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The following problems will serve as a review of the course. Ten will be chosen for the final examination on June 6, 1966. Bring these sheets of problems with you to the exam. You may make such notes as you wish on the margin or back of these sheets, and use them as aids in answering the selected problems.

1

Construct has degrees in law and mechanical engineering, and sets up in a local community as attorney and consulting engineer. His consulting work frequently turns up legal problems for his employer, and the employer more often than not turns the problems over to him in his legal capacity. He lists himself under separate classifications in the local telephone directory as attorney or as engineer, with a different telephone number for each listing. The office address is the same, however. What ethical problems, if any, do you discern?

2

A, a lawyer, made an agreement with B, another lawyer, to forward certain legal matters to B. Out of whatever fee was received by B for these cases, A is to receive one-third. A is to advise any client whose work is to be forwarded of the fee agreement, and only if the client offers no objection will the case be forwarded.

Under this arrangement, A forwards a case to B, who eventually earns a fee of \$9,000. B now refuses to turn over \$3,000 to A, citing Canon 34, and maintaining that he understood the division of fees to depend on division of service or responsibility, and contends that A cannot show that he performed any service or bore any responsibility. A contends that he researched the client's case sufficiently to determine that it warranted forwarding and that this satisfies the Canon.

Since the client knew of the forwarding agreement and ratified it, A considers the possibility of joining B and the client in an action to recover his part of the fee. Do Canons 12 and 14 now bear upon the issue? What are A's rights or standing under the Canons generally?

3

X, a licensed attorney, has engaged in general practice for ten years in his hometown, but with the growth of industry and industrial research in the area he suddenly finds that a major part of his work is concentrated in patent and trade mark law, and in related questions of unfair competition. X has never considered himself a specialist in these fields, but now several industries in town have urged him to give up other practice and devote himself full-time to their patent and trade mark problems. X concludes that the best means of accommodating his clients will be to go into partnership with Y, a patent attorney. Y is not a lawyer, but has been admitted to practice before the U. S. Patent Office, and regularly advertises that he is a specialist in industrial problems which require representation before the Patent Office. He tells X he favors the partnership proposal because he often has encountered general legal problems in the preparation of a patent case where he needs the association of a trained lawyer. Are there any problems relating to the Canons which may confront the contemplated partnership?

4

Four lawyers are considering organizing a service for fellow lawyers in preparation of briefs and memoranda, general research, and aid in writing of handbooks and articles. Under the corporate heading of "Legal Writing Associates," they propose to make this service known to members of the local bar through paid notices in the bar journal and through letters to all members of the local bar, some 250 persons. The letters state the advantages of the service and the special qualifications of the writers. Are any ethical problems involved?

5

L, a resident of Fairfax County, Va., telephones to O O Liable, an attorney who lives and works in the District of Columbia, concerning a legal problem arising out of a contract made in Fairfax County and involving M, another resident of the county. Is Liable illegally practicing law in Virginia, where he is not admitted to the bar? Would the problem be different if L drove to Liable's office in the District and discussed the problem with him there?

6

Gripe is an attorney of 15 years' experience who is chairman of the local bar association committee on minimum fees. Youthful is a newly-admitted member of the bar with 15 months' experience. Gripe's committee seeks to bring a disciplinary action against Youthful for regularly charging fees one-third under the minimum set by the committee. Gripe testifies to the committee that he averages 15 chargeable hours in a 40-hour week, and at the minimum fee schedule of \$24/hour, he grosses \$360. Youthful is charging \$16/hour but works a 60-hour week; moreover, he works fast and averages 30 chargeable hours so that his average weekly gross is \$480. What is the basis, if any, for a disciplinary proceeding?

7

R's client is a manufacturer of hair restoratives, who advertises a double-money-back guarantee to dissatisfied customers. The client tells R that in 1965 the refunds amounted to less than 1 percent of his total business. The advertising to customers stresses the refund offer as being part of the company's "insurance to customers."

