

Exam

Name _____

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1)

A sophisticated client

1)

A)

does not require the services of a lawyer.

B)

should represent themselves, rather than paying for legal services.

C)

is someone with formal legal training.

D)

understands the importance of the solicitor-client relationship.

E)

distrusts and derides lawyers.

2)

Raman is a sophisticated client. This means that she

2)

A)

will probably never find herself in a situation necessitating legal advice.

B)

understands how to manage a lawyer-client relationship.

C)

is a small business owner.

D)

has a law degree.

E)

manages her legal affairs without assistance from a lawyer.

3)

In the context of a sophisticated client, "sophisticated" can best be defined as

3)

A)

simple and naïve.

B)

complicated, self-reliant, and cosmopolitan.

C)

confident, knowledgeable, and up-to-date.

D)

aggressive, dynamic, and forceful.

E)
refined and cultured.

4)
Which of the following best describes the likelihood of a student becoming involved in a situation necessitating legal advice?

- 4)
-
- A)
Legal advice is not available to students.
- B)
Because students cannot be sophisticated, they will often become involved in such situations.
- C)
A student, or someone close to the student, will always become involved in such a situation
- D)
Because students are not business people, they never become involved in such situations.
- E)
A student, or someone close to a student, sometimes becomes involved in such a situation.

5)
Becoming a sophisticated client will

- 5)
-
- A)
relieve a business person from having to conduct legal research.
- B)
ensure that a business person never needs a lawyer.
- C)
help a business person manage her legal affairs more efficiently and effectively.
- D)
result in a business person developing a bias against lawyers.
- E)
protect a business person from needing legal advice.

6)
Having a good lawyer on your team is

- 6)
-
- A)
a critical component of being a sophisticated client.
- B)
only necessary for large companies.
- C)
usually too expensive to be worthwhile.
- D)
a legal requirement prior to incorporating a business.

E)

a good alternative to becoming a sophisticated client.

7)

William Shakespeare's *Henry VI*, Part II includes the line "The first thing we do, let's kill all the lawyers." The president of the Canadian Bar Association interpreted this quotation as

7)

A)

a lawyer-bashing joke.

B)

a humorous attempt to embarrass lawyers everywhere.

C)

a threat to all members of the legal profession.

D)

an offence meriting severe legal consequences.

E)

a comment on the importance of the "rule of law".

8)

Which of the following best describes the role of the lawyer?

8)

A)

The lawyer makes the legal decisions for the client.

B)

The lawyer is simply one of the experts the businessperson consults.

C)

The lawyer makes decisions regarding civil matters; the client makes decisions regarding criminal matters.

D)

The client must follow the lawyer's instructions, as long as they are lawful.

E)

The client makes decisions regarding civil matters; the lawyer makes decisions regarding criminal matters.

9)

Which of the following statements best describes solicitor-client privilege?

9)

A)

The lawyer must follow the client's instructions, even if they are illegal in nature.

B)

The lawyer makes the legal decisions for the client.

C)

The lawyer makes decisions regarding civil matters; the client makes decisions regarding criminal matters.

D)

Refers to the duty of the lawyer to keep the information provided by the client confidential.

E)

The lawyer is the only expert a client should consult.

10)

Which of the following is NOT a good reason for a business person to seek advice from a lawyer?

10)

A)

The businessperson cannot find the necessary legal information.

B)

The businessperson is facing criminal charges.

C)

The necessary legal information is available online.

D)

It would take too long for the businessperson to find the necessary legal information.

E)

The businessperson cannot understand the necessary legal information.

11)

For sophisticated clients, the availability of an abundance of legal information online is

11)

A)

a negative development, because online information is rarely accurate or helpful.

B)

a neutral development, because lawyers are still the only ones able to access this information.

C)

a positive development, because it means that they will no longer need to retain lawyers as part of their team.

D)

a negative development, because accessing this information tends to be more costly than retaining a lawyer.

E)

a positive development, because it provides greater access to information they can use as part of their decision-making process.

12)

When searching online for legal information, it is best to

12)

A)

use American sources, as they tend to be more comprehensive than Canadian ones.

B)

seek advice from a lawyer when answers cannot be readily found.

C)

gauge the accuracy of the information by the look of the website.

D)

never trust the information found on a website.

E)

trust that if it is published online, it must be accurate.

