

IPI #1

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. Lenny is a lawyer admitted to practice in the state courts of Arkansas. Lenny's client, Carl, was sued in the United States District Court for the Western District of Arkansas. What is required for Lenny to represent Carl in his federal trial?
  - (a) Nothing, Lenny's membership in the Arkansas Bar allows him to represent Carl in any court in Arkansas.
  - (b) Lenny needs to be admitted into the United States Bar Association to appear in federal court.
  - (c) Lenny must become a member of the bar of the federal district court for the Western District of Arkansas if he wants to appear there.
  - (d) Lenny needs to pass the Federal Bar Examination that covers federal subjects.
  
2. 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 (1), (3) and (5) are permitted.
- d) Only (2), (3) and (4) are permitted.
- e) Only (2), (4) and (5) are permitted.
- f) Only (3), (4) and (5) are permitted.
- g) All are permitted.

3. Under which of the following circumstances may attorney Alex personally solicit a client?

- 1) Alex reads in the newspaper that a single mother and her children are going to lose their house for non-payment of \$50 in property taxes. Alex is willing to take the case for free.
  - 2) Alex learns from television that a client Alex had aided in an adoption proceeding the previous year has been charged with larceny.
  - 3) Alex discovers that the IRS has brought charges against a gentleman working in the office adjoining Alex's law firm. Alex knows that the man is being represented by Attorney B from a law practice across town; however, Alex being a tax lawyer, knows that he could be of greater assistance to the client than Attorney B.
  - 4) Alex sister has been injured in a slip-and-fall accident at Best Buy. Alex hasn't seen his sister in 5 years, and they did not part on the best of terms.
- A. The attorney may solicit in all 4 circumstances.
  - B. The attorney may solicit in only circumstances 1 and 2.
  - C. The attorney may solicit in only circumstances 2 and 3.
  - D. The attorney may solicit in only circumstances 1 and 4.
  - E. The attorney may solicit in only circumstances 1, 2, and 4.
  - F. The attorney may solicit in only circumstances 2, 3, and 4.

4. Lucy Lawyer recently graduated from law school and passed the bar exam. During law school, Lucy decided that she was a property lawyer. To ensure that she was properly prepared to meet all her clients property needs, Lucy attempted to make herself an expert in that field. Lucy took Property, Oil and Gas, Real Estate Law, Decedent Estates, and all other property courses offered by her law school, obtaining a grade of A in each course. Lucy wrote her third year seminar paper on a property topic, as well as a note for the University's law review. All the other students in the law school asked for Lucy's property outlines and requested to be in her study groups. Lucy even attended Summer school at other law schools that offered different property courses, all with the desire to give herself a field of expertise. Lucy considers herself an expert on property law.

Lucy will open her own law firm that only handles property cases. She has recently put in an order for business cards. Which of the following statements may she ethically place on her business cards?

- (1) Lucy Lawyer Law Firm, meeting all your property needs!!
  - (2) Property Law Firm.
  - (3) Lucy Lawyer, focusing on property law.
  - (4) Lucy Lawyer, specializing in property law.
- a) All are ethical.
  - b) Only 2 is unethical.
  - c) Only 4 is unethical.
  - d) Only 3 and 4 are unethical.
  - e) Only 1 and 3 are unethical.
  - f) Only 1, 2 and 3 are unethical.
  - g) All are unethical.
5. Al and Bob practiced law under the firm name of Al and Bob. Bob died, but Al does not want to change the name of the firm. Soon after, Al entered into an arrangement with another attorney, Carl. Carl pays Al a certain sum each month for office space and use of Al's law library and for secretarial services, but Al and Carl each has his own clients, and neither participates in the representation of the other's clients or shares in fees paid. On the entrance to the suite of offices shared by Al and Carl are the words "Law Firm of Al, Bob, and Carl."

Is Al subject to discipline?

- A. Yes, because Bob was deceased when Al made the arrangement with Carl.
- B. Yes, because Carl is not a partner of Al.
- C. No, because Al and Bob were partners at the time of Bob's death.
- D. No, because Carl is paying a share of the rent and office expenses.

