

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. Carl is a lawyer who graduated from the University of Kansas Law School 10 years ago; he was admitted in Kansas; he has practiced in Kansas for the past 10 years, focusing on Oil and Gas Law. He has now moved permanently to Arkansas and joined an Arkansas law firm. He will do primarily office work, but may take depositions and may occasionally appear in an Arkansas court on behalf of a client in an undisputed matter.

Which of the following statements concerning admission to practice are correct?

- A) The Arkansas Rules permit him to practice law in Arkansas because he is licensed in a sister state.
 - B) To appear in court, he must seek admission pro hac vice, which will be granted.
 - C) Because of his experience, he may seek admission by reciprocity, assuming Kansas would likely admit Arkansas lawyers.
 - D) These activities qualify as temporary legal services and he may offer them in Arkansas without restriction.
 - E) He must take the Arkansas Bar Examination. There is no alternative route for admission for him.
2. Attorney Andrew has a page on FaceBook, a social networking website. He posts information about his education, his areas of law practice, his fees, his office hours and location, the names and photographs of some of his clients (with their permission), photos of himself and his dog Bowser. It includes a link to YouTube, where he posted a television clip of himself making a closing argument in an Arkansas courtroom. He describes it as "powerful and moving" as the closing scene in "A Time to Kill." Compare me to Matthew McConaughey." Individuals read his page and join as his "friends." He accepts all friends and has hundreds.

Has he violated the Arkansas Rules of Professional Conduct?

- A) Yes, he has engaged in impermissible solicitation.
- B) Yes, the television clip is not permitted.
- C) Yes, photographs of Bowser are not permitted.
- D) Yes, photographs of his clients are not permitted.
- E) No.

3. Today, February 12, 2009, Attorney Abe places the following ad in the local paper. It includes a portrait of Abe Lincoln (with beard and stove top hat) and a photograph of Attorney Abe, dressed similarly. The text reads:

Today the nation celebrates the 200th anniversary of the birth of President Abe Lincoln. Although today is not my birthday, I believe that President Lincoln and I have a great deal in common. He was born in a log cabin; I was born at home, and my daddy delivered me. My mommy named me Orval, but when I was in law school, I represented myself and went to court and changed my name to Abe. Abe Lincoln was a friend of the common man, and loved ordinary, salt of the earth people. Like President Lincoln, I lower my fees for the disadvantaged who seek my help. The President was known as a raconteur, and I also love a good story. Abe Lincoln was the President during the Civil War and issued the Emancipation Proclamation. I have been active in civil rights organizations and I joined in the marvelous celebration on the National Mall when President Obama was inaugurated. Abe Lincoln was a praying man, and so am I. Actually, 5 times a day I am on my knees. And at the top of my prayer list? You guessed correctly. It's my clients. I am here to help you. I am here to serve you. I am here to entertain you with my stories. Happy Birthday, President Abe, from Attorney Abe.

P.S.: You can find me at the log cabin near the Union Cemetery in Fayetteville.

You may assume all the factual statements in the ad are correct. Does the ad violate the Arkansas Rules of Professional Conduct?

- A) Yes, the ad is undignified, in poor taste, somewhat insulting, and certainly disrespectful.
- B) Yes, the attorney cannot appear in a photograph looking like Abe Lincoln.
- C) Yes, the references to the prayers are a violation.
- D) Yes, it is a callous and blatant attempt to attract a certain element of society and a certain type of client.
- E) No. Questions of effectiveness and taste in advertising are matter of speculation and subjective judgment.

4. What is the proper name for a law firm?

- (1) Attorney Alvin has 2 secretaries, a bookkeeper, and a law clerk. The name of his firm is "Attorney Alvin and Associates."
- (2) Attorneys Linda, Lacey and Lucy practice together. They call their firm, "The Women's Law Firm."
- (3) Sam and Sandra practiced together for 10 years under the name "Sam and Sandra." Sam died last year. The firm is now known as "Sam and Sandra."

Which names are ethically proper?

- A) Only (1).
- B) Only (2).
- C) Only (3).
- D) Only (1) and (2).
- E) Only (1) and (3).
- F) Only (2) and (3).
- G) All are proper.
- H) All are improper.