The client carries product liability insurance with an authorized insurer, but this policy covers only the quality of the ingredients in the restorative. None of the insurers will write a policy covering the money-back guarantee. The client has accordingly asked R to become the surety and trustee in a bond and trust agreement whereby R, as surety and trustee, would guarantee payment of refunds if the client himself fails to make the refund. The client offers to set up a trust fund account of \$15,000, representing 1 percent of the average annual business. The agreement is to be renewable annually, and R is to receive no fee or payment for this service as surety and trustee. May R ethically enter into this arrangement with his client?

8

Sharp is a general practitioner of law and also a real estate and insurance broker. In the real estate and insurance business, he uses advertising extensively, being careful not to state therein that he is also a lawyer. With the rapid growth of all three of his activities, Sharp becomes aware that his name is well enough known so that many people readily identify him as a lawyer when they see his name in the advertisements. Wishing to adhere to the spirit as well as the letter of Canon 27, Sharp now considers the use of a trade name for his real estate and insurance work.

Sharp does all his work from a single office, on the door of which are the words, "Attorney at Law," and "Real Estate and Insurance," on separate lines. Neither ABA nor the state advisory opinions prohibit Sharp's practices, but they state that his conduct qua broker must conform to the standards imposed upon him qua lawyer. What problems of a practical nature are involved?

9

Doodle, Easy and Flub are businessmen. In 1955, Doodle and Easy formed a corporation, Doodle putting up all the money and taking 60% of the stock while Easy took 40% of the stock and assumed active management of the business. Over the next few years L, an attorney originally sought out by Doodle and Easy to draw up their incorporation papers, handled routine legal matters for the corporation.

In 1962, Easy took certain corporation funds and went into a joint venture with Flub, without Doodle's knowledge. The venture was in the same general field as the corporation's business activities; Easy and Flub divided the profits of their joint venture between them. The corporation was made to render certain services to the venture and was paid the fair value of these services, but Easy's share of the profits from the joint venture did not go to the corporation.

In late 1965, Easy and Flub had a dispute, and thereupon Easy revealed to Doodle what had taken place. Easy told Doodle that Flub owed him money from the joint venture. Doodle thereupon asked L to sue Flub for an accounting, and on the basis of the information provided by Easy the suit is brought by L; it is brought in Easy's name, on the allegation of joint venture. The court finds against Easy, holding that if any agreement existed it was between the corporation and Flub and not between Easy and Flub.

Doodle now sues Easy to recover for the corporation Easy's share of the profits in the joint venture. Easy is retaining his own counsel, but in preparing Doodle's case, L will have to rely on information obtained from Easy for the unsuccessful action against Flub. At that time, Easy had already divulged the same information to Doodle; subsequently, of course, it became a matter of record in the suit against Flub. May L represent either Doodle or the corporation in the suit against Easy, particularly as the suit may involve Easy's business records from the joint venture?

Andrew Advocate was an attorney in Littletown in 1951, when a former Army buddy, Joe Doe, dropped by and asked Advocate to draw up a will for him. "I hate women," said Doe, and added that he would never marry, so his will provided that all of his estate would go to an old-age home for lifelong bachelors. Doe was a funny fellow, but it was his money, so Advocate drew up the will; Doe then left town, and Advocate lost touch with him for more than ten years. Recently, however, he reads in the alumni news that Doe has settled in neighboring Boomtown, in a good job -- and with a wife of three years. A few months later he reads that the Does have some fawns -- er, twin babies. He asks himself whether as a lawyer he ought to get in touch with Doe and suggest the desirability of making changes in his will. What do you think?

11

Harry Friendly has been director of industrial relations for a large firm for seven years, when he decides to become an independent representative for persons having workmen's compensation claims. He is not a lawyer, but knows the state workmen's compensation laws thoroughly, as well as the subtle, unwritten procedures before the compensation commission. His work now consists of interviewing possible claimants, advising them on the possibility of recovery on the claims, and if requested he then files the claim with the appropriate commission office.

