Pro Rep Assignment #3 – same deal as before…

Alderaan

Presentation – March 16

Memo – March 30

Speedy Corp. has a fleet of trucks and couriers to deliver packages throughout the city. The company has made a standing offer to return the shipper's fee for any package not delivered within one hour. There is reason to believe that this policy causes Speedy's drivers and couriers to take dangerous chances.

One rainy Tuesday, President Mary Speedy was standing across the street from the company headquarters. Barry Winters, an employee in the accounting department of Speedy Corp., happened to be standing beside her. Just then, a Speedy delivery truck came out of the headquarters building at a high rate of speed. It hit an elderly man, causing him serious injuries.

Before filing the complaint, Louis Shabazz, lawyer for the injured man, interviewed Barry Winters and the truck driver and took their statements about how the accident happened. Shabazz did not tell Barbara Bentley, lawyer for Speedy Corp., of those interviews and did not invite her to be present. Now, Shabazz has called Mary Speedy and asked to interview her as well; Speedy, in turn, called Bentley who told Speedy to decline to answer questions in any setting other than a formal deposition.

Bentley herself now wants to investigate to find out what the facts surrounding the accident are. She wants to prepare for litigation and to formulate recommendations for possible changes of the one-hour guarantee. Indeed, she fears a local prosecutor may convent a grand jury to determine whether Speedy's guarantee of one-hour service can support a charge of criminal negligence. Bentley wants to talk to present and former employees of Speedy, both officers and nonofficers, who might know how the policy has affected safety. Shabazz, of course, would like to talk to the same people.

Bespin

Presentation – March 25

Memo – April 8

Several years ago, Bill Bright and Larry Learned started the firm of Bright & Learned. It prospered and has grown to 425 lawyers. The two female partners and eight female associates who make up Bright & Learned's estate planning group, however, view the firm as singularly unenlightened. The firm has not allowed any female lawyers to move into the litigation section of the firm, and the firm holds many of its partnership meetings at the all-male Thomas Jefferson Club. Although estate planning brings the firm substantial, steady revenue, the lawyers in the group believe they have not been paid as well as they would be in a firm of their own.

The group's lawyers believe that, if they leave together, they can bring with them most of the client families on whose estate plans they have worked during the past several years. Each lawyer will write a letter to the clients she knows best before she leaves Bright & Learned. The lawyers then plan to use these clients' expressions of willingness to follow them to the new firm as a basis for getting loans to finance the new firm's start-up costs.

Before she became a lawyer and one of the group's partners, Mary Cord had been an officer of the local electrician's union. She hopes to present the union with a proposal under which, for a premium of $100 per union member per year, the group's new firm will write wills and give periodic estate planning advice to persons in the immediate family of any of the union members.

When Bill Bright and Larry Learned came in one morning and found that their entire estate-planning group had disappeared, they were hurt and angry. In an effort to avoid a lawsuit, however, Learned suggests selling its former estate planning practice to the departing lawyers for an amount equal to the group's prior two years' billings. Bright is so angry that he wants to sell the practice to another law firm in the city with a large existing estate planning practice.

Coruscant

Presentation – March 23

Memo – April 6

"Clean Gene" White is the crusading young state's attorney of Springfield County, the home of the state legislature. He says he sees a public interest (and his detractors say a personal political benefit) in uncovering what he publicly has called a "lot of skeletons under the beds of some state legislators." Gene has started a "special prosecutions" branch of his office responsible for discovering the misdeeds of legislators. Each week, on Monday, Gene holds a press conference to assert his belief in ethics, report on indictments just issued, allude to possible indictments, and answer questions put to him by the reporters covering his office.

Newspapers have begun to report rumors and rumors of rumors as to which persons are likely to be indicted; Gene has denied publicly that he or anyone in his office is responsible for the leaks and has said that he "denounces the rumor mill."

The special unit has successfully prosecuted three cases: one consisting of forty-six unpaid parking tickets received by the chairman of the motor vehicle committee (a "callous breach of the public trust," according to Gene); a second for failure to report a sale of race track stock on a legislator's ethics form; and a third against a House committee chairman for taking a $5,000 bribe to kill a bill.