6. The Arkansas Rules of Professional Conduct prohibit the unauthorized practice of law. Which situations constitute 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, 2 and 5 only.
  - C) 1, 3 and 4 only.
  - D) 2, 3 and 4 only.
  - E) 2, 3, and 5 only.
  - F) 3, 4, and 5 only.
  - G) None of the above.

7. Attorney Adam is a member of the bar of Arkansas. While on vacation in Texas, Adam was arrested and convicted of misdemeanor theft - - defrauding an innkeeper (he left without paying his hotel bill). Is Adam subject to discipline in the State of Arkansas?

- a) No, because his conduct took place beyond the jurisdiction of Arkansas.
- b) No, because his conduct in Texas was unrelated to the practice of law.

- c) Yes, because his conduct in Texas reflects on his honesty and trustworthiness and fitness as a lawyer.
  - d) Yes, because commission of any criminal act is grounds for professional discipline.
8. Randy Sanders is an attorney who handles only divorce and related matters. He recently undertook to collect overdue alimony for a new client, who signed a contingent fee contract of one third. Randy was able to conclude the matter with one forceful phone call to the ex-spouse's attorney.

Which of the following most accurately describes Randy's options under the Model Rules of Professional Conduct?

- (A) Randy must not charge the client the one-third fee because it would be unreasonable for services that only took a few minutes.
  - (B) Randy may charge and keep the fee of one-third because the client agreed to that fee in writing, as long as the fee contract made all the disclosures required by the Rules of Professional Conduct.
  - (C) Randy may charge and collect the one-third fee if the fee is reasonable given the risks of recovering nothing that existed at the time the contract was signed.
  - (D) Randy may not charge or collect a contingent fee for collection of overdue alimony.
9. Attorney Allyson was hired to defend a client in a negligence case. Because of sloppy office management, Allyson failed to file an answer in a timely fashion, and a default judgment for \$12,000 has been entered against her client. In her ten years of practice, she had never missed a deadline in any other case.

The client (through another attorney) has now commenced a legal malpractice suit against Allyson, seeking \$12,000 compensatory damages and an additional award for punitive damages. Allyson has several possible defenses to the malpractice suit. Which defense is likely to be successful?

- a) The barrister's rule.
- b) The lack of privity.
- c) The comparative fault of the client.
- d) The triviality of the mistake.
- e) The absences of an express duty.
- f) The impropriety of punitive damages.
- g) The first mistake rule.

10. Sally practices law with a local firm. In addition, she and her friend, Virginia, are partners in a local retail establishment known as "Kitchen Magic". On behalf of the partnership, Sally prepares the partnership tax return, negotiates the lease and reviews contractual documents, and represents the partnership in court when it sues debtors. She does not bill the partnership for her services.
- A) Sally has acted unethically in doing the tax returns because she is not a tax specialist.
  - B) Sally has acted unethically because she may not represent the partnership in court because she is one of the partners.
  - C) Sally has acted unethically in splitting legal fees with a non-lawyer.
  - D) Sally has acted unethically in forming a partnership with a non-lawyer.
  - E) Sally's actions do not violate the ethical standards.
11. 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 account.

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.

IPI #2

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. Client Carl brings \$15,000 to Attorney Alice for safekeeping. Attorney Alice puts it into her trust account. At the current interest rate, it will yield \$40 for the expected period that the attorney will hold it in the trust account.
  - A) Attorney is entitled to the interest.
  - B) Client will receive the interest.
  - C) Interest will be paid to the IOLTA Foundation.
  - D) Client must be informed that he has a right to set up a separate account to receive the interest.
  - E) To simplify matters, Attorney may place the money into a non-interest earning account.
  
2. Art Attorney represents Carl Client in a racketeering case brought by Big Bank. Art learns from an unintentional disclosure by Carl that Carl has launched an internet worm virus in to the electronic network of Big Bank. When the virus becomes operational in 10 days, Big Bank will lose enormous sums of money and good will.

What options are available to Art?

- 1) Art may elect to do nothing.
- 2) Art may tell Big Bank about the virus to enable it to minimize its losses.
- 3) Art is required to make disclosure to the law enforcement authorities.
- 4) Art is permitted to make any disclosure that he wishes.

Which options are permissible under the governing Rules?

- A) Only 1 and 2.
- B) Only 3 and 4.
- C) Only 1 and 3.
- D) All but 1.
- E) All but 4.
- F) All the options are permitted.