13)

Sophisticated clients

13)

A)

tend to be embarrassed to request legal advice.

B)

know that it is better to hire a lawyer than to conduct research on one's own.

C)

do not need to retain a lawyer.

D)

have the skill and confidence to find basic legal information.

E)

are willing to pay for legal advice at any cost.

14)

One reason for the general lack of respect for lawyers is that

14)

A)

lawyers are not bound by a Code of Professional Conduct.

B)

lawyers are rarely able to provide information or advice relevant to business matters.

C)

lawyers who breach their duties are generally not subject to any punishment.

D)

many people do not understand the role of the lawyer in the solicitor-client relationship.

E)

the cost of legal advice generally outweighs its benefit.

15)

The role of the lawyer is to

15)

A)

tell their clients what they must do.

B)

tell their clients what they must not do.

C)

provide legal advice relevant to the client's situation, which the client has no choice but to follow.

D)

delay the client's decision-making process.

E)

provide legal advice relevant to the client's situation, which the client is free to ignore.

16)

The primary purpose of an initial consultation with a lawyer is

16)

- _____
- A)
for the prospective lawyer to help mediate the current dispute.
 - B)
to arrange payment of the lawyer's fees up front.
 - C)
for the prospective client to decide whether to retain the lawyer.
 - D)
to discuss the availability of Legal Aid.
 - E)
to develop strategies for dealing with the legal situation in question.

17)

The decision to enter into the lawyer-client relationship should be

17)

- _____
- A)
a mutual decision made primarily on the basis of trust.
 - B)
made primarily on the basis of cost.
 - C)
solely up to the lawyer, as he or she is the one with the legal training.
 - D)
made quickly to ensure that no one else can retain your lawyer.
 - E)
solely up to the client, as he or she is the one paying for the services.

18)

When setting up a small business, the best approach to follow is to assume that after the business has been set up and commences operating

18)

- _____
- A)
the lawyer you chose to assist you in the start-up of the business will refer you to a different lawyer.
 - B)
the lawyer you chose to assist you in the start-up of the business will provide free legal services for the duration of the business's operation.
 - C)
you will not need legal advice, as long as you are a sophisticated client.
 - D)
the lawyer you chose to assist you in the start-up of the business will continue to represent you.

E)
a lawyer will no longer be required.

19)
Which of the following is NOT an advantage to maintaining an ongoing relationship with your lawyer?

19)

-
- A)
The lawyer will view you as her client, giving you and your requests priority.
- B)
The lawyer will know and understand you and your business.
- C)
The lawyer will be able to provide legal advice more efficiently, thereby reducing your legal costs.
- D)
The lawyer will automatically track your business activities, so that he or she can provide constant advice and guidance.
- E)
The lawyer will be able to customize his or her legal advice, so it will be even more useful to you.

20)
When someone refers you to a particular lawyer, you should

20)

-
- A)
ensure the referral is from a family member, rather than a mere friend.
- B)
ensure the referral is being given by someone you trust.
- C)
ignore the referral as irrelevant.
- D)
retain the lawyer regardless of who gave you the referral.
- E)
retain the lawyer regardless of their area of practice.

21)
A lawyer referral service

21)

-
- A)
is an online fee-based service providing guaranteed results.
- B)
is also known as "Legal Aid".
- C)
regulates the legal profession in the interest of the public.
- D)
provides the names and phone numbers of lawyers who practice in a particular area of law.
- E)

will enable a businessperson to retain a lawyer without need for an initial consultation.

22)

A provincial law society

22)

-
- A)
has as its mandate the provision of free legal services, in the public interest.
 - B)
operates primarily to offer low-cost legal advice to members.
 - C)
is a self-governing body for lawyers.
 - D)
is a self-governing body for businesspeople seeking legal advice.
 - E)
operates primarily to enhance the commercial interests of its members.

23)

The Canadian Bar Association is

23)

-
- A)
a professional organization that represents judges and lawyers.
 - B)
a disciplinary body for members of the legal profession.
 - C)
focused on enhancing public safety in the liquor distribution industry.
 - D)
the national society for legal aid services.
 - E)
an organization responsible for reviewing lawyers' accounts.

24)

Legal aid is

24)

-
- A)
universally available, regardless of subject matter or financial need.
 - B)
available to anyone who can demonstrate financial need, regardless of subject matter.
 - C)
available subject to substantive and financial eligibility requirements.
 - D)
only available for business law issues.
 - E)
available exclusively for criminal law issues, subject to demonstrated financial need.