Though his office normally exercises discretion not to prosecute persons found with minor amounts of marijuana, the office recently indicted a state official found with one marijuana cigarette in his car. This particular legislator is widely suspected of being in league with organized crime, although no admissible evidence supports such a charge. Gene privately told one of his assistants to follow this legislator in an effort to uncover some wrongdoing. When the assistant reported the discovery of the marijuana cigarette, Gene said:

"Prosecute. I know we normally don't in such cases, but I want to make it hot for this fellow."

Dagobah

Presentation – March 25

Memo – April 8

As a products liability plaintiffs' lawyer, you often read the scientific journals on manufacturing product failures. You read about manufacturing defects in polybutylene pipe that was used extensively in plumbing of manufactured housing. You decide to bring a products liability action against the pipe manufacturer and the company that sold mobile homes with such pipe. After some research, you discover that all mobile homes sold by HomeCo between 1978 and 2000 contained polybutylene pipe and you sent a letter to a neighbor who bought a HomeCo mobile home in 2000. The neighbor is very interested in pursuing a claim.

You are thinking of filing a class action in the name of your neighbor and all other similarly situated owners, but as of now you have not done so. You write to the pipe manufacturer and HomeCo threatening a lawsuit. Neither company shows an interest in settling, because they know it will be expensive for you to replicate the study showing the defect in the pipe. Notice to the members of the class might also be expensive. Your named client has no funds to pay the litigation expenses and he is concerned about your fee.

Because of recent adverse case law on certification of class actions, you decide to mail a postcard to 10,000 current owners of HomeCo mobile homes offering to represent them in an action against both defendants for a 33% fee. The front of the card explains the scope of the representation and the back of the card requires the home owners to fill out information about their home, their identity, and to consent to the multiple client representation in this mass products liability suit. You can hardly believe it when this mailing produces 7,500 returned postcards. You file suit on behalf of 7,501 individual clients, your neighbor plus the names on the postcards, against the two defendants.

Endor (D)

Presentation – March 30

Memo – April 13

William Smith is a defendant in a robbery prosecution. Smith is also one of the many criminal defendants represented by M. Maynard Hawley. Smith said to Hawley that he would like to testify in order to present an alibi defense. After Hawley reminded him that he had never mentioned an alibi defense before, Smith said that his friend had now agreed to testify that he was at her house at the time of the robbery. Smith told Hawley that he would like to take the stand to confirm his friend's story.

Hawley told Smith, "I cannot be a party to perjured testimony." Smith retorted that he had a right to take the stand and testify, but Hawley was reluctant to let Smith do so. Smith assured Hawley: "The last thing I would want you to do is to be unethical. Put me on the stand; I will tell the truth."

Hawley put Smith on the stand. Contrary to Smith's pledge, he lied.

Endor (CV)

Presentation – March 30

Memo – April 13

Hector Ramirez has represented the Peron family for several years in minor matters for which he has charged minimal fees. Young Joseph Peron recently suffered serious injuries when a telephone company truck went out of control and into a schoolyard. The Peron family wants to file suit and has come to Ramirez for help.

Ramirez realizes that he is a competent attorney and could handle this case without making any obvious errors. However, he also knows that he is not experienced in personal injury work, that the medical evidence necessary to prove the case correctly will be complex and that he may not be able to cross-examine the defense doctors effectively. Ramirez can see, on the other hand, that the fee this case would justify would be the largest he has ever earned and would support him while he did other, less remunerative work.

Ramirez also knows that Joe Castro is a very successful "Certified Trial Specialist" who is experienced at handling personal injury cases. He will take the Peron case very seriously. Best of all, Castro has offered to pay Ramirez one-third of his own one-third fee, or $10,000, whichever is less, as a "finder's fee" for sending the case to him. If Ramirez prefers, he and Castro will "jointly" handle the case on the same financial basis. Ramirez also has met another personal injury lawyer who might do an even better job than Castro but who is so ethical that he would be shocked at being asked to share his fee with Ramirez.

Fett

Presentation – March 18

Memo – April 1

Neil Hammer, a person whom you have never advised before, has come into your office, set a gun and a bag of money on your desk, and said, "I have just used this gun to rob a bank, and I killed a guard in the process. Help me. I don't want to get caught. What should I do?"

