

**THIS EXAMINATION CONSISTS OF 4 PAGES
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**THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW**

FINAL EXAMINATION – DECEMBER 2021

**LAW 468.004 / 588.004
Ethics and Professionalism**

Chris Rusnak and Joel Morris

TOTAL MARKS: 100

**TIME ALLOWED: 2 HOURS
plus 15 minutes reading/preparation time**

- NOTE:
1. This is an open book examination.
 2. This examination consists of 10 questions totaling 100 marks.
 3. Answer all questions. 0 points will be awarded for blank responses.

MARKS

- 10 1. What does it mean that a lawyer is an “officer of the court”? Please explain the concept and provide three examples of how this duty applies.
- 15 2. Jane and Joan are accountants. They are partners in an accounting firm. A former client has commenced an action against them in negligence and breach of contract in relation to tax advice they provided. Jane and Joan approach you asking if they can retain you to represent both of them in the litigation.
- (i) Can you represent Jane and Joan? Please explain the applicable rule(s).
- (ii) If you think you can represent Jane and Joan, what must you do in this situation?
- (iii) Assume you decide to represent Jane and Joan. Several months into the retainer, Jane calls you and tells you she is concerned that Joan may have provided negligent advice to the former client, and thinks there may be a conflict. What should you do?
- 15 3. You are a criminal defence lawyer. Sideshow Bob, your client, is charged with conspiracy to import cocaine.
- (i) Without you asking him to do so, Sideshow Bob provides you with an audio file recording of his explanation to you of the details of his commission of the offence. What should you do in that situation?
- (ii) Instead of an audio file recording his explanation to you of the details of his commission of the offence, Sideshow Bob provides you with an audio file of a telephone call he had with one of his co-conspirators during the commission of the offence. He asks if you can “keep it safe for him.” What should you do in that situation?
- (iii) Assume you are provided with the information in (i), Sideshow Bob tells you he wants to plead not guilty and testify in his own defence that he never committed the offence. What should you do in those circumstances?

- 5 4. What ethical obligations apply when a lawyer is cross-examining a witness? Please provide an example to explain your answer.
- 15 5. You are retained to represent the Client in commercial litigation under a contingency fee agreement. The arrangement is desirable for the Client because it allows more cash flow to operate their business. After six months of work, the case unexpectedly settles. The value of the claim, \$50 million, is significantly more than you or the Client expected at the outset of the retainer. Your contingency fee is 10%. Your firm's billable time on the file was \$500,000. The Client refuses to pay your contingency fee. Please identify and address the principles and considerations for evaluating your fee.
- 5 6. (a) You are examining your client at trial. Unexpectedly, they give evidence that you believe is false, based on what you have discussed with them previously. What should you do?
- 5 6. (b) You are examining a witness (not your client) at trial. They give evidence that is different from what they told you during the meeting to prepare their evidence. What should you do?
- 5 7. Explain a lawyer's duty of confidentiality. What is the duty? When does the duty arise? When does the duty end?
- 15 8. Your client, ABC Corp., entered into a share purchase agreement with XYZ Ltd. Your client explains to you that they want the transaction to complete as soon as possible, and asks you to write to XYZ Ltd.'s counsel putting them on the following undertakings:
- (a) counsel will provide you with the documents executed by a representative of XYZ Ltd. by a specific date; and
- (b) counsel will provide you with funds by a specific date.
- Answer the following questions:
- (i) What is an undertaking? (3 marks)
- (ii) What is the significance of an undertaking? (2 marks)

- (iii) How should you respond to your client's request? In answering this question, please address each of the above undertakings. (10 marks)
- 5 9. What is a trust account? Why is it important to understand the rules regarding trust accounts?
- 5 10. Assume you are a senior lawyer. A young associate at your law firm tells you they are feeling a lot of anxiety which is making it difficult to focus on their work. What advice can you provide to this young associate?

END OF EXAMINATION