At the initial hearing Friendly presents the claims before a deputy administrator. If a reconsideration of the original award is granted, he then tells the claimant that he is withdrawing from the case and is prepared to turn it over to any lawyer the claimant wishes to retain. In most cases, of course, claimant knows of no particular lawyer and asks Friendly to recommend one; Friendly regularly refers the party to one of four lawyers for whom he has high regard as to their skill in this area of law. He makes no charge and asks no referral fee, but relies entirely on fees for the services he has previously rendered. Is there anything wrong with this from Friendly's standpoint? From that of the lawyers?

12

Flunk was admitted to the bar in 1950, but in 1953 was convicted of a felony, disbarred and sentenced to ten years in prison. Having served his full term, Flunk goes to a distant part of the state and opens a gas station. One day he learns from a steady customer that the customer has been involved in an auto accident. Looking into the facts, Flunk decides that there is a good cause of action, and offers the customer a substantial sum of money to assign him the claim. Flunk then files suit as plaintiff-assignee.

The chairman of the local bar grievance committee calls on Flunk to ask him what he thinks he is doing; there is a vague local understanding that Flunk once was a lawyer but no general knowledge of his prison term or his disbarment. Flunk declares that he is doing nothing wrong, since anyone can sue on his own claim even though a non-lawyer. Is there any basis for action by the local bar? Would the fact of disbarment, if brought out, make a difference?

13

Lot O. Lands is a real estate broker and subdivision promoter. He maintains an office with several assistants and with them meets prospective buyers, shows them the subdivision property and if a sale is agreed upon they return to the office and work out the contract terms. The usual terms are for an initial down payment on the lot, so much per month with 6% interest on the unpaid balance, and passing of title on final payment. Lands already has an abstract and advises buyers that his lawyer will bring it down to date when title actually passes. He or his assistant then suggests to the purchaser that the salesman fill in the blanks in the standard land contract form, the buyer and the salesman sign it, and the matter is wound up without extra cost. The salesmen always tell the buyer that their respective lawyers can accompany the parties to check the legality of all documents at once, i. e., when the time comes for final passage of title. *title search to be*

Is there any impropriety in this procedure? If the salesman fills in the blanks so negligently as to cause the buyer a substantial loss, what liability is involved?

Debitt is an auditor for the Dinky Mfg. Co. and regularly fills out the annual income tax returns for the company and its president, O. Howe Dinky. In the course of this work, Debitt discovers that, several years earlier, during a very bad sales period, both the company and the president had failed to pay certain local real estate taxes held in their respective names, the company's property being its building and the president's being his residence. At the present time, sales are up substantially and both the company and the president are in high tax brackets. Debitt perceives that it would be advantageous now to pay or compromise the earlier taxes and use the payments as a deduction. There is also the possibility that the accumulated penalty could be deducted.

Mr. Dinky, on being informed of these facts, asks Debitt to make a study of the deductibility of these items on each return and advise him and the company as to the best course of action for each. May Debitt properly do this?

15

The Good Title & Guaranty Co. insures legal titles to land. H, seeking to finance the purchase of a large tract through a local building and loan association, is told that the title he wishes to mortgage as security must be covered by a guaranty policy. H goes to Good Title and talks to an officer of the company, M, who is a lawyer; M insists upon preparing both the deed to H and his mortgage to the loan company, stating that he has to be sure that title is properly in these two parties before his company will issue a policy. H complains to the local bar association's committee on unauthorized practice of law; is the complaint well founded?

Assume that the loan association, instead of a guaranty policy, requires an abstract of title brought down to include the date of the mortgage. M tells H that he can do this for him and H acquiesces. M then prepares both the deed and the mortgage, and at the end of the abstract attaches a signed certificate reading: "We have examined the title of the above described tract and, subject only to the mortgage to the Blank Building & Loan Association, it is our opinion that the same is good in the name of H." Does the bar committee have grounds for criticism?

