

# Ontario Barrister and Solicitor Practice Exam (Sample)

## Study Guide



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**SAMPLE**

## **Questions**

- 1. What skills must a lawyer ensure his support staff have training in?**
  - A. Proper handling of client property and money**
  - B. Marketing and client acquisition techniques**
  - C. Advanced computational analysis**
  - D. Software development**
- 2. How should a lawyer manage client funds according to ethical standards?**
  - A. Keep them in a personal bank account**
  - B. Hold them in a joint account with the client**
  - C. Keep them in a separate trust account**
  - D. Invest them in a high-risk venture for growth**
- 3. What is the corporate tax credit claimed by a Canadian taxpayer against their dividend income?**
  - A. 15% of federal tax rate of 33%**
  - B. 6/11 of federal tax rate of 33% and 10% of total taxable income for provincial rate.**
  - C. 5% flat rate on all dividend income.**
  - D. 8/11 of federal tax rate of 33%.**
- 4. Who has the authority to change a will?**
  - A. The person making the will or testator**
  - B. The lawyer of the testator**
  - C. Any family member**
  - D. The court**
- 5. What does "intestate succession" mean?**
  - A. A legal argument contesting the validity of a will**
  - B. The distribution of assets when someone dies without a will**
  - C. A process to determine the most significant heir**
  - D. The legal procedure for contesting an estate's distribution**

- 6. What is one way a lawyer demonstrates adherence to ethical standards?**
- A. By minimizing client interactions**
  - B. By publicly criticizing colleagues**
  - C. By actively communicating about potential conflicts of interest**
  - D. By promoting their personal legal victories over client needs**
- 7. In which situation would an employer most likely be found liable under vicarious liability?**
- A. When an employee commits a crime during work hours**
  - B. When an employee acts outside the scope of their employment**
  - C. When an employee is negligent while performing job duties**
  - D. When an employee voluntarily attends a work-related event**
- 8. What is the requirement for a lawyer to practice in Ontario?**
- A. Completion of a law degree**
  - B. Passage of the Ontario Bar Exam**
  - C. Must be licensed by the Law Society of Ontario**
  - D. Membership in the Canadian Bar Association**
- 9. How may a corporate seller exercise an unpaid seller's lien on a defaulting corporation?**
- A. By taking legal action**
  - B. By seizing assets directly**
  - C. By giving notice to an affiliate of the buyer**
  - D. By cancelling the sale agreement**
- 10. Which principle is fundamental to tort law?**
- A. A lack of legal representation**
  - B. A person may be liable for harm caused by their wrongful acts**
  - C. All accidents are negligent**
  - D. Intent does not matter in tort cases**

## **Answers**

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1. A
2. C
3. B
4. A
5. B
6. C
7. C
8. C
9. C
10. B

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## **Explanations**

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**1. What skills must a lawyer ensure his support staff have training in?**

- A. Proper handling of client property and money**
- B. Marketing and client acquisition techniques**
- C. Advanced computational analysis**
- D. Software development**

Support staff in a law firm are responsible for assisting lawyers with various tasks, such as managing client documents, scheduling appointments, and organizing case files. It is crucial for them to have proper training in handling client property and money to ensure that these tasks are performed accurately and ethically. Option B, marketing and client acquisition techniques, is not a necessary skill for support staff as it falls under the responsibilities of the lawyer. Option C, advanced computational analysis, and Option D, software development, are not relevant skills for support staff in a law firm.

**2. How should a lawyer manage client funds according to ethical standards?**

- A. Keep them in a personal bank account**
- B. Hold them in a joint account with the client**
- C. Keep them in a separate trust account**
- D. Invest them in a high-risk venture for growth**

A lawyer is ethically required to manage client funds in a manner that ensures their protection and proper accounting. Keeping client funds in a separate trust account is the standard practice to safeguard these funds. This means that the funds are not mingled with the lawyer's personal funds or used for personal expenses. Trust accounts are specifically designed for holding client funds, providing a clear record of transactions and protecting the client's money from any potential financial issues that the lawyer may face. Any interest accrued from these accounts usually belongs to the client or may be directed to legal aid or similar services, depending on the jurisdiction's regulations. As for the other options, keeping client funds in a personal bank account poses a significant risk of misappropriation and does not meet ethical standards. Holding the funds in a joint account with a client can create complications regarding ownership and control of the funds. Investing client funds in a high-risk venture without explicit consent would not only breach ethical standards but could also result in significant financial loss for the client, violating the fiduciary duty owed to them. Therefore, maintaining the funds in a separate trust account is the correct practice for adhering to the ethical standards expected of legal professionals.

