

# **TEST BANK Business Law in Canada 13/CE Richard Yates**

## **Ch 1. Managing Your Legal Affairs**

1. **In the context of a sophisticated client, "sophisticated" can best be defined as**
  - a. complicated, self-reliant, and cosmopolitan.
  - b. refined and cultured.
  - c. simple and naïve.
  - d. confident, knowledgeable, and up to date.
  - e. aggressive, dynamic, and forceful.
2. **Which of the following best describes the likelihood of a student becoming involved in a situation necessitating legal advice?**
  - a. A student, or someone close to a student, sometimes becomes involved in such a situation.
  - b. A student, or someone close to the student, will always become involved in such a situation.
  - c. Because students are not business people, they never become involved in such situations.
  - d. Because students cannot be sophisticated, they will often become involved in such situations.
  - e. Legal advice is not available to students.
3. **Raman is a sophisticated client. This means that she**
  - a. understands how to manage a lawyer-client relationship.
  - b. has a law degree.
  - c. is a small business owner.
  - d. manages her legal affairs without assistance from a lawyer.
  - e. will probably never find herself in a situation necessitating legal advice.
4. **Which of the following is *not* a good reason for a businessperson to seek advice from a lawyer?**
  - a. The businessperson cannot find the necessary legal information.
  - b. The businessperson cannot understand the necessary legal information.
  - c. The necessary legal information is available online.
  - d. It would take too long for the businessperson to find the necessary legal information.
  - e. The businessperson is facing criminal charges.
5. **For sophisticated clients, the availability of an abundance of legal information online is**
  - a. a negative development, because online information is rarely accurate or helpful.
  - b. a positive development, because it means that they will no longer need to retain lawyers as part of their team.
  - c. a negative development, because accessing this information tends to be more costly than retaining a lawyer.
  - d. a positive development, because it provides greater access to information they can use as part of their decision-making process.
  - e. a neutral development, because lawyers are still the only ones able to access this information.
6. **When searching online for legal information, it is best to**
  - a. trust that if it is published online, it must be accurate.
  - b. never trust the information found on a website.
  - c. use American sources, as they tend to be more comprehensive than Canadian ones.
  - d. gauge the accuracy of the information by the look of the website.
  - e. seek input from a lawyer when answers cannot be readily found.
7. **Sophisticated clients**
  - a. do not need to retain a lawyer.
  - b. know that it is better to hire a lawyer than to conduct research on one's own.
  - c. are willing to pay for legal advice at any cost.
  - d. tend to be embarrassed to request legal advice.
  - e. have the skill and confidence to find basic legal information.

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8. **The primary purpose of an initial consultation with a lawyer is**
  - a. to arrange payment of the lawyer's fees up front.
  - b. to develop strategies for dealing with the legal situation in question.
  - c. for the prospective client to decide whether to retain the lawyer.
  - d. for the prospective lawyer to help mediate the current dispute.
  - e. to discuss the availability of Legal Aid.
9. **The decision to enter the lawyer-client relationship should be**
  - a. made quickly to ensure that no one else can retain your lawyer.
  - b. solely up to the lawyer, as he or she is the one with the legal training.
  - c. made primarily on the basis of cost.
  - d. a mutual decision made primarily on the basis of trust.
  - e. solely up to the client, as the client is the one paying for the services.
10. **When someone refers you to a particular lawyer, you should**
  - a. retain the lawyer regardless of who gave you the referral.
  - b. gauge the referral on the basis of the level of trust you have for the person making the referral.
  - c. retain the lawyer regardless of their area of practice.
  - d. ensure the referral is from a family member rather than a mere friend.
  - e. ignore the referral as irrelevant.
11. **A lawyer referral service**
  - a. will enable a businessperson to retain a lawyer without need for an initial consultation.
  - b. is an online fee-based service providing guaranteed results.
  - c. regulates the legal profession in the interest of the public.
  - d. provides the names and phone numbers of lawyers who practice in a particular area of law.
  - e. is also known as "Legal Aid".
12. **A provincial law society**
  - a. is a self-governing body for lawyers.
  - b. has as its mandate the provision of free legal services in the public interest.
  - c. operates primarily to offer low-cost legal advice to members.
  - d. operates primarily to enhance the commercial interests of its members.
  - e. is a self-governing body for businesspeople seeking legal advice.
13. **Becoming a sophisticated client will**
  - a. ensure that a business person never needs a lawyer.
  - b. help a business person manage her legal affairs more efficiently and effectively.
  - c. result in a business person developing a bias against lawyers.
  - d. relieve a business person from having to conduct legal research.
  - e. protect a business person from needing legal advice.
14. **The Canadian Bar Association is**
  - a. the national society for legal aid services.
  - b. a professional organization that represents judges and lawyers.
  - c. focused on enhancing public safety in the liquor distribution industry.
  - d. an organization responsible for reviewing lawyers' accounts.
  - e. a disciplinary body for members of the legal profession.
15. **When setting up a small business, the best approach to follow is to assume that after the business has been set up and commences operating,**