16

You are a criminal lawyer and are asked by Mason Parry to defend him on a charge of assault with intent to kill. In your first interview, you ask Parry if the prosecuting witness, Thrust, had been armed at the time of the incident, whether he made any move which Parry would reasonably interpret as a threat, and whether any eye witnesses were present. The answer is negative in each case. You then ask how Parry had come to know Thrust, and Parry states that he had learned about three months earlier that Thrust had been dating Parry's wife; Parry caught them together one evening and told both of them to stop seeing each other because the next time someone was going to get badly hurt. On the date in question Parry came home unexpectedly and found the pair in a situation of ultimate embarrassment; he grabbed a large butcher knife from the kitchen and pursued Thrust to the latter's home, where Thrust fell on his knees and screamed for mercy. In disgust, Parry says, he threw away his knife and left Thrust. Thirty minutes later neighbors found Thrust bleeding from atrocious wounds, lying on his front stoop with the knife beside him.

From Parry's glib manner and from checking his whereabouts in the thirty minutes before Thrust was found, you feel that he is lying. Are you obligated to take the defense? Should you advise him to plead guilty or not guilty? Should you consider waiving a jury trial? If Parry later asks you about the defense of temporary insanity, what should you advise?

17

As attorney, you arrive early at Municipal Court to await the calling of a case in which you are interested. The usual series of police prosecutions are going on, and you listen casually. One of the accused persons is a young man of about 21, obviously in great emotional distress and hardly listening to the statements in the preliminary hearing. You suddenly realize that the prosecutor, in reference to a charge of armed robbery against this defendant, has failed to allege all the facts essential to a crime; then you hear the judge in a sing-song voice with which he addresses all of the defendant as they are charged, ask the young man if he has an attorney. After having the question repeated twice, the defendant says "No" in a scarcely audible tone; before he can say more, if he intended to, the judge then asks what he pleads, and he mumbles, "Guilty."

You are concerned that the defendant is pleading to a faulty charge, and may even be confessing a crime he did not commit. What can you or should you do under the circumstances. keeping Cannas 27 and 28 in mind?

Compare Canons 15, 31 and 32 with Freeman's challenging writing on the lawyer as counselor. Bear in mind that the courts still incline to the tradition of the canons rather than the new thought represented in the Freeman school. With this as background, consider the following problem:

An attractive young woman comes to your office seeking advice as to a possible divorce. This her second marriage, and there is some question as to whether it was valid when the ceremony occurred since her divorce from her first husband had not then become final. She has a six-year-old daughter by the first husband, who has recently died. The daughter is very fond of the second husband, but the woman has fallen in love with a prospective third husband. She tells you she has recently begun to suspect the current husband (No. 2 in the hit parade) of making improper advances to the six-year-old, and that she has also uncovered details of a sodomy prosecution against No. 2 some ten years ago. Thus, while No. 2 does not want her to proceed with the divorce, she says the threat of exposing his sexual abnormalities will persuade him not to contest it. She adds that her husband has a regular attorney and suggests that you propose to the attorney that no defense be raised to the action. Resourcefully, she also tells you that she can go to Nevada and establish technical residence for purposes of securing a divorce there; she adds that prospect No. 3 has even offered to put up her travel money. What should you do?

19

G represents a client who sustained major injuries in a collision of his car and one driven by defendant. There is contradictory evidence as to whether defendant was watching traffic at the intersection where the collision occurred, and whether the client had been negligent in entering the highway. G and J, defendant's counsel, arrange a conference to work out a settlement, but just before it takes place one of G's young associates shows him an opinion just handed down by an appellate court in an adjacent district which defines the "last clear chance" doctrine in a way which, if applied to the client, would make his recovery highly unlikely. Is G under any obligation to mention this case to J?

No settlement is reached, and a petition is filed to which defendant demurs. When the demurrer comes up for oral argument, G perceives that J is unaware of the opinion affecting G's client's case. Is G under any duty to mention the case to the court?

20

You have conducted a personal injury case to successful termination and your client has received his check for the balance after costs and fees. As you both walk from the courthouse, he laughs rather nastily and says, "Well, those suckers never caught on -- they asked me how fast I was driving. I didn't lie -- I just said, 'plenty,' and they thought I said, 'twenty.'"

