

2011 BAR EXAMINATION IN LEGAL ETHICS

(With Suggested Answers)

1. Atty. Mike started teaching Agrarian Reform and Taxation in June 2001 at the Arts and Sciences Department of the Far Eastern University. In 2005, he moved to San Sebastian Institute of Law where he taught Political Law. Is Atty. Mike exempt from complying with the MCLE for the 4th compliance period in April 2013?

- A. **No, since he has yet to complete the required teaching experience to be exempt.**
- B. No, because he is not yet a bar reviewer.
- C. Yes, since by April 2013, he will have been teaching law for more than 10 years.
- D. Yes, since he updated himself in law by engaging in teaching.

2. The acknowledgment appearing in a deed of sale reads: "Before me personally appeared this 30 August 2010 Milagros A. Ramirez, who proved her identity to me through witnesses: 1. Rosauro S. Balana, Passport UU123456; 1-5-2010/ Baguio City; and 2. Elvira N. Buela, Passport VV200345; 1-17-2009/ Manila.

"Both witnesses, of legal ages, under oath declare that: Milagros A. Ramirez is personally known to them; she is the same seller in the foregoing deed of sale; she does not have any current identification document nor can she obtain one within a reasonable time; and they are not privy to or are interested in the deed he signed." What is the status of such a notarial acknowledgment?

- A. Questionable since the notary public is not shown to personally know the principal party.
- B. Ineffective since it included parties not privy to the deed.
- C. Invalid since the evidence of identity is non-compliant with the notarial rules.
- D. **Valid since it is a manner of establishing the identity of the person executing the document.**

3. Atty. Francisco's retainer agreement with RXU said that his attorney's fees in its case against CRP "shall be 15% of the amounts collected." Atty. Francisco asked the trial court to issue a temporary restraining order against CRP but this was denied, prompting him to file a petition for certiorari with the Court of Appeals to question the order of denial. At this point, RXU terminated Atty. Francisco's services. When the parties later settled their dispute amicably, CRP paid RXU P100 million. Because of this, Atty. Francisco came around and claimed a 15% share in the amount. What should be his attorney's fees?

- (a) Nothing because the compromise came after RXU terminated him.
 - (b) 15% of what CRP paid RXU or P15 million.
 - (c) **A reasonable amount that the court shall fix upon proof of quantum meruit.**
 - (d) Nothing since he was unable to complete the work stated in the retainer contract.
4. Lee became a lawyer in 1988 under a claim that he is a Filipino like his parents. Efren sought Lee's disbarment on the ground that he really is a Chinese. To prove he is a Filipino, Lee cited an Albay regional trial court's final judgment in an action to recover real property which mentioned his citizenship as Filipino. This final judgment resulted in the correction of his birth records in a separate special proceeding to show he is a Filipino, not Chinese as there stated. Is Lee's claim to Filipino citizenship valid?
- (a) **No, since the mention of his citizenship in the land case was just incidental.**
 - (b) No, since those rulings were not appealed to the Supreme Court.
 - (c) Yes, because the rulings in his favor have become final and executory.
 - (d) Yes, since his parents are Filipinos based on what he said in his bar exam petition.
5. Sheryl, Eric's counsel, once asked for postponement and the court granted it since the opposing counsel, Bernadine, did not object. Eric then asked Sheryl not to allow any further postponements because his case has been pending for 8 years. When trial resumed, Bernadine moved to reset the trial because of her infant's ailment. What must Sheryl do?
- (a) Remind the Court that it has the duty to promptly decide the case.
 - (b) Interpose no objection since she too once sought postponement without Bernadine's objection.
 - (c) Vehemently oppose Bernadine's motion for being contrary to Eric's wishes.
 - (d) **Submit the motion to the Court's sound discretion.**
6. In a verified complaint, Kathy said that Judge Florante decided a petition for correction of entry involving the birth record of her grandson, Joshua, who happened to be child of Judge Florante's daughter, Pilita. Judge Florante insisted that he committed no wrong since the proceeding was non-adversarial and since it merely sought to correct an erroneous entry in the child's birth certificate. Is Judge Florante liable?
- (a) **Yes, because Florante breached the rule on mandatory disqualification.**
 - (b) No, because Judge Florante has no pecuniary interest in the proceeding.
 - (c) No, because it is true the proceeding was non-adversarial so it prejudiced no one.
 - (d) Yes, since the correction in the child's record affects the details of birth of the child.

7. Which of the following statements best describes the distinct traditional dignity that the legal profession enjoys over other professions?
- (a) People are quite dependent on lawyers for their skills in getting them out of trouble with the law.
 - (b) **Its members strive to maintain honesty even in their private dealings.**
 - (c) Its members earn by charging specified emoluments or fees.
 - (d) The profession is anchored on a fiduciary relation with the client.
8. Raul sought Ely's disbarment for notarizing a deed of sale knowing that four of the sellers were dead. Ely admitted that he notarized the deed of sale but only after his client assured him that the signatures of the others were authentic. Later, Raul moved to have the complaint against him dismissed on the ground that it was filed because of a misunderstanding which had already been clarified. This prompted the IBP to recommend the dismissal of the complaint. Can the dismissal be allowed?
- (a) No, unless the complainant executes an affidavit of desistance.
 - (b) Yes, since no compelling reason remained to continue with it.
 - (c) Yes, but recall Ely's notarial commission since the charge against him seems meritorious.
 - (d) **No, given Ely's admission that he notarized the document when some signatories were absent.**
9. When will Atty. Antonio's notarial commission expire if he applied for and was given such commission on 12 November 2010?
- (a) 31 December 2012
 - (b) 31 December 2011
 - (c) 11 November 2011
 - (d) 11 November 2012
10. Elaine filed a complaint against Fely before their barangay concerning a contract that they entered into. During conciliation, Fely came with Sarah, who claimed the right to represent her minor sister. The barangay captain let Sarah assist her sister. Eventually, the barangay issued a certificate to file action after the parties failed to settle their differences. When Sarah formally appeared as lawyer for her sister, Elaine filed an administrative complaint against her for taking part in the barangay conciliation and preventing the parties from taking meaningful advantage of the same. Is Sarah liable?
- (a) No, because she has to represent her sister who was a minor.
 - (b) No, because the Court can always dismiss the case without prejudice to a genuine conciliation.
 - (c) Yes, because what Sarah did was deceitful and amounts to fraud.
 - (d) **Yes, because as a lawyer, she is absolutely forbidden to appear in barangay conciliations.**

11. Which of the following will subject Atty. Lyndon, a Manila notary public, to sanctions under the notarial rules?

- (a) Notarizing a verification and certification against forum shopping in Manila Hotel at the request of his Senator-client.
- (b) Refusing to notarize an extra-judicial settlement deed after noting that Ambo, a friend, was delisted as heir when he was in fact one.
- (c) **Performing signature witnessing involving his brother-in-law and recording it in his register.**
- (d) Notarizing a deed of sale for someone he knew without requiring any proof of identity.

12. Justice Frank, a retired Court of Appeals justice, appeared before the Supreme Court on behalf of Landbank, a government bank, in a case involving the compensable value of the property taken from a landowner under the agrarian reform law. The landowner questioned Justice Frank's appearance in the case, pointing out that the same is unethical and smacks of opportunism since he obviously capitalizes on his judicial experience. Is Justice Frank's appearance in the case valid?

- (a) **Yes, because the law allows such appearance as long as the government is not the adverse party.**
- (b) No, because he cannot enjoy his retirement pay and at the same time work for a government institution.
- (c) Yes, since Landbank does not perform government function.
- (d) No, he should have waited for at least a year to avoid improprieties.

13. On appeal, RTC Judge Rudy affirmed the MTC's conviction of Lorna for violation of the bouncing checks law and awarded Agnes, the complainant, Php1.6 million in damages. Two years later, upon Lorna's motion and after ascertaining that her counsel never received the court's decision, Judge Rudy recalled the entry of judgment in the case, reversed himself, and absolved Lorna of guilt. Claiming an unjust judgment, Agnes filed an administrative complaint against Judge Rudy, saying that it is plain from the circumstances that he connived with Lorna, her counsel, and the handling prosecutor. But she offered no further evidence. Rudy denied the charges and asserted that any error in his judgment is correctible only by an appeal, not by an administrative suit. Should Judge Rudy be disciplined?

- (a) **No, because Agnes' complaint is merely based on suspicions and speculations.**
- (b) No, because Agnes has yet to establish that Rudy's decision is plainly erroneous.
- (c) Yes, because he gravely abused his discretion in recalling the entry of judgment.
- (d) Yes, because reconsidering the judgment of conviction that the MTC and he earlier issued shows anomaly in Judge Rudy's action.

14. After Atty. Benny got a P2 million final judgment in his client's favor, he promptly asked the court, without informing his client, to allow him a charging

lien over the money in the amount of P500,000, his agreed fees, The Court issued a writ of execution for the whole judgment in Atty. Benny's name with an order for him to turn over the excess to his client. Is Atty. Benny's action correct?

- (a) No, since his fees are excessive.
- (b) Yes, since he was merely asserting his right to collect his fees.
- (c) Yes, since he would anyway give the excess to his client after getting his fees.
- (d) **No, since he did not disclose to his client the matter of getting a charging lien and a writ of execution in his name.**

15. On 17 April 2006 NWD, a local water district entity, hired Atty. Chito as private counsel for a year with the consent of the Office of the Government Corporate Counsel (OGCC). Shortly after, a leadership struggle erupted in NWD between faction A and faction B. Siding with the first, Atty. Chito filed several actions against the members of faction B. Eventually, the court upheld Faction B which thus revoked Atty. Chito's retainer on 14 January 2007. With OGCC's approval, NWD hired Atty. Arthur in his place. When Atty. Arthur sought the dismissal of the actions that Atty. Chito had instituted, the latter objected on the ground that his term had not yet expired and Atty. Arthur had no vacancy to fill up. Is Atty. Chito right?

- (a) **No, because Atty. Chito's continued appearances in the cases [were] without authority since 14 January 2007.**
- (b) No, because Atty. Arthur would have violated the rule on forum shopping.
- (c) Yes, because Atty. Chito's retainer and authority remained valid until 17 April 2006.
- (d) No, because Atty. Chito has the duty to expose the irregularities committed by the members of Faction B.

16. Noel and Emily who were involved in a road accident sued Ferdie, the driver of the other car, for damages. Atty. Jose represented only Noel but he called Emily to testify for his client. During direct examination, Emily claimed that her injuries were serious when Atty. Jose knew that they were not. Still, Atty. Jose did not contest such claim. Ferdie later sued Emily for giving false testimony since her own doctor's report contradicted it. He also sued Atty. Jose for foisting a false testimony in court. Is Atty. Jose liable?

- (a) No, because he did not knowingly arrange for Emily to lie in court.
- (b) Yes, because he did not advise his client to settle the case amicably.
- (c) No, because Emily did not permit him to reveal the falsity to the court.
- (d) **Yes, because he knowingly let Emily's false testimony pass for truth.**

17. In settling his client's claims, Atty. Cruz received from the adverse party P200,000 in cash for his client. Which of the following is an IMPROPER way for Atty. Cruz to handle the money?

- (a) Ask his client to prepare a check for his fees for swapping with the cash.
 - (b) **Deposit the cash in his own bank account and later issue his personal check to his client, less his fees.**
 - (c) Turn over the cash to his client with a request that the latter pay him his fees.
 - (d) Tell his client about the settlement and the cash and wait for the client's instructions.
18. Judge Cristina has many law-related activities. She teaches law and delivers lectures on law. Some in the government consult her on their legal problems. She also serves as director of a stock corporation devoted to penal reform, where she participates in both fund raising and fund management. Which of the following statements applies to her case?
- (a) She should not engage in fund raising activities.
 - (b) Her activities are acceptable except the part where she is involved in fund management.
 - (c) **She can teach law and deliver lectures on law but not do the other things.**
 - (d) All of her activities are legal.
19. One of the foundation principles of the Bangalore Draft of the Code of Judicial Conduct is the importance in a modern democratic society of
- (a) a judicial system that caters to the needs of the poor and the weak.
 - (b) **public confidence in its judicial system and in the moral authority and integrity of its judiciary.**
 - (c) the existence of independent and impartial tribunals that have the support of its government.
 - (d) judges who are learned in law and jurisprudence.
20. After representing Lenie in an important lawsuit from 1992 to 1995, Atty. Jennifer lost touch of her client. Ten years later in 2005, Evelyn asked Atty. Jennifer to represent her in an action against Lenie. Such action involved certain facts, some confidential, to which Atty. Jennifer was privy because she handled Lenie's old case. Can Atty. Jennifer act as counsel for Evelyn?
- (a) No, but she can assist another lawyer who will handle the case.
 - (b) Yes, but she must notify Lenie before accepting the case.
 - (c) **No, because her duty to keep the confidences of previous clients remains.**
 - (d) Yes, but she cannot reveal any confidential information she previously got.
21. Eric, a labor federation president, represented Luisa, a dismissed WXT employee, before the NLRC. Atty. John represented Luisa's two co-complainants. In due course, the NLRC reinstated the three complainants with backwages and awarded 25% of the backwages as attorney's fees, 15% for Atty. John and 10% for Eric, a non-lawyer. When WXT appealed to the Court

of Appeals, Atty. John questioned Eric's continued appearance before that court on Luisa's behalf, he not being a lawyer. Is Eric's appearance before the Court of Appeals valid?

- (a) Yes, for Eric has a personal stake, the fees awarded to him, in defending the NLRC's decision in the case.
- (b) No, since John can very well represent Luisa, she being in the same situation as his own clients.
- (c) **No, because the representation of another in courts can be entrusted only to lawyers.**
- (d) Yes, since that appeal is a mere continuation of the labor dispute that began at the NLRC.

22. In what documented act will a notary public's failure to affix the expiration date of his commission warrant administrative sanction?