Only yesterday, J.B. Wallace, president of the Wallace Corporation, came into your office. The *Wall Street Journal* had reported that the Justice Department is investigating a firm in Wallace's industry for possible price fixing. A *Wall Street Journal* reporter asked to interview Mr. Wallace about industry pricing practices, and Mr. Wallace asked you to help him prepare for the interview. He told you that in order to help you evaluate any allegation involving him and price fixing, you could listen to the secret tape recordings of all discussions in his office for the last three years. He keeps these tapes at his home and plans to use them to help write his memoirs. You later learned that the department is about to file a criminal antitrust action against the corporation and perhaps Mr. Wallace personally.

The local police have contacted you about reports that a man with a gun was seen entering your office. You are thinking about how to respond.

Geonosis

Presentation – March 23

Memo – April 6

Marian Talley represented the defendant in a products liability case in which the jury returned an unexpectedly large verdict against her client. After the verdict, Talley sought to determine what went wrong. She asked a juror to come to her office and he did so. He was completely cooperative and said, "Most of the jurors initially voted to find no liability, or at least to set a much lower damage figure. One juror held out, however, and we finally came around to his position. That juror later confided to me, after the foreman announced the verdict, that he worked for a competitor of your client and the competitor would pay him handsomely for making the verdict come out as it did. It was too late to do anything, and I don't want to get involved, but it is good to get this off my chest."

This explanation of the verdict angered Talley and she asked the former juror to put the story in an affidavit. The juror said that he would prefer not to do so, but he told Talley where the supposed payoff would occur. The juror threatened to deny everything if Talley ever asked her about the incident in court. At that point, Talley activated a secret tape recording device that she always carried with her for occasions where she needed to preserve what was said in a conversation. Talley skillfully got the former juror to repeat most of the story, and Talley left satisfied that she had the information on tape.

Using the information supplied by the former juror, Talley went to the place established for the payoff and saw a fat envelope handed to the allegedly dishonest juror by an executive of the juror's employer. She has moved for a new trial and plans to authenticate the tape recording of the former juror's disclosures and testify about her own observations of the payoff at the hearing on her motion. She asked one of the firm's investigators to accompany her, but he never showed up (it turns out he got sick), so she is the only witness to the transfer of the envelope.

Hoth

Presentation – March 16

Memo – March 30

James Young, age 19, was in a traffic accident. The driver of the other car suffered personal injuries and has paid medical bills of $18,000. There was $7,000 in property damage to the other car. Young was unhurt, but his car suffered $5,000 damage.

At the scene of the accident, the investigating officer charged Young with drunken driving. Young denied it and told the officer that he had nothing alcoholic to drink the entire day. He told you, however, that he had three large drinks within an hour of the accident. By chance, the arresting officer failed to bring along his kit to test for blood alcohol, so there is no scientific evidence on that issue.

Young's criminal trial is coming up next week. Conviction of drunk driving would probably mean that Young would pay a large fine and lose his driving privileges for a year. You have plea negotiations scheduled with the prosecutor this afternoon. You expect that settlement discussions about the potential civil claims will begin soon.

You have not talked at all with Young about what kind of plea he might enter, but you have authority from his insurance company to pay up to a total of $20,000 for the combined personal injuries suffered by the other driver and the property damage incurred by the owner of the other car.

IG-11

Presentation – March 23

Memo – April 6

A worker's compensation insurance carrier hired Hamilton York to represent it in the defense of a compensation claim brought by a woman who was assaulted in the course of her duties as a hotel night clerk. As a direct result of the assault, the woman suffered severe psychological shock that prevented her from obtaining and holding gainful employment.

In the course of defending the substantial claim for compensation, York read psychological reports indicating that the woman said her assailant was "a black man." The psychologist concluded that, because of her experience, the claimant developed an irrational fear of all African-American men. Indeed, her psychological problems were such that if she even encountered a dark-skinned man walking down the street, she became terrified and would turn around and run. This fear prevented her from distinguishing one African-American man from another. She considered all such men to be her attacker and this psychological situation has existed since the time of the attack.

