

Question 32.

Attorney is a well-known, highly skilled litigator. Attorney's practice is in an area of law in which the trial proceedings are heard by the court without a jury.

In an interview with a prospective client, Attorney said, "I make certain that I give the campaign committee of every candidate for elective judicial office more money than any other lawyer gives, whether it's \$500 or \$5,000. Judges know who helped them get elected." The prospective client did not retain Attorney.

Is Attorney subject to discipline?

- A. Yes, if Attorney's contributions are made without consideration of candidates' merits.
- B. Yes, because Attorney implied that Attorney receives favored treatment by judges.
- C. No, if Attorney's statements were true.
- D. No, because the prospective client did not retain Attorney.

Question 33.

Judge is presiding in a case that has, as its main issue, a complicated point of commercial law. The lawyers have not presented the case to Judge's satisfaction, and Judge believes she needs additional legal advice. Judge's former partner in law practice, Attorney, is an expert in the field of law that is at issue. Attorney has no interest in the case.

Is it proper for Judge to consult Attorney?

- A. Yes, because Attorney has no interest in the case.
- B. Yes, if Judge believes that Attorney's advice is needed to serve the interests of justice.
- C. No, unless all parties in the case first give their written consent to Judge's consultation with Attorney.
- D. No, unless Judge informs the parties of Attorney's identity and the substance of Attorney's advice, and asks for their responses.

Question 34.

After both parties had completed the presentation of evidence and arguments, Judge took under advisement a case tried in Judge's court without a jury in which Attorney had represented Plaintiff. The case involved a difficult fact issue of causation and a difficult issue of law.

After the case was under advisement for several weeks, Attorney heard rumors that Judge was having difficulty determining the issue of factual causation and was uncertain about the applicable law. Immediately after hearing these rumors, Attorney telephoned Judge, told Judge of the rumors Attorney had heard, and asked if Judge would like to reopen the case for additional evidence and briefing from both parties. Thereafter Judge reopened the case for further testimony and requested supplementary briefs from both parties.

Was it proper for Attorney to communicate with Judge?

- A. Yes, because both parties were given full opportunity to present their views on the issues in the case.
- B. Yes, because Attorney did not make any suggestion as to how Judge should decide the matter.
- C. No, because Attorney communicated with Judge on a pending matter without advising opposing counsel.
- D. No, because Attorney caused Judge to reopen a case that had been taken under advisement.