- (a) In the jurat of a secretary's certificate.
- (b) **In the will acknowledged before him.**
- (c) In the signature witnessing he performed.
- (d) In the document copy he certified.

23. Provincial Governors and Municipal Mayors who are lawyers are MCLE exempt because

- (a) they handle cases of their constituents for free.
- (b) **the Local Government Code prohibits them from practicing their profession.**
- (c) they are rendering public service.
- (d) As experts in local governance, it may be assumed that they are updated on legal developments.

24. A difficult client directed his counsel to bring up to the Supreme Court the trial court's dismissal of their action. Counsel believes that the trial court acted correctly and that an appeal would be futile. Which of the following options should counsel take?

- (a) **Withdraw from the case to temper the client's propensity to litigate.**
- (b) Engage a collaborating counsel who can assist in the case.
- (c) Submit a new retainer proposal to the client for a higher fee.
- (d) Elevate the case to the Supreme Court as directed by client.

25. Although not counsel in a particular case, Atty. Anthony asked Lisa, the RTC clerk of court, if the case records have already been remanded to the MTC as the Court of Appeals directed. Lisa said no, saying that the RTC had not yet received a certified copy of the Court of Appeals' decision. When Lisa suggested that Atty. Anthony first secure such a copy, the latter scolded her. Shamed by this, Lisa filed a disciplinary action against him for encroaching on the work of the lawyers of record. Anthony defends his follow-up action by

claiming good faith and the possibility of entering his appearance later. Is Anthony liable for his record follow up?

- (a) Yes, because he did not inform Lisa of the basis of his interest in the case.
- (b) **Yes, because none of the parties to the case authorized him to do such follow-up.**
- (c) No, because he acted in good faith with a view to a possible retainer.
- (d) No, because following up the records of any case does not constitute practice of law.

26. Administrative proceedings against Judges of all courts and Justices of the Court of Appeals and the Sandiganbayan shall be

- (a) **private and confidential.**
- (b) public but subdued.
- (c) private but transparent.
- (d) public.

27. When does the initial MCLE compliance period of a newly admitted member of the bar begin?

- (a) **On the first day of the month of his admission.**
- (b) On the tenth day of the month of his admission.
- (c) On the third year after his admission as member.
- (d) On the first year of the next succeeding compliance period.

28. Counsel for Philzea Mining appealed a decision of the Bureau of Mines, which was adverse to his client, to the Environment Secretary. At about the same time, he filed a special civil action of certiorari with the Court of Appeals for the annulment of the same decision. Did counsel commit any ethical impropriety in his actions?

- (a) Yes, since the action he filed with the Court of Appeals was barred by the pendency of a similar action before the Environment Secretary.
- (b) **Yes, since he was evidently shopping for a sympathetic forum, a condemnable practice.**
- (c) No, since his appeal to the Environment Secretary was administrative, not judicial.
- (d) No, since he has to exhaust all available remedies to serve his client's interest.

29. Atty. Melissa witnessed the car accident that resulted in injury to Manny, a friend of hers. While visiting him at the hospital, she advised him about what action he needed to take regarding the accident. Is Atty. Melissa subject to disciplinary action if she eventually handles the case for him?

- (a) No, because Melissa did not directly volunteer her services.
- (b) **No, because Manny happened to be a friend.**
- (c) Yes, she engaged in typical ambulance chasing.

- (d) Yes, because she should have offered her services for free.
30. A Court Administrator's auditing team found that Judge Ruby used business cards which stated, in addition to her official title as presiding judge of her court, that she is bar topnotcher, her law school's "class valedictorian," and "one of the most sought after private law practitioners" before she joined the judiciary, all of which are true. Asked to explain this seeming impropriety, Ruby pointed out that business cards can include the person's "title" which is broad enough to include in her case her standing in the bar and all the honors she earned. Did Ruby commit an impropriety?
- (a) Yes, unless the cards were given to her as a gift.
 - (b) No, because all she stated in her business cards are true.
 - (c) **Yes, because she showed a hunger for publicity and recognition that debases her judicial post.**
 - (d) No, because she is free to include in her business cards details that say who she is.
31. Serving as counsel de officio, Atty. Mamerto advised John of the consequences of his plea of not guilty to the charge. Before trial could be held, however, the presiding judge died. As it happened, Atty. Mamerto was appointed judge and John's case was assigned to him by raffle. John quickly moved for the judge's disqualification. Is Judge Mamerto under obligation to inhibit himself from the case?
- (a) **No, because his service to John was just momentary.**
 - (b) Yes, because his knowledge of John's case affects his judgment.
 - (c) No, because he was merely a counsel de officio.
 - (d) Yes, because he served as John's counsel.
32. Myra asked Atty. Elma to notarize her deed of sale. When Elma asked for Myra's competent evidence of identity, she explained that she does not have any current identification document nor could she get one soon. Instead, she presented her friend, Alex, who showed Atty. Elma his driver's license and confirmed her Myra's identity. Is Alex's identification of Myra valid?
- (a) Yes, provided Alex states in the deed of sale that he knew Myra personally.
 - (b) **No, Myra needs to produce a valid identification document of herself.**
 - (c) No, since Alex is not himself a party to the document.
 - (d) Yes, since Alex had a valid identification document.
33. Atty. Eliseo represented Allan in a collection suit against the Philippine Charity Sweepstakes Office (PCSO). After his election as sangguniang bayan member, the court rendered a decision in PCSO's favor. Still, Atty. Eliseo appeared for Allan in the latter's appeal, prompting the PCSO to question his right to do so. In response, Atty. Eliseo claimed that the local government code authorizes him to practice law as long it does not conflict with his duties. Is Atty. Eliseo right?

- (a) **No, because he cannot appear against a government instrumentality in a civil case.**
- (b) Yes, because his official duties do not conflict with his private practice.
- (c) No, because he works on his private case at the sacrifice of public service.
- (d) Yes, because he does not appear in the case as a municipal official.
34. Which of the following instances demonstrates counsel's LACK of diligence in serving his client's interest?
- (a) **Failing to file his client's appeal brief despite 2 extensions upon the excuse that the client did not coordinate with him.**
- (b) Failing to send to client a requested legal opinion until after the latter gave him the additional documents he requested.
- (c) Failing to rehearse his client on his testimony before the trial.
- (d) Updating his client about the status of his case by phone and electronic mail.
35. What is the method of national inquiry into the conduct of Supreme Court magistrates?
- (a) Administrative investigation.
- (b) Disqualification.
- (c) **Impeachment.**
- (d) Disbarment.
36. What unhealthy attitude of mind should a judge avoid falling into?
- (a) Hearing and adjudicating cases is an important job.
- (b) Courts are made for litigants.
- (c) **Litigants are made for the courts.**
- (d) Courts should dispose of their cases on time.
37. After hearing in a sensational criminal case, counsel for the accused told television viewers how the judge unfairly ruled to stop his witness from testifying fully about certain aspects of the case that would help the accused. Counsel said that the public should know the injustice to which his client was being subjected. Can counsel be disciplined for his utterances?
- (a) Yes, because rather than defend the judicial system as was his duty, he attacked it.
- (b) No, since counsel did not use obscene language.
- (c) **No, so long as counsel did not knowingly make false statements or act in reckless disregard of truth.**
- (d) Yes, even if the judge may have actually made unfair rulings in the course of trial.
38. Which of the following is required of counsel when withdrawing his services to a client in a case?

- (a) Counsel's desire to withdraw, expressed in his motion.
- (b) Payment of withdrawal fee.
- (c) Opposing counsel's conformity to the withdrawal.
- (d) **Client's written consent filed in court.**

39. Which of the following demonstrates the lawyer's duty to give the court the respect it deserves?

- (a) Counsel consistently appearing in court on time.
- (b) **Counsel obeying court's orders and processes.**
- (c) Woman counsel appearing in court dressed in business attire.
- (d) Counsel addressing the court as "Your Honor" at all times.

40. Atty. Arthur agreed to represent Patrick in a personal injury case after the latter signed a retainer agreement for a 33% fee contingent on their winning the case. In the course of trial, Patrick dismissed Atty. Arthur after he presented their evidence in chief and engaged Atty. Winston another lawyer. They lost the case. What fee would Atty. Arthur be entitled to?

- (a) Thirty three percent of the fee actually paid to Winston.
- (b) The reasonable value of his services.
- (c) A flat hourly rate for the time he invested in the case.
- (d) **Absolutely nothing.**

41. Ronnie, a paralegal in a law firm, helped Beth in a property dispute in which she was involved by giving her legal advice and preparing a complaint that she eventually filed in court under her own signature. When the lawyer for the defendant learned of it, he told Ronnie to desist from practicing law. But he disputed this, claiming that he had not practiced law since he did not receive compensation from Beth for his help. Is Ronnie correct?

- (a) Yes, because he could as a paralegal provide competent legal help to litigants.
- (b) Yes, for so long as he did not sign the complaint or appeared as Beth's lawyer.
- (c) No, unless Beth was ill-advised in filing her complaint in court.
- (d) **No, because receipt of compensation is not the sole determinant of legal practice.**

42. Which of the following characteristics pertains to a charging lien?

- (a) **It cannot attach to judgments for delivery of real estates.**
- (b) It involves documents placed in the lawyer's possession by reason of the retainer.
- (c) It does not need any notice to the client to make it effective.
- (d) It may be exercised before judgment or execution.

43. To whom may the Supreme Court refer complaints against lawyers for investigation?

- (a) **Integrated Bar of the Philippines.**
- (b) Office of the Bar Confidant.
- (c) Judicial and Bar Council.
- (d) Office of the Court Administrator.

44. After several years as a private practitioner, Ben got appointed as Regional Trial Court judge. Five years after his appointment, he received summons directing him to answer a disbarment complaint that pertained to a document he notarized more than 10 years ago from appointment date. He sought the dismissal of the complaint arguing that the cause of action has prescribed. Must the complaint be dismissed?

- (a) **No, because such complaints do not prescribe.**
- (b) Yes, because the complaint creates a chilling effect on judicial independence.
- (c) No, but the complaint should be verified to ensure transparency.
- (d) Yes, because actions on contracts prescribe in 10 years.

45. On November 28 Atty. Patrick wrote in a newspaper column that the Supreme Court already decided in favor of the validity of the Executive Order that created the Truth Commission upon a vote of 13-2. But, as it turned out, the Court actually rendered an adverse decision only on December 7, and upon a vote of 10-5. Asked to explain his misleading article, Patrick said that his constitutionally protected right to free expression covered what he wrote. Can the Court cite Patrick for contempt?

- (a) **Yes, because his article obstructs and degrades the administration of justice.**
- (b) No, because the right to free expression occupies a high rank in the hierarchy of cherished rights.
- (c) No, because courts must simply ignore public opinion and the media when rendering decisions.
- (d) Yes, because he wrote a lie in his column.

46. Atty. Ramon borrowed his client's (Menchu) land title. After eight months, Menchu demanded its return but he failed to comply and changed his residence. After Menchu tracked him down, she confronted him about the title. He then offered to just buy the property and gave her five checks for it but these bounced. Charged with malpractice, Atty. Ramon answered that his license to practice law cannot be in issue. He merely incurred civil liability for a failed transaction. Will the malpractice action prosper?

- (a) No, because his failure to pay his obligation only makes him civilly liable.
- (b) No, since Menchu did not transact business with Atty. Ramon as a lawyer.
- (c) Yes, because it is professionally reprehensible for a lawyer to be unavailable to a person in need.
- (d) **Yes, he having taken advantage of Menchu who was not fully protected and had no independent advice.**

47. Atty. Alfredo Prado appeared in a case as legal officer of the Land Registration Authority (LRA). His opponent, Atty. Armando, knew an Atty. Alfredo Prado from his province who had been dead for years. When Atty. Armando checked with the Supreme Court, only one Alfredo Prado was in the roll of attorneys. What action can Atty. Armando take against Vicente who had taken a dead lawyer's identity?

- (a) File direct contempt action against Vicente for deceiving the court.
- (b) **Criminally prosecute Vicente for estafa for making money upon false pretense.**
- (c) Criminally prosecute Vicente for theft of Alfredo's identity and law practice.
- (d) Institute a disbarment case against Vicente for misrepresenting himself as lawyer.

48. After the prosecution cross-examined Sheila, a witness for the accused, Judge Pedro asked her ten additional questions that were so intense they made her cry. One question forced Sheila to admit that her mother was living with another man, a fact that weighed on the case of the accused. This prompted the latter's counsel to move to expunge the judge's questions for building on the prosecution's case. Judge Pedro denied the motion, insisting that bolstering a party's case is incidental to the court's desire to be clarified. Did Pedro commit an impropriety?

- (a) No, his ten questions could not be considered an undue intervention.
- (b) No, because the judge is free to inquire into any aspect of the case that would clarify the evidence for him.
- (c) **Yes, because he effectively deprived the defense of its right to due process when he acted both as prosecutor and judge.**
- (d) Yes, because nothing connects his desire to be clarified with the questions he asked.

49. Administrative penalties imposed on judges are

- (a) curative.
- (b) punitive.
- (c) corrective.
- (d) **both punitive and corrective.**

50. Which of the following demonstrates a lawyer's fidelity to known practices and customs of the bar regarding a case he is handling?

- (a) Treating his client's disclosures as confidential but not the documents he submits for review.
- (b) Meeting with his client's opponent over lunch to discuss settlement without telling his client.
- (c) **Accepting a tough case although he is new in practice, trusting that his diligence would make up for lack of experience.**
- (d) Inviting the judge hearing the case to dinner with no purpose to discuss the case with him.

**2012 BAR EXAMINATION IN
LEGAL ETHICS**

(With Suggested Answers)

1. Atty. Galing is a Bar topnotcher. He has been teaching major subjects in a law school for eight (8) years and has mastered the subjects he is handling. Is he exempt from the MCLE requirement?
 - A. **No, eight (8) years experience is not enough.**
 - B. Yes, since he has mastered what he is handling.
 - C. Yes, professors of law are exempted.
 - D. No, since he is not yet a Bar reviewer.