25)

Which of the following statements is most accurate?

25)

A)

If you qualify for legal aid, you will automatically be exempt from all legal costs.

B)

Everyone qualifies for legal aid.

C)

If you have a legal problem and cannot afford a lawyer, one will be provided for you.

D)

Everyone can afford a lawyer.

E)

If you have a legal problem and cannot afford a lawyer, you may be eligible for legal aid.

26)

If you collect money as a result of a settlement or judgment obtained through the assistance of legal aid, you will

26)

A)

be required to turn the amount of the settlement or judgment over to the court.

B)

probably be ineligible to enforce the settlement or judgment if the debtor refuses to pay.

C)

probably have to repay some or all of the legal aid benefits you received.

D)

probably be able to keep the full amount of the settlement or judgment.

E)

be required to turn the amount of the settlement or judgment over to legal aid.

27)

Legal Aid Ontario will NOT cover any of the following except

27)

A)

criminal matters.

B)

wrongful dismissal.

C)

change of name.

D)

defamation.

E)

personal bankruptcy.

28)

The BC Legal Services Society may pay for a lawyer for a low-income client if the client has a legal problem involving any of the following except

28)

- _____
- A)
mental health or prison issues.
 - B)
criminal charges.
 - C)
commercial litigation.
 - D)
immigration problems.
 - E)
serious family problems.

29)

A small business owner

29)

- _____
- A)
is usually not able to receive legal aid with respect to the legal issues involving the business.
 - B)
is wise to obtain legal aid for its business matters, rather than having to incur legal costs.
 - C)
should retain duty counsel to draft contracts outlining legal duties.
 - D)
is automatically entitled to legal aid assistance.
 - E)
should always use duty counsel, rather than having to retain a lawyer.

30)

Which of the following statements regarding duty counsel is accurate?

30)

- _____
- A)
Duty counsel are available to assist in a wide range of business law issues.
 - B)
There is an advantage to using duty counsel rather than retaining one's own lawyer.
 - C)
There is a lengthy application process to obtain duty counsel.
 - D)
Duty counsel can provide limited assistance in certain court matters.
 - E)
Duty counsel typically take on your entire case and represent you at trial.

31)

Duty counsel are typically available

31)

A)

in superior court bankruptcy matters.

B)

for commercial litigation.

C)

in criminal courts, family courts, or immigration courts.

D)

for small claims and real estate disputes.

E)

to review and draft a variety of contracts.

32)

Duty counsel are

32)

A)

legal assistants who offer legal services at rates significantly lower than those charged by lawyers.

B)

law students who are fulfilling requirements established by a provincial law society.

C)

retired lawyers and judges who volunteer through legal aid societies.

D)

non-lawyers who provide advice to those in financial need.

E)

court lawyers who assist individuals who are not represented by a lawyer.

33)

Legal fees

33)

A)

should not be discussed with a lawyer until a bill has been prepared.

B)

are typically negligible.

C)

are rarely the subject of confusion or misunderstanding.

D)

should be discussed during the initial consultation with the lawyer.

E)

are always calculated in a single, specified way.

34)

Which of the following statements is true?

34)

A)

Lawyers should always be retained, regardless of the cost.

B)

It is a popular misconception that legal services can be very costly.

C)

All lawyers bill clients on an hourly basis.

D)

It is considered unprofessional to raise the issue of fees during a consultation with a lawyer.

E)

Some people don't retain lawyers even when they need them because they are afraid of the cost.

35)

Contingency fee agreements

35)

A)

must be prepared for all lawyer-client relationships.

B)

are synonymous with retainer agreements.

C)

may result in a lawyer not receiving any legal fees for the work done on a file.

D)

are not subject to any restrictions.

E)

are typically used for real estate purchases, the drafting of wills, and incorporations.

36)

Which of the following statements regarding provincial law societies is false?

36)

A)

Provincial law societies may restrict the use of contingency fee agreements.

B)

Provincial law societies provide online information on lawyers' fees.

C)

Provincial law societies may set maximum contingency fees for certain types of cases.

D)

Provincial law societies provide free legal services to people in need.

E)

Provincial law societies may offer a fee mediation service.

37)

Typically, lawyers bill on the basis of which of the following?

