

INSTRUCTIONS

This questionnaire consists of eighteen (18) numbers contained in eight (8) pages. Read each question very carefully. Answer *legibly, clearly, and concisely*. Start each number on a separate page; an answer to a sub-question under the same number may be written continuously on the same page and immediately succeeding pages until completed. Do not repeat the question. A mere "Yes" or "No" answer without any corresponding discussion will not be given any credit.

HAND IN YOUR NOTEBOOK WITH THIS QUESTIONNAIRE

GOOD LUCK!!!

Signed **ANGELINA S. GUTIERREZ**

Chairperson

20006 Bar Examination Committee

PLEASE CHECK THE NUMBER OF PAGES IN THIS SET

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LEGAL ETHICS AND PRACTICAL EXERCISES

- I -

1. Why is law a profession and not a trade? 2.5%
2. Why is an attorney considered an officer of the court? 2.5%

- II -

1. Is there a distinction between "practicing lawyer" and "trial lawyer"? 2.5%
2. Enumerate the instances when a law student may appear in court as counsel for a litigant. 2.5%

- III -

1. The Supreme Court suspended indefinitely Atty. Fernandez from the practice of law for gross immorality. He asked the Municipal Circuit Trial Court Judge of his town if he can be appointed counsel *de officio* for Tony, a childhood friend who is accused of theft. The judge refused because Atty. Fernandez's name appears in the Supreme Court's List of Suspended Lawyers. Atty. Fernandez then inquired if he can appear as a friend for Tony to defend him.

If you were the judge, will you authorize him to appear in your court as a friend for Tony? 5%

2. Supposing Tony is a defendant in a civil case for collection of sum of money before the same court, can Atty. Fernandez appear for him to conduct his litigation? 5%

- IV -

Atty. Oldie, 80 yearsold, refuses to pay his IBP dues. He argues he is a senior citizen and semi-retired from the practice of law. Therefore, he should be exempt from paying IBP dues.

1. Is his argument correct? 3%

For the same reasons, Atty. Oldie also insist that he should be exempt from the Mandatory Continuing Legal Education (MCLE) requirements.

2. Should he be exempt? 3%

- V -

Myrna, petitioner in case for custody of children against her husband, sought advice from Atty. Mendoza whom she met at a party. She informed Atty. Fernandez that her lawyer, Atty. Khan, has been charging her exorbitant appearance fees when all he does move for postponements which have unduly delayed the proceedings; and that recently, she learned that Atty. Khan approached her husband asking for a huge amount in exchange for the withdrawal of her Motion for issuance of Hold Departure Order so that he and his children can leave for abroad.

1. Is it ethical for Atty. Mendoza to advise Myrna to terminate the services of Atty. Khan and hire him instead for a reasonable attorney's fees? 5%
2. What should Atty. Mendoza do about the information relayed to him by Myrna that Atty. Khan approached her husband with an indecent proposal? 5%

- VI -

In his petition for certiorari filed with the Supreme Court, Atty. Dizon alleged that Atty. Padilla, a legal researcher in the Court of Appeals, drafted the assailed Decision; that he is ignorant of the applicable laws; and that he should be disbarred.

Can Atty. Dizon, in castigating Atty. Padilla, be held liable for unethical conduct against the Court of Appeals? 5%

- VII -

Provincial Prosecutor Bonifacio refused to represent the Municipality of San Vicente in a case for collection of taxes. He explained that he cannot handle the case with sincerity and industry because he does not believe in the position taken by the municipality.

Can Prosecutor Bonifacio be sanctioned administratively? 5%

- VIII -

Prosecutor Coronel entered his appearance on behalf of the State before a Family Court in a case for declaration of nullity of marriage, but he failed to appear in all the subsequent proceedings. When

required by the Department of Justice to explain, he argued that the parties in the case were ably represented by their respective counsels and that his time would be better employed in more substantial prosecutorial functions, such as investigations, inquests and appearances in court hearings.

Is Atty .Coronel's explanation tenable? 5%

- IX -

Atty .Marie consulted Atty .Hernandez whether she can successfully prosecute her case for declaration of nullity of marriage she intends to file against her husband. Atty. Hernandez advised her in writing that the case will not prosper for the reasons stated therein. Atty .Marie, however, decided to file the case and engaged the services of another lawyer, Atty .Pe. Her husband, Noel, having learned about the opinion of Atty .Hernandez, hired him as his lawyer .

Is Atty .Hernandez's acquiescence to be Noel's counsel ethical? 3%

- X -

In the course of a drinking spree with Atty. Holgado who has always been his counsel in business deals, Simon bragged about his recent sexual adventures with socialites known for their expensive tastes. When Atty. Holgado asked Simon how he manages to finance his escapades, the latter answered that he has been using the bank deposits of rich clients of Banco Filipino where he works as manager.

Is Simon's revelation to Atty. Holgado covered by the attorney-client privilege? 5%

- XI -

The contract of attorney's fees entered into by Atty .Quintos and his client, Susan, stipulates that if a judgment is rendered in her favor, he gets 60% of the property recovered as contingent fee. In turn, he will assume payment of all expenses of the litigation.

1. Is the agreement valid? 2.5%
2. May Atty .Quintos and Susan increase the amount of the contingent fee to 80%? 2.5%

- XII -

1. What is "assumpsit" and when is it proper? 2%
2. Give 4 instances when a client may validly refuse to pay his lawyer the full amount of attorney's fees stipulated in their written contract. 4%

- XIII -

Give 4 instances when a client may validly refuse to pay his lawyer the full amount of attorney's fees stipulated in their written contract. 4%

- XIV -

Atty. Perez was admitted as a member of the New York Bar. While in Manhattan, he was convicted of estafa and was disbarred.

Does his disbarment in New York a ground for his automatic disbarment in the Philippines? 2.5%

- XV -

Which of the following acts does not constitute a ground for disbarment? Explain. 2.5%

1. Gross misconduct
2. Fraudulent misrepresentation
3. Grossly immoral conduct
4. Violation of the Lawyer's Oath
5. Willful disobedience to a lawful order of the Supreme Court
6. Malpractice
7. Appearance of a non-lawyer as an attorney for a litigant in a case

- XVI -

Draft an Affidavit of Desistance in a criminal case for acts of lasciviosness. (Exclude the jurat)

- XVII -

Draft an affidavit of Self-Adjucation of the estate of a deceased person. (Exclude the jurat)

- XVIII -

Draft an Information charging Obet Buena with arson filed with the Regional Trial Court. Branch 10, Manila. 10%

NOTHING FOLLOWS.