2. Atty. Rey has been a professor in the Legal Management Department of Y University for thirty (30) years. He teaches Constitution, Obligation and Contracts, Insurance, Introduction to Law. Is he exempted from the MCLE requirement?
 - A. Yes, because his teaching experience is already more than ten (10) years.
 - B. **No, because he is not teaching in the College of Law.**
 - C. Yes, because of his field of knowledge and experience.
 - D. No, because Y University is not accredited.

3. The term of Dean Rex of X College of Law expired in the first year of the third compliance period. Does his exemption extend to the full extent of said compliance period?
 - A. **No, he must comply with all the unit requirements.**
 - B. Yes, to the full extent.
 - C. No, but comply proportionately.
 - D. Yes, but he must apply for exemption.

4. What is the duration of MCLE Compliance Period?
 - A. Twelve (12) months;
 - B. Twenty four (24) months;
 - C. **Thirty six (36) months;**
 - D. Eighteen (18) months.

5. When does compliance period begin? **[BONUS: No accurate answer.]**
 - A. When the lawyer actually begins law practice;
 - B. Upon admission/readmission to the Bar;
 - C. 01 October 2009;
 - D. 01 October 2006.

6. Does the MCLE requirement apply at once to a newly-admitted lawyer?

- A. **Yes, if admitted to the Bar and there are four (4) more months remaining of the compliance period.**
 - B. No, wait for the next compliance period.
 - C. Yes, if he will start law practice immediately.
 - D. Yes, if more than one (1) year remains of the compliance period.
7. What is the purpose of MCLE?
- A. To conform with the requirements of international law.
 - B. To provide a venue to improve fraternal relations among lawyers.
 - C. **To keep abreast with law and jurisprudence and to maintain the ethical standards of the profession.**
 - D. To supplement legal knowledge due to substandard law schools.
8. Atty. Aga was appointed as Treasurer by the IBP President with the approval of the Board of Governors for a term coterminous with that of the President. A year thereafter, Atty. Aga ran as Barangay Chairman of their place, and took a leave of absence for two (2) weeks to campaign. May Atty. Aga re-assume as Treasurer after his leave of absence?
- A. Yes, since he lost in the election.
 - B. **No, because he was deemed resigned upon filing of his certificate of candidacy.**
 - C. Yes, because his position as Treasurer is coterminous with the President of the IBP.
 - D. No, because he should first seek the approval of the IBP Board of Governors before running as Brgy. Chairman.
9. Atty. Magtanggol of the PAO was assigned to defend X who is accused of Slight Physical Injury before the MTC of a far-flung town. During the trial, P02 Tulco appeared in court on behalf of the complainant. Atty. Magtanggol objected to his appearance since the policeman is not a member of the Bar. **[BONUS: The question is vague; options B, C, and D are unresponsive to the question.]**
- A. The objection is valid. It should be the public prosecutor who should prosecute the criminal action.
 - B. Atty. Magtanggol is just afraid that his client may be convicted through the efforts of a non-lawyer.
 - C. In the courts of a municipality, a party may conduct his litigation in person or with the aid of an agent or friend.
 - D. If a public prosecutor is not available, at least a private prosecutor who must be a lawyer should be designated.
10. Bong Tupak, a second year law student, was charged in the RTC for Forcible Abduction with Rape. Having knowledge of criminal law and procedure, he dismissed the counsel de officio assigned and appeared for himself. He asserted that there was lack of force. Eventually, the RTC found him guilty of Consented Abduction and imposed the penalty. Bong Tupak now assails the

decision, saying that there was a violation of due process because he was allowed to appear by himself and he did not know that Consented Abduction is a crime. Decide.

- A. An accused before the RTC may opt to defend himself in person and he cannot fault others for his decision.
- B. **The RTC should have appointed a counsel de officio to assist the accused even if not sought or requested by the accused.**
- C. There was violation of due process. There is disparity between the expertise of a public prosecutor and the inexperience of a 2nd year law student.
- D. A 2nd year law student has sufficient knowledge of criminal law and procedure, hence, he is competent to defend himself.

11. RTC Judge Bell was so infuriated by the conduct of Atty. X who conveniently absents himself when his clients do not pay his appearance fee in advance. Atty. X also uses disrespectful and obscene language in his pleadings . . . At one point, when his case was called for hearing, Atty. X did not appear for his client although he was just outside the door of the court room. Judge Bell directed the client to summon Atty. X, but the latter refused. Judge Bell then issued an Order directing Atty. X to explain why no disciplinary action shall be imposed on him for this misconduct but he refused the directive. Decide. **[BONUS: Option A – not part of the scale of penalties; options B, C, and D – unresponsive to the question.]**

- A. RTC Judge Bell can suspend Atty. X from the practice of law before his sala.
- B. The case of Atty. X can be dismissed due to non-appearance of counsel even though the party was present.
- C. The hearing of the case should be rescheduled in the interest of justice.
- D. The court can admonish the client for the unprofessional conduct of his lawyer and ask him to change his lawyer.

12. Debbie, topnotcher of their class, is now on her 4th year law studies and has enrolled in the legal aid clinic of the law school. She was assigned to handle a domestic violence and support case filed by their client against her husband. During the hearing, the clinic's supervising attorney introduced Debbie to the Branch Clerk of Court and then left to oversee another intern. In the midst of the proceedings, opposing counsel objected to the appearance of Debbie because she is not yet a lawyer. Decide.

- A. Debbie can proceed because the law student practice rule allows a student who has finished 3rd year of the regular course to appear without compensation before a trial court.
- B. Debbie can proceed since she is appearing only during the trial and did not sign the pleadings.
- C. **Debbie cannot proceed without the presence of their clinic's supervising attorney.**

- D. Debbie has proven her capability to handle the case and opposing counsel is objecting only now because he might lose to a law student.
13. Atty. Quiso was the retained counsel for Alfa Security Agency and handled all the cases involving the company. Adam, the Assistant Manager of the agency, hired Atty. Quiso when he was sued in an ejectment case. Later, Adam was fired from the agency. Adam did not return a vehicle and so, Atty. Quiso - as counsel for the security agency - filed a replevin suit Adam moved for Atty. Quiso's disqualification considering that the ejectment case is still pending. Is there conflict of interest?
- A. No, the cases are totally unrelated and there is no occasion to unduly use confidential information acquired from one case in the other.
 - B. No, Atty. Quiso is duty bound to handle all cases of his client, including the replevin case against Adam.
 - C. **Yes, proscriptio is against representation of opposing parties who are present clients or in an unrelated action.**
 - D. Yes, Atty. Quiso must withdraw as counsel for Adam, otherwise he will lose his retainer
14. Mr. Joseph, owner of an investment house, consulted a friend, Atty. Miro, about a potential criminal act against him because he cannot pay investors due to temporary liquidity problems. Atty. Miro asked Mr. Joseph to transfer to him all assets of the firm and he will take charge of settling the claims and getting quitclaims. A month later, Mr. Joseph was surprised to receive a demand letter from Atty. Miro, as counsel for all the claimants, for the pay back of their investments. After a while, Mr. Joseph received releases and quitclaims from the investors, with desistance from filing criminal action against him. Atty. Miro later told Mr. Joseph that he sent the demand letter so he can claim attorney's fee. Was there a conflict of interest?
- A. No, there was no formal engagement of Atty. Miro as counsel for Mr. Joseph.
 - B. **Yes, by giving legal advice to Mr. Joseph, the latter became a client of Atty. Miro.**
 - C. No, there is no attorney-client relationship between Mr. Joseph and Atty. Miro as no attorney's fee was charged nor paid to the latter.
 - D. Yes, because Atty. Miro was representing Mr. Joseph when he disposed the assets to pay off the claims.
15. Atty. Gelly passed the Bar in 1975. After taking his oath, he did not enlist in any IBP chapter because he went to the USA to pursue a Master's Degree. Eventually, he passed the state bar and specialized in Immigration law. In 2005, he returned to the Philippines and was but the IBP is charging him from 1975 up to the present and threatening him with expulsion if he does not comply. Is the IBP correct?
- A. Atty. Gelly cannot be compelled to pay the IBP dues because he was not engaged in the practice of law from 1975-2005.

- B. Atty. Gelly is exempt from 1975-2005 because he was out of the country.
- C. **Atty. Gelly should pay the dues from 1975 to the present since membership in the IBP is [compulsory].**
- D. Atty. Gelly should not pay because the rule on bar integration is unconstitutional for compelling a lawyer to join an association.
16. Mr. Joey owns a 5-hectare parcel of land which is being expropriated as market site. The government is offering only Php 15 per sqm while Mr. Joey deserves Php 20 per sqm. Atty. Al agreed to represent Mr. Joey in the expropriation case on contingent basis in that his attorney's fees shall be the excess of Php 20 per sqm. Due to expert handling, the expropriation court awarded Mr. Joey the fair market value of Php 35 per sqm. Mr. Joey complained to the court that the attorney's fee being charged is excessive as it amounts to about 63% of the award. Decide.
- A. A retainer's agreement, as a contract, has the force of law between the parties and must be complied with in good faith.
- B. It was the excellent handling of the case that resulted in a bigger award; hence, it is fair that Atty. Al should be rewarded with the excess.
- C. Mr. Joey got the desired valuation for his land. So, he must honor his contract with Atty. Al.
- D. **Attorney's fees is always subject to court supervision and may be reduced by the court based on quantum meruit.**
17. Atty. Atras was the counsel for Mr. Abante. Soon after the case was submitted for decision, Mr. Abante got the files and informed Atty. Atras that he was hiring another lawyer. On that same day, a copy of the decision was received by Atty. Atras but he did not do anything anymore. He also failed to file his withdrawal, and no appearance was made by the new counsel. When Mr. Abante found out about the adverse decision, the period to appeal had lapsed. Was service to Atty. Atras effective?
- A. **Yes, Atty. Atras is still considered the counsel of record until his withdrawal of appearance has been actually filed and granted.**
- B. Service should be done on Mr. Abante because he had already severed lawyer-client relationship with Atty. Atras.
- C. Service should be done on the new counsel as soon as he enters his appearance.
- D. Service upon Atty. Atras is not effective because his services have already been terminated by the client.
18. Atty. Utang borrowed from Y Php 300,000.00 secured by a post-dated check. When presented, the check was dishonored. Y filed a BP 22 case in court, and a disbarment complaint with the IBP. In the latter case, Atty. Utang moved for dismissal as the act has nothing to do with his being a lawyer and that it is premature because the case is pending and he is entitled to presumption of innocence. Should the disbarment complaint be dismissed?

- A. **No, because lawyers may be disciplined for all acts, whether professional or private.**
- B. Yes, there is no conviction yet.
- C. Yes, BP 22 does not involve moral turpitude.
- D. No, unless he pays the amount of the check to the satisfaction of Y.
19. Atty. Juan Cruz of the Cruz, Cruz and Cruz Law Office personally handled a damage case of Mr. Gonzalo which resulted in an award of Php 500,000.00. The writ of execution was served by Sheriff Onoy, but resulted in recovery of only Php 70,000.00. Mr. Gonzalo was unsatisfied and filed an administrative complaint. When informed, Sheriff Onoy berated and threatened Mr. Gonzalo; and for this, the Sheriff was charged with Grave Threat. Atty. Pedro Cruz of the same Cruz, Cruz and Cruz Law Office appeared as defense counsel pro bono. Mr. Gonzalo seeks his disqualification. Decide.
- A. No conflict of interest. The Grave Threat case arose out of a different factual scenario.
- B. **There is conflict of interest because both Atty. Juan Cruz and Atty. Pedro Cruz belong to one law office.**
- C. No conflict of interest since the court case was wholly handled by Atty. Juan Cruz. The law office did not participate in any way.
- D. No conflict of interest. No likelihood that information in the civil case can be used in the criminal case.
20. Atty. Lorna, a legal officer of a government agency, and Chona, a nurse in the medical department, were best friends. At one time, Chona consulted Atty. Lorna about a legal matter, revealing that she is living with a married man and that she has a child out of wedlock fathered by another man. Later, the relation between Atty. Lorna and Chona soured. When Chona applied for promotion, Atty. Lorna filed immorality charges against Chona utilizing solely the disclosure by the latter of her private life. Chona objected and invoked confidentiality of information from attorney-client relationship. Decide.
- A. There is no attorney-client relationship because, being in the government, Atty. Lorna is disallowed from practicing her profession.
- B. No lawyer-client relationship privilege because the information was given as a friend, and not as a lawyer.
- C. **Personal secrets revealed to Atty. Lorna for the purpose of seeking legal advice is covered by attorney-client privilege.**
- D. There is no attorney-client relationship because no attorney's fee was paid to Atty. Lorna.
21. Atty. Nelson recently passed the Bar and wanted to specialize in marine labor law. He gave out calling cards with his name, address and telephone number in front, and the following words at the back: "We provide legal assistance to overseas seamen who are repatriated due to accident, illness, injury, or death. We also offer FINANCIAL ASSISTANCE." Does this constitute ethical misconduct?
- A. No, clients have freedom in the selection of their counsel.

- B. No, use of a professional card is a lawful way of announcing his services as a professional.
- C. **Yes, because the offer of financial assistance is an undignified way of luring clients.**
- D. Yes, because the offer of assistance is stated at the back.

22. Which of these does not constitute competent evidence of identity?

- A. Passport;
- B. SSS card;
- C. **Community Tax Certificate;**
- D. Senior Citizen Card.

23. A recovery of ownership complaint was filed by the Dedo and Dedo Law Firm, through Atty. Jose Dedo as counsel. During all the phases of trial, it was Atty. Jose Dedo who appeared. Unfortunately, Atty. Jose Dedo died before completion of trial. Notices and orders sent to the Dedo and Dedo Law Firm were returned to the court with the manifestation that Atty. Dedo already died and requesting the court to directly send the matters to the client. Is this proper?