37)

- _____
- A) A fixed fee, a stipend, or a pro rata distribution.
 - B) A fixed fee, an hourly rate, or a contingency fee.
 - C) A fixed fee, a pro rata distribution, or a contingency fee.
 - D) A stipend, a pro rata distribution, or an hourly rate.
 - E) A stipend, an hourly rate, or a contingency fee.

38)

Which of the following statements regarding retainers is false?

38)

- _____
- A) The lawyer may require the client to "top up" the retainer as funds are withdrawn from the trust account.
 - B) A retainer is deposited into a trust account, to the credit of the client.
 - C) Provincial law societies typically restrict the use of retainers to personal injury or product liability cases.
 - D) A retainer helps ensure that a lawyer will be paid for his or her legal services.
 - E) Before commencing work on a matter, a lawyer usually requests that a retainer be paid.

39)

A retainer

39)

- _____
- A) is the amount a lawyer will receive when charging based on a contingency fee agreement.
 - B) refers to the costs incurred by a lawyer on a client's behalf.
 - C) is the amount a client must pay that is in addition to regular legal fees and disbursements.
 - D) works as a deposit.
 - E) works to secure the release of an arrested person.

40)

Provincial law societies

40)

-
- A)
are non-profit law firms offering a range of legal services.
- B)
provide compensation to clients who are unhappy with legal services.
- C)
deal with complaints regarding a lawyer's conduct.
- D)
exist primarily to assist clients with complaints concerning fees.
- E)
guarantee success in litigation matters.

41)

If you have a complaint about the fees being charged by your lawyer

41)

-
- A)
you can have your bill reviewed by a court official.
- B)
you must participate in a fee mediation service.
- C)
your provincial law society represents your only course of action.
- D)
you should not discuss your concerns with your lawyer directly.
- E)
you should begin by commencing a court action.

42)

Fee mediation

42)

-
- A)
is compulsory whenever a client raises a concern about a lawyer's bill.
- B)
involves a review of a lawyer's bill by a court official.
- C)
is offered by every provincial law society as the primary means of dispute resolution for complaints regarding lawyers' fees.
- D)
involves a neutral mediator who tries to facilitate a mutually acceptable resolution of a dispute over fees charged by a lawyer.
- E)
involves a judge who determines whether or not a lawyer's bill is reasonable.

43)

A client who is unable to resolve a fee dispute with a lawyer can have the lawyer's bill reviewed by a court official. These

court officials have the power to

43)

- _____
- A)
authorize compensation to be paid by the provincial law society.
 - B)
impose fines on either the client or the lawyer.
 - C)
decide that the bill is too high and reduce it accordingly.
 - D)
require that the client and lawyer attend fee mediation.
 - E)
order that a lawyer be taken into custody.

44)

A provincial law society's complaint-resolution process usually begins with

44)

- _____
- A)
an attempt at mediating the dispute between the client and the lawyer.
 - B)
a review of the complaint by a court official.
 - C)
a formal investigation.
 - D)
oral submissions by legal counsel.
 - E)
a hearing before a panel.

45)

Complaints made to the provincial law society regarding a lawyer's conduct may result in a hearing. This hearing

45)

- _____
- A)
involves the testimony of witnesses and the entering of other evidence.
 - B)
is held in the absence of legal counsel.
 - C)
is held before a superior court judge.
 - D)
can result in a finding of misconduct, although the law society does not have the power to impose penalties.
 - E)
results in compensation being paid to the client who made the complaint.

46)

If you cannot resolve a fee dispute with your lawyer, you should

46)

- _____
- A)
sue your lawyer for non-payment.
 - B)
make a formal complaint to the bar association.
 - C)
refuse payment on ethical grounds.
 - D)
refuse payment on legal grounds.
 - E)
have your bill reviewed by the appropriate court official.

47)

If a law society panel finds a lawyer guilty of misconduct, the penalty could include all of the following except

47)

- _____
- A)
costs of the hearing.
 - B)
a suspension.
 - C)
incarceration.
 - D)
disbarment.
 - E)
a fine.

48)

If you believe that you have suffered a financial loss because of your lawyer's misconduct

48)

- _____
- A)
you should have the matter reviewed by a taxation or assessment officer.
 - B)
you will automatically be awarded compensation by the provincial law society at the end of their hearing.
 - C)
you should wait as long as possible before you proceed.
 - D)
you may need to seek legal advice from another lawyer.
 - E)
you may be compensated by the bar association at the end of their investigation.