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- a. the lawyer you chose to assist you in the start-up of the business will continue to represent you.
  - b. the lawyer you chose to assist you in the start-up of the business will refer you to a different lawyer.
  - c. a lawyer will no longer be required.
  - d. you will not need legal advice, as long as you are a sophisticated client.
  - e. the lawyer you chose to assist you in the start-up of the business will provide free legal services for the duration of the business's operation.
16. **Which of the following is *not* an advantage to maintaining an ongoing relationship with your lawyer?**
- a. The lawyer will know and understand you and your business.
  - b. The lawyer will be able to provide legal advice more efficiently, thereby reducing your legal costs.
  - c. The lawyer will be able to customize legal advice so it will be even more useful to you.
  - d. The lawyer will automatically track your business activities so that he or she can provide constant advice and guidance.
  - e. The lawyer will be motivated to do even more for the client.
17. **Legal fees**
- a. are always calculated in a single, specified way.
  - b. should not be discussed with a lawyer until a bill has been prepared.
  - c. are typically negligible.
  - d. should be discussed during the initial consultation with the lawyer.
  - e. are rarely the subject of confusion or misunderstanding.
18. **Which of the following statements is correct?**
- a. It is a popular misconception that legal services can be very costly.
  - b. Some people don't retain lawyers even when they need them because they are afraid of the cost.
  - c. All legal matters are billed to clients on an hourly basis.
  - d. It is considered unprofessional to raise the issue of fees during a consultation with a lawyer.
  - e. Lawyers should always be retained, regardless of the cost.
19. **Contingency fee agreements**
- a. are typically used for real estate purchases, the drafting of wills, and incorporations.
  - b. are not subject to any restrictions.
  - c. are synonymous with retainer agreements.
  - d. may result in a lawyer not receiving any legal fees for the work done on a file.
  - e. must be prepared for all lawyer-client relationships.
20. **Which of the following statements regarding provincial law societies is *false*?**
- a. Provincial law societies may restrict the use of contingency fee agreements.
  - b. Provincial law societies may set maximum contingency fees for certain types of cases.
  - c. Provincial law societies may offer a fee mediation service.
  - d. Provincial law societies provide online information on lawyers' fees.
  - e. Provincial law societies provide free legal services to people in need.
21. **Typically, lawyers bill their fees on the basis of which of the following?**
- a. A fixed fee, an hourly rate, or a contingency fee
  - b. A fixed fee, a pro rata distribution, or a contingency fee
  - c. A stipend, a pro rata distribution, or an hourly rate
  - d. A stipend, an hourly rate, or a contingency fee
  - e. A fixed fee, a stipend, or a pro rata distribution

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22. **Which of the following statements regarding retainers is *false*?**
- a. Before commencing work on a matter for a new client, a lawyer usually requests that a retainer be paid.
  - b. Provincial law societies typically restrict the use of retainers to personal injury or product liability cases.
  - c. A retainer is deposited into a trust account to the credit of the client.
  - d. The lawyer may require the client to "top up" the retainer as funds are withdrawn from the trust account to pay legal bills.
  - e. A retainer helps ensure that lawyers will be paid for their legal services.
23. **A retainer**
- a. works to secure the release of an arrested person.
  - b. refers to the costs incurred by a lawyer on a client's behalf.
  - c. is the amount a lawyer will receive when charging based on a contingency fee agreement.
  - d. works as a deposit.
  - e. is the amount a client must pay that is in addition to regular legal fees and disbursements.
24. **Having a good lawyer on your team is**
- a. usually too expensive to be worthwhile.
  - b. only necessary for large companies.
  - c. a good alternative to becoming a sophisticated client.
  - d. a legal requirement prior to incorporating a business.
  - e. a critical component of being a sophisticated client.
25. **Legal aid is**
- a. universally available, regardless of subject matter or financial need.
  - b. available to anyone who can demonstrate financial need, regardless of subject matter.
  - c. available exclusively for criminal law issues, subject to demonstrated financial need.
  - d. only available for business law issues.
  - e. available subject to substantive and financial eligibility requirements.
26. **Which of the following statements is most accurate?**
- a. If you have a legal problem and cannot afford a lawyer, you may be eligible for legal aid.
  - b. If you have a legal problem and cannot afford a lawyer, one will be provided for you.
  - c. If you qualify for legal aid, you will automatically be exempt from all legal costs.
  - d. Everyone qualifies for legal aid.
  - e. Everyone can afford a lawyer.
27. **If you collect money as a result of a settlement or judgment obtained through the assistance of legal aid, you will**
- a. probably have to repay some or all of the legal aid benefits you received.
  - b. probably be ineligible to enforce the settlement or judgment if the debtor refuses to pay.
  - c. probably be able to keep the full amount of the settlement or judgment.
  - d. be required to turn the amount of the settlement or judgment over to legal aid.
  - e. be required to turn the amount of the settlement or judgment over to the court.
28. **A small business owner**
- a. is wise to obtain legal aid for business matters rather than having to incur legal costs.
  - b. is automatically entitled to legal aid assistance.
  - c. is usually not able to receive legal aid with respect to the type of legal issues involving the business.
  - d. should always use duty counsel rather than having to retain a lawyer.
  - e. should retain duty counsel to draft contracts outlining legal duties.