In connection with the investigation of the facts underlying this compensation claim, York also learned that the victim identified the only African-American man she saw in the lineup. At his criminal trial, the defendant, James Brooks, an African-American, offered two corroborating witnesses that supported his alibi. However, the testimony of the victim was so compelling that the jury apparently believed her. A jury convicted Brooks and he received a life sentence in the state prison. York believes that the psychologists' reports called into question her ability to identify her attacker. He believes that Brooks may have been wrongfully convicted.

Some of this information, at least as to the general nature of the victim's disability, was available to both the prosecution and defense at the time of the criminal trial, but not to the extent that York later developed it in the course of the workers' compensation negotiations. The claimant's attorney provided the psychologists' reports to York with an explicit demand that only to persons involved in settling the claim

could see their contents. The insurance carrier will soon settle the claim without a trial and the reports will not become a matter of public record.

York has never handled a criminal case in his professional career, and the facts he confronts in this instance are the closest he has ever come to the criminal justice system. He believes an innocent man may be in prison for the rest of his life unless he acts, but Brooks is not his client and he does not know how to proceed.

Jakku

Presentation March 18

Memo – April 1

Your client is a producer of a large assortment of California wines. Many of its wines do not "travel well" from California to their destination and have a short bottle life. In order to enable the wines to travel better and maintain their quality for a longer period of time, your client uses a unique process that places a small amount of a chemical substance into each bottle. Recent testing of that substance suggests that when rats consume large amounts of the substance, a statistically significant number of rats contract cancer of the throat. Assume that under an applicable provision of the Food and Drug Act, if the Food and Drug Administration (FDA) determines that any substance consumed in any amount by man or animal causes cancer, the FDA must ban the substance.

Some reputable scientists fully support the conservative approach taken by the Food and Drug Act; others do not. Your client tells you that it is essential that the FDA delay banning his wines, because he believes he would likely go bankrupt if he could not sell the thousands of cases he has already shipped out. The food and drug laws do not provide for any compensation for your client, and the chances of Congress passing a private bill for your client are remote. Moreover, he tells you that the shelf life of his wine is only six months (that is, within six months, stores will sell consumers over 95% of the wine he has shipped). The new wines that he is producing will not contain substances that the FDA has found to be carcinogenic.

You plan to file suit attacking the factual basis for the FDA order in this case and the constitutionality of the Food and Drug Act provision. You know that court dockets are so crowded that such a suit is likely to delay the implementation of the FDA's order banning the wines. Several years ago, however, your circuit upheld the law against just such a constitutional attack.

Kashyyyk

Presentation – March 18

Memo – April 1

Hugh Martin, one of the most famous insurance defense lawyers in San Francisco, defends clients of many of the largest insurance companies in the United States. His firm's office overlooks the bay and occupies an entire floor of the Transamerica building. Yet despite his luxurious office and income to match, Martin cuts a different figure in court. He dresses in baggy tweed jackets with elbow patches, his shirts have badly frayed sleeves, and his unpolished shoes have very worn heels and soles. While he is a dapper figure outside of the courtroom with his custom suits and handmade cigars, he justifies his shabby attire and country lawyer act in the halls of justice as an effort to win sympathy from the juries while helping insurance companies avoid large tort judgments.

Martin confides to his young associates that they should avoid choosing younger jurors because of their "social worker, do-gooder mentality." He also advises: "Try to pick a jury with racial and class differences; by exploiting and encouraging dissension you create disunity; a disunified jury rarely grants large awards."

In one lecture to new associates in his firm, he explained:

> "You have to use your ingenuity and use all the tricks of the trade to win for the defense in a large tort claim. If you see that you can exploit an opposing witness' emotional weakness to make him seem uncertain about a fact, don't hesitate to do so even if the fact is true. The client doesn't pay for justice. It pays for victory."

Martin also trains his associates to impose costs upon opposing parties and counsel. "Be sure to schedule depositions at the most unfavorable times and in remote places. We can teach opponents a lesson that we will go to all ends to prevail in litigation."