49)

Lawyers' rules of professional conduct

49)

-
- A)
are generally not taken seriously by members of the legal profession.
- B)
are recommended guidelines only.
- C)
will, if breached, automatically result in a lawyer facing criminal charges.
- D)
establish professional and ethical obligations of lawyers.
- E)
are established by the Canadian Bar Association.

50)

Which of the following statements best describes the difference between law and ethics?

50)

-
- A)
Law tells us what we must do; ethics tells us what we should do.
- B)
Law and ethics are interchangeable.
- C)
Ethics tells us what we must do; law tells us what we should do.
- D)
A person need not worry about acting legally, as long as she acts ethically.
- E)
If a person acts unethically, he has broken the law.

51)

Many people lack trust or confidence in lawyers because

51)

-
- A)
few provincial law societies have established rules for professional conduct.
- B)
a few well-publicized cases involving lawyers has tainted the reputation of the whole profession.
- C)
lawyers who act unprofessionally are not subject to any penalty.
- D)
most lawyers are unethical.
- E)
lawyers have no professional or legal obligations.

52)

The Canadian "Code of Professional Conduct" for business people

52)

-
- A)
was created by the provincial business society.
- B)
has been used to prosecute a number of high-profile cases.
- C)
establishes the professional and ethical obligations of businesspeople.
- D)
is the same as the lawyers' code of conduct.
- E)
does not exist.

53)
Sophisticated clients who are starting a business should

53)

-
- A)
opt not to prepare a code of conduct, because of potential liability exposure in the event of a breach.
- B)
only concern themselves with ethical behaviour that is required by law.
- C)
make a commitment to ethical behaviour and prepare a statement of values.
- D)
refrain from reporting illegal or unethical behaviour.
- E)
consult a lawyer about how to engage in unethical behaviour undetected.

54)
You can enhance the success of your business by

54)

-
- A)
not seeking legal advice in cases where your conduct may be questionable, as you will then be bound by the lawyer's code of professional conduct.
- B)
incorporating core values into a code of conduct, regardless of whether or not you adopt those values personally.
- C)
personally adopting core values and incorporating them into a code of conduct for the business.
- D)
relying on the Canadian Code of Professional Conduct for Businesspeople.
- E)
retaining a lawyer who is willing to engage in unethical conduct on your behalf.

55)
Which of the following does NOT represent a core ethical value identified by the Josephson Institute for Ethics?

55)

Caring A)
Fairness B)
Respect C)
Courage D)
Citizenship E)

56)

According to the Josephson Institute for Ethics, the core ethical value of trustworthiness has as its supporting ethical principles

56)

A)
citizenship, philanthropy, voting.
B)
justice, fairness, impartiality, equity.
C)
respect, autonomy, courtesy, self-determination.
D)
truthfulness, sincerity, candor, integrity, promise keeping, loyalty, honesty.
E)
caring, kindness, compassion.

TRUE/FALSE. Write 'T' if the statement is true and 'F' if the statement is false.

57)

"The first thing we do, let's kill all the lawyers." is a popular quotation from William Shakespeare, the meaning of which is open to debate.

57)

58)

A sophisticated client knows how to form and use the solicitor-client relationship to facilitate making good business decisions.

58)

59)

Generally, good business decisions cannot be made without consideration of the appropriate laws.

59)

60)

A sophisticated client never conducts legal research on his or her own, but always seeks advice from a lawyer.

60)

61)

It is always wise to retain legal counsel when you are facing criminal charges.

61)

62)

In making business decisions involving legal issues, a sophisticated client will tend to complete some research of the relevant law on her own.

62)

63)

The time and cost to be incurred by hiring a lawyer is irrelevant It is always worthwhile to get legal advice from a lawyer.

63)

64)

Sophisticated clients understand that success depends on good business decisions, and good business decisions depend on appropriate information (including legal information).

64)

65)

In the lawyer-client relationship, the decision-maker is the lawyer, not the client.

65)

66)

Solicitor-client privilege refers to the lawyer making all the decisions for the client.

66)

67)

The solicitor-client privilege refers to the duty of the lawyer to keep the information provided by the client confidential.

67)

68)

There is sufficient information in the Yellow Pages to help a person decide whether a particular lawyer would be appropriate.