3. 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.
4. Danny the Driver hires Alice the Attorney to represent him in a criminal matter in Rogers. She agrees and accepts a fee. She has not yet appeared in court for him.

The next day, Larry the Landlord comes to Alice and says "I sure am glad I have you on retainer for 2008. Here is another deadbeat tenant in my Fayetteville apartments. Have him evicted and collect all back rent and damages." Alice realizes the tenant is Danny the Driver, whom she agreed to represent yesterday.

What can Alice the attorney ethically do?

- 1) She can represent both Danny and Larry because the matters are unrelated; in different counties and before different judges.
  - 2) Alice should refund the fee to Danny, and then proceed to represent Larry against Danny, because she had a retainer for 2008 from Larry.
  - 3) She can represent Danny, because he came to her first; however, another member of her firm may represent Larry.
    - A. All of the above are ethically permitted.
    - B. Only (1) is permitted.
    - C. Only (2) is permitted.
    - D. Only (3) is permitted.
    - E. None of the above are ethically proper. She must find another solution to her dilemma.
5. Snake N. Grass, a 16 year old juvenile delinquent, was arrested last week in connection with a 3 a.m. burglary at a wealthy neighbor's home. Snake's parents have hired Liz Lester, a well known juvenile defender, to represent Snake. Snake's parents believe he is guilty because he snuck out of the house around 2:15 a.m. on the night of the burglary and did not return until 4:00 a.m. Snake has also been convicted of several crimes in the past. After reviewing all of the evidence and interviewing Snake's alibis, Liz is convinced that Snake has little chance of escaping conviction. Conviction could mean 18 months in juvenile hall. The prosecutor has offered Liz a sweet deal on behalf of Snake - 2 months in juvenile hall and a 10 month period of supervision by Snake's parents in their home. Snake's parents want to take the deal, but Snake insists he is innocent and wants to take the case to trial.

At the meeting with the prosecutor concerning the plea, the Rules of Professional Conduct require Liz to:

- A) Accept the plea. Snake is a minor and Liz is professionally obligated to accept his parents' judgment of Snake's best interest.
- B) Accept the plea. Snake has little chance of winning at trial and Liz' professional judgment is that Snake will be better served by the plea.
- C) Decline the plea. Snake is innocent until proven guilty by a court of law, and therefore a plea cannot be accepted.
- D) Decline the plea. Snake is Liz's client and she is required to abide by Snake's wishes to take the case to trial.

6. Angie contacts Lawyer Larry and claims she was assaulted by Donald Defendant. Angie wishes to file a civil action against Donald. However after several discussions, Angie is dissatisfied with Larry and leaves him. He was never formally retained to represent her.

She hires a different lawyer to represent her. Two months later, Larry happens to be in court when Angie's case comes to trial. Larry stays for the trial, and is shocked when Angie testifies to facts that are significantly different than what Angie disclosed to him.

What is Larry obligated to do under the Rules of Professional Conduct?

- a) He should contact the trial judge and inform the judge that Angie is committing perjury. Larry has a duty to prevent fraud on the court.
  - b) He should contact Angie's new lawyer and inform the new lawyer of her false testimony.
  - c) He should contact the prosecutor and inform the prosecutor.
  - d) Because he was never formally retained by Angie, he has no duty to her and has discretion to do what he wishes.
  - e) He is obligated to keep the information confidential.
7. Ally Attorney is representing her client, Sam Sham, who is facing a charge of armed robbery in conjunction with the hold-up of a local convenience store. Sam has told Ally that he was at home reading French poetry and the time of robbery. Sam seemed very nervous when he was telling Ally his alibi, and she is suspicious that he may be lying and would rather that he not testify in his own behalf.

Sam then produced Stan Slick, who claimed to have been standing on the corner outside the store at the time of the robbery and to have seen the robber run out of the store. Further Stan offered to testify that the man that he saw fleeing the store was not Sam. Stan has a somewhat checkered past, and Ally doesn't think that he would make a very credible witness. She has a strong hesitation about putting him on the stand. Sam, however, insists that he has a constitutional right to testify and to make decisions regarding his own defense. How should Ally handle this situation?