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29. **Which of the following statements regarding duty counsel is accurate?**
- a. Duty counsel can provide limited assistance in certain court matters.
  - b. Duty counsel are available to assist in a wide range of business law issues.
  - c. There is an advantage to using duty counsel rather than retaining one's own lawyer.
  - d. Duty counsel typically take on your entire case and represent you at trial.
  - e. There is a lengthy application process to obtain duty counsel.
30. **Duty counsel are typically available**
- a. for small claims and real estate disputes.
  - b. in superior court bankruptcy matters.
  - c. for commercial litigation.
  - d. in criminal courts, family courts, or immigration hearings.
  - e. to review and draft a variety of contracts.
31. **Duty counsel are**
- a. lawyers who assist individuals in court who are not represented by a lawyer.
  - b. non-lawyers who provide advice to those in financial need.
  - c. legal assistants who offer legal services at rates significantly lower than those charged by lawyers.
  - d. retired lawyers and judges who volunteer through legal aid societies.
  - e. law students who are fulfilling requirements established by a provincial law society.
32. **Provincial law societies**
- a. exist primarily to assist clients with complaints concerning fees.
  - b. provide compensation to clients who are unhappy with legal services.
  - c. guarantee success in litigation matters.
  - d. among other things, deal with complaints regarding a lawyer's conduct.
  - e. are non-profit law firms offering a range of legal services.
33. **If you have a complaint about the fees being charged by your lawyer**
- a. you should not discuss your concerns with your lawyer directly.
  - b. you can have your bill reviewed by a court official.
  - c. you must participate in a fee mediation service.
  - d. your provincial law society represents your only course of action.
  - e. you should begin by commencing a court action.
34. **Fee mediation**
- a. is compulsory whenever a client raises a concern about a lawyer's bill.
  - b. is offered by every provincial law society as the primary means of dispute resolution for complaints regarding lawyers' fees.
  - c. involves a review of a lawyer's bill by a court official.
  - d. involves a judge who determines whether or not a lawyer's bill is reasonable.
  - e. involves a neutral mediator who tries to facilitate a mutually acceptable resolution of a dispute over fees charged by a lawyer.
35. **Which of the following best describes the role of the lawyer?**
- a. The lawyer makes the legal decisions for the client.
  - b. The lawyer is simply one of the experts the businessperson consults.
  - c. The client must follow the lawyer's instructions, as long as they are lawful.
  - d. The client makes decisions regarding civil matters; the lawyer makes decisions regarding criminal matters.
  - e. The lawyer makes decisions regarding civil matters; the client makes decisions regarding criminal matters.

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36. **A client who is unable to resolve a fee dispute with a lawyer can have the lawyer's bill reviewed by a court official. These court officials have the power to**
- impose fines on either the client or the lawyer.
  - order that a lawyer be taken into custody.
  - leave the bill unchanged or decide that the bill is too high and reduce it accordingly.
  - require that the client and lawyer attend fee mediation.
  - authorize compensation to be paid by the provincial law society.
37. **A provincial law society's complaint-resolution process usually begins with**
- an attempt at mediating the dispute between the client and the lawyer.
  - a review of the complaint by a court official.
  - a formal investigation.
  - a hearing before a panel.
  - oral submissions by legal counsel.
38. **Complaints made to the provincial law society regarding a lawyer's conduct may result in a hearing. This hearing**
- results in compensation being paid to the client who made the complaint.
  - involves the testimony of witnesses and the entering of other evidence.
  - is held in the absence of legal counsel.
  - is held before a superior court judge.
  - can result in a finding of misconduct, although the law society does not have the power to impose penalties.
39. **If you cannot resolve a fee dispute with your lawyer, you could**
- have your bill reviewed by the appropriate court official.
  - refuse payment on ethical grounds.
  - refuse payment on legal grounds.
  - sue your lawyer for non-payment.
  - make a formal complaint to the bar association.
40. **If a law society panel finds a lawyer guilty of misconduct, the penalty could include all of the following except**
- a fine.
  - a suspension.
  - disbarment.
  - incarceration.
  - costs of the hearing.
41. **If you believe that you have suffered a financial loss because of your lawyer's misconduct**
- you should wait as long as possible before you proceed.
  - you should have the matter reviewed by a taxation or assessment officer.
  - you may be compensated by the bar association at the end of their investigation.
  - you may need to seek legal advice from another lawyer.
  - you will automatically be awarded compensation by the provincial law society at the end of their hearing.
42. **Lawyers' rules of professional conduct**
- are recommended guidelines only.
  - will, if breached, automatically result in a lawyer facing criminal charges.
  - establish professional and ethical obligations of lawyers.
  - are established by the Canadian Bar Association.
  - are generally not taken seriously by members of the legal profession.