68)

69)

Given the growing complexity of the law and the consequence that more lawyers specialize, a business person might have multiple lawyers.

69)

70)

It is more advantageous to retain your own lawyer than to simply use duty counsel.

70)

71)

Small business owners are usually able to receive legal aid with respect to the legal issues involving the business.

71)

72)

A retainer is the amount a client must pay to a lawyer over and above regular legal fees.

72)

73)

Provincial law societies may restrict the use of contingency fee agreements.

73)

74)

Most provinces set a minimum contingency fee for family law cases.

74)

75)

A complaint made to the provincial law society about a lawyer's conduct does not result in compensation being paid to the client who made the complaint.

75)

76)

Clients who believe that they have suffered financial loss due to their lawyer's misconduct should not procrastinate as limitation periods may exist.

76)

77)

If a complaint regarding a lawyer's conduct cannot otherwise be resolved, and the law society decides the complaint is valid, then the lawyer will face automatic disbarment.

77)

78)

Ethics depends on a person's conscience, rather than on what the law says.

78)

79)

Ethical behaviour implies integrity, honesty, and professionalism.

79)

80)

A code of professional conduct is needed because the vast majority of lawyers are unethical.

80)

81)

Compliance with a code of ethics in an organization is unrelated to whether or not top management practises ethical behaviour.

81)

82)

In 2005, Canada was ranked number one in the world on a list of countries perceived to be free of corruption.

82)

83)

Core ethical values, and their supporting ethical principles, should be used as the basis for a business code of conduct.

83)

SHORT ANSWER. Write the word or phrase that best completes each statement or answers the question.

84)

What term can be used to describe someone who understands the role of a lawyer, when and how to retain one, and how to manage the lawyer-client relationship?

84)

85)

Complete the following quotation from William Shakespeare's Henry VI, Part II "The first thing we do, let's _____".

85)

86)

When making significant business decisions, when should business people consult their lawyers?

86)

87)

In the lawyer-client relationship, who is the decision-maker?

87)

88)

When must a lawyer follow a client's instructions?

88)

89)

What must a business person consider before asking a lawyer for assistance in making a business decision?

89)

90)

Why is it unnecessary (and undesirable) for a client to seek legal advice for every decision she must make?

90)

91)

If a business person cannot find important legal information on his own, or cannot understand the information he finds, what should he do?

91)

92)

When will a sophisticated client do her own legal research?

92)

93)

What recent development has given non-lawyers greater access to legal information?

93)

94)

How has the lawyer-client relationship been affected by computers and the Internet?

94)

95)

What is the main role of a lawyer?

95)

96)

Why might a business person have more than one lawyer?

96)

97)

Identify the sources you would consult when looking for an appropriate business lawyer.

97)

98)

Identify the advantages to a business person of maintaining an ongoing relationship with a lawyer.

98)

99)

What is the Canadian Bar Association and what is its purpose?

99)

100)

What is a provincial law society and what is its mandate?

100)

101)

What is "duty counsel"?

101)

102)

Why should a business owner not assume that legal aid will be available to him or her?

102)

103)

What may occur if you collect money as the result of a settlement or judgment obtained through assistance from legal aid?

103)

104)

List the three main ways in which lawyers may charge their clients.

104)

105)

When is the fixed fee method of billing most often used?

105)

106)

In addition to legal fees, what other costs is a client responsible for paying?

106)

107)

What are disbursements and what do they generally include?

107)

108)

What is a retainer?

108)

109)

What is a contingency fee arrangement?

109)

110)

When is a contingency fee agreement most often used?

110)

111)

When should a client ideally first discuss the issue of fees with a lawyer?

111)

112)

Is it more cost-effective to hire a senior lawyer with a high hourly rate, or a junior lawyer with a low hourly rate? Explain.

112)

113)

How does a contingency fee agreement potentially benefit a client?

113)

114)

What is disbarment?

114)

115)

For lawyers who are found guilty of misconduct, what penalties might they face?

115)

116)

What can you do if you cannot resolve a fee dispute with your lawyer?

116)

117)

What should clients do if they believe they have suffered a financial loss because of their lawyer's misconduct?

117)

118)

Outline the steps of the law society's typical complaint-resolution process.

118)

119)

Distinguish between law and ethics.

119)

120)

Provide three examples of conduct that fail to meet the standards of professional responsibility for lawyers.

