

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.

1. Which of the following candidates are likely to be denied admission by the Arkansas Bar?
    - (1) Arnold, a University of Arkansas graduate who passed the bar exam, but who has experienced depression but is dealing with the problem by seeing a psychiatrist and taking Prozac.
    - (2) Becky who has passed the Arkansas bar exam and graduated first in her class from Concord University whose classes are taught over the internet.
    - (3) Carol, a University of Texas graduate who passed the bar exam, who caused an automobile accident last year when she rear-ended someone at a stop light; and Carol resides in Texas.
    - (4) David, a University of Arkansas graduate who passed the bar exam, who after being the victim of a hit-and-run car accident two years ago had to undergo three surgeries. As a result he went into debt \$100,000 and declared bankruptcy.
    - (5) Ella, a University of Arkansas graduate who passed the bar exam, who has four DWI convictions in the last two years.
    - (6) Frank, a University of Arkansas graduate who passed the bar exam, but prior to law school was convicted of fraud for involvement in an investment scheme.
- A) Only 1, 3 and 5.
  - B) Only 1, 4 and 5.
  - C) Only 1, 4 and 6.
  - D) Only 2, 5 and 6.
  - E) Only 2, 3 and 4.
  - F) Only 2, 3 and 6.

**Questions 2-4 are based on this fact pattern:**

Nathan Newbie, fresh off the bar exam, goes into practice with Sam Senior. Sam has practiced solely in the area of social security benefits for the past 15 years. Nathan took several courses on social security benefits during law school and is looking forward to devoting his practice to this area. Sam and Nathan are now in the process of setting up their new firm.

2. Which is NOT a proper name for Sam and Nathan's new firm?
  - A) Senior and Newbie.
  - B) The Golden Years Law Firm.
  - C) The Setting Sun Law Firm.
  - D) The AARP Firm.
  
3. Who can advertise himself as a "Social Security Specialist?"
  - A) Only Nathan Newbie, because he has taken law school courses very recently.
  - B) Only Sam Senior, because he has practiced in this area for 15 years.
  - C) Both Nathan and Sam can advertise themselves like this because social security is the only type of work they do.
  - D) Neither Nathan nor Sam can do this.
  
4. In trying to attract new business, which of the following methods is permissible?
  - A) A telemarketing campaign with paid solicitors making phone calls to residents of retirement communities.
  - B) A television ad featuring moving testimonials from Ava and Bill, two of Sam's clients.
  - C) Conducting a free seminar at the local senior center with a table at the back where attendees can pick up Sam and Nathan's business cards.
  - D) Printing on their business cards that "We are better at social security cases than any other lawyers in town!".
  
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 the 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.
  - F) Yes
6. The corporate client has agreed to pay "all reasonable expenses" connected with the representation. According to the rules of the profession and the professional traditions, which of the following charges would not be acceptable?
- 1) The attorney charges the client for 8 hours at the normal hourly fee for driving from Fayetteville to Little Rock to attend a 30 minute hearing.
  - 2) The attorney charges the client for the cost of first class air fare for travel from Fayetteville to New York City.
  - 3) The attorney charges the client for travel time to Chicago and sleeps on the plane.
  - 4) The attorney charges the client for travel time to Los Angeles and reads a magazine during the evening flight.
  - 5) The attorney charges the client for travel time to Detroit and during the flight does an hour's work for another client and bills the second client for the hour of work.
- A) Only 1 and 2 are impermissible.
  - B) Only 1 and 4 are impermissible.
  - C) Only 2 and 5 are impermissible.
  - D) Only 3 and 4 are impermissible.
  - E) Only 3 and 5 are impermissible.
7. The Arkansas Rules of Professional Conduct prohibit the unauthorized practice of law. Which situations demonstrate the unauthorized practice of law?
- 1) Lawyer Larry provides professional advice and instruction to a social worker about a work-related matter.
  - 2) ABC Abstract Company prepares draft documents and title opinions for customers.

