

INSTRUCTIONS

This questionnaire is in TWO (2) PARTS: Part I with eleven (11) questions (numbered I to XI) contained in six (6) pages; and Part II with eleven (11) questions (numbered XII to XXII), contained in five (5) pages, for a total number of eleven (11) pages.

Write your answers to Part I and Part II in the corresponding portions indicated in the booklet.

Begin your answer to each numbered question on a separate page; an answer to a sub-question/s under the same number may be written continuously on the same page and succeeding pages until completed.

Answer the question directly and concisely. Do not repeat the question. Write legibly.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

CONCHITA CARPIO MORALES
CHAIRPERSON
2010 BAR EXAMINATIONS COMMITTEE

PLEASE CHECK THAT THIS SET CONTAINS ELEVEN (11) PAGES (INCLUDING THIS PAGE).

WARNING: NOT FOR SALE OR UNAUTHORIZED USE

LEGAL ETHICS AND PRACTICAL EXERCISES

PART I

I

Prepare the following:

- a. Verification and Certification against Forum Shopping. (5%)
- b. Petition for Letters Rogatory. (5%)

II

Enumerate the instances when a Notary Public may authenticate documents without requiring the physical presence of the signatories. (2%)

III

Atty. Y, in his Motion for Reconsideration of the Decision rendered by the National Labor Relations Commission (NLRC), alleged that there was connivance of the NLRC Commissioners with Atty. X for

monetary considerations in arriving at the questioned Decision. He insulted the Commissioners for their ineptness in appreciating the facts as borne by the evidence presented.

Atty. X files an administrative complaint against Atty. Y for using abusive language.

Atty. Y posits that as lawyer for the down-trodden laborers, he is entitled to express his righteous anger against the Commissioners for having cheated them; that his allegations in the Motion for Reconsideration are absolutely privileged; and that proscription against the use of abusive language does not cover pleadings filed with the NLRC, as it is not a court, nor are any of its Commissioners Justices or Judges.

Is Atty. Y administratively liable under the Code of Professional Responsibility? Explain. (3%)

IV

Atty. XX rented a house of his cousin JJ on a month-to-month basis. He left for a 6-month study in Japan without paying his rentals and electric bills while he was away despite JJs repeated demands.

Upon his return to the Philippines, Atty. XX still failed to settle his rental arrearages and electric bills, drawing JJ to file an administrative complaint against Atty. XX.

Atty. XX contended that his non-payment of rentals and bills to his cousin is a personal matter which has no bearing on his profession as a lawyer and, therefore, he did not violate the Code of Professional Responsibility.

a. Is Atty. XXs contention in order? Explain. (3%)

b. Cite two (2) specific Rules in the Code of Professional Responsibility, violation of which subjects a lawyer to disciplinary action by the Supreme Court although the acts complained of are purely personal or private activities that do not involve the practice of law. (2%)

V

When is professional incompetence a ground for disbarment under the Rules of Court? Explain. (3%)

VI

Atty. Monica Santos-Cruz registered the firm name "Santos- Cruz Law Office" with the Department of Trade and Industry as a single proprietorship. In her stationery, she printed the names of her husband and a friend who are both non-lawyers as her senior partners in light of their investments in the firm. She allowed her husband to give out calling cards bearing his name as senior partner of the firm and to appear in courts to move for postponements.

Did Atty. Santos-Cruz violate the Code of Professional Responsibility? Why? (3%)

VII

Atty. Candido commented in a newspaper that the decision of the Court of Appeals was influenced by a powerful relative of the prevailing party. The appellate court found him guilty of indirect contempt. Does this involve moral turpitude? Explain. (3%)

VIII

For services to be rendered by Atty. Delmonico as counsel for Wag Yu in a case involving 5,000 square meters (sq.m.) of land, the two agreed on a success fee of 50,000 plus 500 sq.m. of the land.

The trial court rendered judgment in favor of Wag Yu which became final and executory.

After receiving 50,000, Atty. Delmonico demanded the transfer to him of the promised 500 sq.m. Instead of complying, Wag Yu filed an administrative complaint charging Atty. Delmonico with violation of the Code of Professional Responsibility and Article 1491(5) of the Civil Code for demanding the delivery of a portion of the land subject of litigation.

Is Atty. Delmonico liable under the Code of Professional Responsibility and the Civil Code? Explain. (5%)

IX

Is the defense of Atty. R in a disbarment complaint for immorality filed by his paramour P that P is *in pari delicto* material or a ground for exoneration? Explain. (3%)

X

Allison hired Atty. X as his counsel in his complaint for Collection of Sum of Money. Upon receipt on March 20, 2009 of the Notice of Pre-Trial which was scheduled on May 24, 2009, Allison noted that at that time he would still be in a two-week conference in St. Petersburg. He thus asked Atty. X to represent him during the pre-trial.