- A. **No, the law firm – through another lawyer – should continue to appear for the client.**
- B. Yes, because the death of the handling lawyer terminates the attorney-client relationship.
- C. Yes, because attorney's fees was not paid to the law firm.
- D. No, it will be unjust for the client to pay another lawyer.

24. Which of these is not a ground for disbarment?

- A. Conviction of a crime involving moral turpitude.
- B. **Belligerent disobedience to a lawful order of a trial court.**
- C. Malpractice or other gross misconduct in office.
- D. Grossly immoral conduct.

25. Administrative complaints against Judges and Justices below the Supreme Court are handled by:

- A. Clerk of Court of the Supreme Court.
- B. Ombudsman.
- C. Presiding Justice of the Court of Appeals.
- D. **Office of the Court Administrator.**

26. Atty. Aimee was convicted by final judgment of Estafa Thru Falsification of a Commercial Document, a crime involving moral turpitude. What is the appropriate penalty?

- A. **Disbarment**
- B. Indefinite suspension
- C. Suspension for three (3) years

D. Admonition

27. During the IBP Chapter elections, the candidates for President were Atty. EJ, a labor arbiter of the NLRC, Fiscal RJ of the DOJ and Atty. Gani of the PAO. After canvass, Fiscal RJ garnered the highest number of votes, followed by Arbiter EJ and by Atty. Gani. The winning Vice-President moved for the annulment of the election for President because all the candidates for President are government officials and are disqualified. Decide.

- A. **The election for presidency is invalid, and the elected Vice-President shall assume the Presidency by succession.**
- B. The election is a failure, and new elections should be held.
- C. Fiscal RJ and Arbiter EJ are disqualified. Atty. Gani should be declared winner.
- D. All the candidates who are government officials are deemed resigned upon their acceptance of nomination; and so, Fiscal RJ is winner.

28. Atty. Edad is an 85 year old lawyer. He does not practice law anymore. However, his IBP Chapter continues to send him notices to pay his IBP dues of more than ten (10) years with warning that failure to comply will result in the removal of his name. Piqued by this, Atty. Edad filed with the IBP Secretary a sworn letter notifying that he is voluntarily terminating his membership with the IBP. Should he be allowed?

- A. No, because membership in IBP is compulsory for all lawyers.
- B. **Yes, an erstwhile IBP member may terminate his membership for good reasons.**
- C. No, that is only a ploy to evade payment of IBP dues.
- D. Yes, it will violate his right not to join an association.

29. Who elects the members of the Board of Governors of the IBP?

- A. The Presidents of all IBP Chapters;
- B. The members at large of the IBP;
- C. **The House of Delegates;**
- D. The Past Presidents of all IBP chapters.

30. Who elects the President and Vice-President of the IBP?

- A. The President of all IBP Chapters;
- B. The IBP members voting at large;
- C. **The Board of Governors;**
- D. The outgoing IBP officers.

31. A judge or judicial officer is disqualified to hear a case before him wherein a party is related to him by consanguinity or affinity –

- A. **up to the 6th degree;**
- B. up to the 5th degree;
- C. up to the 4th degree;

- D. up to the 3rd degree.
32. A judge or judicial officer should inhibit himself from hearing a case before him where the counsel for either party is a relative by consanguinity or affinity –
- A. up to the 3rd degree;
 - B. **up to the 4th degree;**
 - C. up to the 5th degree;
 - D. up to the 6th degree.
33. Victor has been legally separated from his wife, Belen for fifteen (15) years. He has found true love and happiness with Amor and they lived together as husband and wife. Amor convinced Victor to study law and gave him financial support. Recently, Victor passed the 2011 Bar Examinations. Upon knowing this, Belen filed a complaint against Victor for immorality. Should Victor be allowed to take oath as an attorney?
- A. Yes, his relationship with Amor is imbued with genuine love and cannot be considered immoral and indecent.
 - B. Yes, legal separation does not allow the spouses to remarry.
 - C. **No, because legal separation does not dissolve the marriage and, therefore, Victor's relationship with Amor is still considered illicit.**
 - D. Yes, it is totally unfair for Belen to complain since they have lived separate lives.
34. Judge Nancy personally witnessed a vehicular accident near his house. Later, the Reckless Imprudence case was raffled to his sala. Is there a valid ground for his inhibition?
- A. No, he is [neither] acquainted nor related with any of the parties or lawyer.
 - B. No, his personal knowledge of what actually happened will even ensure that he will decide the case justly on the basis of the true facts.
 - C. **Yes, because a judge should decide a case on the basis of the evidence presented before him and not on extraneous matters.**
 - D. No, because there is no ground for disqualification and no motion for inhibition.
35. Judge Ramon obtained a two (2) year car loan from a financing company. He never paid a single amortization. After the lapse of two (2) years, the financing company filed an administrative complaint against the judge for willful failure to pay a just debt. Is the judge administratively liable?
- A. No, since the loan is not connected with his judicial function.
 - B. **Yes, because a judge should avoid impropriety or the appearance of impropriety even in his private dealings.**
 - C. No, the financing company should have availed of the remedy of foreclosure.
 - D. No, because the administrative charge is only meant to force the judge to pay.

36. Bong, son of Judge Rey, is a fourth year law student. He helped his friend prepare an affidavit-complaint for Violation of Batas Pambansa Big. 22. After drafting, they showed it to Judge Rey who made some corrections. Later, the BP 22 case was raffled to Judge Rey who tried and convicted the accused. Was there impropriety?
- A. **Yes, since Judge Rey was not a fair and impartial judge.**
 - B. No, the evidence for the prosecution was strong and sufficient to prove guilt beyond reasonable doubt.
 - C. No, because any other judge would also have convicted the accused.
 - D. No, those matters were not known to the accused.
37. Atty. Fred is a law practitioner and headed a law firm bearing his name and those of his partners. When Atty. Fred was elected as Congressman, his client's needs were handled by the other partners. Later, A, a newly proclaimed congressman-friend, faced an election protest before the HRET, and sought the help of Congressman Fred who immediately directed his law firm to appear for A. B, the protestant, sought the disqualification of Congressman Fred's law firm from appearing before the HRET because Congressman Fred is prohibited from practicing his profession. Decide.
- A. Yes, Congressman Fred's law firm is disqualified because Congressman Fred may exercise undue influence on his peers who are members of HRET.
 - B. No, the law firm is not disqualified because it is another partner, and not Congressman Fred who is appearing.
 - C. **No, the prohibition is on Congressman Fred from personally appearing, and not to his partners.**
 - D. Yes, the spirit of the prohibition is clearly to avoid influence and cannot be indirectly circumvented.
38. Vice-Mayor Ron is a well-loved law practitioner because he assists his constituents, especially the indigents. Ed, one of his friends who is employed as Cashier in the Register of Deeds, sought his assistance because he was charged with Malversation in court. Can Vice-Mayor Ron appear as counsel of Ed?
- A. Yes, members of the Sanggunian are allowed to practice their profession.
 - B. **No, because Ed is charged with an offense in relation to his office.**
 - C. Yes, since the position of Ed does not pertain to the local government.
 - D. No, because all criminal cases are against the government.
39. Atty. Noe was elected Vice-Governor and continued with his law practice. Later, the governor went on sick leave for one (1) year and Atty. Noe was designated as Acting Governor. Since hearings have already been set, can Atty. Noe continue appearing as counsel in the cases handled by him?

- A. Yes, because his election is only as Vice-Governor, and his delegation as Governor is only temporary.
- B. Yes, but only for the hearings that have already been set.
- C. Yes, provided Atty. Noe seeks the permission of DILG.
- D. **No, all governors – even under acting capacity – are prohibited from exercising their profession.**

40. Atty. Dude is the COMELEC Officer in a very distant municipality. He is the only lawyer in that area. When election period is over, he has much spare time. Many people go to him for counseling, legal advice, preparation of documents of Sale, Mortgage and the like. He does not charge a fee in money, but he receives gifts which are offered. Is there impropriety?

- A. **Yes, giving legal advice and preparing legal documents, even if free, constitutes private practice of law, which is prohibited of government employees.**
- B. No, it is only giving of advices, and not court appearance.
- C. Yes, because Atty. Dude accepts gifts.
- D. No, since Atty. Dude does not accept money.

41. A notary public is required to record chronologically the notarial acts that he performs in the:

- A. Notarial Book;
- B. Roll of Documents Notarized;
- C. **Notarial Register;**
- D. Notarial Loose Leafs Sheets.

42. A party to a contract does not know how to write. Neither can he affix his thumbmark because both hands were amputated. How will that person execute the contract?

- A. Ask the party to affix a mark using the toe of his foot in the presence of the notary public and two (2) disinterested and unaffected witnesses to the instrument.
- B. Ask the party to hold the pen with his teeth and affix a + mark to be followed by the signature of one friend.
- C. **The party may ask the notary public to sign in his behalf.**
- D. None of the above.

43. The reports of a Notary Public are submitted to the:

- A. Executive Judge;
- B. Court Administrator;
- C. Notarial Archives;
- D. **Clerk of Court.**

44. Atty. Tony is a 25 year old Filipino lawyer. He has been a resident in Paranaque City for about ten (10) years and holds office in his residence. He filed a petition for appointment as Notary Public in Paranaque and has

clearance from the IBP and the Bar Confidant. However, it appears that while still a college student, he was convicted by a Laguna Court for Reckless Imprudence Resulting in Damage to Property. During the summary hearing of his petition, the offended party therein strongly objected on that ground. Can Atty. Tony be appointed?

- A. No, because he has a previous criminal record.
- B. No, because of the opposition.
- C. **Yes, the offense of Reckless Imprudence does not involve moral turpitude.**
- D. Yes, since the Reckless Imprudence case did not happen in the jurisdiction where Atty. Tony is applying.

45. What is the effect when the parties to a document acknowledged before a notary public did not present competent evidence of identity?

- A. Voidable;
- B. Valid;
- C. **Invalid Notarization;**
- D. Unenforceable.

46. The petition for appointment as a notary public should be filed with:

- A. The Office of the Court Administrator;
- B. The Clerk of Court;
- C. The MeTC Executive Judge;
- D. **The RTC Executive Judge.**

47. What is a retaining lien?

- A. The lawyer who handled the case during the trial stage should continue to be retained up to the appeal.
- B. The right of the lawyer to be retained as counsel for a party until the entire case is finished.
- C. **The right of a lawyer who is discharged or withdrawn to keep the records and property of the client in his possession until his lawful services have been paid.**
- D. The prerogative of a client's retainer to recover out-of-pocket expenses.

48. For grave misconduct, a lawyer was suspended from the practice of law indefinitely. Is he still obliged to pay his IBP dues during his suspension?

- A. **Yes, as he continues to be a lawyer and a member of the IBP.**
- B. No, because indefinite suspension is practically disbarment.
- C. No need to pay IBP dues because he cannot practice anyway.
- D. Pay only after the lifting of the suspension, if it comes.

49. Because of his political beliefs, Atty. Guerra joined a rebel group. Later, he was apprehended and charged with Rebellion in court. A disbarment case was also filed against him. While the case was pending, the government

approved a general amnesty program and Atty. Guerra applied for and was granted amnesty. Should the disbarment case be also dismissed automatically?

- A. **Yes, because amnesty obliterates the criminal act.**
- B. No, disciplinary action on lawyers are sui generis and general penal principles do not strictly apply.
- C. No, a lawyer has the duty to maintain allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines.
- D. Yes, if the Secretary of Justice approves the dismissal.

50. Soon after Atty. Cesar passed the Philippine Bar in 1975, he also took the New York State Bar and passed the same. He practiced law for 25 years in the USA, but he was disbarred therein for insurance fraud. He returned to the Philippines and started to practice law. X, who knew about his New York disbarment, filed a disbarment complaint with the IBP. Decide.

- A. **The factual basis for the New York disbarment which is deceit also constitutes a ground for disbarment in the Philippines.**
- B. The acts complained of happened in a foreign country and cannot be penalized here.
- C. Norms of ethical behavior of lawyers are the same worldwide.
- D. A lawyer's fitness to become a lawyer must be maintained wherever he may be.

[NOTE: Memorandum writing portion not included in this copy.]

**2013 BAR EXAMINATION IN
LEGAL ETHICS**

**(With Suggested Answers)
ESSAY QUESTIONS**

I.

Atty. Bravo represents Carlos Negar (an insurance agent for Dormir Insurance Co.) in a suit filed by insurance claimant Andy Limot who also sued Dormir Insurance. The insurance policy requires the insured/claimant to give a written notice to the insurance company or its agent within 60 days from the occurrence of the loss.

Limot testified during the trial that he had mailed the notice of the loss to the insurance agent, but admitted that he lost the registry receipt so that he did not have any documentary evidence of the fact of mailing and of the timeliness of the mailed notice. Dormir Insurance denied liability, contending that timely notice had not been given either to the company or its agent. Atty. Bravo's client, agent Negar, testified and confirmed that he never received any notice.

A few days after Negar testified, he admitted to Atty. Bravo that he had lied when he denied receipt of Limot's notice; he did receive the notice by mail but immediately shredded it to defeat Limot's claim.

If you were Atty. Bravo, what would you do in light of your client's (Carlos Negar's) disclosure that he perjured himself when he testified? (8%)

SUGGESTED ANSWER:

If I were Atty. Bravo, I shall promptly call upon Carlos Nagar, my client, to rectify his perjured testimony by recanting the same before the court.

Should he refuse or fail to do so I shall then terminate my relationship with him (*Code of Professional Responsibility, Canon 19, Rule 19.02*) stating that with his having committed perjury he pursued an illegal conduct in connection with the case (*Ibid., Canon 22, Rule 22.01*).

Since my client Limot refuses to forego the advantage thus unjustly gained as a result of his perjury, I should promptly inform the injured person or his counsel, so that they may take the appropriate steps (*Canons of Professional Ethics, Canon 41*).

