

1. It is a bright Saturday afternoon. James, your new business acquaintance invites you for a game of golf. You are particularly thrilled because you are certain that you will make some very useful business contacts on the course. Your colleague, Mr. Maitha advocate has been regaling you with tales of how he landed a blue chip company as a client following a chance meeting with its Chief Executive Officer on the golf course. You are a novice in the game of golf and are hesitant to display your ignorance. Your perceptive caddy very soon puts you at ease and quickly guides you through the preliminaries of the game. You begin to feel more confident and a hearty conversation with the caddy ensues. The caddy will, for an agreed commission, introduce you to some potential clients. The caddy, also, makes an unexpected disclosure to you. He wishes to file for divorce and James may be the co-respondent. He seeks your advice on how he should proceed with the matter and requests you to represent him. You inform him that in view of your acquaintance with James, you prefer not to act for the caddy but that you are able to give the caddy some advice informally. You then begin to advise the caddy on how he should proceed. The caddy makes more disclosures. James, apparently, could be the biological father of the caddy's two (2) year-old 'son', and the caddy has hired a private investigator to closely monitor James. You promise the caddy that you will in due course recommend another colleague to act on the caddy's behalf. Over a cup of coffee in the evening, James asks you what the animated conversation with the caddy was about. You inform James that you are very worried for him because the caddy is out to ruin his name and good standing in business circles. You then drop a broad hint about your conversation with the caddy. Upon your return to your office you also share your experience with your partner Luka. Luka informs you that he is aware of the matter and that indeed the caddy's wife has been a client of your firm for a long time. In fact the caddy's wife had already approached Luka and intimated that there could be a matrimonial legal brief in the offing and that Luka should handle the same. You also discuss the matter at length with your friend Juma advocate (who agrees to take the brief) and you also give Juma the caddy's cell phone number.

Discuss the ethical issues (if any) that arise.

(15 marks)

2. Abdi, your client of many years, instructs you to draw a will for him. Abdi prepares a schedule of assets and liabilities and a list of all the beneficiaries to his estate. Abdi has always had unfailing faith in your abilities to represent him professionally. He has, for example, never queried you on the accounts of some of his important properties with respect to which you have been collecting rent. Being rather overwhelmed with work you instruct your associate to prepare the will and have Abdi sign it. You confirm with your associate that indeed Abdi did sign the will. Unfortunately, one year later, Abdi dies, and his will is challenged by the beneficiaries in various respects. Some two beneficiaries witnessed the will whilst some other beneficiaries aver that they were omitted in the will. Curiously, also, the will is reportedly undated. Upon consulting with your associate, however, you date a counterpart of the will that is in your possession. Advocate Kariuki, with whom you have had some long running contest over representation of a quadriplegic client introduced to you by a commission agent gladly offers to represent some of the beneficiaries and sends a long list of demands to you with a threat of legal action.

What ethical issues (if any) should you anticipate and how will you respond to them? **(10 marks)**

What is the possible cause of action and by whom?

(5 marks)