5. Jeremy, a recent law school graduate, decides to open a firm under the name, "The Estate Planning Law Firm". Jeremy hires accountants and financial analysts to work in his law firm. They are also included in a bonus program in which all employees 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 and financial analysts to participate in the bonus program.
- (4) As a recent law school graduate, Jeremy is not competent to have an estate planning firm.

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 (1) and (3) are improper.
 - d) Only (2) and (4) are improper.
 - e) Only (3) and (4) are improper.
 - f) None are improper.
6. After a long day in the office, Linda Lawyer frequently stops by Frank's Place and engages in pleasant conversations with the bartender, Frank. She does not do any legal work for Frank. One day Frank asks her to leave him some of her business cards so he can give them to other customers who need lawyers.

May Linda Lawyer ethically leave some business cards with Frank?

- A) Yes, provided she does not give Frank money or any other gift in return.
- B) No, because she would be using Frank to solicit customers.
- C) Yes, provided she specifically instructs Frank not to give any legal advice.
- D) No, because she has a business relationship with Frank, not the relationship of an attorney and client.
- E) No, because bartenders cannot recommend lawyers.

7. Lawyer Laura is indicted for conversion of a client's funds. After a jury trial, Laura is acquitted. Subsequently the Committee on Professional Conduct proceeds against her on the same factual charges. After a public hearing, and after a finding based on the preponderance of the evidence, the committee suspends her from the practice of law for 5 years and also orders her to pay \$10,000 in restitution to the client.

Have the correct procedures been followed?

- A) No. After the jury acquittal, the committee cannot proceed against her.
 - B) No. The committee must conduct disciplinary hearings in private.
 - C) No. The standard of proof in disciplinary hearings is clear and convincing evidence.
 - D) No. The committee's power of suspension is limited to two years.
 - E) No. The committee has no power to order restitution.
 - F) Yes.
8. Attorney A is representing C. Judgment at the trial court is against C. C wants to appeal the case. The appellate court rules provide a 30 day deadline for the filing of appeals, and no exceptions are ever granted. During the first 15 days of the period, A is frantically busy in his office on other matters, and he has no chance to file the appeal. Then, during the second 15 days, he went on vacation and simply forgot to file the appeal. The trial court's error was so obvious that the appellate court would undoubtedly have reversed the case and entered judgment in C's favor. Which of the following statement is most nearly correct?
- A. A is both subject to discipline and liable for malpractice.
 - B. A is neither subject to discipline nor liable for malpractice.
 - C. A is subject to discipline, but he is not liable for malpractice.
 - D. A is liable for malpractice, but he is not subject to discipline.
9. Attorney Ace has a brother named Butch. Butch owns a local health club, where many people come to lift weights and participate in aerobics classes. The following incidents occurred at Butch's health club:
- 1) Butch was sued by a creditor. Attorney Ace found out about the lawsuit and called Butch, offering to defend him in the matter.

- 2) Butch told Attorney Ace about a club member who had thrown out her back during an aerobics class. Ace called her on the telephone and offered to represent her against the club.
- 3) Butch told Attorney Ace about a club member who was killed in an automobile accident while leaving the club. Ace sent a wreath of flowers to the funeral, along with a letter offering to represent the family in a wrongful death action.
- 4) Attorney Ace convinced Butch to give him a list of all club members. Ace then mailed each club member a letter, offering them a free 10 pound bag of granola if they visited Ace's office.
- 5) Attorney Ace instructs Butch to hand out Ace's business card to the people that he meets that are in need of legal services but cannot afford to pay for them.

In which instances has Attorney Ace acted ethically?

- A) Only (1), (2), and (3).
 - B) Only (1), (2) and (4).
 - C) Only (1), (4), and (5).
 - D) Only (2), (4), and (5).
 - E) Only (3), (4), and (5).
10. In general terms the Rules prohibit a lawyer from sharing legal fees with a non-lawyer. However, which of the following are permitted?
- 1) A member of the firm dies. He had been working on a major personal injury case. When the case is settled in two years, the firm pays a proper portion of the fee to his estate.
 - 2) The law firm pays a law clerk a 50% bonus (over the normal wage) for superior quality work done over a long weekend.
 - 3) The paralegal plays a major role in interacting with clients, managing their files, collecting the medical records, and generally holding their hands during lengthy and protect acted negotiations. When the large toxic tort case is settled, and the fees are disbursed, the senior partner gives her a check for \$25,000 as a thank you bonus for her services.

