

Write Your Exam Code Here: \_\_\_\_\_

Return this exam question paper to your invigilator at the end of the exam before you leave the classroom.

**THIS EXAMINATION CONSISTS OF 3 PAGES, INCLUDING THIS PAGE.  
PLEASE CHECK TO ENSURE THAT YOU HAVE ALL 3 PAGES.**

**THE UNIVERSITY OF BRITISH COLUMBIA  
ALLARD SCHOOL OF LAW**

**FINAL EXAMINATION – DECEMBER 2018**

**LAW 468/555C  
Ethics and Professionalism**

**Section 2  
Professor Benedet**

**TOTAL MARKS: 100**

**TIME ALLOWED: 2.5 HOURS**

\*\*\*\*\*

- NOTE:**
- 1. If writing by hand, candidates must fill in correctly the front of each booklet provided. Failure to do so may result in the answers not being read. Please indicate the total number of booklets used on each booklet. DOUBLE SPACE YOUR ANSWER. WRITE IN INK.**
  - 2. Candidates may take any non-electronic reference materials into the examination.**

**AT THE END OF THE EXAMINATION, PLEASE RETURN THIS QUESTION PAPER TO THE INVIGILATOR.**

**Part A: 110 minutes, 68 marks. Answer 4 of the 5 questions in Part A. Each Question is worth 17 marks and the recommended time for each question is 25 minutes. The extra 10 minutes is reading time. Do not answer all 5 questions. Assume all of the following scenarios occur in British Columbia.**

**A1.** Greg is a recently-called lawyer in sole practice. Alice tells Greg that her landlord has powers of mind control and is stealing things from her apartment, and that so far he has taken a banana, a fridge magnet and a toothbrush. She also tells Greg that the landlord is demanding that she have sex with him as a condition of remaining in her apartment (something that would violate the *Human Rights Code*.) Alice is accompanied to this meeting by Zoe, who she introduces as her “healer and spiritual adviser.” She says that Zoe needs to be part of all of their discussions and will decide what Alice should do based on her psychic aura. Alice is able to accurately answer questions about day to day matters. Should Greg accept Alice as a client? If he does, what considerations should guide his representation of her?

**A2.** Marcia is a defence counsel who is representing Serpents motorcycle gang leader Red Pepper on charges of uttering threats. This is not the first time Red has been in trouble with the law and Marcia knows that he could be a source of repeat business. Marcia tells Red to think of her as a “pitbull who will rip the Crown’s case to shreds.” Fellow club member Tom Ato will testify as a defence witness. In preparing Tom to testify, Marcia tells him to keep his answers short, and to avoid saying that he and Red were at the victim’s apartment to collect a drug debt (which they were), explaining instead that they were there to watch an MMA fight (which is also true). In her closing submissions, Marcia tells the jury that “she would not put a dishonest witness on the stand.” Has Marcia acted consistently with her ethical obligations in her representation of Red?

**A3.** Jan is a real estate lawyer. She is representing the seller in a residential real estate transaction. She undertakes to receive the buyer’s money in trust and to hold the money until she has ensured that clear title in the house is transferred to the buyer. Jan knows that the seller needs some of the funds quickly to complete his own purchase of a condo. Jan deposits the buyer’s money into her trust account. She goes to transfer the title but discovers that there are unexpected complications with the description of the property and it she needs to provide additional documents. She gives her client the money he needs to buy his new condo, then transfers the house to the buyer and pays the remaining money out of the trust to her client. Everyone’s transactions are completed. She tells her partner Oliver about her day. Is there anything for Oliver to be concerned about? What, if anything, should he do now?

**A4.** Peter is a union-side labour lawyer. He chose this practice area because he believes strongly in the goals of the union movement. One of his clients, the United Workers, is on strike against FatCat Food Warehouse and has set up a picket line. Peter joins the picket line to show his solidarity with the workers. He carries a sign that reads “FatCat = Capitalist Pigs” and joins in throwing snowballs at customers who are trying to cross the picket line. Someone calls the police and when they arrive to

question the picketers, Peter gives them a false name and says he was just passing by on his way to work. Peter goes to his office where he learns that FatCat has filed an application in court for an injunction to declare the picket line unlawful. He calls his friend Ed, who is a senior labour lawyer with another firm, to ask for advice in handling this kind of application. He emails Ed a copy, along with his draft response. Has Peter done anything unethical?

**A5.** Bobby, a partner in the firm of Brady LLP, is representing an architecture firm, Hollingsworth Group, in their defence of a wrongful dismissal lawsuit filed by their former employee Mike. A settlement negotiation is scheduled. Bobby sets aside the day before the meeting to prepare, but his day is totally consumed with other urgent matters. In a panic, he calls the firm representing Mike and asks to speak to Naomi, the articled student on the file. To buy time, he tells her to tell her principal that his car broke down and that he needs to delay their meeting until the afternoon. At the negotiation, Bobby says that “Hollingsworth has authorized me to offer Mike 6 months of severance pay, and not a dollar more.” In fact, Bobby has not had time to discuss any bottom line position with Hollingsworth. Mike rejects the offer. The next day, Bobby calls Naomi and offers her a job with Brady LLP after she finishes her articles. Naomi is not being kept on as an associate by her firm, so she accepts. Has Bobby done anything wrong? Could Naomi accept Bobby’s offer?

**Part B: 40 minutes, 32 marks. Answer 2 of the 3 questions in Part B. Each Question is worth 16 marks and the recommended time for each question is 20 minutes. Do not answer all 3 Questions.**

**B1.** Would requiring each lawyer in British Columbia to complete 12 hours of *pro bono* legal services each year assist in increasing access to justice in a meaningful way? Does such a requirement raise any concerns?

**B2.** Does the decision of the majority in *Groia* set an appropriate threshold for lawyer civility in the course of a trial? If “a trial is not a tea party”, then what is it?

**B3.** Describe one ethical dilemma that a lawyer might face for which you believe the existing BC Code of Conduct offers insufficient guidance.

END OF EXAMINATION