120)

121)

In addition to penalties from the provincial law society, in what else may a lawyer's misconduct result?

121)

122)

Provide three examples of issues that ought to be addressed in a business person's code of ethics.

122)

123)

What are the six core values identified by the Josephson Institute for Ethics?

123)

124)

What is a code of business conduct?

124)

125)

Why should a code of business conduct be used by a small business?

125)

126)

What format must a code of business conduct take?

126)

127)

What is a good way to ensure the long term adoption of ethical behaviour of employees of a business?

127)

ESSAY. Write your answer in the space provided or on a separate sheet of paper.

128)

Explain what makes someone a "sophisticated client".

129)

Explain, using examples, what advice and information a lawyer can provide to a person starting a business.

130)

Explain how a business person would go about finding an appropriate lawyer, including a discussion of what makes a lawyer appropriate for a particular client.

131)

Explain the concept of legal aid.

132)

Explain the different ways in which a lawyer may calculate the legal fees to charge a client, providing examples of when each might be used.

133)

Outline the types of complaints a client may have about a lawyer, and how the client should proceed in each instance.

134)

Do business people make good ethical choices? Explain, providing examples.

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A sophisticated client.

85)

Kill all the lawyers .

86)

Taking into consideration time and expense, businesspeople generally ought to consult their lawyers when they cannot find the legal information relevant to their decision on their own, or when they cannot understand the information they find.

87)

The client.

88)

When those instructions are lawful.

89)

The time and cost, and whether the client could effectively find and understand the relevant information on his or her own.

90)

Because this can be prohibitively expensive, and can result in delays in the client's decision-making.

91)

Consult a lawyer.

92)

Whenever she requires legal information to make a business decision and it is not appropriate to hire a lawyer.

93)

The tremendous increase of legal information available online.

94)

There is now an abundance of legal information accessible to non-lawyers, making it possible for non-lawyers to conduct some legal research without the assistance of a lawyer.

95)

To provide legal advice relevant to a client's situation.

96)

Given the growing complexity of the law, more lawyers are specializing. If a businessperson faced a wide variety of legal issues (such as both civil and criminal matters), more than one lawyer might be needed.

97)

The phone book (e.g. Yellow Pages), other advertisements, referrals from friends and relatives and trusted colleagues, the relevant law society.

98)

The lawyer will know and understand the client and his business. This will enable the lawyer to provide legal advice more efficiently (thereby reducing legal costs) and to customize legal advice (making it more useful). In addition, the lawyer will be more inclined to give priority to the longstanding client.

99)

The Canadian Bar Association is a professional organization representing judges and lawyers. One of its purposes is to enhance the profession and the commercial interests of its members.

100)

A provincial law society is a self-governing body for lawyers in a province. Its mandate usually involves regulating the legal profession, in the public interest.

101)

Duty counsel refers to court lawyers who assist individuals who are not represented by a lawyer.

102)

A business owner is usually not able to receive legal aid with respect to the legal issues involving the business, due to both substantive and financial eligibility requirements.

103)

You will probably have to repay some or all of the benefits received from legal aid.

104)

Fixed fee, hourly rate, and contingency fee.

105)

For specific tasks, such as preparing a will, purchasing a house, or incorporating a business.

106)

Disbursements (out-of-pocket costs incurred by the lawyer on the client's behalf).

107)

Disbursements are out-of-pocket costs incurred by the lawyer on the client's behalf. They typically include court filing fees, long distance telephone charges, courier charges, expert fees, and photocopying costs.

108)

A retainer works as a deposit. It is an amount paid by a client and deposited into a lawyer's trust account, to the credit of the client. When the lawyer bills the client, the amount owing is taken from the retainer.

109)

The lawyer is paid a percentage of the amount a client collects from settlement or judgment. If the client does not collect anything, the lawyer does not receive anything.

110)

In personal injury or product liability cases.

111)

During the initial consultation.

112)

It depends. For example, if the senior lawyer is able to work more efficiently than the junior lawyer, the overall fee might be lower for the senior lawyer.

113)

The client does not need to pay any legal fees unless and until a settlement or judgment is obtained. Without contingency fee arrangements, some clients would not be able to afford a lawyer at all.

114)

Termination of membership in the law society.

115)

A reprimand, fine, suspension, disbarment, costs of the hearing.

116)

You may be able to participate in a fee mediation service. If any mediation is unsuccessful, you can have your lawyer's bill reviewed by a court official.

