

Receive one-half hour of CLE credit in Ethics and Professionalism by reading the Sept. 2011 issue of NYPRR and answering the following questions. The answers are contained within the newsletter. Return this form, together with your payment of \$15 by check or money order. For both true-false questions and multiple-choice questions, mark the correct box with an "x". You must score 80 (16 out of 20 correct) to receive a certificate.

1. The Comments to the Rules of Professional Conduct were:
 - written by the four Appellate Divisions*
 - a collaboration of the Appellate Divisions and the State Bar*
 - written entirely by COSAC, a committee of the State Bar.*
2. The Comments were:
 - requested by the Appellate Divisions*
 - drafted to accompany new Rules of Conduct proposed by COSAC*
 - intended as a guide to the Appellate Divisions in formulating their Rules.*
3. The Comments are:
 - aspirational guides to the meaning and application of the Rules*
 - enforceable by disciplinary action*
 - standards enabling the public to understand what lawyers do.*
4. The NYSBA was forced to amend and add many Comments because:
 - the Appellate Divisions released the Rules without consulting the Association*
 - COSAC decided the Comments needed clarification*
 - many NYSBA members had recommended changes in the Comments.*
5. A Rule dealing with potential conflicts between judges and litigants is necessary because:
 - judges bring their biases to the bench with them*
 - retired judges often return to active practice*
 - retired judges often become "of counsel" to a law firm.*
6. As proposed by the State Bar, Rule 1.12(a) would have applied:
 - only to lawyers who had served as judges*
 - only to lawyers who had served as third-party neutrals*
 - to every lawyer who had served as a judge or a third-party neutral.*
7. The State Bar's proposals relied upon the following concept:
 - conflicts of interest can be resolved by the consent of all parties, confirmed in writing*
 - conflicts between a client and a former judge who acted on the merits in a matter involving the client are not waivable*
 - a client may waive a conflict with a former judge only if the judge acknowledges the conflict in writing.*
8. As adopted by the Courts, Rule 1.12 is divided into two parts which distinguish between:
 - trial judges and appellate judges*
 - judges and arbitrators or mediators*
 - judges and practicing lawyers.*
9. Roy Simon acknowledges that the Courts were right to make the conflicts of a former judge unwaivable because:
 - a more permissive rule might raise public suspicion about the former judge's motives*
 - a client would have more difficulty recognizing a potential conflict than a former judge*
 - the integrity of the judicial system should never be put into question.*
10. In creating its Comments, COSAC followed the numbering rules of the:
 - ABA's Comments to the Model Rules*
 - Ethical Considerations in the Code of Professional Responsibility*
 - Dewey Decimal System.*
11. Whenever COSAC concluded that an ABA Comment was inconsistent with its Comment, it would insert, following the Comment number, the legend:
 - Inconsistent with the comparable ABA Comment*
 - [Reserved]*
 - Not Applicable*

12. Comment [13] to Rule 3.3 was made necessary because:
- the Appellate Divisions had unilaterally inserted a new Section (f) to Rule 3.3*
 - COSAC's instructions were to comment on every provision of every Rule*
 - Section (f) was a composite of prior Code provisions, ECs, and new ideas.*
13. Rule 3.5(b) prohibits contact with a juror concerning a matter on trial by:
- a lawyer connected with the matter*
 - any lawyer, whether or not connected with the matter*
 - a lawyer employed by the courts.*
14. The prohibition against juror contact in Rule 3.5 extends to:
- friends and associates of the juror*
 - the wife or husband of a juror*
 - all members of the juror's family.*
15. Rule 3.5(d) requires a lawyer to disclose to the court:
- the misconduct of another lawyer*
 - knowledge of improper conduct by or toward jurors*
 - acts by a client that the lawyer reasonably believes are criminal or fraudulent.*
16. As originally worded by COSAC, Rule 6.1 defined a lawyer's pro bono services as:
- entirely voluntary*
 - a professional obligation*
 - strongly encouraged.*

17. A lawyer can perform services defined as pro bono by:
- rendering legal services to poor persons*
 - rendering legal services without compensation*
 - rendering legal services in civil rights matters.*
18. In its Comment [3] to Rule 6.1, the NYSBA defined "poor persons" as:
- persons unable to pay for food and housing*
 - individuals who qualify for participation in programs funded by the Legal Services Corporation*
 - persons below the income thresholds of the Census Bureau.*
19. Comment [5] to Rule 6.1 provides that public sector lawyers and judges who are restricted from performing pro bono services may instead:
- make financial contributions to organizations that help meet the legal needs of the poor*
 - participate in organizations that promote the right of all citizens to vote*
 - advise student clinics at a law school.*
20. Roy Simon believes that:
- many of the Rules proposed by COSAC were preferable to the Rules adopted by the Appellate Divisions*
 - COSAC's work in tying the Comments to the Rules is finished*
 - COSAC was wrong to model its Comments after the Model Rules.*

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