- 3) ZYX Corporation wants to represent itself in circuit court.
  - 4) Henry owns a family business, Henry's Carpet Corp. He wants to represent the family business in small claims court against an unsatisfied customer.
  - 5) Carrie Client has decided to represent herself pro se in the circuit court. She wants Bob Bricklayer, her brother, to sit at the counsel table and assist her in court.
    - A) All of the above.
    - B) 1, 3 and 4 only.
    - C) 1, 2 and 5 only.
    - D) 2, 3 and 4 only.
    - E) 2, 3, and 5 only.
    - F) 3, 4, and 5 only.
    - G) None of the above.
8. Lisa Lawstudent graduated from the University of Missouri School of Law last year. Because she was unsure about her plans for the future, she went ahead and took the Missouri bar, passed it, and became admitted in Missouri. Recently she was offered a job as in-house corporate counsel for Wal-Mart. She would only be providing services to Wal-Mart and would be working out of the home office in Bentonville, Arkansas. She will reside in Arkansas. Does she need to take the Arkansas bar exam and be admitted in Arkansas to practice at her new job?
- A) Yes. All attorneys must pass the bar exam and be admitted to practice in Arkansas.
  - B) Yes. She did not graduate from an Arkansas law school and cannot benefit from the diploma privilege.
  - C) Yes. She will be establishing a systematic and continuous presence in this state and must be admitted.
  - D) No. She can practice as long as she works at Wal-Mart, provided she associates local counsel when she appears in Arkansas courts.
  - E) No. She is allowed to practice an in-house counsel doing out of court projects.
9. Candy Client goes to see Linda the Lawyer about suing her former attorney, Al, for running off with the \$35,000 settlement Candy received from a prior lawsuit. Al has since been disbarred by the Arkansas Bar Association. Linda tells Candy they can try to recover from the Client Security Fund because Al is nowhere to be found, therefore they cannot sue him. Linda agreed to represent Candy in her claim against the Client Security Fund for either \$75/hour or 20% of the recovery, whichever Candy desired. Linda normally charges \$100/hour as a standard rate for almost every one of her cases.

Which of the following statements is correct?

- 1) The hourly rate transaction between Candy and Linda would be unethical because Linda would be giving an unwarranted discounted fee.
  - 2) Candy could not prevail on a claim against the Client Security Fund because Al was already disbarred and that is sufficient punishment.
  - 3) The transaction between Candy and Linda would be improper because a lawyer can not charge legal fees for representing a client against the Client Security Fund.
  - 4) Linda would not be able to claim the entire \$35,000 because the Client Security Fund has a maximum recovery amount of \$30,000.
  - 5) The contingency fee agreement would not be considered reasonable because Arkansas sets the maximum percentage at 15% in cases against the Client Security Fund.
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 stationery, 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." A copy of the letter was sent to Farmer Crawford. 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:

- A) Lose, because the lawyer did not personally make a mistake.
- B) Win, because the lawyer knew that the lender was to be benefitted and he personally notified the lender.
- C) Lose, because any mistake was only one of judgment.
- D) Win, because the lawyer committed fraud.
- E) Lose, because there was no attorney-client relationship between the attorney and the lender.
- F) Lose, because of the Barrister's Rule.

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1. A plaintiff in a slander case retains the ABC law firm. The case is assigned to partner Susan. The client tells Susan a highly confidential piece of information (Item A). In addition, Susan learns another highly confidential piece of information (Item B) from a separate source. Both items are arguably relevant to the lawsuit, and both are not the type of information that anyone would wish revealed.

In which of the following instances has Susan acted unethically?