117)

They should not procrastinate, and may need to seek legal advice from another lawyer.

118)

There is usually an attempt at mediation which, if unsuccessful, is usually followed by a formal investigation. This may result in a hearing before a panel. If the panel finds the lawyer guilty of misconduct, the lawyer faces a number of possible penalties.

119)

Law tells us what we must do, while ethics tells us what we should do.

120)

There are numerous possible responses. Examples provided in the text include failing to serve a client in a timely fashion, failing to respond to clients, failing to disclose to a judge that another judge had previously refused the same application, swearing a false affidavit, poor accounting of a trust account, improper transfers from trust accounts, and misappropriation of trust funds.

121)

If the behaviour is also criminal, the lawyer may face criminal charges. If the behaviour results in a client suffering a financial loss, the lawyer may also be sued.

122)

Examples could include conflicts of interest; protection and proper use of corporate assets and opportunities; confidentiality of corporate information; fair dealing; compliance with laws, rules, and regulations; and the reporting of any illegal or unethical behaviour.

123)

Trustworthiness, respect, responsibility, fairness, caring, citizenship.

124)

A formal statement adopted by a company that sets out its values and standard of business practices, essentially codifying a company's organizational values and establishing procedural norms and standards of expected behaviour.

125)

An effective code of conduct is one of the best ways to ensure the long-term adoption of ethical behaviour by employees.

126)

There is no prescribed format.

127)

Creating and modeling an effective code of conduct.

128)

A sophisticated client is someone who understands the role a lawyer plays, when to represent himself or herself, when and how to hire a lawyer, the costs associated with hiring a lawyer, what to expect from the solicitor-client relationship, and what to do if dissatisfied with a lawyer's conduct. A sophisticated client puts aside negative attitudes associated with lawyers and seeks timely legal advice. Here students would be expected to discuss the ways in which a lawyer can help a business person make good business decisions.

129)

Here students are expected to provide a variety of examples, including with regard to forms of business organization; purchase of another business or its assets; compliance with relevant municipal, provincial, or federal laws; lease negotiations; review of financing documents; review or preparation of other contracts; advice regarding intellectual property issues; etc.

130)

Here students should outline the search process, including suggesting sources of names of potential lawyers (from advertisements, referrals, the law society, etc.), and setting up a meeting for an initial consultation. Reference should be made to the importance of establishing mutual trust as the foundation for the lawyer-client relationship. It is not enough for a lawyer to be knowledgeable and successful; the lawyer must also practice in the relevant area and be someone who the businessperson feels they can trust.

131)

Legal aid is available in limited cases to assist those with legal problems who cannot afford a lawyer. The provision for legal aid varies across the country and students may be required to provide details as to financial and substantive eligibility requirements specific to their own province. In any event, students ought to note that not everyone qualifies for legal aid, that even those who qualify may have to pay some legal costs, and that benefits must be repaid in some circumstances. Of particular relevance, a small business owner is usually not able to receive legal aid with respect to the legal issues involving the business.

132)

There are three main ways that lawyers calculate their fees. First, a lawyer may charge a fixed fee for the work required, regardless of the time spent. This is often used for specific tasks, such as purchase or sale of real estate, preparation of a will, an incorporation, etc. Second, the lawyer may bill on the basis of an hourly rate for time actually spent. This is very common. Third, the lawyer may receive a percentage of the amount the client collects through a settlement or judgment. This is often appropriate for personal injury claims or in product liability cases.

133)

A client may have complaints regarding the fees charged by the lawyer. In this case, the client could attempt to deal with the lawyer directly, may have access to a fee mediation service, and can ultimately have the lawyer's bill reviewed by a court official. A client may have complaints about a lawyer's conduct (other than related to fees). In this case, the client can go through the law society's complaint resolution process. Finally, a client may have suffered financial loss due to the lawyer's misconduct. In this case, the client should act quickly, and may need to seek legal advice from another lawyer.

134)

Explain your answer, providing examples. Here students should recognize that while many businesspeople do conduct themselves in an ethical manner, not all businesspeople make good ethical choices. There is no general code of professional conduct for businesspeople, and there have been many recent cases of businesspeople engaging in questionable activities. Students could draw upon any one of a number of potential examples, including WorldCom, Enron, Martha Stewart, Conrad Black, to name only a few.