You stop short and say, "Oh, oh." Then what do you do?

You say, "For shame; we're going right back and turn in the money." He says, "Don't give me that, counselor." Do you then say, "Well, I'm going back and tell the prosecutor." Canons 29, 37, 41 and 44.

21

Lightfinger is charged with grand larceny alleged to have occurred in Newport News at 5:30 p. m. on May 1. As his attorney, you have questioned him extensively as to his whereabouts between 5 and 6 p. m. on that day, but have received only general answers. You feel, from all you know about him, that he is in fact innocent, but the case seems likely to turn on testimony of eyewitnesses (none of whom had ever seen him before) that he was the man on the scene at 5:30.

Quite unexpectedly you encounter Bumble, a resident of Williamsburg, who tells you that on May 1 at 5:40 p. m. he saw Lightfinger at the shopping center in Williamsburg. On questioning Bumble says, "I saw him getting into a car about five parking spaces from me. I know the time because I was supposed to pick up my wife at 5:45 and I checked my watch and found I was a few minutes early. No, we didn't speak, but I waved to him and he waved back. No, I don't know him well, but I saw him several times a week when we lived in the same block in Richmond a couple of years ago." Bumble's story seems to check out, so you go back over the afternoon of May 1 with Lightfinger, but he never mentions being out of town. Should you tell him of your talk with Bumble? Could you call Bumble as a witness?

22

Relentless is a vigorous prosecuting attorney who is preparing a case against A and B, who have both been indicted on four counts of housebreaking. Relentless is worried about being able to establish guilt beyond a reasonable doubt for either of the defendants on any of the counts. Finally, a few days before trial, he visits A in his cell, in the absence of A's attorney, and proposes that if he will appear as a witness to establish B's guilt, and will himself plead guilty to one of the charges, the prosecution will recommend leniency and will dismiss the remaining charges.

After considering the ethical questions involved in the foregoing situation, then assume that A goes through with the arrangement and testifies against B. However, as the trial proceeds Relentless suddenly discerns that the case against A is much stronger than had first been apparent. He declines to dismiss the remaining charges against A. Does A have any recourse? Has Relentless behaved properly?

23

Kerr is a criminal lawyer, and Musty is the prosecuting attorney. In a murder case, two witnesses give statements to Musty favorable to the accused. Musty makes these statements available to the defense but does not call the witnesses in presenting the state's case. Kerr feels that Musty has taken unfair advantage of him by compelling the defense to call the witnesses and subject them to Musty's cross-examination. Can Kerr do anything about it, within the standards of conduct set out in Canons 5, 15, 17, 22 and 25?

24

One, a client, owes a fee to his attorney, Two. Two retains Three, another lawyer, to institute an action against One. Thereupon One retains Four as counsel. Three serves a complaint on One through Four, and Four files an answer and a demand for a bill of particulars. Five, a businessman and a friend of both One and Two, upon hearing of the litigation goes to Two's office and persuades him to settle his case against One for a consideration. Five then pays the settlement money to Two, and advises Three of the settlement. With Three's approval, Two then forwards a stipulation of settlement and discontinuance to Four. Has Canon 9 been violated?

25

Null is attorney for Void and advised Void to convey Blackacre to his son A. Void in order to simplify the ultimate probate of the senior Void's estate. The deed to Void's son is drawn by Null and recorded. Null then draws a deed reconveying to the senior Void, at the request of both father and son, with the understanding that the second deed will be recorded only if the son predeceases the father. In fact, however, the father dies first, leaving only the first deed recorded.

Does Null have an obligation to the executor of Void to advise that Blackacre is part of Void's taxable estate? The son insists that Null not tell the executor of the unrecorded deed, arguing that this is a matter of a client's confidence and was done without fraudulent intent. What Canons should guide Null's conduct -- 37, or 16 and 44?