In a case that Martin likes to brag about, he defended a manufacturing concern charged with the negligent death of the wife of a middle-aged worker. All during the trial Martin had his attractive secretary sit in the courtroom. Then, according to plan, Martin had this secretary—just before closing arguments, during a short break in the proceedings when the plaintiff's lawyer's back was turned—ask the plaintiff-widower the time; she smiled at his response, patted him on the head,

and then left. The three older members of the jury looked with icy stares at the plaintiff and five hours later, the jury returned a verdict for the defense. One or more of the jurors mistakenly assumed that Martin's secretary was the plaintiff's new wife.

Martin justifies these and similar practices (he calls them "tricks") as necessary to counteract what he considers the unfair advantage of the plaintiff's lawyer in winning verdicts because of sympathy and other reasons not connected with the merits of the case.[269]

Lando

Presentation – March 23

Memo – April 6

Jerry Harrold spent five years working for a large law firm in general litigation and then decided to open his own firm. On his first day at his new office, he called people he represented at the large law firm to let them know where he was and offer them a free "legal checkup," but none of them accepted his offer. Then, Harrold took several other steps to communicate his availability to potential clients.

First, he put a quarter-page advertisement in the local newspaper describing his credentials, explaining the types of law that he practices, and describing how prospective clients can reach him. The ad said, "Jerry is willing to represent all clients in civil litigation—you choose the legal fee—either a 33% contingent fee or an hourly fee of $125 per hour."

Harrold then developed a website for his firm. At www.harroldlawfirm.com, one can find a general page with the same kinds of information he provided in the newspaper ad. The website tells visitors they can call the firm, come by Harrold's office, or send an email detailing their situation. The link for the email brings up a page with a large space in which to type facts and provide information. Another page contains links to several articles that Jerry has written about employment law, personal injury, and tenants' rights. It also contains a description of the cases that Jerry worked on while at the large firm and the outcomes he achieved. This page advises readers to "See if Jerry can get the same results for you in your litigation!"

Jerry Harrold also hired a public relations firm to publicize his litigation practice. The firm contacted newspapers and offered to provide quotes from Jerry about recent cases in the news. The firm also developed a brochure and mailed it to doctors, asking them to display it in their office waiting rooms. It also sent the brochure to all individuals who were involved in a car accident in the county. The firm even created a classy poster to place in the restrooms in area hospital emergency rooms. It arranged for Jerry to participate in a coupon offer of $50 prepaid for one hour of consultation. At first, Jerry paid the public relations firm a monthly fee of $500, but recently they have asked Jerry to pay them 1% of firm billings instead.

Finally, whenever a major accident occurs in the state, Jerry logs onto the Internet and looks for blogs, chatrooms, twitter, and Facebook discussions about the accident. Jerry's screen name is HarroldLawyer and he posts information about his legal services. He tries to engage victims and their families and get them to contact him at his office for potential representation. He also plans to offer webinars (online conferences that individuals can log into), where he will discuss the legal consequences of an accident for a larger Internet audience.

Mandalore – Presentation, March 18 – Memo, April 1

You have prepared your case fully, and you consider it a sure winner on the motion for summary judgment. However, hours before the argument on that motion, you discovered several cases with dicta directly against you. Two of the cases have holdings that by analogy are against you. You have concluded that the likelihood is great that the judge would rule against your client on the summary judgment motion if she knew of the cases you have discovered. Your opponent (perhaps because he is less prepared than you) has not referred to these cases.

Now, you have come across a witness who can supply a *factual* piece of evidence harmful to your client's case. You conclude that if you make a motion for summary judgment you would win because opposing counsel has not been able to present an affidavit on a vital point. However, your secretly-discovered witness could supply the essential link in the opposition's evidentiary chain. The opposing party has not contacted this witness, and you assume no one else knows of his existence.

You are in the midst of discovery. The other side has asked your client to produce emails and documents pertaining to the litigation. Your client has several mainframe computers full of information. Your client also automatically deletes emails daily that are over three months old. You are concerned that such data may be part of the discovery request. But as a lawyer, you are not computer savvy and will simply do your best to comply.

As you are reviewing the deposition testimony that you have attached to your motion for summary judgment, you realize that one of your best witnesses testified about a fact important to your case in a way that you know is false. You don't know whether she was lying or simply mistaken, and the other side clearly has not discovered the inaccuracy.