- A. Sam is correct that it is his right to make decisions concerning his defense; therefore, Ally must allow him to testify and must also allow his star witness Stan to testify, no matter what her perception of their credibility is.
- B. Sam is correct that he has a right to make decisions concerning his defense; however, his role is primarily to make objective decisions. Ally, as his lawyer, has the authority to make the tactical decisions concerning his defense; therefore, she has the authority to refuse to allow both Sam and Stan to testify.

- C. Sam is correct that he has a constitutional right to testify on his own behalf, and because Ally does not know that Sam will lie on the stand, she must allow him to testify. However, as Sam's attorney with the authority to make tactical decisions regarding Sam's defense, Ally may refuse to allow Stan to testify if she feels that he would not be credible, even if she has no proof that he would actually lie.
  - D. Sam is correct that he has a constitutional right to testify on his own behalf, and because Ally does not know that Sam will lie on the stand, she must allow him to testify. Further, Ally has no proof, nor anything other than her personal suspicion, that Stan's testimony as to what he saw would not be truthful. Because an attorney must have knowledge that someone will lie before she can refuse to let them testify, Ally must also allow Stan to take the stand.
8. Carl Counselor is a former member of the ABC law firm. One of ABC's clients is the 2nd National Bank. Carl, an environmental attorney, never did any work for 2nd National and no confidential communication concerning 2nd National Bank was ever communicated to him.

Carl is now a partner in XYZ, a firm specializing in environmental litigation. A local farmer has contacted XYZ about representing him in litigation against 2nd National Bank concerning hazardous waste on property owned by the bank.

Which of the following statements is correct?

- A) Carl is disqualified from representing the farmer because of his relationship with ABC.
  - B) XYZ is disqualified from representing the farmer because of Carl's former relationship with ABC.
  - C) Neither Carl nor XYZ are disqualified.
  - D) Both Carl and XYZ are disqualified.
9. Tom Traylor is an attorney who is writing his first brief for the Arkansas Court of Appeals. His research reveals that the legal question involved is one of first impression in Arkansas but that the highest court of Texas has decided the exact legal point in another case. The issue involves common law breach of contract issues.

Which of the following describes Tom's duties under the Arkansas Rules of Professional Conduct?

- A. Tom may but need not disclose the adverse authority to the Arkansas Court of Appeals because the authority does not come from a controlling jurisdiction.
- B. Tom must disclose the adverse authority to the Court of Appeals because the legal

- questions in the two cases are the same.
- C. Tom must disclose the adverse authority to the Court of Appeals only if the facts of his case are, in all relevant respects, the same as the facts in the case that was already decided.
  - D. Tom must not disclose the adverse authority to the Court of Appeals because it is not controlling and by citing it he violates his duty of zealous advocacy to client.
10. A new client comes to your office and says: "Here is \$50 for 30 minutes of consultation. I just shot my boss. Here is my gun. What should I do with the gun?"

Which of the following statements are ethically proper? Assume each statement is the only statement made.

- (1) "Give it to me and I'll drop it in Beaver Lake."
  - (2) "I'll drive you to Beaver Lake and you can borrow my boat to drop it in the middle of the lake."
  - (3) "Drop it in Beaver Lake. That way no one will ever find it."
  - (4) "I'll keep it in my safety deposit box."
  - (5) "I'll keep it in my safety deposit box until the police ask for it. Then I will have to give it to them."
  - (6) "Bury it in your back yard."
  - (7) "Get rid of the gun. Then come back and see me and I'll represent you."
  - (8) "Call me if you are arrested or if the investigation focuses on you. Until then, act normally."
  - (9) "You should confess and turn yourself in. I can help you with that."
  - (10) "I do not handle criminal cases, I'm giving you your \$50 back, and I am required as an officer of the court to report the crime (but not your identity) to the police."
- A) All but (1) (2) (3) are correct.
  - B) All but (1 - (5) are correct.
  - C) Only (5), (7) and (9) are correct.
  - D) Only (4), (6) and (10) are correct.
  - E) Only (8), (9) and (10) are correct.

- F) Only (7), (9) and (10) are correct.
- G) Only (8) and (9) are correct.
- H) Only (5) and (9) are correct.
- I) Only (6) and (8) are correct.
- J) Only (9) and (10) are correct.
- K) All are permitted. The lawyer is the advocate/champion/counselor for the client.