Finally, as part of my duty to do no falsehood, nor consent to the doing of any in court (*Code of Professional Responsibility, Canon 10, Rule 10.01; Attorney's Oath*), I shall file a manifestation with the court attaching thereto the notice of termination as Limot's counsel.

II.

Atty. Serafin Roto is the Corporate Secretary of a construction corporation that has secured a multi-million infrastructure project from the government. In the course of

his duties as corporate secretary, he learned from the company president that the corporation had resorted to bribery to secure the project and had falsified records to cut implementing costs after the award of the project.

The government filed a civil action to annul the infrastructure contract and has subpoenaed Atty. Roto to testify against the company president and the corporation regarding the bribery. Atty. Roto moved to quash the subpoena, asserting that lawyer-client privilege prevents him from testifying against the president and the corporation.

Resolve the motion to quash. (8%)

SUGGESTED ANSWER:

Motion denied.

The motion should be denied because Atty. Roto did not learn of the bribery and falsification in connection with a lawyer-client relation. Being a corporate secretary does not create a lawyer-client relation because membership in the Bar is not a requirement to perform the functions of a corporate secretary. Consequently, Atty. Roto does not owe any obligation of confidentiality to the corporation.

Atty. Roto may be compelled to testify. As an officer of the court, “a lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice” (*Code of Professional Responsibility, Canon 12*). Furthermore, “a lawyer owes candor, fairness, and good faith to the court” (*Ibid., Canon 10*).

ALTERNATIVE ANSWER:

Motion granted.

It is true that being a corporate secretary does not necessarily constitute a lawyer-client relation. However, Atty. Roto may be considered in the practice of law if part of his duties as corporate secretary is to give legal advice to or prepare legal documents for the corporation. Thus, a lawyer-client relationship may have been constituted between Atty. Roto and the corporation. Consequently, it is his duty as an attorney “to maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client” (*Rules of Court, Rule 138, Sec. 20, par. e, paraphrasing and arrangement supplied*).

Atty. Roto learned from the company president of the bribery and falsification, while Atty. Roto was in the course of his performance of his duties as corporate secretary. Thus, he could not be examined on that matter without the consent of his client (*Ibid., Rule 130, Sec. 24[b]*).

Miguel Jactar, a fourth year law student, drove his vehicle recklessly and hit the rear bumper of Simplicio Medroso's vehicle. Instead of stopping, Jactar accelerated and sped away. Medroso pursued Jactar and caught up with him at an intersection.

In their confrontation, Jactar dared Medroso to sue, bragged about his connections with the courts, and even uttered veiled threats against Medroso. During the police investigation that followed, Medroso learned that Jactar was reviewing for the Bar examinations.

Under these facts, list and justify the potential objections that can be made against Jactar's admission to the practice of law. (8%)

SUGGESTED ANSWER:

The potential objection that can be made against Jactar's admission to the practice of law is the absence of good moral character (*Rules of Court, Rule 138, Sec. 2*).

Jactar's bragging about his connection with the courts and uttering veiled threats against Medroso are indications of his lack of good moral character. His acts are contrary to justice, honesty, modesty or good morals (*In re Basa, 41 Phil. 276*). He has acted in a manner that has violated the private and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and man (*Tak Ng. vs. Republic, G.R. No. L-13017, 106 Phil. 730, December 23, 1959*)

[NOTES: Any answer which explains the nature of absence of good moral character should be given full credit.

The following additional objection should not result to a deduction nor should an absence of the additional objection also result to a deduction:

If light threats would be filed against him, then another potential objection would be the pendency of charges against him, involving moral turpitude (*Rules of Court, Rule 138, Sec. 2*).

The question states, "Under these facts, list and justify the potential objections that can be made against Jactar's admission to the practice of law."

The question requires that an assumption be made that Jactar has passed the Bar Examination and is about to take his oath as an attorney. It is suggested that the better question should have been: "Under these facts, list and justify the potential objections that can be made against Jactar's being admitted to take the Bar Examination."]

IV.

Atty. Doblal represents Eva in a contract suit against Olga. He is also defending Marla in a substantially identical contract suit filed by Emma. In behalf of Eva, Atty. Doblal claims that the statute of limitations runs from the time of the breach of the

contract. In the action against Marla, Atty. Doblal now argues the reverse position – i.e., that the statute of limitation does not run until one year after discovery of the breach.

Both cases are assigned to Judge Elrey. Although not the sole issue in the two cases, the statute of limitations issue is critical in both.

Is there an ethical/professional responsibility problem in this situation? If a problem exists, what are its implications or potential consequences? (8%)

SUGGESTED ANSWER:

Yes. There is an ethical/professional responsibility problem that results from the actuation of Atty. Doblal in arguing the reverse positions.

The signatures of Atty. Doblal on the pleadings for Eva and for Marla constitute a certificate by him that he has read the pleadings; that to the best of his knowledge, information, and belief, there is good ground to support them; and that the pleadings were not interposed for delay (*Rules of Court, Rule 7, Sec. 3, par. 2*). Atty. Doblal could not claim he has complied with the foregoing requirement because he could not take a stand for Eva that is contrary to that taken for Marla. His theory for Eva clearly contradicts his theory for Marla. He has violated his professional responsibility mandated under the Rules of Court.

He has likewise violated the ethical responsibility that his appearance in court should be deemed equivalent to an assertion on his honor that, in his opinion, his client's case is one proper for judicial determination (*Canons of Professional Ethics, Canon 30, par. 2, last sentence*).

In counseling on the contradictory positions, Atty. Doblal has likewise counselled or abetted activities aimed at defiance of the law or at lessening confidence in the legal system (*Code of Professional Responsibility, Canon 1, Rule 1.02*) because conflicting opinions may result arising from an interpretation of the same law.

Atty. Doblal could not seek refuge under the umbrella that what he has done was in protection of his clients. This is so because a lawyer's duty is not to his client but to the administration of justice. To that end, his client's success is wholly subordinate. His conduct ought to and must always be scrupulously observant of the law and ethics (*Ernesto Pineda, LEGAL AND JUDICIAL ETHICS, 211 [1999], citing Maglasang vs. People, G.R. No. 90083, October 4, 1990*).

Any means not honorable, fair, and honest, which is resorted to by the lawyer, even in the pursuit of his devotion to his client's cause, is condemnable and unethical (*Ibid.*).

Atty. Repatriar, a law school classmate, approached you on your 25th Class Reunion, with questions on how he can resume the practice of law in the Philippines. He left the country in 1977 after two (2) years of initial law practice, and migrated to the United States where he was admitted to the practice of law in the State of New York. He asks that you give him a formal legal opinion on his query.

Outline briefly the steps and the supporting legal reasons you would state in your legal opinion on what Atty. Repatriar should do to resume his Philippine practice. (8%)

SUGGESTED ANSWER:

Atty. Repatriar must prepare a sworn petition to re-acquire the privilege to practice law in the Philippines. He should manifest in his petition his desire to resume his law practice in the Philippines, and he is not disqualified to practice law. The “right to resume the practice of law” is not automatic. R.A. No. 9225 provides that a person who intends to practice his profession in the Philippines must apply with the proper authority for a license or permit to engage in such practice. It cannot be overstressed that the practice of law is a privilege burdened with conditions. It is so delicately affected with public interest that it is both the power and duty of the state (through the Supreme Court) to control and regulate it in order to protect and promote the public welfare.

Adherence to rigid standards of mental fitness, maintenance of the highest degree of morality, faithful observance of the legal profession, compliance with the mandatory continuing legal education requirement, and payment of membership fees to the Integrated Bar of the Philippines (IBP) are the conditions required for membership in good standing in the bar and for enjoying the privilege to practice law. Any breach by a lawyer of any of these conditions makes him unworthy of the trust and confidence which the courts and clients repose in him for the continued exercise of his professional privilege (*In re: petition to re-acquire the privilege to practice law in the Philippines, Epifanio B. Muneses, B.M. No. 2112, July 24, 2011*).

He should file the petition with the Supreme Court, through the Bar Confidant, accompanied by the original or certified copies of the following documents:

- 1. Showing that he is still a Filipino citizen. “The Court reiterates that Filipino citizenship is a requirement for admission to the bar and is, in fact, a continuing requirement for the practice of law.” (*Ibid.*) Having retained Philippine citizenship could be evidenced by the Philippine passport, the U.S. Green Card showing Philippine citizenship and U.S. residency, or other authentic documents which the Supreme Court may require.**

On the other hand, if Atty. Repatriar has lost his Philippine citizenship, he must submit the following:

- (a) Petition for Re-Acquisition of Philippine Citizenship;**

- (b) Order (for Re-Acquisition of Philippine Citizenship);**
- (c) Oath of Allegiance to the Republic of the Philippines;**
- (d) Identification Certificate (IC) issued by the Bureau of Immigration.**

The loss of Filipino citizenship means termination of Atty. Repatriar's membership in the bar; *ipso jure* the privilege to engage in the practice of law. "Under R.A. No. 9225, natural-born citizens who have lost their Philippine citizenship by reason of their naturalization as citizens of a foreign country are deemed to have re-acquired their Philippine citizenship upon taking the oath of allegiance to the Republic. Thus, a Filipino lawyer who becomes a citizen of another country and later re-acquires his Philippine citizenship under R.A. No. 9225 remains to be a member of the Philippine bar." (*Ibid.*)

2. Certification from the IBP indicating updated payments of annual membership dues;
3. Proof of payment of professional tax; and
4. Certificate of compliance issued by the MCLE Office. (*Ibid.*)
5. A certificate of good moral character attested to by at least three (3) members of the bar; and
6. A certification from the State Bar of New York that Atty. Repatriar does not have any previous or pending disciplinary action filed against him before that body.

VI.

An audit team from the Office of the Court Administrator found that Judge Contaminada committed serious infractions through the indiscriminate grant of petitions for annulment of marriage and legal separation. In one year, the judge granted 300 of such petitions when the average number of petitions of similar nature granted by an individual judge in his region was only 24 petitions per annum.

The audit revealed many different defects in the granted petitions: many petitions had not been verified; the required copies of some petitions were not furnished to the Office of the Solicitor General and the Office of the Provincial Prosecutor; docket fees had not been fully paid; the parties were not actual residents within the territorial jurisdiction of the court; and, in some cases, there was no record of the cross-examinations conducted by the public prosecutor or any documentary evidence marked and formally offered. All these, viewed in their totality, supported the improvident and indiscriminate grant that the OCA found.

If you were the counsel for Andy Malasuerte and other litigants whose marriages had been improperly and finally annulled, discuss your options in administratively proceeding against Judge Contaminada, and state where and how you would exercise these options. (8%)

SUGGESTED ANSWER:

As counsel for Andy Malasuerte, I have the option of participating in the administrative proceedings by filing a verified complaint in writing against Judge Contaminada with the Office of the Court Administrator, supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents which may substantiate said allegations. The complaint shall state clearly and concisely the acts and omissions constituting violations of standards of conduct prescribed for judges by law, the Rules of Court, the Code of Judicial Conduct (*Rules of Court, Rule 140, Sec. 1*), and the New Code of Conduct for the Philippine Judiciary.

[NOTE: The question clearly refers to “administratively proceeding against Judge Contaminada.” It is suggested that some credit be given if the examinee discusses the options available for Andy Malasuerte to obtain relief with regard to his improperly and finally annulled marriage.]

VII.

In an action to prevent the condominium developer from building beyond ten (10) floors, Judge Cerdo rendered judgment in favor of the defendant developer. The judgment became final after the plaintiffs failed to appeal on time. Judge Cerdo and Atty. Cocodrilo, counsel for the developer, thereafter separately purchased a condominium unit each from the developer.

Did Judge Cerdo and Atty. Cocodrilo commit any act of impropriety or violate any law for which they should be held liable or sanctioned? (8%)

SUGGESTED ANSWER:

Judge Cerdo and Atty. Cocodrilo did not commit any act of impropriety, nor did they violate any law.

The prohibition imposed by the Civil Code, Art. 1491(5), prohibiting judges and attorneys, and that contained in the Canons of Professional Ethics, Canon 10, with regard to purchase of any interest in the subject matter of the litigation both refer only to instances where the property is still the subject of litigation.

The prohibition does not apply to instances, such as in the problem, where the conveyance takes place after the judgment because the property can no longer be said to be the “subject of litigation” (*Director of Lands vs. Ababa, G.R. No. L-26096, February 27, 1979, 88 SCRA 513*).

ALTERNATIVE ANSWER:

Atty. Cocodrilo did not commit any ethical violation nor did he violate any law when he purchased a condominium unit from the developer. The prohibition under the Canons of Professional Ethics and under the Civil Code, Art. 1491(5) finds application only why the property is still the subject of litigation. With the

judgment having attained a state of finality, the property can no longer be said to be the “subject of litigation.” (*Ibid.*)

While technically, Judge Cerdo has not violated the provisions of the Civil Code, Art. 1491(3), when he purchased a condominium unit from the developer because the judgment has attained a state of finality, there may be some concerns on the ethical aspect of what he has done.

Familiar is the maxim, *Non omne quod licet honestum est* (Not everything that is legal is ethical). Judges, like Judge Cerdo, should be free from any whiff of impropriety. Judges shall avoid impropriety and the appearance of impropriety in all of their activities (*New Code of Conduct for the Philippine Judiciary, Canon 4, Sec. 1*).

His purchase of a condominium unit from the developer might be interpreted by some quarters as a consideration for his having decided the case in favor of the defendant developer.

VIII.

The criminal case arising from the P10-Billion Peso pork barrel scandal was raffled to Sandiganbayan Justice Marciano Cobarde. Afraid that he would antagonize the parties, his political patrons and, ultimately, his judicial career, he decided to inhibit from participating in the case, giving "personal reasons" as his justification.