26

Able was employed for five years as a government attorney in an agency handling many government supply contracts with private industry. In 1960 he left the government and joined a leading New York law firm. In 1963 the government brought suit against Giant, a private supplier, alleging overcharges on a government contract. To defend the action, Giant retains Able's law firm and the case is given to a senior partner with Able as his assistant. Now the government, although aware of Able's position in the case from the outset, moves to disqualify the law firm as Giant's defense counsel. Relying on Canons 6, 36 and 37, the government alleges that Able's special knowledge of the inner workings of the government agency involved in the suit should disqualify him.

Able's firm contests the government motion, averring (1) that Able is not to be considered as acting against a former client and (2) that his work in the government agency was entirely unrelated to the contracts which are the basis of the present suit. Able's firm further denies (3) that any special knowledge of the agency's internal procedures and policies possessed by Able is to be imputed to the senior partner. Finally, the firm contends (4) that the burden is upon the government to overcome all three of these elements in its answers. How should the court rule?

27

Barrister is an attorney whose accounts are being audited by a Bureau of Internal Revenue agent. The agent demands the right to examine Barrister's special account used for escrow funds. Barrister declines to open these accounts, relying on Canon 37 and on the state civil practice act which makes it unlawful for an attorney to disclose communications made to him in the course of his professional practice. Barrister contends that there is reasonable doubt as to the purpose of the IRS agent in seeking to examine these accounts, and that there is substantial danger that a large escrow deposit in the accounts would compromise the particular client concerned with the deposit. Is Barrister's professional position sound? What would be the basis for a legal action by the IRS and Barrister's defense to such an action?

28

Mee and Yew are partners seeking relief under Ch. XI of the Federal Bankruptcy Act. They select Zeal as their attorney, and subsequently Zeal is appointed attorney by the court. Thereafter his fees are fixed by the court and paid out of the estate. During the bankruptcy proceedings, Zeal became stakeholder for \$50,000 in securities put up by relatives of Mee and Yew for use as a settlement fund. However, the creditors failed to agree on a settlement, the escrow status was terminated and the securities became refundable to the relatives.

Mee and Yew by now were fullfledged bankrupts, and the trustee in bankruptcy at once obtained a court order enjoining Zeal from refunding the settlement account and seeking its turnover to the estate. The relatives now retain Zeal on a 50% contingency fee to undertake to save or recover all or part of the fund; however, some of the relatives decline to enter into the retainer plan.

In due course the court determines that half of the securities will go to the bankruptcy estate, 10% to the relatives who did not enter into the retainer agreement, and the remainder to the relatives who did in fact retain Zeal. Zeal now seeks to collect his contingency fee out of the remainder, and also applies to the court for the allowance out of the estate. Discuss the general situation in the light of Canons 6, 10, 12, 13, 15, 37 and 38.

29

Buster, an attorney, writes the following letter:

Dear Mr. Blank:

In respect of the debt of \$1,000 owed by you to my client, I feel that we have waited a reasonable time for satisfaction of this claim. Since last writing you with reference to this debt, I have examined the criminal statutes and conclude that you were in violation of Section 173421 of the state code in the transaction on which the debt was incurred.

I am planning to see the Commonwealth's Attorney next Monday on several matters. Since this will give you a week's time in which to settle the debt claim I have presented on behalf of my client, I do not feel that justice will have been abused if nothing is said about the criminal aspects of the transaction -- provided, of course, that you remit the \$1,000 mentioned above. Otherwise, I believe it is my obligation to the state to call the attention of the Commonwealth's Attorney to this matter.

What ethical issues do you discern?

30

Biggs is an attorney for a municipality, receiving a fixed fee for a stipulated set of services including "general counseling on contract matters involving this corporation." He is asked to steer the sale of a \$2,000,000 bond issue to a reputable bond house, but the regular city attorney has done the work of preparing the bond opinion, drafting the necessary ordinance and notices of election, etc. Biggs contends that this is outside the scope of his retainer and asks a 1% additional fee. Is he justified in doing so? Would the case be different if Biggs had done a substantial amount of work in preparation for the bond issue?