- (1) She reveals Item A to an associate who is working on the case.
  - (2) She reveals Item B to a second year law student clerk who is working on the case.
  - (3) After she properly objected, a court of record ordered her to reveal Item A to the opposing party. She did not appeal, but instead revealed the information to the opposing party.
  - (4) After a few drinks at a holiday party for the partners, she jokingly revealed Item B to another partner.
  - (5) She called a lawyer in another law firm for ethical guidance on the case, and revealed Item A in the course of seeking guidance.
- A) Only (1) and (5) are ethical.
  - B) Only (1) and (2) are ethical.
  - C) All but (4) are ethical.
  - D) All but (2) and (5) are ethical.
  - E) All but (3) are ethical.
  - F) All but (5) are ethical.
2. Bill goes to Attorney Amy because a defendant ran into his car, and Bill wishes to sue. After discussing the case, Amy declines to represent him. Bill goes to another attorney. Several months later, Amy reads in the local newspaper that Bill was successful in his lawsuit after he testified that the light was green. Amy knows that his statement is false because Bill clearly told her that the light was red. What is Amy ethically obligated to do now?
- a) contact the judge and explain that Bill lied on the stand.
  - b) contact the other lawyer and explain that Bill lied on the stand.

- c) contact Bill and explain that she will tell the judge that Bill perjured himself if Bill does not tell the judge.
  - d) say nothing to anyone.
3. Lonnie Lawyer graduated from law school in 2001. After passing the bar exam, he 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 you as a son. I'd like to leave you my home and the 50 acres it sits on so that you and your wife 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 himself a substantial gift from a client.
  - C) Ethically, because neither he nor his wife 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. Attorney represents a criminal client accused of murder. Client says in confidence "I did it." The client does not testify at trial.
- (1) While the criminal case is proceeding, Attorney can sign a contract agreeing to write a book about the case when it is over, provided he discloses nothing confidential.
  - (2) While the criminal case is proceeding, Client can sign a media contract. Separately and independently he can promise to pay Attorney from any proceeds if and when they are received.
  - (3) After the criminal case concludes, attorney can sign a book contract and in his book can write "Client told me, 'I did it'."
  - (4) After the criminal case concludes, and after the client has been executed, Attorney can write a book and can write "Client told me, 'I did it'."

Which of the above are ethically permissible?

- A) None are ethical.
- B) All are ethical.
- C) Only (1) and (2).
- D) Only (1) and (4).
- E) Only (2) and (3).
- F) Only (2) and (4).

- G) Only (1).
- H) Only (2).
- I) Only (3).
- J) Only (4).

5. For two years Sarah Wilson has worked for the Little Rock firm of Adams and Baker in the bankruptcy section. She is eager to do legal work other than Chapter 11 proceedings. Out of frustration, she leaves the firm and joins a small North Little Rock firm. The senior partner immediately assigns her to the defense of a tenant, accused of not paying rent on a commercial building. In examining the file, she discovers that the plaintiff landlord is represented by the firm of Adams and Baker.

May Sarah represent the defendant tenant?

- A) No, because she is barred by the irrebuttable presumption that she knew about this case while in Adams and Baker.
- B) Yes, because the appearance of impropriety concept is inapplicable.
- C) No, because she has not complied with the one year cooling off period that governs attorneys who switch from one firm to another.
- D) Yes, provided that she can establish that while she was in the Adams and Baker firm, she knew nothing of this case.
- E) No, but the new firm can build a Chinese Wall around her and represent the tenant.

6. Attorney represented C1 and C2 in the formation of a corporation in which C1 provided capital and C2 provided services. Attorney drafted a buy/sell agreement providing for the sale of stock of either party to the other if certain events took place. A dispute has now developed between C1 and C2 about the interpretation of the agreement, and C1 and C2 have been unable to resolve the dispute amicably.

- (1) Attorney is subject to discipline because the Arkansas Rules prohibit a lawyer from representing multiple parties in the formation of a corporation.
- (2) Attorney is subject to discipline if he represents either C1 or C2 in connection with the dispute.
- (3) In a subsequent dispute between C1 and C2, communications made by either C1 or C2 during the formation of the corporation would not be privileged or confidential.

