.
 - G) Only (2), (3) and (4) are correct.

6. Lawyer has thoroughly prepared his case and feels confident that he will be successful. However, hours before the hearing in the Arkansas state trial court is to take place, his new law clerk does some additional research, discovers the following, and informs the lawyer:

- (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) An Arkansas 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 (3) 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.

7. During his trial on drug charges, Ed Indigent has a private attorney. But after his conviction, and prior to his appeal, he filed an affidavit with the court, saying that he had no assets. Accordingly, the court appointed attorney Jerome to handle his appeal.

While preparing the appeal, Ed told Jerome that he owned approximately \$75,000 worth of timber land in southwest Arkansas. Jerome privately examines the court file, and discovered that the land was not disclosed on the affidavit. In addition, he knows that pursuant to court guidelines that the real property should have been disclosed; and if it had been disclosed, the court would not have appointed Jerome (or any other attorney) to handle the appeal on an appointed basis.

- A. Jerome is obligated to say nothing to his client or to the court.
- B. Jerome should speak to the client Ed, and after full consultation, follow the directions of his client.
- C. Jerome should speak first to his client. If his client refuses to take any action, Jerome must keep quiet.
- D. Jerome should speak first to his client. If his client refuses to correct the affidavit, Jerome must ask to withdraw or tell the court.
- E. Jerome should go directly to the court and ask to be removed, without disclosing any reason. If the trial judge does not permit withdrawal, Jerome says nothing else and stays on the case.

8. Attorney Alexandra represents the client on a murder 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 city park next to the gas grill. I saw the client put it there the night of the crime."

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.
9. Defendant Darla is an accountant who was arrested for theft of client's funds and embezzlement of \$2.5 million over 12 years. Lawyer Larry is Darla's attorney in the matter. Larry is contacted by the media for a report on this outrageous crime. Which of the following statements can Larry ethically make to the reporter?
- (1) "My client is a decent, upstanding citizen with a reputation of honesty in her business."
 - (2) "My client has a clean criminal record."
 - (3) "My client was arrested for theft and embezzlement at her office on April 10."
 - (4) "My client passed her lie detector test."
 - (5) "My client is a single mother who is an accountant at Davis and Davis Accounting offices."
 - (6) "I am sure that my client did not commit these crimes."
- A) All the statements are permitted. A criminal defense attorney is permitted more latitude than a prosecutor.

- B) Only statements 2 and 3 are permitted.
- C) Only statements 1 and 5 are permitted.
- D) Only statements 3 and 5 are permitted.
- E) Only statements 1, 2 and 6 are permitted.
- F) Only statements 2, 4 and 5 are permitted.

10. Jack Pool is the attorney for Nichols Hills Bank. The bank, represented by Jack, is suing on grounds of fraudulent misrepresentation the JDP Construction Company in a construction loan application that the bank subsequently approved. Unfortunately, the bank completely burned down, destroying the contract and the construction company has misplaced their copy. The bank's suit is not based upon breach of the contract but on fraudulent misrepresentation by JDP Construction Company. The Construction Company does not dispute the existence of the contract. Since there is not a record of the contract which Jack had originally prepared, the Bank would like to put him on the stand to testify as to existence of the contract for the record. Can Jack testify?
- A. No. A lawyer can not be a witness.
 - B. Yes. A lawyer can be a witness if he has materially participated in any matter at issue.
 - C. No. A lawyer can not be a witness when he is also an advocate at the trial.
 - D. Yes. A lawyer can give testimony if it relates to an uncontested issue.

11. Plaintiff is represented by Paul in a personal injury accident. Defendant is represented by Dan. The plaintiff has sued Dan in a negligence case.

Defendant is married to Wife, but they are separated. Wife is not a party to the personal injury accident. Wife is represented by Wilma in the domestic relations matter.

By-stander Billy observed the accident. He does not have a lawyer.

Which of the following actions are improper?

- (1) Paul tells plaintiff "do not talk to Attorney Dan."
- (2) Without seeking the permission of Attorney Dan, Paul goes to visit Wife.
- (3) Without seeking the permission of Wilma, Paul goes to visit Wife to ask about defendant's drinking habits.

- (4) Without seeking the permission of Attorney Dan, Paul goes to visit Billy.
 - (5) Dan calls Wife and says “please do not talk to the plaintiff’s lawyer.”
 - (6) Dan calls Billy and says “please do not talk to the plaintiff’s attorney.”
 - (7) Dan says to Billy, “Here is \$1000. Take a long trip to Mexico.”
- A) Only (3) and (5) are improper.
 - B) Only (2) and (4) are improper.
 - C) Only (1) and (6) are improper.
 - D) Only (6) and (7) are improper.
 - E) Only (1) and (4) are improper.
 - F) Only (3) and (7) are improper.