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43. **Which of the following statements best describes the difference between law and ethics?**
- a. Ethics tells us what we must do; law tells us what we should do.
  - b. Law tells us what we must do; ethics tells us what we should do.
  - c. Law and ethics are interchangeable.
  - d. If people act unethically, they have broken the law.
  - e. People need not worry about acting legally, as long as they act ethically.
44. **A lawyer can be disciplined for**
- a. maintaining prescribed financial records
  - b. conducting monthly bank reconciliations
  - c. acting in a professional manner
  - d. failing to serve a client in a competent, diligent manner
  - e. failing to obtain a successful judgment for a client
45. **The Canadian "Code of Professional Conduct" for businesspeople**
- a. establishes the professional and ethical obligations of businesspeople.
  - b. was created by the provincial business society.
  - c. has been used to prosecute several high-profile cases.
  - d. is the same as the lawyers' code of conduct.
  - e. does not exist.
46. **One reason for a lack of respect for lawyers is that**
- a. many people do not understand the role of the lawyer in the solicitor-client relationship.
  - b. lawyers are not bound by a code of professional conduct.
  - c. lawyers who breach their duties are generally not subject to any punishment.
  - d. lawyers are rarely able to provide information or advice relevant to business matters.
  - e. the cost of legal advice generally outweighs its benefit.
47. **Sophisticated clients who are starting a business should**
- a. make a commitment to ethical behaviour and prepare a statement of values.
  - b. only concern themselves with ethical behaviour that is required by law.
  - c. consult a lawyer about how to engage in unethical behaviour undetected.
  - d. refrain from reporting illegal or unethical behaviour.
  - e. opt not to prepare a code of conduct because of potential liability exposure in the event of a breach.
48. **You can enhance the success of your business by**
- a. personally adopting core values and incorporating them into a code of conduct for the business.
  - b. incorporating core values into a code of conduct, regardless of whether or not you adopt those values personally.
  - c. relying on the Canadian Code of Professional Conduct for Businesspeople.
  - d. retaining a lawyer who is willing to engage in unethical conduct on your behalf.
  - e. not seeking legal advice in cases where your conduct may be questionable, as you will then be bound by the lawyer's code of professional conduct.
49. **Which of the following does *not* represent a core ethical value identified by the Josephson Institute for Ethics?**
- a. Respect
  - b. Fairness
  - c. Courage
  - d. Caring
  - e. Citizenship

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50. **According to the Josephson Institute for Ethics, the core ethical value of trustworthiness has as its supporting ethical principles**
- respect, autonomy, courtesy, self-determination.
  - justice, fairness, impartiality, equity.
  - caring, kindness, compassion.
  - citizenship, philanthropy, voting.
  - truthfulness, sincerity, candor, integrity, promise keeping, loyalty, honesty.
51. **The International Organization of Standardization has prepared a voluntary standard on social responsibility with a goal to**
- help organizations to operate in a socially responsible manner
  - help organizations avoid following human rights legislation
  - help organizations to avoid following labor laws
  - help organizations to operate without regard to the environmental impact
  - help organizations to avoid committing to social responsibility
52. **A best practice approach would be to operate your business in a socially responsible manner that will**
- benefit your financial bottom line
  - improve your ability to increase your environmental impact
  - improve your relationship with the community
  - help create a method of "doing good" for your business
  - help create consumer issues
53. **The role of the lawyer is to**
- provide legal advice relevant to the client's situation, which the client is free to ignore.
  - provide legal advice relevant to the client's situation, which the client has no choice but to follow.
  - tell clients what they must do.
  - tell clients what they must not do.
  - delay the client's decision-making process.
54. **Which of the following statements best describes solicitor-client privilege?**
- The lawyer makes the legal decisions for the client.
  - The lawyer is the only expert a client should consult.
  - The lawyer must follow the client's instructions, even if they are illegal in nature.
  - It is the duty of the lawyer to keep the information provided by the client confidential.
  - The lawyer makes decisions regarding civil matters; the client makes decisions regarding criminal matters.
55. **The purpose of solicitor-client privilege is to**
- provide the lawyer with all the clients information
  - provide the lawyer with only the clients important information
  - allow the client to decide what information to give the lawyer
  - allow the lawyer to disclose all client information
  - allow the client to decide whether or not to disclose information
56. **Sophisticated clients**
- do not require the services of a lawyer.
  - understand the importance of the solicitor-client relationship.
  - distrust and deride lawyers.
  - is someone with formal legal training.
  - should represent themselves, rather than paying for legal services.