Which statements are correct?

- A) Only 2.
- B) Only 1 and 2, but not 3.
- C) Only 2 and 3, but not 1.
- D) All three.

7. Paula Plaintiff entered into an oral contract with Contracting Carl on July 2, 2002. Carl breached the contract with Paul on September 9, 2003. Now (on April 5, 2007) Paula wishes to sue Carl. She asks Attorney Alvin to file suit. But Alvin realizes that under the 3 year statute of limitations for oral contracts, the action is barred; however, under the 5 year statute of limitations for written contracts, an action is still allowed.

Alvin files the lawsuit for breach of contract. A week later the attorneys for the defendant Carl file an answer. They do not raise the statute of limitations as an affirmative defense. Alvin says nothing to the defense attorneys or to the court. He continues with the lawsuit.

Has Alvin acted ethically?

- a) No, he should not have filed the lawsuit. Because it was barred by the statute of limitations, it did not have a non-frivolous basis.
  - b) No, he had an obligation to prevent fraud on the court and should inform the court now.
  - c) No, he has an obligation to opposing counsel and must inform them of the statute of limitations defense.
  - d) Yes, he has acted consistently with his duties to his client under the adversary system.
8. Sally comes into your office one day and requests that you defend her in a breach of contract dispute. You agree. She tells you that the other side has apparently lost its copy of the contract. The other side has made a discovery request for the document, and she tells you that she informed them that she also has lost her copy of the contract.

On her way out of the office, she stops to make another appointment with your secretary, and says, "Oh, by the way, I meant to give this to the lawyer." She then pulls the original contract out of her bag and gives it to the secretary, who brings it to you. Under the Rules of Professional Conduct, what can you do?

- (1) Take it home with you tonight and throw it in your pond before the other side can get it.
  - (2) Have Sally come back to the office and take the contract home with her.
  - (3) Turn the contract over to the plaintiffs.
  - (4) Put it in your file at the office.
  - (5) Tell your secretary to "lose" the contract.
  - (6) Provide it to the court.
- A) Only 2 and 3 are permissible.
  - B) Only 3 and 4 are permissible.
  - C) Only 2 and 5 are permissible.
  - D) Only 3 and 6 are permissible.
  - E) All are permissible under the principles of the adversary system.

9. Attorney Adam gets on the elevator after a long day in court. The trial is almost over and Adam is worried that his client will be found guilty of running a prostitution ring. As the elevator is descending, a man behind him says, "there is no way your client will be found guilty." Surprised, Adam asked the stranger, "how do you know, are you a member of the press?" The man then replies, "no, I am a juror." Adam says he cannot talk to the juror and exits the elevator. Under the Arkansas Rules of Professional Conduct, does Adam have a duty to report this juror contact to the court?
- A) No, because Adam owes a higher duty to the welfare of his client, and if his client is going to be acquitted he does not have to report it.
  - B) No, because the juror initiated the contact.
  - C) Yes, because even though the juror initiated the contact, the rules prohibit an attorney to have any contact with a juror on the merits of the case.
  - D) Yes, because if the attorney does not report the contact he will be committing a fraud on the court.
10. On behalf of client Douglas, Attorney George is considering a case against Dr. Samson. He writes Dr. Samson and informs him. A few days later, Bob, a former partner in George's law firm and now a prominent banker, calls George and says "Dr. Samson is a close friend of mine, I wish you would drop this lawsuit against him."

Which of the following responses is the best resolution of the ethical issue?

- A) George is ethically permitted to ignore the request and go ahead with the lawsuit, provided he can remain independent and zealous.
- B) George is ethically obligated to tell client Douglas of the telephone request.
- C) George is ethically obligated to drop the lawsuit because no objective attorney can remain zealous, loyal, and independent in this situation.
- D) George is ethically obligated to turn the case over to another attorney in the firm.