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

**FINAL EXAMINATION – DECEMBER 2019**

**LAW 468/588  
Ethics and Professionalism**

**Section 1  
Professor Benedet**

**TOTAL MARKS: 100**

**TIME ALLOWED: 2.5 HOURS**

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- 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.** Oscar is a junior lawyer in a large law firm. He is asked to assist Ernie, a senior partner, on a litigation file for a longtime client, Jumbo Foods. Jumbo is defending a class action lawsuit brought by customers who claim that Jumbo lied about the grams of carbohydrates in its energy bars. Oscar is concerned that Ernie is expensing the client for personal items such as new golf shoes. He reports this to Susan, the firm's managing partner, who tells Oscar that she will "have a word with Ernie." The following week, Ernie bills the client for an expensive fountain pen under the heading of "office supplies." Oscar expresses his concerns about Ernie, and about Susan's ineffective response, to his spouse Maria, who is also a lawyer. Maria works at the firm representing the plaintiffs suing Jumbo Foods, although she is in a different practice area and has no involvement in the file. Maria tells Oscar he should move to her firm instead. *Has Oscar acted consistently with his ethical obligations? Can Oscar accept Maria's offer? (Assume that she has the authority to make it on behalf of the firm.)*

**A2.** Luis is a criminal defence lawyer in sole practice. Luis agrees to defend Bob and Linda, who are co-accused in a robbery of a pharmacy. In their first meeting, they tell him that they have an alibi and that they were wrongly identified. Linda returns on her own the next day and tells Luis that Bob forced her to commit the robbery and that he has been beating her and threatening her with violence throughout their relationship. She has heard that this might amount to a defence of "duress", but she wants to plead guilty to a lesser included charge of assault if Luis can get the Crown to agree. She also tells Luis that she has a number of prescription vials of opioids from the pharmacy hidden in her home, and that the police failed to find them in their search. She wants to get rid of them as she is trying to "get clean," and asks if she can flush them or drop them off at Luis' office. *What should Luis tell Linda and what should he do now? Is there anything he might have done differently at the initial meeting?*

**A3.** Bert is a family law lawyer who specializes in high net worth, high conflict matrimonial files. Janice books an appointment to inquire about Bert representing her in an application to have her children, who have been apprehended by the Province, returned to her care. As a result of the subject matter of the hearing, Janice is entitled to legal aid. She tells Bert that she got his name from the internet. She tells Bert that she has recently secured housing on her reserve and that she wants to take hənq̓əmin̓əm̓ language lessons with her children. Bert tells Janice that he doesn't do these kinds of cases, that he doesn't accept legal aid files, and that she would probably be more comfortable with a lawyer from her own community. When she asks him to recommend someone, he says he doesn't know anyone. Janice says that Bert is the fourth lawyer she has approached and that she is getting desperate. She says that if she can't have her kids, her life is not worth living any longer. Bert says that he is sorry, but there is nothing he can do, and Janice leaves. *Has Bert acted unethically towards Janice? Why or why not? Should he do anything else after the meeting?*

**A4.** Rosita is a corporate lawyer who is negotiating a merger between her client, Rainbow Snowboards, and the Kloudy Kayak company. Kloudy is represented by the company's president Grover, who is not a lawyer but insists on conducting all negotiations himself. Grover and Rosita meet to go over the terms of the merger. Grover is incensed to learn that the new entity will not use the photo of his dog, Jujube, as the company logo. Rosita tells Grover that if he does not sign the agreement, Rainbow will sue Kloudy for negotiating in bad faith, because Rainbow lost the opportunity to merge with another company, Hailstorm Canoes, while negotiating with Kloudy. This is not true. Grover signs the agreement. He then tells Rosita that she is "dumb as a box of rocks" and should just "get back on her broom" and leave. Rosita storms out, shooting a quick text message to her client that the "Kloudy Rainbow deal is done – the f\*\$#ing a###ole signed!" Unfortunately, she accidentally sends the message to the 36 parents of the children in her daughter's youth orchestra, one of whom knows Grover and shows him the message. Grover reports Rosita to the Law Society. *What, if anything, should concern the Law Society about Rosita's behaviour? Would your answer be different if Grover was also a lawyer?*

**A5.** Abby is a management-side labour lawyer representing Megatown Mall. The employees of the supermarket located in the Mall are engaged in a lawful strike. Other tenants of the Mall are complaining about the picketing by the supermarket employees, saying that it is driving away customers. Abby knows that she can bring an application to the Labour Board to regulate the picketing, but the Board cannot prohibit it entirely. Reluctant to deliver bad news to a key client, she tells Megatown's Vice-President, Harry, that she will "get the picket line shut down", because she will "do whatever Megatown needs, and always gets results." Harry tells Abby that he plans to go undercover on the picket line and pretend to be a member of another sympathetic union. He says he plans to use a hidden camera to record his interactions with the strikers, in the hope of finding out information that he can use to undermine the strike. He asks Abby to join him in this plan. *What should Abby tell Harry, and why? What should she do if Harry declines to follow her advice?*

**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.** Identify at least two barriers to the equality of women in the legal profession. What strategies have been/might be adopted to address these barriers and are they sufficient? Why do these barriers persist despite gender parity in law schools?

**B2.** Is it accurate to describe lawyers who represent corporate clients as occupying the role of "corporate conscience?" Does your answer change in any way when considering in-house counsel as opposed to lawyers in a firm?

**B3.** Should the mental health and/or substance misuse of applicants for admission to the profession be part of the consideration of “fitness” for membership? If so, how should this be measured in a way that is not discriminatory? If not, how can we ensure that we are not exposing clients and the reputation of the profession to undue risk?

**END OF EXAMINATION**