

California Bar Essay Exam @ 2023

Duty of Competence - Answer A lawyer shall represent the client with the legal knowledge, skill, thoroughness and preparation reasonably necessary. Includes mental and physical. May associate with another attorney or study to become competent.

Conflict of Interest (Concurrent, General Rule) - Answer The general rule is that the lawyer may not represent a client where there is a conflict of interest.

Conflict of Interest (Between Current Clients) - Answer A concurrent conflict of interest exists if the representation of one client is directly adverse to another client.

Conflict of Interest (Between Current Client and Another) - Answer A concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person or by a personal interest of the lawyer.

ABA Exceptions to Concurrent Conflicts - Answer Lawyer reasonably believes he will be able to provide competent and diligent representation to each client, the representation is not limited by law, the clients are not asserting a claim against each other and each client gives informed written consent.

CA Exceptions to Concurrent Conflicts - Answer May still represent where there is informed written consent.

Written Disclosure - Answer Lawyer may still represent client with only written disclosure where the conflict results from the lawyer's relationship with a party or witness in the same matter. ABA requires written consent.

Aggregate Settlements - Answer A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims or an aggregate plea unless each client gives informed written consent.

Insurance (California Rule) - Answer Lawyers are permitted to represent both insurers and clients whereby the insurer has the contractual right to select counsel for the insured, resulting in no conflict of interest.

Common Law vs. UCC - Answer UCC covers all contracts for the sale of goods. Common law governs all other contracts.

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DJ Losen



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