Prepare the necessary document that Atty. X should submit to the court to enable him to represent Allison during Pre-Trial. (5%)

XI

After passing the Philippine Bar in 1986, Atty. Richards practiced law until 1996 when he migrated to Australia where he subsequently became an Australian citizen in 2000. As he kept abreast of legal developments, petitioner learned about the Citizenship Retention and Re-Acquisition Act of 2003 (Republic Act No. 9225), pursuant to which he reacquired his Philippine citizenship in 2006. He took his oath of allegiance as a Filipino citizen at the Philippine embassy in Canberra, Australia. Jaded by the laid back life in the outback, he returned to the Philippines in December 2008. After the holidays, he established his own law office and resumed his practice of law.

Months later, a concerned woman who had secured copies of Atty. Richards naturalization papers with consular authentication, filed with the Supreme Court an anonymous complaint against him for illegal practice of law.

a. May the Supreme Court act upon the complaint filed by an anonymous person? Why or why not? (3%)

b. Is respondent entitled to resume the practice of law? Explain. (5%)

PART II

XII

Rebecca's complaint was raffled to the sala of Judge A. Rebecca is a daughter of Judge A's wife by a previous marriage. This is known to the defendant who does not, however, file a motion to inhibit the Judge.

Is the Judge justified in not inhibiting himself from the case? (3%)

XIII

Reacting to newspaper articles and verbal complaints on alleged rampant sale of Temporary Restraining Orders by Judge X, the Supreme Court ordered the conduct of a discreet investigation by the Office of the Court Administrator.

Judges in the place where Judge X is assigned confirmed the complaints.

a. What administrative charge/s may be leveled against Judge X? Explain. (3%)

b. What defense/s can Judge X raise in avoidance of any liability? (2%)

XIV

Farida engaged the services of Atty. Garudo to represent her in a complaint for damages. The two agreed that all expenses incurred in connection with the case would first be shouldered by Atty. Garudo and he would be paid for his legal services and reimbursed for all expenses which he had advanced out of whatever Farida may receive upon the termination of the case. What kind of contract is this? (2%)

XV

Rico, an amiable, sociable lawyer, owns a share in Marina Golf Club, easily one of the more posh golf courses. He relishes hosting parties for government officials and members of the bench.

One day, he had a chance meeting with a judge in the Intramuros golf course. The two readily got along well and had since been regularly playing golf together at the Marina Golf Club.

a. If Atty. Rico does not discuss cases with members of the bench during parties and golf games, is he violating the Code of Professional Responsibility? Explain. (3%)

b. How about the members of the bench who grace the parties of Rico, are they violating the Code of Judicial Conduct? Explain. (3%)

XVI

Judge L is assigned in Turtle Province. His brother ran for Governor in Rabbit Province. During the election period this year, Judge L took a leave of absence to help his brother conceptualize the campaign strategy. He even contributed a modest amount to the campaign kitty and hosted lunches and dinners.

Did Judge L incur administrative and/or criminal liability? Explain. (3%)

XVII

Judge X was invited to be a guest speaker during the annual convention of a private organization which was covered by media. Since he was given the liberty to speak on any topic, he discussed the recent decision of the Supreme Court declaring that the President is not, under the Constitution, proscribed from appointing a Chief Justice within two months before the election.

In his speech, the judge demurred to the Supreme Court decision and even stressed that the decision is a serious violation of the Constitution.

- a. Did Judge X incur any administrative liability? Explain. (3%)
- b. If instead of ventilating his opinion before the private organization, Judge X incorporated it, as *an obiter dictum*, in one of his decisions, did he incur any administrative liability? Explain. (3%)

XVIII

- a. Draft the accusatory portion of an Information for RAPE of a 13-year old child committed by her maternal uncle in broad daylight at the back of a church. (5%)
- b. Draft a Petition for the Issuance of a Writ of *Habeas Data*. (5%)
- c. Draft a Petition for Bail. (5%)

XIX

Judges of the first and second level courts are allowed to receive assistance from the local government units where they are stationed. The assistance could be in the form of equipment or allowance.

Justices at the Court of Appeals in the regional stations in the Visayas and Mindanao are not necessarily residents there, hence, they incur additional expenses for their accommodations.

Pass on the propriety of the Justices receipt of assistance/allowance from the local governments. (3%)

XX

Arabella filed a complaint for disbarment against her estranged husband Atty. P on the ground of immorality and use of illegal drugs.

After Arabella presented evidence and rested her case before the Investigating Commissioner of the IBP Committee on Bar Discipline, she filed an Affidavit of Desistance and motion to dismiss the complaint, she and her husband having reconciled for the sake of their children.

You are the Investigating Commissioner of the IBP. Bearing in mind that the family is a social institution which the State is duty-bound to preserve, what will be your action on Arabellas motion to dismiss the complaint? (3%)

XXI

On the proposal of Judge G, which was accepted, he and his family donated a lot to the city of Gyoza on the condition that a public transport terminal would be constructed thereon. The donation was accepted and the condition was complied with.

The family-owned tracts of land in the vicinity of the donated lot suddenly appreciated in value and became commercially viable as in fact a restaurant and a hotel were soon after built.

Did the Judge commit any violation of the Code of Judicial Conduct? (2%)

XXII

A retired member of the Judiciary is now engaged in private practice. In attending hearings, he uses his car bearing his protocol plate which was issued to him while still in the service.

Pass on the ethical aspect of the judges use of the protocol plate. (2%)

NOTHING FOLLOWS.