In another case, you represent a convicted client who stands before the judge in a sentencing hearing. The court clerk indicates to the court that the defendant has no record. The court thereupon says to the defendant—who stands silent—"Since you have no criminal record, I will only put you on probation." You know, either by independent investigation or from what your client has told you, that he in fact has a criminal record and the clerk's information is incorrect. The judge turns to you and says, "Anything to add, counsel?"

Naboo

Presentation – March 16

Memo – March 30

Luther Klose is president of the Klose Corporation, a privately-held family enterprise. All of the stockholders are also officers of the corporation and receive benefits from the corporation both in the form of dividends and in the form of salary. In order to keep the overall tax liability at a minimum, the shareholders would prefer that as much money as possible be paid as salary that is deductible to the corporation, rather than as dividends that are not. Mr. Klose would like you, the corporation's outside attorney, to write him an opinion letter explaining that the company's new salary schedule properly represents greater responsibilities of the shareholder officers and thus is bona fide and not adopted with intent to circumvent the tax laws.

Klose Corporation is also seeking a large loan from the local bank. Given the Klose Corporation's local reputation for taking aggressive tax positions, the bank wants to be aware of any foreseen tax difficulties that could materially affect the Klose Corporation's ability to repay its loan. At the request of the bank, Mr. Klose has asked you to write a letter to the bank giving your legal opinion that all of the major tax deductions taken by the Klose Corporation in the last three years are reasonable under the tax laws and that, if the Internal Revenue Service disallows any of these deductions, the taxpayer is likely to prevail in litigation.

Now, the company's auditor has asked for information on "all actual or potential legal problems that might materially affect the Klose Corporation." You know that Klose Corporation has sold a large stock of defective goods, but no customer has yet discovered the defects. When a final purchaser does discover the defect, it may be difficult to trace it back to your client, but if the purchaser does trace the chain of custody, the company may be liable for up to half its net worth in damages.

Organa

Presentation – March 25

Memo – April 8

Smart & Howe is one of the most successful new firms in its region of the country. The *American Lawyer*'s annual survey regularly reports that, among firms under 300 lawyers, Smart & Howe has the highest earnings per partner. In addition, its starting salary of $150,000 per year is among the region's highest. So is its minimum annual billing requirement for associates of 2,500 hours per year.

Sarah Smart is co-managing partner of Smart & Howe, and she is in charge of the firm's real estate group. Smart assigns work to the sixteen associates who work with her, evaluates their work, and signs all legal opinions and other documents prepared by her group in the name of the firm.

One of her associates, Arnie Able, has billed over 3,500 hours in each of his first two years, over 30% more than any other associate in the real estate group. Smart was surprised that Able could report such billings, because he seemed to leave at five o'clock most days and did not appear in the office on weekends. Clients had not complained, however, and Smart had appreciated the boost in her own compensation she got because she supervised such a productive associate. Indeed, when a middle-aged partner, Ted Truthful, confronted Smart with concrete evidence that Able was billing fictitious hours, Smart's only response was to try to force Truthful to retire and to deny him a promised pension.

Recently, Smart & Howe has noticed that associates stay with the firm an average of 2.8 years and then most move to less stressful work environments. Andy Howe, the other co-managing partner, has proposed creation of a part-time program under which associates could elect to be paid 80% of a normal salary for those of their age and experience, but have a minimum annual billing requirement of only 2,000 hours per year. Sarah Smart resists that idea, believing few associates would choose that alternative and saying, "We don't want to retain the kind of lawyer who will not give client needs the top priority in his or her life."

Padawan

Presentation – March 25

Memo – April 8

Victor Dowd is an attorney who believes that every person, even individuals of relatively modest means, should review and plan their estates so that they can more effectively transfer their assets at death. He also believes that many people are afraid of the expense of estate planning by current methods of private law practice.

Dowd knows that, even now, financial planners and insurance agents are counseling their clients about basic estate planning issues. Dowd believes that he can do that work more effectively. As a way to make estate-planning information available to persons with small estates, Dowd proposes to publish do-it-yourself kits for both planning and administration. Dowd plans to sell these kits only in states in which he has fully verified them as to legal accuracy. The forms and instructions will be carefully prepared and there is no reason to question the ability of an ordinarily intelligent person, perhaps assisted by a financial planner, to follow the forms step by step to handle a routine case.