**3. What is the corporate tax credit claimed by a Canadian taxpayer against their dividend income?**

**A. 15% of federal tax rate of 33%**

**B. 6/11 of federal tax rate of 33% and 10% of total taxable income for provincial rate.**

**C. 5% flat rate on all dividend income.**

**D. 8/11 of federal tax rate of 33%.**

A and D are incorrect because they do not accurately represent the corporate tax credit claimed by a Canadian taxpayer against their dividend income. A states that it is 15% of the federal tax rate of 33%, which is 4.95%. However, in reality, the credit is 6/11 of the federal tax rate (approximately 18.3%) and an additional 10% of the total taxable income for the provincial rate. D states that it is 8/11 of the federal tax rate, which is approximately 29%, but again, this is not the accurate calculation. C is also incorrect because it is a flat rate of 5% on all dividend income. The actual calculation involves a combination of different rates and percentages based on the federal and provincial tax rates. Therefore, the correct answer is B, which accurately represents the corporate tax credit claimed by a Canadian taxpayer against

**4. Who has the authority to change a will?**

**A. The person making the will or testator**

**B. The lawyer of the testator**

**C. Any family member**

**D. The court**

The authority to change a will lies solely with the person making the will, known as the testator. This is because a will is a personal declaration of intent regarding the distribution of one's estate after death, and only the testator possesses the legal capacity to make alterations to this document. The testator can change their will as long as they are of sound mind and follow the required formalities, which may include writing the changes and ensuring proper witnessing, depending on the jurisdiction's laws. A lawyer may provide assistance and guidance in making changes, but they do not have unilateral authority to change the will without the testator's explicit consent and direction. Family members, despite their interest in the estate, do not have the legal right to alter a will. Similarly, the court can only intervene in situations where the validity of a will is challenged or if an estate is being administered, but it does not hold the power to make changes to a will at will. In summary, the correct answer is grounded in the principle that the power to amend a will rests exclusively with the testator, reflecting their rights to control the disposition of their estate.

## 5. What does "intestate succession" mean?

- A. A legal argument contesting the validity of a will
- B. The distribution of assets when someone dies without a will**
- C. A process to determine the most significant heir
- D. The legal procedure for contesting an estate's distribution

Intestate succession refers to the process through which a deceased person's assets are distributed when they have died without a valid will. In this scenario, the laws of intestate succession, which can vary by jurisdiction, determine how the assets are allocated among the surviving relatives, such as spouses, children, and other family members. This system is designed to ensure that the deceased's estate is distributed in a manner that reflects societal norms and expectations regarding familial relationships. Understanding intestate succession is important as it highlights the lack of control individuals have over the distribution of their assets when they do not create a will. Engaging with this concept also emphasizes the significance of estate planning, as it allows individuals to specify their wishes and avoid the default distribution that intestate succession mandates. The other options do not accurately define intestate succession: a legal argument contesting the validity of a will pertains to challenges against a will's legitimacy rather than asset distribution, determining the most significant heir does not encompass the full breadth of intestate succession as it involves broader family dynamics, and contesting an estate's distribution relates more to disputes over an estate after a will has been established rather than processes initiated due to a lack of a will.

## 6. What is one way a lawyer demonstrates adherence to ethical standards?

- A. By minimizing client interactions
- B. By publicly criticizing colleagues
- C. By actively communicating about potential conflicts of interest**
- D. By promoting their personal legal victories over client needs

Actively communicating about potential conflicts of interest is a fundamental aspect of a lawyer's ethical responsibilities. This practice reflects a commitment to transparency and integrity, which are core tenets of professional conduct in the legal field. By openly discussing conflicts of interest, a lawyer enables clients to make informed decisions about their representation and helps to maintain trust in the attorney-client relationship. This communication ensures that clients are aware of any circumstances that might influence the lawyer's impartiality or ability to represent them effectively, thereby upholding the ethical standards that govern the profession. In contrast, the other options do not align with ethical guidelines. Minimizing client interactions could hinder the effective representation and undermine client advocacy. Publicly criticizing colleagues not only violates the principle of professionalism but also contravenes the collaborative nature of the legal community. Promoting personal legal victories over client needs shifts the focus from serving client interests to self-promotion, which is ethically inappropriate.