- 4) The firm has a compensation plan that divides yearly profits among all members and employees of the firm. The fees are distributed according to the plan to secretaries and paralegals, as well as attorneys.

Which are permitted?

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

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. Ed Sharp is an attorney who, until recently, was employed by McMillen & Elkin. Ed now is interviewing for a job with Johnston & Barone, another local law firm. Johnston & Barone would like to hire Ed, but they are concerned because Johnston & Barone's biggest case is against a client represented by McMillen & Elkin, and Ed worked for McMillen & Elkin while that case was ongoing (although Ed had nothing to do with the case and knows nothing about it or the client).

Which of the following best describes Johnston & Barone's options under the Arkansas Rules of Professional Conduct?

- A) The firm may hire Ed as long as McMillen & Elkin's client gives informed consent, confirmed in writing.
 - B) The firm may hire Ed and continue in the case because Ed did not acquire confidential information about McMillen & Elkin's client.
 - C) The firm may hire Ed as long as it screens him from any participation in the case involving McMillen & Elkin's client and as long as he receives no income from the case.
 - D) The firm may hire Ed, but the firm must withdraw from the case against McMillen & Elkin's client.
2. Marvin Adler is an attorney who is handling visitation litigation for Carol Brown. Carol made an advance payment of fees to Marvin of \$5,000. Marvin put the money into his trust account. Marvin believes that he has earned \$3,000 of his fee, but his client disputes that. She believes that he has earned no more than \$1,000.

Which of the following statements most accurately describes Marvin's options under the Arkansas Rules of Professional Conduct?

- A) Marvin may withdraw \$1,000 from the trust account but must keep the other funds in the trust account until the dispute over his fee is resolved.
- B) Marvin may not withdraw any of the funds from the trust account until the dispute over the fees is resolved.

- C) Marvin may withdraw the \$1,000 immediately but only if he is willing to waive his claim to the remaining \$2,000.
 - D) Marvin may withdraw the \$3,000 from the account as long as the balance of his trust account remains above \$3,000 after the withdrawal.
3. Walter Doplinger is an attorney who specializes in estate planning. His long-time client, Birdie Nash, who is not related to Walter, has come to him and asked him to revise her will, now that her husband and her children have all predeceased her. Birdie tells Walter that she would like to make a substantial bequest to Walter's daughter for purposes of the daughter's education.

Which of the following most accurately describes Walter's obligations under the Arkansas Rules of Professional Conduct?

- A) Walter must not permit Birdie to make a substantial bequest to his daughter.
 - B) Walter may prepare Birdie's revised will to provide the bequest as long as Birdie gives her informed consent to the gift to Walter's daughter and as long as Walter reasonably believes that Birdie has the mental capacity to give that consent.
 - C) Walter may not prepare the new will if it contains a substantial bequest to his daughter.
 - D) Walter may prepare the new will as long as it does not contain a substantial bequest to Walter.
4. Attorney Berry practices in a 10 member law firm. As part of his civic responsibilities, Berry is on the board of directors of Memorial Hospital. He was appointed to an un-paid 5 year term. While on the board he had access to, and occasionally reviewed, personnel records of physicians at the hospital. Those records contained confidential information. His term was completed last year. This year a patient has come to the law firm and wishes to sue the Hospital and a staff doctor. The lawsuit will involve personnel records and confidential information.

May Berry or his law firm represent the patient against the Hospital and the doctor?

- A) Yes; Berry is no longer on the Board.
- B) Yes; Berry was not the attorney for Memorial Hospital.
- C) Berry may work on the case, provided he does not share any confidential information.
- D) Any disqualification of Berry is merely personal; and is not imputed to the other members of the law firm. A Chinese Wall can be built around Berry.

- E) No; the lawyer-director Berry owes a continuing duty of loyalty to the hospital; and the firm is likewise disqualified.
5. 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 Oliver bills his client for a share of the office law library expenses and his secretary's time in typing legal documents.
- D) Attorney Olivia bills her client her normal hourly fee for traveling to and from Little Rock for a 15 minute meeting in Little Rock.
- 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.
6. You have a criminal practice. Your current client, Jim, has been charged with the murder of a 12 year old boy. Jim confesses to you that he killed two girls last month and tells you where the bodies are. Of the following options, which is the most unethical (or the least defensible)?
- A) Ask the judge if you can withdraw from the case.
- B) Advise your client to provide the police with the information in the hope he may receive a lighter sentence.
- C) Anonymously inform the police of the location of the bodies.
- D) Keep quiet and speak only to your client Jim.
- E) Ask your client for permission to anonymously tell the parents of the location of the bodies.