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57. **A sophisticated client knows how to form and use the solicitor-client relationship to facilitate making good business decisions.**  
a. True  
b. False
58. **Generally, good business decisions cannot be made without consideration of the appropriate laws.**  
a. True  
b. False
59. **There is sufficient information in the Yellow Pages to help a person decide whether a particular lawyer would be appropriate.**  
a. True  
b. False
60. **Given the growing complexity of the law and the consequence that more lawyers specialize, a businessperson might have multiple lawyers.**  
a. True  
b. False
61. **A retainer is the amount a client must pay to a lawyer over and above regular legal fees.**  
a. True  
b. False
62. **Provincial law societies may restrict the use of contingency fee agreements.**  
a. True  
b. False
63. **Most provinces set a minimum contingency fee for family law cases.**  
a. True  
b. False
64. **It is more advantageous to retain your own lawyer than to simply use duty counsel.**  
a. True  
b. False
65. **Small business owners are usually able to receive legal aid with respect to the legal issues involving the business.**  
a. True  
b. False
66. **A complaint made to the provincial law society about a lawyer's conduct does not result in compensation being paid to the client who made the complaint.**  
a. True  
b. False
67. **Clients who believe that they have suffered financial loss due to their lawyer's misconduct should not procrastinate as limitation periods will exist.**  
a. True  
b. False
68. **If a complaint regarding a lawyer's conduct cannot otherwise be resolved, and the law society decides the complaint is valid, then the lawyer will face automatic disbarment.**  
a. True  
b. False

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69. **Sophisticated clients never conduct legal research on their own, but always seek advice from a lawyer.**  
a. True  
b. False
70. **Ethical behaviour implies integrity, honesty, and professionalism.**  
a. True  
b. False
71. **A code of professional conduct is needed because the vast majority of lawyers are unethical.**  
a. True  
b. False
72. **The Purpose of each provincial law society Code of Professional Conduct is to govern the conduct of lawyers in the public interest**  
a. True  
b. False
73. **If you discover that your lawyer has failed to follow the rules of conduct you should take whatever action is appropriate on a timely basis.**  
a. True  
b. False
74. **Compliance with a code of ethics in an organization is unrelated to whether or not top management practices ethical behaviour.**  
a. True  
b. False
75. **In 2005, Canada was ranked number one in the world on a list of countries perceived to be free of corruption.**  
a. True  
b. False
76. **Core ethical values, and their supporting ethical principles, should be used as the basis for a business code of conduct.**  
a. True  
b. False
77. **It is always wise to retain legal counsel when you are facing criminal charges.**  
a. True  
b. False
78. **In making business decisions involving legal issues, sophisticated clients will tend to complete some research of the relevant law on their own.**  
a. True  
b. False
79. **The time and cost to be incurred by hiring a lawyer is irrelevant. It is always worthwhile to get legal advice from a lawyer.**  
a. True  
b. False

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80. **In the lawyer-client relationship, the decision-maker is the lawyer, not the client.**
  - a. True
  - b. False
81. **Solicitor-client privilege refers to the lawyer making all the decisions for the client.**
  - a. True
  - b. False
82. **The solicitor-client privilege refers to the duty of the lawyer to keep the information provided by the client confidential.**
  - a. True
  - b. False
83. **Sophisticated clients understand that success depends on good business decisions, and good business decisions depend on appropriate information (including legal information).**
  - a. True
  - b. False
84. **What term can be used to describe someone who understands the role of a lawyer, when and how to retain one, and how to manage the lawyer-client relationship?**
85. **Explain what makes someone a "sophisticated client."**
86. **If a businessperson cannot find important legal information or cannot understand the information which is found, what should be done?**
87. **When will sophisticated clients do their own legal research?**
88. **What recent development has given non-lawyers greater access to legal information?**
89. **How has the lawyer-client relationship been affected by computers and the Internet?**
90. **Identify the sources you would consult when looking for an appropriate business lawyer.**
91. **Identify the advantages to a businessperson of maintaining an ongoing relationship with a lawyer.**
92. **What is the Canadian Bar Association and what is its purpose?**
93. **What is a provincial law society and what is its mandate?**
94. **Explain how a businessperson would go about finding an appropriate lawyer, including a discussion of what makes a lawyer appropriate for a particular client.**

