



Republic of the Philippines
Supreme Court
Manila

2014 BAR EXAMINATIONS

LEGAL ETHICS

October 26, 2014

2:00 P.M. – 6:00 P.M.

INSTRUCTIONS

1. This Questionnaire contains TEN (10) pages including these Instructions pages. Check the number of pages and the page numbers at the upper right hand corner of each page of this Questionnaire and make sure it has the correct number of pages and their proper numbers.

There are THIRTY (30) Essay and Multiple Choice Questions (MCQs) to be answered within *four (4) hours*.

The essay questions are equivalent to *not less than 80%* of the whole examination, while the MCQ questions are equivalent to *not more than 20%*.

2. Read each question very carefully and write your answers in your Bar Examination Notebook *in the same order the questions are posed*. Write your answers only on the *front*, not the back, page of every sheet in your Notebook. Note well the allocated percentage points for each number, question, or sub-question. In your answers, use the numbering system in the questionnaire.

If the sheets provided in your Examination Notebook are not sufficient for your answers, use the back page of every sheet of your Examination Notebook, starting at the back page of the first sheet and the back of the succeeding sheets thereafter.

3. Answer the Essay questions *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 the immediately succeeding pages until completed.

Your answer should demonstrate your ability to analyze the facts presented by the question, to select the material from the immaterial facts, and to discern the points upon which the question turns. It should show your knowledge and understanding of the pertinent principles and theories of law involved and their qualifications and limitations. It should demonstrate your ability to apply the law to the given facts, and to reason logically in a lawyer-like manner to a sound conclusion from the given premises.

A mere “Yes” or “No” answer without any corresponding explanation or discussion will not be given any credit. Thus, always *briefly* but fully explain your answers although the question does not expressly ask for an explanation. At the same time, remember that a complete explanation does not require that you volunteer information or discuss legal doctrines that are not necessary or pertinent to the solution to the problem. You do not need to re-write or repeat the question in your Notebook.

4. MCQs are to be answered by writing in your Notebook the capital letter A, B or C corresponding to your chosen answer. There is only one correct answer to every MCQ; choose the BEST answer from among the offered choices.

5. Make sure you do not write *your name* or any *extraneous note/s* or *distinctive marking/s* on your Notebook that can serve as an identifying mark/s (such as names that are not in the given questions, prayers, or private notes to the Examiner).

Writing, leaving or making any distinguishing or identifying mark in the exam Notebook is considered cheating and can disqualify you for the Bar examinations.

You can use the questionnaire for notes you may wish/need to write during the examination.

YOU CAN BRING HOME THIS QUESTIONNAIRE OR HAND IT TOGETHER WITH YOUR NOTEBOOK

J. DIOSDADO M. PERALTA
Chairman
2014 Bar Examinations

I.

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 station. *Judge A's* actuation: **(1%)**

- (A) violates the Canon on Propriety
- (B) creates an appearance of an improper connection with the executive branch
- (C) is downright unethical

II.

R is a 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%)**

III.

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

- (A) members of the Bench
- (B) members of the Bar
- (C) members of the Bench and the Bar

IV.

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%)**

- (A) May *Atty. C* refuse to handle the defense of *A* and ask to be relieved? Explain fully.
- (B) In problem (A), if the lawyer is counsel *de parte* for the accused and he learns later after accepting the case and while trial is on-going that his client was indeed the perpetrator of the crime, may

the lawyer withdraw his appearance from the case? Why or why not?

V.

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

- (A) moral duty
- (B) social obligation
- (C) legal mandate

VI.

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%)**

VII.

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%)**

- (A) direct contempt
- (B) indirect contempt
- (C) violation of his duty to the court

VIII.

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 - Counsellor*, with *C* handling purely counselling and office work while *D* is the law practitioner. Are *C* and *D* liable for contempt of court? Explain your answer. **(5%)**

IX.

Judge A accepted a gift consisting of assorted canned goods and 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%)

X.

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 in law practice. May *Atty. P*, his partner in the law firm, file the required appeal brief for *C*? Explain your answer. (5%)

XI.

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

- (A) serious misconduct
- (B) committing acts unbecoming of a judge
- (C) manifest bias and partiality

XII.

A inherited a parcel of land situated in Batasan Hills which is occupied by informal settlers. He wants 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 (½) 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%)

XIII.

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* 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%)

XIV.

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*

XV.

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%)

XVI.

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 contempt

XVII.

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%)

XVIII.

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*

XIX.

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.

XX.

B hired *Atty. Z* to file a *replevin* case against *C* for an agreed acceptance fee of ₱30,000.00 which was evidenced by a written contract. After the complaint was filed by *Atty. Z*, *B* terminated his 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%)**

XXI.

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%)**

XXII.**(4%)**

(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?

XXIII.**(4%)**

(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?

XXIV.

(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%)**

XXV.

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 advise *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%)**

XXVI.**(6%)**

(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 his 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?

XXVII.

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) his attorney's fees under their contract
- (B) his attorney's fees based on *quantum meruit*
- (C) nothing by way of attorney's fees

XXVIII.

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 practiced 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 of 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 proceedings here in the Philippines? **(4%)**

XXIX.

If a lawyer volunteers his free legal service to a poor client, **(1%)**

- (A) a lawyer-client relationship is established between them
- (B) he is bound to serve his poor client with the same degree of competence, fidelity, and diligence as his paying client

- (C) he is not justified to neglect the cause of his client for the client's inability to defray the costs of court litigation

XXX.

(6%)

(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 client 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?

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