7. Jerry Jackson is a land speculator and his wife Mary is president of a large local manufacturing company. Each has an annual income which regularly exceeds \$50,000, although Jerry's fluctuates from as little as \$30,000 to in excess of \$150,000. You have represented the couple for several years and have never seen any conflict of interest in doing so.

Two weeks ago Jerry disclosed to you that he had engaged in a transaction involving overseas real estate which earned income greatly in excess of the amount which he had reported on last year's income tax. He had the money in an account in the Bahamas but lost it gambling there on a recent vacation. You estimate that his tax liability may be as high as \$100,000, a sum which he does not have in liquid assets, and that his criminal liability may be up to 5 years in prison.

Now Jerry wants to enter into a large shopping center development in the area. Because he is short of funds he has asked his wife to invest as well. The success of this development will require that all investors put their money into the project for at least three years and will mean that they have virtually no liquid obligations to meet unexpected expenses (or the potential tax liability if it should arise).

Mary now comes to you. She sees no objection to the investment and wants your confirmation of her business judgment. You know that she does not know of the true state of her husband's business affairs or his potential criminal liability.

Which of the following statements best states your ethical obligation?

- A) A lawyer is forbidden to give business advice to a client, such as Mary.
 - B) You are obligated to disclose to Mary the financial status and the possible tax status of her husband.
 - C) You must tell Mary that you are unable to discuss this matter with her.
 - D) Because you had previously represented Mary, you had an ethical obligation to refuse to give any advice to Jerry.
 - E) You have discretion whether to disclose to Mary the financial status and tax status of her husband.
8. Attorney Theresa Tillis is a partner in the 20 person firm of Dahlberg & Sneed. The Citizens Alliance for Lake Preservation has asked him to represent the Alliance in a public interest law suit against Vista del Oro, Inc., a real estate developer. Vista del Oro owns hundreds of acres of beautiful shoreline, about an hour's drive from Little Rock. It is building vacation homes and condominiums to sell to the public. When the project is complete, the entire area will be fenced off to prevent access by non-owners. The Alliance suit seeks to force Vista del Oro to provide access paths across the property, so that members of the public can get from the state highway to the lake.

Attorney Paul Prentice is also a partner in Dahlberg & Sneed. He is a member of the board of directors of Vista del Oro, and he owns seven of the vacation home sites as a personal investment. After careful consideration, Tillis has concluded that her representation of the Alliance would not be adversely affected by Prentice's stake in the matter. Which of the following conditions must be met before Tillis can represent the Alliance in the suit?

- (1) Tillis must tell the Alliance about Prentice's stake in the matter.
 - (2) Tillis must obtain the consent of the Alliance.
 - (3) Prentice must resign as a Vista del Oro director.
 - (4) Prentice must sell the vacation home sites she is holding for investment.
- A) Tillis must satisfy only condition (4).
 - B) Tillis must satisfy only conditions (1) and (2).
 - C) Tillis must satisfy only conditions (1), (2), and (3).
 - D) Tillis must satisfy only conditions (1), (2), and (4).
 - E) Tillis must satisfy all four conditions.
 - F) Tillis does not need to satisfy any of these four conditions.
 - G) Even if Tillis satisfies all four conditions, he cannot represent the Alliance.
9. The law firm of ABC has a practice that is dedicated primarily to defending manufacturers in products liability cases. Bill Clerk worked for ABC during his final summer in law school. Upon graduation, however, Bill received an offer to work as an attorney with the firm of XYZ, which primarily represents plaintiffs in products liability cases.
- A) If Bill accepts the offer from XYZ, the firm would be prohibited from representing any more plaintiffs in products liability cases because Bill's knowledge obtained at ABC would be imputed to them.
 - B) If Bill accepts the job, he will be prohibited from working on any products liability cases.
 - C) If Bill accepts the job, the firm must build a "Chinese wall" around him to shield him from any case which is the same matter or substantially related to cases handled by ABC while Bill clerked for the firm.
 - D) If Bill accepts the job, there would be no restrictions on what cases he may handle because he wasn't a lawyer at the time he worked for ABC.
10. 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.