**7. In which situation would an employer most likely be found liable under vicarious liability?**

- A. When an employee commits a crime during work hours**
- B. When an employee acts outside the scope of their employment**
- C. When an employee is negligent while performing job duties**
- D. When an employee voluntarily attends a work-related event**

The concept of vicarious liability holds an employer legally responsible for the actions of an employee performed within the scope of their employment. This means that if an employee causes harm or damages due to negligence while carrying out their job duties, the employer can be held liable for those actions. This principle is grounded in the idea that employers benefit from their employees' work and should bear the cost of those risks associated with it. In the context of negligence, if an employee fails to meet the standard of care expected in their role, leading to someone else's injury or damage to property, the employer can be implicated for failing to adequately supervise or train the employee. The employer's liability arises because the negligent act is performed as part of the employee's responsibilities at work. The other situations generally do not fall under vicarious liability. If an employee commits a crime during work hours, the employer may not be responsible unless the crime is closely related to the employee's duties. Acts outside the scope of employment usually do not result in employer liability, as the principle of vicarious liability requires the act to be connected to the employee's work. Voluntary attendance at work-related events may involve different liability considerations, often relating more to personal conduct rather than employer oversight.

**8. What is the requirement for a lawyer to practice in Ontario?**

- A. Completion of a law degree**
- B. Passage of the Ontario Bar Exam**
- C. Must be licensed by the Law Society of Ontario**
- D. Membership in the Canadian Bar Association**

To practice law in Ontario, a lawyer must be licensed by the Law Society of Ontario. This licensing process ensures that the lawyer has met the required standards of education, training, and ethical practice mandated by the Law Society, which is the governing body for lawyers in Ontario. Obtaining a license is a crucial step that affirms the lawyer's eligibility to represent clients and provide legal services within the province. The licensing process includes not only passing examinations such as the Ontario Bar Exam, but also fulfilling articling requirements and demonstrating good character. While completing a law degree and passing the bar exam are important steps in becoming a lawyer, they are part of the overall process leading to licensure. Membership in the Canadian Bar Association, while beneficial for professional networking and resources, is not a legal requirement for practicing law in Ontario. Thus, being licensed by the Law Society of Ontario is the foundational requirement for any lawyer wishing to practice in the province.

**9. How may a corporate seller exercise an unpaid seller's lien on a defaulting corporation?**

- A. By taking legal action**
- B. By seizing assets directly**
- C. By giving notice to an affiliate of the buyer**
- D. By cancelling the sale agreement**

A corporate seller may exercise an unpaid seller's lien on a defaulting corporation by giving notice to an affiliate of the buyer. This means that the seller must inform another company or entity that is related to the buyer of the default and the seller's intention to exercise their lien. Option A, taking legal action, may be a viable option but it is typically a last resort and can be a lengthy and costly process. Option B, seizing assets directly, may not be feasible if the assets are not easily accessible or if there are legal restrictions. Option D, cancelling the sale agreement, may be an option but it does not necessarily allow the seller to recover any unpaid amounts.

**10. Which principle is fundamental to tort law?**

- A. A lack of legal representation**
- B. A person may be liable for harm caused by their wrongful acts**
- C. All accidents are negligent**
- D. Intent does not matter in tort cases**

The fundamental principle of tort law is that a person may be liable for harm caused by their wrongful acts. This concept underscores the basis for holding individuals or entities accountable for the injuries or damages they cause to others through negligent, intentional, or strict liability actions. Tort law exists to provide a remedy to victims when they have suffered harm due to someone else's conduct. This principle is essential to understanding the nature of liability in tort cases, as it connects the act (the wrongful act) to the consequence (the harm or injury), establishing the foundation for claims and legal recourse. In contrast, while the option concerning a lack of legal representation may influence the ability of a party to navigate the legal system, it does not constitute a fundamental principle of tort law itself. Additionally, the idea that all accidents are negligent is overly simplistic, as not all accidents result from negligent behavior; some may occur due to unforeseen circumstances or acts of God. Finally, the statement that intent does not matter in tort cases is misleading because intent can be very relevant, especially in cases of intentional torts where the nature of the action lends itself to a different standard of liability. Thus, the liability arising from wrongful acts is a key tenet that shapes the practice and principles of tort law