R is accused of participation in certain election frauds and retains Manly as his attorney. Manly is also retained by S in a separate action on the same charge. Manly posted \$1,000 cash bail when S was arrested. At the trial of S, Manly is called as a witness by the prosecution and answers a number of questions on examination. However, he refuses to answer the following questions:

Who employed you to represent S?

Did R employ you to represent S?

Did R provide the \$10,000 you posted as bail for S?

Manly contends that to answer these questions would violate a privileged attorney-client communication. The prosecution argues that the questions go to facts which are not "communications." The court is asked to cite Manly for contempt. What should the ruling be?

32

A prosecuting attorney is charged with failure to bring an action against a local club known as Girls and Games. He answers the complaint by stating that he has investigated the club from its beginning and does not find that it is violating any statute. He further states that the only complaints have been filed by wives of persons frequenting the club, and that they have failed to show any reason for his taking action. Finally, he states that in his opinion the state would not be justified in going to the expense of a prosecution when in the judgment of its local prosecuting officer there is no reasonable basis for an action.

The complainant asks the court to remove the prosecutor or otherwise to discipline him. Is the prosecutor acting within the scope of his authority, assuming the truth of his statements?

33

S, an attorney, has been convicted of knowingly participating in the issuance and sale of securities without having obtained a permit from the corporation commission, and of buying and selling securities without a broker's license. These actions are stipulated in the state penal code to be civil offenses. Under the rules of the state supreme court, attorneys who are convicted of felonies, misdemeanors or any acts involving moral turpitude are subject to disbarment. Do S's actions under the rules of the court and the state penal code make him liable to disbarment? Explain the reasons for your conclusion.

34

Wow is an attorney who has lost several important cases on appeal to the state supreme court. He wrote a letter to the chief justice, with a copy to the governor, stating that the court's holding in these cases is at variance with all prior case law on the subjects in this jurisdiction and in neighboring jurisdictions. He states that the court's failure in its opinions to mention or dispose of these earlier decisions suggests insufficient learning in the law to qualify for the bench. Wow states that by this letter he is giving notice of intention to seek institution of impeachment proceedings against the chief justice. The court then summons Wow to appear and show cause why he should not be disbarred. Wow relies upon Canons 1 and 2 of the Code of Professional Ethics, and upon Canons 5, 19 and 34 of the Canons of Judicial Ethics. What should the outcome be?

35

Atty represents L in a suit against Corporation D for personal injuries and wins an award of \$15,000. D files a routine motion for a new trial, then files a supplemental motion alleging that Jones, a member of the trial jury, was disqualified as an alien and as one having a record of a felony conviction. Atty contacts Jones to investigate the charges, and Jones produces evidence of his American citizenship and proof that he was in the armed forces at the time of the alleged conviction. Since the issues of Jones' qualifications to serve on the jury were not raised on voir dire, the allegations in the supplemental motion either are not privileged or only qualifiedly privileged, and Jones accordingly asks Atty to represent him in a libel action against D. May Atty represent Jones under the circumstances, while continuing to represent L?

Ailing is an employee of a milling company who was injured while trying to stop a car owned and operated by a railway, the car being in the process of sidetracking at the mill. Ailing retains G on a 50% contingency basis to sue the railway for \$10,000. Ailing then, on his own, files a claim against the milling company for workmen's compensation, and in due course receives \$1,500 in compensation and \$750 for medical expenses. The employer company is then subrogated to the amount of \$2,250. G secures a reduction of the subrogation to \$1,500 and thereafter successfully wages his action for the \$10,000 judgment. On receiving this amount, he first remits the \$1,500 to the employer. What is the proper basis of his fee from Ailing -- \$10,000, or \$7,750, or \$8,500?

37

A is in the business of adjusting fire losses for claimants. He makes a written contract with one claimant vesting himself with power of attorney to negotiate settlement for a particular claim. The contract provides for a contingency fee of 10% if the settlement is reached without litigation, and 15% in case litigation is necessary, and in the latter case the adjustor is to provide the attorney.