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95. **Explain the different ways in which a lawyer may calculate the legal fees to charge a client and provide examples of when each might be used.**
96. **In the lawyer-client relationship, who is the decision-maker?**
97. **Outline the steps of the law society's typical complaint-resolution process.**
98. **List the three main ways in which lawyers may charge their clients.**
99. **When is the fixed fee method of billing most often used?**
100. **In addition to legal fees, what other costs is a client responsible for paying?**
101. **What are disbursements and what do they generally include?**
102. **What is a retainer?**
103. **What is a contingency fee arrangement?**
104. **When is a contingency fee agreement most often used?**
105. **When should a client ideally first discuss the issue of fees with a lawyer?**
106. **Is it more cost-effective to hire a senior lawyer with a high hourly rate or a junior lawyer with a low hourly rate? Explain.**
107. **How does a contingency fee agreement potentially benefit a client?**
108. **When making significant business decisions, when should businesspeople consult their lawyers?**
109. **Why should business owners not assume that legal aid will be available to them?**
110. **Explain the concept of legal aid.**

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- 111. **What can you do if you cannot resolve a fee dispute with your lawyer?**
- 112. **What should clients do if they believe they have suffered a financial loss because of their lawyer's misconduct?**
- 113. **What is disbarment?**
- 114. **What penalties might lawyers who are found guilty of misconduct face?**
- 115. **Outline the types of complaints a client may have about a lawyer and how the client should proceed in each instance.**
- 116. **Distinguish between law and ethics.**
- 117. **Provide three examples of conduct that fail to meet the standards of professional responsibility for lawyers.**
- 118. **When must a lawyer follow a client's instructions?**
- 119. **In addition to penalties from the provincial law society, in what else may a lawyer's misconduct result?**
- 120. **Provide three examples of issues that ought to be addressed in a businessperson's code of ethics.**
- 121. **What are the six core values identified by the Josephson Institute for Ethics?**
- 122. **What is a code of business conduct?**
- 123. **Why should a code of business conduct be used by a small business?**
- 124. **What format must a code of business conduct take?**
- 125. **Do businesspeople make good ethical choices? Explain, providing examples.**

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- 126. **Identify and describe three (3) topics that should be included in a business Code of Conduct.**
- 127. **What is the main role of a lawyer?**
- 128. **Explain, using examples, what advice and information a lawyer can provide to a person starting a business.**
- 129. **Why might a businessperson have more than one lawyer?**
- 130. **What must a businessperson consider before asking a lawyer for assistance in making a business decision?**
- 131. **Why is it unnecessary (and undesirable) for a client to seek legal advice for every decision she must make?**

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1. d.confident, knowledgeable, and up to date.
2. a.A student, or someone close to a student, sometimes becomes involved in such a situation.
3. a.understands how to manage a lawyer-client relationship.
4. c.The necessary legal information is available online.
5. d.a positive development, because it provides greater access to information they can use as part of their decision-making process.
6. e.seek input from a lawyer when answers cannot be readily found.
7. e.have the skill and confidence to find basic legal information.
8. c.for the prospective client to decide whether to retain the lawyer.
9. d.a mutual decision made primarily on the basis of trust.
10. b.gauge the referral on the basis of the level of trust you have for the person making the referral.
11. d.provides the names and phone numbers of lawyers who practice in a particular area of law.
12. a.is a self-governing body for lawyers.
13. b.help a business person manage her legal affairs more efficiently and effectively.
14. b.a professional organization that represents judges and lawyers.
15. a.the lawyer you chose to assist you in the start-up of the business will continue to represent you.
16. d.The lawyer will automatically track your business activities so that he or she can provide constant advice and guidance.
17. d.should be discussed during the initial consultation with the lawyer.
18. b.Some people don't retain lawyers even when they need them because they are afraid of the cost.
19. d.may result in a lawyer not receiving any legal fees for the work done on a file.
20. e.Provincial law societies provide free legal services to people in need.
21. a.A fixed fee, an hourly rate, or a contingency fee
22. b.Provincial law societies typically restrict the use of retainers to personal injury or product liability cases.
23. d.works as a deposit.
24. e.a critical component of being a sophisticated client.
25. e.available subject to substantive and financial eligibility requirements.
26. a.If you have a legal problem and cannot afford a lawyer, you may be eligible for legal aid.
27. a.probably have to repay some or all of the legal aid benefits you received.
28. c.is usually not able to receive legal aid with respect to the type of legal issues involving the business.
29. a.Duty counsel can provide limited assistance in certain court matters.
30. d.in criminal courts, family courts, or immigration hearings.
31. a.lawyers who assist individuals in court who are not represented by a lawyer.
32. d.among other things, deal with complaints regarding a lawyer's conduct.
33. b.you can have your bill reviewed by a court official.
34. e.involves a neutral mediator who tries to facilitate a mutually acceptable resolution of a dispute over fees charged by a lawyer.
35. b.The lawyer is simply one of the experts the businessperson consults.
36. c.leave the bill unchanged or decide that the bill is too high and reduce it accordingly.
37. a.an attempt at mediating the dispute between the client and the lawyer.
38. b.involves the testimony of witnesses and the entering of other evidence.
39. a.have your bill reviewed by the appropriate court official.
40. d.incarceration.
41. d.you may need to seek legal advice from another lawyer.
42. c.establish professional and ethical obligations of lawyers.
43. b.Law tells us what we must do; ethics tells us what we should do.
44. d.failing to serve a client in a competent, diligent manner
45. e.does not exist.
46. a.many people do not understand the role of the lawyer in the solicitor-client relationship.
47. a.make a commitment to ethical behaviour and prepare a statement of values.
48. a.personally adopting core values and incorporating them into a code of conduct for the business.
49. c.Courage
50. e.truthfulness, sincerity, candor, integrity, promise keeping, loyalty, honesty.
51. a.help organizations to operate in a socially responsible manner
52. c.improve your relationship with the community
53. a.provide legal advice relevant to the client's situation, which the client is free to ignore.