If you were to question the inhibition of SB Justice Cobarde, on what legal basis, and where and how will you do this? (8%).

SUGGESTED ANSWER:

The grounds relied upon by Justice Cobarde for his inhibition conveys the impression that “the parties” and “his political patrons” are in a special position improperly to influence him in the performance of judicial duties (*New Code of Conduct for the Philippine Judiciary, Canon 4, Sec. 8*). Furthermore, the Sandiganbayan sits in Divisions, so the fears of Justice Cobarde are unfounded. Justice Cobarde should not shirk from the performance of his judicial duties.

I would file a motion with the Division of the Sandiganbayan in which Justice Cobarde is sitting for the remittal of his voluntary inhibition. I would advance in motion the reasons why the “personal reasons” set forth by the Justice are insubstantial and do not merit his inhibition. I would likewise set the motion for hearing as appropriate.

[NOTES: The decision of Justice Marciano Cobarde to inhibit himself on account of “personal reasons” is not conclusive, and his competency may be determined on an application for mandamus to compel him to act (*Palang vs. Zosa, G.R. No. L-38229, August 30, 1974, 58 SCRA 776*).

The voluntary inhibition of Justice Marciano Cobarde is not subject to mandamus because voluntary inhibition involves the exercise of discretion (*Gutang, et al., vs. Court of Appeals, et al., G.R. No. 124760, July 8, 1998*.)]

IX.

Atty. Hermano requested his fraternity brother, Judge Patron, to introduce him to Judge Apestado, before whom he has a case that had been pending for sometime.

Judge Patron, a close friend of Judge Apestado, acceded to the request, telling the latter that Atty. Hermano is his fraternity “brod” and that Atty. Hermano simply wanted to ask for advice on how to expedite the resolution of his case. They met, as arranged, in the fine dining restaurant of a five-star hotel. Atty. Hermano hosted the dinner.

Did Atty. Hermano, Judge Patron and Judge Apestado commit any ethical/administrative violation for which they can be held liable? (8%)

SUGGESTED ANSWER:

Yes, the three (3) of them committed ethical/administrative violations for which they can be held liable.

For hosting the dinner, Atty. Hermano acted in contravention of ethical standards. A lawyer should refrain from any impropriety which tends to influence or give the appearance of influencing the court (*Code of Professional Responsibility, Canon 13*). A lawyer shall not extend extraordinary attention or hospitality to, nor seek opportunity for cultivating familiarity with judges (*Ibid., Canon 13, Rule 13.01*). Marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations [of] the parties, subject both the judge and the lawyer to misconstruction of motive and should be avoided (*Canons of Professional Ethics, Canon 3, par. 2, 1st sentence*). Even if the purpose of the meeting was merely to “ask advice on how to expedite the resolution of his case,” Atty. Hermano still acted outside of the bounds of ethical conduct. This is so because a lawyer deserves rebuke and denunciation for any device or attempt to gain from a judge special personal consideration or favor (*Ibid., Canon 3, par. 2, 2nd sentence*).

Both Judge Patron and Judge Apestado may be held liable for having the dinner meeting with Atty. Hermano. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer (*New Code of Judicial Conduct for the Philippine Judiciary, Canon 2, Sec. 1*). Their having dinner with Atty. Hermano, a practicing lawyer could be construed as appearance of impropriety.

Judge Patron for having allowed himself to use as a “bridge” by Atty. Hermano, his fraternity “brod”, to meet with Judge Apestado exhibited judicial misconduct in the following manner the outcome of litigation or dispute pending before another court (*Ibid., Canon 1, Sec. 3*). Furthermore in allowing Atty. Hernando to make advantage to his fraternity bond, Judge Patron

allowed the use of prestige of judicial office to advance the private interests of others, conveyed or permitted his fraternity “brod” to convey the impression that he is in a special position to influence the judge (*Ibid.*, Canon 1, Sec. 4, 2nd sentence).

The specific violations of Judge Apestado were committed when he allowed himself to be convinced by Judge Patron to have the dinner meeting with Atty. Hermano to discuss how the case may be expedited in performing judicial duties, judges shall be independent from judicial colleagues in respect of decisions which the judge is obliged to make independently (*Ibid.*, Canon 1, Sec. 2). Finally, in having a dinner meeting with Atty. Hermano who has a pending case with his sala, Judge Apestado has exhibited an appearance of impropriety in his activities (*Ibid.*, Canon 4, Sec. 1).

X.

As a new lawyer, Attorney Novato started with a practice limited to small claims cases, legal counseling, and notarization of documents. He put up a solo practice law office and was assisted by his wife who served as his secretary/helper. He used a makeshift hut in a vacant lot near the local courts and a local transport regulatory agency. With this strategic location, he enjoyed heavy patronage assisting walk-in clients in the preparation and filing of pleadings and in the preparation and notarization of contracts and documents. He had the foresight of investing in a good heavy duty copier machine that reproduces quality documents, and charges a reasonable fee for this service. He draws electric power from an extension wire connected to an adjoining small restaurant. He put up a shingle that reads: "Atty. Novato, Specialist in Small Claims, Fastest in Notarization; the Best and Cheapest in Copier Services."

Is Attorney Novato’s manner of carrying out his professional practice – i.e., mixing business with the practice of law, announcing his activities via a shingle and locating his office as above-described – in keeping with appropriate ethical and professional practice? (8%)

SUGGESTED ANSWER:

No. Attorney Novato’s manner of carrying out his professional practice is not in keeping with appropriate ethical and professional practice. He has degraded the law profession which may result to loss of respect to lawyers as a whole.

The use of a makeshift hut standing alone would create the impression that the lawyer does not have a permanent address which is required to be stated in all pleadings he signs as well as required to be shown in documents he notarizes.

His shingle shows that he has considered the law profession as a business. He should have separate shingle for his copier services business.

When he included in his shingle the phrases “Specialist in Small Claims” and “Fastest in Notarization” he has transgressed the rule that a lawyer in making

known his legal services shall use only dignified information or statement of facts (*Code of Professional Responsibility, Canon 3*). So also the norm that a lawyer shall not use or permit the use of any misleading, undignified, self-laudatory or unfair statement or claim regarding his qualifications or legal services (*Ibid., Canon 3, Rule 3.01*).

The use of the phrases “Specialist in Small Claims” and “Fastest in Notarization” is misleading advertisement because they are likely to create an unjustified expectation about the results the lawyer can achieve or implies that the lawyer can achieve results by improper means (*ABA Model Rule 7.1.b*).

MULTIPLE CHOICE QUESTIONS

I. Under the 2004 Rules of Notarial Practice, what may used to satisfy the requirement of "competent evidence of identity"? (1%)

- (A) Passport, Senior Citizen card, HMO card.
- (B) Police clearance, credit card, Professional Regulatory Commission ID.
- (C) **Voter's ID, NBI clearance, Driver's license.**
- (D) Ombudsman's clearance, private office ID, PhilHealth card.
- (E) All of the above.

II. The following are duties of a lawyer but only one of these is expressly stated in the Lawyer's Oath. Choose the express duty that the Oath contains. (1%)

- (A) To maintain a respectful attitude towards the courts.
- (B) To uphold the honor and dignity of the legal profession.
- (C) To act with courtesy, candor and fairness toward other lawyers.
- (D) **To do no falsehood, nor consent to the doing of any in court.**
- (E) To respect the courts and uphold the dignity of the profession.

III. Atty. Avaro has consistently failed to pay his annual IBP dues for several years. Demand letters have been sent to him and he has acknowledged receipt of these letters. However, all the IBP's efforts proved futile. As a result, the IBP sent Atty. Avaro a notice that his name would be stricken off the Roll of Attorneys.

Was the IBP's action correct? (1%)

- (A) No, because default in the payment of annual dues only warrants suspension of Integrated Bar members.
- (B) Yes, because non-payment of annual dues is an indicator of the lawyer's moral fitness; refusal to pay is refusal to honor his obligation to the IBP.
- (C) No, because failure to pay affects a member's capability to practise, but not his membership in the Bar.
- (D) Yes, because payment of membership dues and other lawful assessments are conditions sine qua non to the privilege of practising law and to the retention of his name in the Roll of Attorneys.
- (E) **None of the above choices is correct.**

IV. Ms. Seller and Mr. Buyer presented to a commissioned notary public a deed of sale for notarization. The notary public explained to them the transaction the deed embodies and asked them if they were freely entering the transaction. After the document was signed by all the parties, the notary public collected the notarial fee but did not issue any BIR-registered receipt.

The notarization of the deed is _____. (1%)

- (A) neither unlawful nor improper because he explained the basis for the computation of the notarial fee

(B) unlawful because he did not issue a BIR-registered receipt and did not post in his office the complete schedule of chargeable notarial fees

(C) proper because he is not required to issue receipts for notarial fees

(D) improper because he did not ask Ms. Seller and Mr. Buyer if they needed a receipt

(E) **proper because any irregularity in the payment of the notarial fees does not affect the validity of the notarization made**

V. In order to comply with the MCLE requirements, Atty. Ausente enrolled in a seminar given by an MCLE provider. Whenever he has court or other professional commitments, he would send his messenger or a member of his legal staff to register his attendance at the MCLE sessions so he could be credited with the required qualifying attendance. He would also ask them to secure the printed handouts and the lecturers' CDs, all of which he studied in his free time.

Atty. Ausente should be _____. (1%)

(A) required to make up for his absence by attending lecture sessions in other MCLE providers

(B) **sanctioned because he circumvented or evaded full compliance with the MCLE requirements**

(C) excused because he attended to profession-related tasks, and fully studied the courses through the materials and CDs he secured

(D) penalized by forfeiting all his earned MCLE units

(E) excused because attendance by proxy is a widespread and tolerated MCLE practice

VI. Plaintiff Jun Ahorro filed a complaint for collection of sum of money before the Regional Trial Court of Manila. Because of the large amount of his claim, he had to pay a sizeable docket fee. He insisted on paying the docket fee and other fees in installments because staggered payment is allowed under Rule 141, as amended. The Office of the Clerk of Court (OCC) refused to accept the complaint unless he paid the full amount of the docket and other required fees.

Plaintiff Jun Ahorro's position _____. (1%)

(A) is allowed because of the large amount of the docket fee

(B) is justified because it is discretionary on the part of the OCC to accept staggered payment

(C) is incorrect because the amendment on staggered payment has been suspended

(D) **is not allowed because the full payment of docket fee is jurisdictional**

(E) cannot be allowed because of its prejudicial impact on the judiciary's financial operations

VII. Atty. Anunciante is engaged in the practice of law and has a regular, live, weekly TV program where he gives advice to and answers questions from the audience and program viewers concerning U.S. immigration problems. Occasionally, advertisements inviting viewers to watch his TV program are shown outside his regular program schedule. Because of the popularity of his TV program, the number of his law practice clients increased tremendously.

The TV program of Atty. Anunciante is _____. (1%)

(A) permissible because it is public service in nature

(B) objectionable because the work involves indirect advertising or solicitation of business

(C) improper because it gives him an unfair advantage over other lawyers

(D) ethically allowable because it does not violate the traditional standards of the legal profession

(E) **None of the above.**

VIII. Vito is a notorious gangster in the province who has been accused of raping and mercilessly killing a 16-year old girl. Sentiments run very strongly against him and the local Bar Association met and decided that no lawyer in the locality would represent him. Vito could not afford the services of an out-of-town counsel.

Choose the most appropriate legal and ethical characterization of the decision of the local Bar Association. (1%)

(A) It is within its right to make, since lawyers may freely decide who to represent and who not to represent.

(B) **It is unethical; it constitutes a collective denial of Vito's right to the assistance of counsel.**

(C) It constitutes an anticipated act of contempt towards the court that may order any of the members of the association to represent the accused.

(D) It must be concurred in by each member of the Bar Association to have any binding force.

(E) It is unethical because the Bar Association already prejudged Vito.

IX. Graft Investigator Atty. Retirada served the Office of the Deputy Ombudsman for eight years before retiring from the service. While still a Graft Investigator, she investigated a government contract for office supplies where Mr. Sakim was the supplier. The transaction was supposedly overpriced. Atty. Retirada recommended that no charges be filed against the officials involved and the recommendation benefited Mr. Sakim as the supplier involved in the transaction.

After her retirement from the service, Atty. Retirada's services as counsel were engaged by Mr. Sakim as counsel to represent the Sakim family in a claim against the State arising from a family property that had been expropriated. Atty. Retirada now consults you about the ethical permissibility of accepting the engagement.

What advice would you give Atty. Retirada? (1%)

(A) Having been in government service, she cannot now represent a party with a claim against the State.

(B) Having once handled a case involving her prospective client, a conflict of interest would exist if she were to accept the engagement.

(C) Representing the Sakim family would involve the unethical use of information she obtained while in government service.

(D) **There is no ethical objection to her acceptance of the engagement because the case is neither criminal nor administrative in character.**

(E) Acceptance of the engagement should be on condition that Atty. Retirada would withdraw if a conflict of interest situation arises.

X. Your client is the plaintiff in a civil case for damages arising from a car accident where he sustained serious physical injuries and damages amounting to P1Million. The counsel for the defendant asks you to give him a proposed amount for purposes of settlement and you are aware that whatever amount you tell him would not readily be accepted and would probably be cut into half.

What is your best legal and ethical course of action? (1%)

(A) Inflate your proposal to make allowances for a compromise.

(B) Tell the defendant's counsel the correct amount of damages.

(C) Offer him a reasonably low amount so that the case can immediately be settled.

(D) **Ask the defendant's counsel to first submit his negotiating figure.**

(E) Play hard-to-get and initially refuse all the defendant's initiatives to settle.

XI. Candido engaged the services of Atty. Lebron in a criminal case. In the course of their consultations, Candido admitted to Atty. Lebron that he committed the crime

and in fact actively planned its commission. He stressed, however, that under no circumstance would he admit or confess to the murder charge he is facing and, in fact, would enter a plea of "not guilty" on arraignment.