The adjustor prepares a statement of fire loss, including his claimant's inventory of personal property lost, and advises him of his rights under his insurance policy. Is the adjustor engaged in the unauthorized practice of law? If he retains an attorney on a contingent fee basis, is the attorney liable under Canon 35 and any other canons?

38

Mrs. Harry Balky is the widow of a Texas rancher and in his will was named as sole devisee of a 5,000-acre ranch. However, their estranged daughter has instituted a contest to set aside the will, charging undue influence by the mother. Mrs. Balky, who is eager to come into her estate, engages V, an attorney and longtime friend of the family who is representing the estate, to defend her in the will contest. She advises him in writing that if the will is successfully defended, she will pay him a flat fee of \$5,000.

The litigation drags out over a number of months, and Mrs. Balky becomes increasingly critical of V's conduct of the pretrial activities. Finally, in a quarrel with V two weeks before the trial of the will contest is finally set to open, she tells him she is through with him and is going to get another attorney immediately. V, on the assumption that he has been dismissed without cause, figures up the time he has already put in on the contest and find that at the accepted local hourly rates it comes to \$6340. May he bill Mrs. Balky for this amount?

Assume that Mrs. Balky as executrix, also dismisses V as attorney for the estate. This had been in probate for a year, and the attorney fees had been agreed at 5% of the value of the personalty, appraised at \$225,000. Of this, \$3,000 has already been paid out. V figures that, at the time of his dismissal, he is entitled to an additional \$5,000. For what amount is he entitled to bill her?

39

P is an experience attorney and I. V. Gotrocks is one of his longtime clients, who has asked him to set up an intervivos trust which will provide a monthly life income for an invalid relative. At the relative's death the trust is to terminate and the trust res will become the property of his old college, which meantime will receive anything in excess of \$500 monthly income from the trust. Gotrocks asks P to give him an estimate of the fee which will be involved in this service.

P realizes that the conferences, final drafting and execution of the trust will be relatively brief in terms of time -- about six hours for hi self and about four more for a young associate in his firm who will do the research and prepare the preliminary draft. V also gathers that his client intends to settle about \$150,000 in the contemplated trust. There is no urgency about the matter, so V can do the work whenever he has available time in the next month or more. Normally he charges \$60 to \$75 per hour for his own time, depending on the complexity of the work, and \$35 for his associate. The local bar association's recommended minimum fee schedule suggests an hourly rate of \$50 for an experienced attorney. What would be the approximate range within which V's fee should fall?

40

The local bank in X's community decides to sponsor a series of television programs on estate planning, to attract customer attention to its growing trust department. The programs will take the form of a series of panel discussions of estate planning at which the bank's chief trust officer, X as a local attorney and a third participant, who varies with each program but is supposed to represent typical members of the public who wish to ask questions about estate planning, all engaged in a discussion of the subject. Except for commercials which do not show the participants on camera, no reference to the sponsor is made on the panels. May X engage in the televised programs?

41

In 1962 the General Assembly of Virginia enacted the Professional Association Act, now found in Va. Code 54-873 et seq. Having read the act and Opinion 128 of the Virginia State Bar, as well as the pertinent materials in the casebook, under what circumstances would it be (a) advantageous and (b) permissible for an attorney in Virginia to practice law as a member of a professional association created pursuant to that statute?

42

Read Opinion 111 of the Virginia State Bar, then consider the Arizona cases and constitutional amendment in that state, the case of Sperry v. Florida, and other pertinent materials in the casebook. Be prepared to discuss the problem in general and with particular reference to Virginia.

43

Read Opinion 106 of the Virginia State Bar, compare with pertinent portion of the casebook and be prepared to discuss as in the foregoing question.

44

Read Opinion 35 (on page 274) of the Virginia State bar and follow procedure set out in problem 42.

45

Read Opinion 6 (on page 286) of the Virginia State Bar and follow procedure set out in problem 42.