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54. d. It is the duty of the lawyer to keep the information provided by the client confidential.
55. a. provide the lawyer with all the client's information
56. b. understand the importance of the solicitor-client relationship.
57. a. True
58. a. True
59. b. False
60. a. True
61. b. False
62. a. True
63. b. False
64. a. True
65. b. False
66. a. True
67. a. True
68. b. False
69. b. False
70. a. True
71. b. False
72. a. True
73. a. True
74. b. False
75. b. False
76. a. True
77. a. True
78. a. True
79. b. False
80. b. False
81. b. False
82. a. True
83. a. True
84. A sophisticated client.
85. A sophisticated client is someone who understands the role a lawyer plays, when to represent himself or herself, when and how to hire a lawyer, the costs associated with hiring a lawyer, what to expect from the solicitor-client relationship, and what to do if dissatisfied with a lawyer's conduct. A sophisticated client puts aside negative attitudes associated with lawyers and seeks timely legal advice. Here, students would be expected to discuss the ways in which a lawyer can help a businessperson make good business decisions.
86. The businessperson should consult a lawyer.
87. Whenever legal information is necessary to make a business decision and it is not necessary to hire a lawyer for advice about the information.
88. The tremendous increase of legal information available online has given non-lawyers greater access to legal information.
89. There is now an abundance of legal information accessible to non-lawyers, making it possible for non-lawyers to conduct some legal research without the assistance of a lawyer.
90. Referrals from trusted colleagues, friends, and relatives; the Yellow Pages; other advertisements; and the relevant lawyer referral service.
91. The lawyer will know and understand the client and the client's business. This will enable the lawyer to provide legal advice more efficiently (thereby reducing legal costs) and to customize legal advice (making it more useful). In addition, the lawyer will be more inclined to give priority to the longstanding client.
92. The Canadian Bar Association is a professional organization representing judges and lawyers. Two of its purposes are to enhance the profession and the commercial interests of its members.
93. A provincial law society is a self-governing body for lawyers in a province. Its mandate usually involves regulating the legal profession in the public interest.
94. Here students should outline the search process, including suggesting sources of names of potential lawyers (from advertisements, referrals, the law society, etc.), and setting up a meeting for an initial consultation. Reference should be made to the importance of establishing mutual trust as the foundation for the lawyer-client relationship. It is not enough for a lawyer to be knowledgeable and successful. The lawyer must also practice in the relevant area and be someone whom the businessperson feels they can trust.
95. There are three main ways that lawyers calculate their fees. First, a lawyer may charge a fixed fee for the



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work required, regardless of the time spent. This is often used for specific tasks, such as purchase or sale of real estate, preparation of a will, or an incorporation. Second, the lawyer may bill on the basis of an hourly rate for time actually spent. This is very common for business issues. Third, the lawyer may receive a percentage of the amount the client collects through a settlement or judgment. This is often appropriate for personal injury claims or in product liability cases.