A nationwide insurance company has offered to refer its customers to Dowd for preparation of a basic will. Dowd agrees to draft a basic will and any other necessary simple documents for a flat fee of $225. The insurance company will charge its customers a $399 fee for "complete financial planning services" and out of this payment it will remit $225 directly to Dowd for each will. The insurance company expects customers to come from every state in the country.

Since Dowd began to speak publicly about the need for all individuals to obtain estate-planning services, his law practice has grown substantially. Dowd proposes to create an estate-planning subsidiary that will work out of his law office and employ financial planners and insurance agents. The subsidiary plans to offer a complete package service in ten states consisting of planning before death and estate administration after. Dowd is admitted to practice in only one of the states. Although the subsidiary will serve Dowd's legal clients, it will also advertise directly to the public to develop its own client base. The financial planners and insurance agents

will bill their services at a single hourly rate, no matter what type of specialty is involved. They propose to advertise the service with television commercials that say, "We've all got to go sometime. We might as well do it right."

Qui-Gon

Presentation – March 16

Memo – March 30

International Energy, Inc., a publicly held company listed on the New York Stock Exchange, has done most of its recent financing through bank loans. It is about to sell a new issue of securities and obtain a new line of credit from the banks. The company, to induce the bank to lend and the public to invest, has written a glowing account of its prospects.

The strength of the company is its reputation for vigorous research, which thus far has resulted in a series of patents for energy-saving devices. The loan will finance production of a new product, which is another patented device. All of the company reports suggest glowing prospects for its performance. The company's auditors have declared International Energy to be in outstanding financial health. The current draft of your firm's opinion letter indicates no knowledge of material facts inconsistent with that optimism.

You had lunch today with your good friend, the director of research and development at International Energy, Inc. "A great company is in real trouble," he told you. "When our former president retired, a sense of integrity retired as well." Your friend and his scientist colleagues have great concern that the company has not sufficiently tested the device described in the documents and that the company has overrated its reliability and performance.

In addition, the engineer told you that the company recently purchased the production facility for the new product from a shell corporation that the company's new president owned. He said the price paid by the company was outrageously high. The auditors did not catch the problem and thus their audit did not footnote the fact that the purchase was from a corporate officer. As a result, the balance sheet of the corporation looks significantly better than it would if the books carried the facility at its true value.

Rodian

Presentation – March 30

Memo – April 13

Harold Baxter and Martha Anderson met in law school and have been good friends ever since. Baxter has now become a state trial judge and Anderson practices in the same city. Recently, Baxter sought to buy a new house, but the required down payment was higher than he had expected. Anderson, who was an attorney for the bank from which Baxter planned to borrow, personally lent Baxter $25,000, evidenced by a demand note that Anderson assured Baxter would not be "called under any conditions I can foresee." Judge Baxter then got his mortgage from the bank.

Anderson is now representing the same bank, which is the plaintiff in a case assigned to Judge Baxter. The case involves a close question of lien priorities and both sides expect the case to go to the state supreme court. Judge Baxter orally informed counsel about the loans in an early pretrial conference and asked, "Do you have any problems with my presiding in this case?" Both Anderson and the defense counsel, who frequently appears before Judge Baxter, replied, "No, sir."

Judge Baxter's niece is 19 and lives with the Baxters while going to college. She has some money of her own that she has invested. She owns ten shares, a 1/100,000 interest, in the insurance company that is defendant in the lien priorities case before Judge Baxter. The judge does not know of her interest. "I don't ask my relatives about their business dealings nor tell them about mine," he says.

Before going on the bench, Judge Baxter served as local chair of the "Committee for Responsible Assessment Policy," a committee of citizens who favor correction of what they see as an inequitable method of making local tax assessments. He is no longer a member of that committee. The computer randomly assigns cases to judges in this district, so Judge Baxter will hear a case in which a local taxpayer is challenging the validity of her own assessment. Judge Baxter has taken no steps either to recuse himself from the matter or to determine whether either party believes he should do so.