If Candido insists on his planned plea, Atty. Lebron should _____. (1%)

(A) discontinue his representation; to continue would be unethical since he would then be aiding the accused in foisting a deliberate falsehood on the court

(B) **allow Candido to choose his course of action; Atty. Lebron's duty is to protect all his legal and statutory rights**

(C) **convince Candido to plead guilty and withdraw from the case if Candido refuses to heed his advice**

(D) file a manifestation, if Candido pleads "not guilty," declaring to the court what he knows of the truth.

(E) play matters by ear and wait for developments as Candido may still plead guilty.

XII. A Regional Trial Court issues a temporary restraining order (TRO) halting the demolition order issued by the City Mayor who has long loathed the cluster of shanties put up by informal settlers along the road leading to the city's commercial district. The TRO, however, carried conditions that must be in place before the threatened demolition can be fully halted.

The city legal officer advised the City Engineer's Office and the local PNP chief that the TRO's conditions are not in place so that the demolition could proceed. The city filed a manifestation reflecting the city legal officer's position, while the informal settlers' counsel sought its own clarification and reconsideration from the court, which responded by decreeing that the conditions have been fulfilled. Despite this ruling, the city legal officer insisted that the conditions have not been fulfilled and thus gave the PNP clearance to aid the City Engineer's Office in proceeding with the demolition.

From the perspective of professional ethics, how would you characterize the city legal officer's actions? (1%)

(A) **It is unethical since he counseled civil servants to disregard a court order.**

(B) It is ethical, since he acted in accordance with his honest conviction after considering that the court's conditions have not been met.

(C) It constitutes indirect contempt, but the lawyer cannot be disciplined because he acted out of his firm and honest conviction.

(D) It is neither contemptuous nor unethical since he was performing his duties as city legal officer.

(E) It is unethical since the City Legal Officer was simply blindly following the Mayor's wishes.

XIII. The mediator assigned to a civil case happens to be your law school classmate and he makes a doctrinal statement about the rights of the parties. You knew that the statement, although favorable to your client's case, is incorrect.

The ethical move to make under the circumstances is to _____. (1%)

(A) **correct the mediator and state the right doctrine**

(B) just keep quiet because the other counsel might learn about your relationship with the mediator

(C) **reveal your relationship with the mediator and ask the opposing counsel if he has any objections**

(D) request the Mediation Supervisor to immediately change the mediator

(E) simply withdraw from the case because of the unfair advantage that you enjoy

XIV. Wanda finally became pregnant in the 10th year of her marriage to Horacio. As her pregnancy progressed, she started having difficulty breathing and was easily

fatigued. The doctors diagnosed that she has a heart congestion problem due to a valve defect, and that her chances of carrying a baby to full term are slim. Wanda is scared and contemplates the possibility of abortion. She thus sought legal advice from Diana, a lawyer-friend and fellow church member, who has been informally advising her on legal matters.

What is Diana's best ethical response? (1%)

- (A) Beg off from giving any advice because it is a situation that is not purely legal.
- (B) **Advise Wanda on the purely legal side of her problem and assure her that abortion is allowed by law if the pregnancy endangers the life of the mother.**
- (C) Advise that it is a religious problem before it is a medical or legal one, and Wanda should consult and follow the advice of her religious confessor.
- (D) Advise Wanda that abortion, above everything else, is a moral problem and she should only have an abortion if it is an act she can live with.
- (E) Refrain from giving any kind of advice as abortion is a serious matter that cannot be resolved through informal consultations with friends and fellow church members.

XV. Based on the same facts as Question XIV, assume that Diana, aside from being a family friend of the couple, has been formally and informally acting as their lawyer in all their personal and family affairs. She has represented them in court in a case involving a car accident and in the purchase of their family home, for which they formally paid the attorney's fees that Diana billed.

In this instance, Wanda asked about her legal rights but did not formally ask for a written opinion from Diana. Horacio never had any input on the query as he was then away on an out-of-town trip for his office.

Diana advised Wanda that she is fully protected in law and her best course of action is to have an abortion while her pregnancy is not yet far advanced.

Did Diana violate the prohibition against representing conflicting interests when she provided legal advice to Wanda without Horacio's knowledge? (1%)

- (A) **Yes. The decision of whether to have an abortion should be decided by both spouses; thus, Diana should not have provided legal advice in the absence of Horacio whose concerns and positions are unknown to her.**
- (B) No. Diana did not give any formal advice that would constitute legal practice calling for the strict observance of the conflict of interest rules.
- (C) **No. The decision on whether or not to have an abortion lies solely with Wanda; it is her body and health that is in issue.**
- (D) No. Horacio and Wanda are married, any advice given to Wanda is deemed to have been given to Horacio as well.
- (E) No. Giving advice to Wanda is not necessarily acting against Horacio's interest; Diana was giving advice based on the couple's best interest.

XVI. ABLE Law Office has a retainer agreement with Santino, a businessman with shady connections, who has recently been charged with laundering money for an illegal drugs syndicate using Cable Co., Santino's holding company. The lawyers of ABLE Law Office assigned to handle Santino's account have been impleaded as co-defendants for incorporating and actively handling the affairs of Cable Co.

In its bid to strengthen its case against the defendants, the prosecution approached you (as the least guilty defendant who would qualify for a discharge as a state witness) and offers to make you a state witness.

Can you accept, within the bounds of professional ethics, the prosecution's offer? (1%)

- (A) No, as Santino's lawyer you are duty-bound to protect his interests, ably represent him in court, and not turn against him.

(B) **Yes, as an officer of the court, you have the duty to disclose to the court information crucial to the case.**

(C) **No, the information you acquired involving the criminal case against Santino is covered by the privileged communications rule.**

(D) Yes, a lawyer may testify against his client provided he first severs the lawyer-client relationship.

(E) Yes, the law of self-preservation is akin to the law of self-defense and stands higher than any obligation you may have with your client.

XVII. Under the same essential facts as the preceding Question XVI, assume that you have resigned from ABLE Law Office and that you were never impleaded as a co-defendant, but during your stay with the firm, you assisted in handling the Cobra Co. account, which is largely owned by Cable Co.

The prosecutor handling the case against Santino and the law firm asks you, as a former law firm member, if you can help strengthen the prosecution's case and hints that you, too, may be impleaded as a co-defendant if you do not cooperate.

What is your best legal and ethical course of action? (1%)

(A) Offer to testify on what you know and provide evidence against the defendants in exchange for a guarantee of immunity from prosecution in the case.

(B) Offer to provide evidence against Santino, but clarify that you cannot testify against Santino because of the privileged communications rule

(C) **Decline to testify against the defendants and to provide evidence in the case as the attorney-client privilege lasts even beyond the termination of the relationship.**

(D) Decline to testify against the defendants as whatever information you acquired from Santino and Cable Co. in the course of the lawyer-client relationship is privileged.

(E) Alert the law firm to the prosecution's offer so that they can prepare for the evidence within your knowledge that the prosecution may use.

XVIII. You are a lawyer working in the Public Assistance Office. Yolly, a key witness in the case (reckless imprudence resulting in homicide) you are handling, is indigent and illiterate. While Yolly is willing to testify in court, you worry that the judge might not be able to appreciate the impact of her testimony, as she has a difficult time answering English questions. You also worry that this might affect her credibility. Further, Yolly has indicated that she might not have the money to pay the fare to attend the trial. You are presenting her as a witness for the defense at the hearing next week.

Which of the following is NOT a permissible act for you to do? (1%)

(A) Provide Yolly with money for fare to ensure her attendance in court.

(B) Interview Yolly before trial, so that she will be more at ease when she testifies before the court.

(C) Prepare a judicial affidavit of Yolly's testimony, which she will then verify before the court.

(D) Provide her with sample questions that you might ask in the hearing tomorrow.

(E) **All the above are permissible.**

XIX. You are a lawyer working at the Office of the Special Prosecutor and you are part of the team handling the case against former Senator Avido who is charged with plunder. Based on your assessment of the evidence that the complainant Linda submitted, you know that the case against former Senator Avido is weak, although you instinctively feel that he is guilty. You inform your friend Atty. Curioso (who works with the office of Senator Elmismo, a known political rival of Senator Avido)

regarding your instinctive feeling about Senator Avido. Atty. Curioso springs a surprise by giving you a recording of the wiretapped conversation between Senator Avido and Napo, a private party co-accused, about the transaction complained of and how they would split the proceeds.

What will you do under these circumstances? (1%)

(A) **Disregard the wiretapped conversation as it is inadmissible and will not serve any useful purpose in the trial of the case.**

(B) Present the wiretapped conversation in court; although inadmissible, its introduction and the disclosure of its existence is a right that the public is entitled to.

(C) Leak the wiretapped conversation to the media, to let the public know what really happened.

(D) Submit the wiretapped conversation to the Senate which is in the best position to determine what to do with it.

(E) Let Napo privately know, through 3rd parties, that you are aware of the existence of the taped conversation, with the hint that he can still hope for a lighter penalty if he would cooperate.

XX. Armin, holding a transfer certificate of title to a lot in downtown Calamba in the name of Bobby, shows you the title and claims that Bobby sold him the lot. He then asks you to draft a deed of sale covering the transaction. In reply to your query on where Bobby is, Armin explains that Bobby is currently out of the country but he (Armin) has his general power of attorney which he also shows to you. The power of attorney empowers Armin to do everything that Bobby can do with the Calamba lot, but you note that it does not specifically authorize Armin to sell the property. Armin also assures you that he wants the deed of sale drafted so he can send it to Bobby for his signature even while overseas.

How will you act under the given circumstances? (1%)

(A) Agree to draft the deed of sale, subject to your usual 10% commission.

(B) **Refuse to draft the deed of sale, as Armin has not presented a special power of attorney that would support the deed that he is asking you to prepare.**

(C) Refuse to draft the deed of sale, as Bobby is not present to sign the deed of sale and verify that he is indeed selling his lot to Armin.

(D) Agree to draft the deed of sale, since it is only a draft that Bobby still has to consider and sign.

(E) Refuse to have anything to do with Armin's request because it is a potentially problematic situation given the price of lots in downtown Calamba.

(With Suggested Answers)
ESSAY QUESTIONS

1. Judge A is a close friend of Governor G. On several occasions, Judge A would borrow vehicles from the office of the Governor to travel to his judicial stations. Judge A's actuation: (1%)

(c) is downright unethical

2. R is retained counsel of ABC Bank-Ermita Branch. One day, his *Balikbayan Compadre* B, consulted him about his unclaimed deposits with the said branch of ABC Bank, which the bank had refused to give to him claiming that the account had become dormant. R agreed to file a case against the bank with the Regional Trial Court (RTC) of Manila. B lost the case, but upon the advice of R, he no longer appealed the decision. B later discovered that R was the retained counsel of ABC Bank-Ermita Branch. Does B have any remedy? Discuss the legal and ethical implications of the problem. (4%)

SUGGESTED ANSWER:

B can file an administrative case against R for representing conflicting of interest of ABC Bank and B in violation of Rule 15.03 of the Code of Professional Responsibility. There is also conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. In the instant question, the test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." The prohibition is founded on the principles of public policy and good taste. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice. (*Orola vs. Atty. Ramos*, Sept. 11, 2013).

3. The Code of Professional Responsibility is the code of conduct for: (1%)

(C) members of the Bench and Bar. Although the Code of Professional Responsibility refers to lawyers, members of the bench are lawyers who are required to comment on the complaints filed against them and show cause why they should not be suspended, disbarred or otherwise disciplinary sanctioned as a member of the bar as provided for in A. M. 02-9-02 SC (Re : Automatic conversion of some administrative cases against Justices (except Supreme Court Justices who can only be the subject if impeachment), Judges and Court Officials who are lawyers as disciplinary proceedings against them both in such officials and as members of the Philippine Bar).

4. A is accused of robbery in a complaint filed by B. A sought free legal assistance from the Public Attorney's Office (PAO) and Atty. C was assigned to handle his case. After reviewing the facts as stated in the complaint and as narrated by A, Atty. C is convinced that A is guilty. (4%)

SUGGESTED ANSWER:

(A) Atty. C of the PAO cannot refuse to handle the defense of A who is an indigent client based on its circular. He is a counsel de oficio who is duty bound to exert his best effort and professional ability to defend his client (People vs. Esteba, 27 SCRA 106). Moreover, he cannot not decline the appointment as counsel de oficio (Rule 14.02, Code of Professional Responsibility).

(B). No he cannot. A counsel can withdraw his services only for good cause and upon notice appropriate to the circumstances under Canon 22 of the Code of Professional Responsibility. This is not one of the grounds to justify withdrawal under Rule 22.01 of the CPR unless the client insists that the lawyer pursue conduct violative of the canons and rules. In Rule 14.01, CPR, a lawyer shall not decline to represent a client because of his own opinion regarding the guilt of said person.

5. The rendition of free legal service is a lawyer's: (1%)

(A) moral duty.

Moral duty is above social obligation and legal mandate. The lawyer voluntarily imposes upon himself higher duties and more noble obligations enshrined in the Lawyer's Oath which goes beyond commitment to social obligation and legal mandates.

6. Atty. D was required by Judge H of the Regional Trial Court (RTC) of Manila to show cause why he should not be punished for contempt of court for shouting invectives at the opposing counsel and harassing his witness. Assuming that there was sufficient cause or ground, may Judge H suspend Atty. D from the practice of law? If Judge H finds that the actuations of Atty. D are grossly unethical and unbecoming of a member of the bar, may Judge H disbar Atty. D instead? Explain your answer. (5%)

SUGGESTED ANSWER:

Judge H can suspend Atty. D for gross misconduct under Sections 27 and 28, Rule 138 of the Rules of Court. Judge H, however, cannot disbar Atty. D because it is only the Supreme Court who can impose such penalty in accordance with its authority under Section 27, Rule 138 of the Rules of Court and the authority of the Supreme Court to discipline lawyers under the 1987 Constitution.