96. The client.
97. There is usually an attempt at mediation which, if unsuccessful, is usually followed by a formal investigation. This may result in a hearing before a panel. If the panel finds the lawyer guilty of misconduct, the lawyer faces a number of possible penalties.
98. Lawyers may charge their clients using fixed fees, hourly rates, and/or contingency fees.
99. Fixed fees are most often used for specific tasks such as preparing a will, purchasing a house, or incorporating a business.
100. Clients may be responsible for disbursements (out-of-pocket costs incurred by the lawyer on the client's behalf), other charges such as service charges of the firm for conducting searches, and applicable taxes on legal bills.
101. Disbursements are out-of-pocket costs incurred by the lawyer on the client's behalf. They typically include court filing fees, long distance telephone charges, courier charges, and expert fees.
102. A retainer works as a deposit. It is an amount paid by a client and deposited into a lawyer's trust account to the credit of the client. When the lawyer bills the client, the amount owing is taken from the retainer.
103. The arrangement is used primarily for personal injury or product liability cases. The lawyer is paid a percentage of the amount a client collects from settlement or judgment. Provincial law societies may set a maximum amount allowed. If the client is not successful then the lawyer receives no fee, but the client is still responsible for the disbursements.
104. Contingency fees are most often used in personal injury or product liability cases.
105. Fees should be discussed during the initial consultation and agreed upon before entering into a lawyer/client relationship.
106. It depends. For example, if the senior lawyer is able to work more efficiently than the junior lawyer, the overall fee might be lower for the senior lawyer.
107. The client does not need to pay any legal fees unless and until a settlement or judgment is recovered. Without contingency fee arrangements, some clients would not be able to afford a lawyer at all.
108. Taking into consideration time and expense, businesspeople generally ought to consult their lawyers when they cannot find the legal information relevant to their decision on their own, or when they need advice regarding the information they find.
109. A business owner is usually not able to receive legal aid with respect to the legal issues involving the business due to both substantive and financial eligibility requirements.
110. Legal aid is available in limited cases to assist those with legal problems who cannot afford a lawyer. The provision for legal aid varies across the country and applicants may be required to provide details as to financial and substantive eligibility requirements specific to their own province. In any event, students ought to note that not everyone qualifies for legal aid, that even those who qualify may have to pay some legal costs, and that benefits must be repaid in some circumstances. Of particular relevance, a small business owner is usually not able to receive legal aid with respect to the legal issues involving the business.
111. You may be able to participate in a fee mediation service. If mediation is unsuccessful or if mediation is not available, you can have your lawyer's bill reviewed by a court official.
112. They should not procrastinate and may need to seek legal advice from another lawyer. They should consider contacting the appropriate Law Society to begin the complaint process.
113. Disbarment is termination of membership in the law society.
114. Lawyers found guilty of misconduct may face reprimand, fine, suspension, disbarment, and payment of the costs of the hearing.
115. A client may have complaints regarding the fees charged by the lawyer. In this case, the client could attempt to deal with the lawyer directly, may have access to a fee mediation service, and can ultimately have the lawyer's bill reviewed by a court official. A client may have complaints about a lawyer's conduct (other than related to fees). In this case, the client can go through the law society's complaint resolution process. Finally, a client may have suffered financial loss due to the lawyer's misconduct. In this case, the client should act quickly and may need to seek legal advice from another lawyer.
116. Law tells us what we must do, while ethics tells us what we should do.
117. There are numerous possible responses. Examples provided in the text include failing to serve a client in a timely fashion, failing to respond to clients, failing to disclose to a judge that another judge had previously refused the same application, swearing a false affidavit, poor accounting of a trust account, improper

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- transfers from trust accounts, and misappropriation of trust funds.
118. When those instructions are lawful and not unethical.
  119. If the behaviour is also criminal, the lawyer may face criminal charges. If the behaviour results in a client suffering a financial loss, the lawyer may also be sued.
  120. Examples could include conflicts of interest, protection and proper use of corporate assets and opportunities; confidentiality of corporate information; fair dealing; compliance with laws, rules, and regulations; and the reporting of any illegal or unethical behaviour.
  121. The six core values are trustworthiness, respect, responsibility, fairness, caring, and citizenship.
  122. A code of business conduct is a formal statement adopted by a business that sets out its values and standards of business practices, essentially codifying organizational values and establishing procedural norms and standards of expected behaviour.
  123. An effective code of conduct is one of the best ways to ensure the long-term adoption of ethical behaviour by employees.
  124. There is no prescribed format for a code of conduct. It will depend upon the values of your company.
  125. Here students should recognize that while many businesspeople do conduct themselves in an ethical manner, not all businesspeople make good ethical choices. There is no general code of professional conduct for businesspeople, and there have been many high-profile cases of businesspeople engaging in questionable activities.
  126. how to deal with a conflict of interest; how to protect corporate assets; how corporate assets can be used; how to protect confidential information.
  127. To provide legal advice relevant to a client's situation.
  128. Here students are expected to provide a variety of examples, including with regard to forms of business organization; purchase of another business or its assets; compliance with relevant municipal, provincial, or federal laws; lease negotiations; review of financing documents; review or preparation of other contracts; and advice regarding intellectual property issues.
  129. Given the growing complexity of the law, more lawyers are specializing. If a businessperson faced a wide variety of legal issues, more than one lawyer might be needed.
  130. The time and cost, and whether the client could effectively find and understand the relevant information.
  131. Because this can be prohibitively expensive and can result in delays in the client's decision-making. A client may also be able to search online for relevant information.