7. The court ordered Atty. Z to testify as a witness for his client in the very case he is handling, but he refused on the ground that it would violate the rule on privileged communication. Atty. Z is guilty of: (1%)

Distinction should be made. If Atty. Z refuses to testify on formal matters, like mailing, authentication or custody of documents, he can be cited for direct contempt (under Section 1, Rule 71 of the Rules of Court) for refusal to be a witness. However, if the matter to be testified is substantial, he cannot be guilty of contempt or any violation of his duty to the court, based on Rule 12.08, Code of Professional Responsibility.

8. C and D are law partners using the firm name C and D – Attorneys –at –Law. In an administrative case filed against C, the Supreme Court (SC) found that C was not entitled to admission to the practice of law in the Philippines and ordered his name stricken-off from the Roll of Attorneys. As a result C and D changed their firm name to Law Office of D – Attorney – at – Law, C – Counselor, with C handling purely counselling and office work while D is the law practitioner. Are C and D liable for contempt of the court? Explain your answer. (5%)

C and D are liable for contempt of court. C and D formed a professional partnership wherein they contributed money, property and industry. C assumes to be an attorney without any authority. D not only assist in the illegal practice of law but conspired with C. Canon 9 of the CPR clearly states that a lawyer shall not, directly or indirectly, assist in the unauthorized practice of law. As counselling is considered practice of law, D delegated the performance of a legal task to C, an unqualified person.

9. Judge A accepted a gift consisting of assorted canned goods other grocery items from his compadre whose friend has a pending case with him. He accepted the gift just so as not to embarrass his compadre. When his compadre left his chambers, he asked his secretary to donate the gift he received to the victims of Typhoon Yolanda. Did the judge cross the ethical line? Explain your answer. (5%)

SUGGESTED ANSWER:

Judge A crossed the ethical line. He violated the canon of Propriety. As a subject of public scrutiny, judges must accept personal restrictions that might be viewed as burdensome by ordinary citizens and should do so freely and voluntarily. (Section1, Canon 4, New Code of Judicial Conduct for the Philippine Judiciary).

10. Atty M is a partner in the law firm OMP & Associates. C, a former classmate of Atty. M engaged the legal services of Atty. M to handle his appeal to the Court of Appeals (CA) from an adverse decision of the Regional Trial Court (RTC) in his annulment case. After the notice to file brief was issued by the CA, Atty. M met an accident which incapacitated him from further engaging law practice. May Atty. P, his partner in the law firm, file the required appeal brief for C? Explain your answer. (5%)

SUGGESTED ANSWER:

Yes, Atty. P can file the required appeal brief. Atty. P is an associate OMP & Associates. The law firm which has a legal personality as a professional partnership is the counsel, not Atty. P or Atty. M.

11. A judge who insults counsel and shouts invectives at a litigant is guilty of: (1%)

The judge is guilty of serious misconduct. Under Canon 4, New Code of Judicial Conduct for the Philippine Judiciary, a judge shall avoid impropriety and the appearance of impropriety in all his activities. In the problem, the judge (in his capacity as such) insults a counsel and shouts invectives at a litigant (not as individuals).

12. A inherited parcel of land situated in Batasan Hills which is occupied by informal settlers. He wanted to eject the occupants, but he has no financial means to pursue the ejectment case. He contracted the services of Atty. B, who agreed to defray all the expenses of the suit on the condition that he will be paid one-half () of the property to be recovered as his compensation. What is this kind of attorney's fees? Can Atty. B enforce this contract against A?

What are the respective remedies relative to the collection of attorney's fees, if any, of A and Atty. B against each other? (5%)

SUGGESTED ANSWER:

This is a champertous contract and not a contingent contract. In the problem, Atty. B defrays all the expenses for litigation and gets 50% of the property to be recovered as his compensation, which the characteristics of a champertous; hence, void for being contrary to public policy. The legal profession exists to serve the ends of justice and is not to be conducted as a business enterprise. Since the contract is void, Atty. B cannot enforce it against A but A has a cause of action against Atty. B for unethical conduct.

13. M engaged the services of Atty. D to prosecute his annulment of marriage case in the Regional Trial Court (RTC). After a long-drawn trial, Atty. D was able to secure a favourable judgment from the court. Unfortunately, M has failed to pay in full the stipulated attorney's fees of Atty. D. How can Atty. D collect his fees from M? Discuss fully. (4%)

SUGGESTED ANSWER:

D can exercise the remedy of retaining lien over the documents and other pieces of evidence which have lawfully come to his possession, under Sec. 37, Rule 138 of the Revised Rules of Court. The payment of attorney's fee is based on the services rendered and not dependent on the success or failure of the case.

14. A person named and appointed by the court to defend an absentee defendant in the suit in which the appointment is made is an: (1%)

(a) attorney-in-fact

- (b) **attorney ad hoc**
- (c) attorney de officio

15. Will a lawyer violate the Code of Professional Responsibility if he forms a partnership with professionals of other disciplines like doctors, engineers, architects or accountants? Explain your answer. (4%)

SUGGESTED ANSWER:

Yes, the Code of Professional Responsibility prohibits unauthorized practice of law so that lawyers cannot directly or indirectly assist said practice, or delegate its practice to one who is not qualified to do so. In partnership, the act of a partner is the act of the partnership; hence, a non-lawyer cannot perform an act that has a legal effect and in the name of the partnership.

16. A person who has been refused admission to the bar by order of the Supreme Court but nonetheless attempts to practice law is guilty of: (1%)
- (a) direct contempt
 - (b) **indirect contempt**
 - (c) criminal attempt

17. Judge Clint Braso is hearing a case between Mr. Timothy and Khristopher Company, a company where his wife used to work as one of its Junior Executives for several years. Doubting the impartiality of the Judge, Mr. Timothy filed a motion to inhibit Judge Clint Braso. Judge Clint Braso refused on the ground that his wife has long resigned from the company. Decide. (4%)

SUGGESTED ANSWER:

The matter of inhibition is addressed to the judicious discretion of the judge; hence, only he can examine his conscience if he can answer to the call of cold neutrality.

18. The Integrated Bar of the Philippines (IBP) may intervene in a case involving a matter of public law or professional concern as: (1%)
- (a) friend of the court
 - (b) **amicus par excellence**
 - (c) amicus curiae

19. After the pre-trial of a civil case for replevin, Judge D advised B's counsel to settle the case because according to Judge D, his initial assessment of the case shows that B's evidence is weak. (4%)

- (a) Did Judge D commit an act of impropriety? Explain
- (b) What remedy or remedies may be taken by B's lawyer against Judge D? Discuss Fully.

SUGGESTED ANSWER:

(A) Yes, Judge D violated Canon 3, Impartiality, New Code of Judicial Conduct for the Philippine Judiciary. He should not make any comment that might reasonably be expected to have the effect of influencing the outcome of the proceedings or impair the manifest fairness of the process.

(B) B's lawyer can file a motion for the disqualification of the judge under Canon 3 for bias or prejudice based on the appearance of the comment to a reasonable observer. A pre-trial is not yet the complete and exhaustive presentation of evidence of the parties.

20. B hired Atty. Z to file a replevin case against C for an agreed acceptance fee of P30,000.00 which was evidenced by a written contract. After the complaint was filed by Atty. Z, B terminated these services and hired a new lawyer for the same amount of attorney's fees. How much attorney's fees is Atty. Z entitled to? (4%)

SUGGESTED ANSWER:

Under Section 26, Rule 138, Atty. Z is entitled to the full amount, if his dismissal is without justifiable cause.

21. Justice B of the Court of Appeals (CA) was a former Regional Trial Court (RTC) Judge. A case which he heard as a trial judge was raffled off to him. The appellant sought his disqualification from the case but he refused on the ground that he was not the judge who decided the case as he was already promoted to the appellate court before he could decide the case. Was the refusal of Justice B to recuse from the case proper? Explain your answer. (5%)

SUGGESTED ANSWER:

Justice B's refusal to recuse is not proper. After hearing the evidence during the trial when he was still a judge, he has personal knowledge of the disputed evidentiary facts concerning the proceedings. The standard under the New Code of Judicial Conduct on the inability of Justice B to decide the matter impartially is not in him but the appearance of the disqualification of Justice D to a reasonable observer that he is unable to decide the matter impartially. The conduct of a judge/justice should not only be above reproach but it should be also perceived to be so in the view of a reasonable observer (Canon 2, Integrity, New Code of Judicial Conduct).

22. (A) May a lawyer collect fees for services rendered to his client despite the absence of an agreement to pay attorney's fees?

(B) In the absence of a contract for the payment of attorney's fees, what factor/s may be considered in fixing the amount of attorney's fees?

SUGGESTED ANSWER:

(A) Yes, it is based on quantum meruit but it can be tempered by the court if its is unconscionable.

(B) Under Canon 20.01 of the CPR, the following factors are considered:

- a) The time spent and the extent of the services rendered or required;
- b) The novelty and difficulty of the questions involved;
- c) The importance of the subject matter;
- d) The skill demanded;
- e) The probability of losing other employment as a result of acceptance of the proffered case;
- f) The customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs;
- g) The amount involved in the controversy and the benefits resulting to the client from the service;
- h) The contingency or certainty of compensation;
- i) The character of the employment, whether occasional or established; and
- j) The professional standing of the lawyer.

23. (A) May a client hire additional counsel as collaborating counsel over and above the objection of the original counsel?

(B) If the client insists, may the original counsel withdraw from the case, and how?

SUGGESTED ANSWER:

(A) a client may hire additional counsel as collaborating counsel because it is his (client) prerogative.

(B) The original counsel may withdraw based on Rule 22.01 (c), CPR because his inability to work with the collaborating counsel will not promote the best interest of the client.

24. (A) May an attorney talk to his witnesses before and during the trial? Explain.

(B) In case of postponement of the trial, whose decision should prevail – the client or his attorney? Explain the governing rule. (4%)

SUGGESTED ANSWER:

(A) an attorney can talk with his witnesses before the trial but it is unethical to do so if the client is already on the witness stand during the trial.

(B). On matters of legal procedure, it is the decision of the lawyer that prevails.

25. Judge A has an illicit relationship with B, his Branch Clerk of Court. C, the wife of Judge A, discovered the illicit affair and consulted a lawyer to vindicate her violated marital rights. If you were that lawyer, what would you advice C, and if she agrees and asks you to proceed to take action, what is the legal procedure that you should follow? Discuss fully. (4%)

SUGGESTED ANSWER:

File a case of immorality against Judge A and the clerk of court for violation or Rule 1.01, CPR; impropriety under Canon 4 of the New Code of Judicial Conduct against Judge A; and invoke the automatic conversion of the administrative case against Judge A and the clerk of court as members of the bar under A.M. No. 02-9-02-SC, with the Office of the Court Administrator. Complaint for disbarment against Judge A and the clerk of court may also be filed. (This is without prejudice to the filing of criminal and civil cases).

26. (A) If an attorney has been granted by his client full authority to enter into an amicable settlement with the other party, may the client later on refuse to honor the amicable settlement forged by this attorney? Explain.

(B) In such instance as in (A) above, can the lawyer withdraw from the case and collect in full his contracted attorney's fees? Why or why not?

SUGGESTED ANSWER:

(A) The client cannot refuse to honor the amicable settlement. Since the lawyer is clothed with the proper authority, the amicable settlement is in the form of compromise agreement which is immediately executory under the New Civil Code. The client is now estopped from denying the authority of his lawyer.

(B) Under Section 26, Rule 138 of the Rules of Court, the lawyer can withdraw from the case and collect in full his contracted attorney's fee since his duty to his client has already concluded with the execution of the amicable settlement.

27. Atty. C was hired by D to file an action against E for recovery of possession of real property. In their contract of service, they stipulated that D cannot compromise the case without the consent of Atty. C. After trial and unknown to Atty. C, D entered into a compromise with E. Atty. C withdrew from the case and collected from D. (1%)

(A) Atty. C can collect his attorney's fees under the contract based on Section 26, Rule 138 of the Rules of Court. The act done by D is without justifiable cause.

28. Atty. Forma is a member of the Philippine Bar. He went to New York City, took the New York State Bar, and passed the same. He then practice in New York City. One of his American clients filed a case for disbarment against him for pocketing the money which was entrusted to him as payment for the filing fee and other incidental expenses for his damage suit. Atty. Forma was later disbarred for dishonesty. Disheartened, Atty. Forma came back to the Philippines and practiced as a lawyer. Will his disbarment in New York be used against him for purposes of disbarment proceeding here in the Philippines?

SUGGESTED ANSWER:

Yes, his disbarment in New York can be used against him but he should be accorded due process.

29. If a lawyer volunteers his free legal service to a poor client. (1%)

(B) Under Canon 14.04 of the CPR, he is bound to serve his client with same degree of competence, fidelity and diligence as his paying client. The legal profession is not a business enterprise but a profession to serve the ends of justice.

30. (A) Can a lawyer who lacks the number of units required by the Mandatory Continuing Legal Education (MCLE) Board continue to practice his profession?

(B) May a lawyer be held liable for damages by his clients for the lawyer's failure to file the necessary pleadings to prosecute the client's case and as a result of which the client suffered damages?

(C) Can a lawyer still practice his profession despite having arrears in his Integrated Bar of the Philippines (IBP) dues?

SUGGESTED ANSWER:

(A) A lawyer who lacks the number of units required by MCLE cannot continue to practice the legal profession since he is declared as a delinquent member of the bar per Resolution of the Supreme Court dated January 14, 2014, revoking OCA Circular No. 66-2008.

(B) Yes, lawyer may be held for damages by his client for failure to represent his client with zeal (Canon 19, CPR) and for not serving his client with competence and diligence (Canon 18, CPR).

(C) Arrears in the IBP may be a ground to suspend the lawyer upon recommendation by the IBP to the Supreme Court.