

THE NIGERIAN LAW SCHOOL
BAR PART II FINAL EXAMINATIONS
MULTIPLE CHOICE QUESTIONS

7TH AUGUST, 2010

TIME: 1 HOUR

INSTRUCTIONS:

CANDIDATES ARE TO ANSWER ALL QUESTIONS: ALL ANSWERS MUST BE ON THE PROVIDED ANSWER SHEET. THE QUESTION PAPER MUST NOT BE RETAINED BY THE CANDIDATE. IT MUST BE PLACED UNDER THE ANSWER SHEET BEFORE LEAVING THE EXAMINATION HALL.

CIVIL LITIGATION

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Mr. Agu has just been announced winner of the East American Lottery that took place. He has title documents to late Mr. Kolawole's house in Ibadan. Mr. Kolawole died intestate and the children of the deceased (Victor 39 and Emma 35) are still in the process of obtaining Letters of Administration. Meanwhile, each of the two sons is persistently disturbing him (Mr. Agu) to give it to them. He is therefore confused as to whom to deliver this document to as he does not want to pass it to the wrong person and neither does he want to continue to hold on to it. He has approached the Court to decide who among the claimants he is to deliver the document.

Now answer the questions that follow:

1. This kind of procedure is referred to as:
 - a. Stakeholder interpleader
 - b. Sheriff interpleader
 - c. Court Interpleader
 - d. Personal interpleader

2. As Mr. Agu's lawyer, what shall you advise him to do with the document?
 - a. Give it to Victor, the elder of both sons
 - b. Deposit it in the bank till Letters of Administration are collected
 - c. Apply to court to take necessary proceedings between/among themselves in order to determine who is entitled to take the title documents
 - d. To keep the document in the bank for safe custody until he returns to Nigeria

3. One of the following is not an essential fact for Mr. Agu to state in his supporting affidavit
 - a. That the applicant has not colluded with any of the claimants
 - b. That he is must show that the property is not in his possession
 - c. That he has no interest in the subject matter in dispute other than charges for costs
 - d. That applicant is willing to pay or transfer the subject matter into the court or to dispose of the same as the court or Judge in Chambers may direct

4. Assuming both victor and Emma have gone to Court regarding this matter, what steps can be taken to prevent Mr Agu from giving it to either of the parties?
 - a. Interlocutory injunction.
 - b. Interim injunction.
 - c. Order of mandamus.
 - d. Mareva injunction.

- 5 Assuming that the Court makes an order that Mr .Agu gives the title documents to Emma within how many days does victor have to appeal ?
 - a. 3 months.
 - b. 90days
 - c. 45 days.
 - d. 30days

6. Assuming there is a subsisting valid appeal within how many days, must the Registrar transmit the record of Appeal?
 - a. 30 days.
 - b.60 days.
 - c. 45 days .
 - d. 90 days.

7. Assuming the Registrar fails in transmitting the record to the Court of Appeal within the appropriate time , what steps must the appellant take?
 - a. write a letter to the Registrar informing him to transmit the record in the nearest possible time.

- b. Compile the record with 30 days .
- c. Compile the record within 45 days.
- d. No necessary steps need to be taken by the appellant.

8. What application would he file to prevent Mr. Agu from giving the document to one of the children ,pending the determination of the appeal.

- a. Stay of judgement .
- b. The matter is within the exclusive.
- c. Stay of proceedings.
- d. Stay of Execution.
- e perpetual injunction.

Chief Kola and Dr. Salman were the candidates at the last election conducted at the Kakawa Central Senatorial District to fill the vacancy created by the demise of the Senator representing the district. Chief Kola contested on the platform of my people party, while Dr. Salman contested on the platform of Divine party,. The result was declared on the 31st of July, 2010 wherein Dr. Salman was declared the winner.

Now answer the following questions:

9. In case Chief Kola intends to challenge the result, he must file his petition:

- a. On or before 7th of August, 2010.
- b. On or before 15th of August, 2010.
- c. on or before 24th of August, 2010 .
- d. On or before 30th of August, 2010.

10. The petitioner in the above case must file all but one of the following documents along with his petition.

- a. Verifying affidavit.
- b. Copies of document he wishes to rely on at the trial.
- c. Statement on oath of the witnesses.
- d. List of witnesses.

The High Court of Lagos State declined jurisdiction in a suit filed by Social Rights Initiative (N.G.O) and two other persons against the Attorney General of the Federation and the Central Bank of Nigeria challenging the Federal Government decision to change the one Thousand Naira note to a coin.

11. The most probable reason why the Court declined jurisdiction in the above case is that:

- a. The matter ought to have been commenced in the FCT High Court.
- b. Jurisdiction of the National Industrial Court.
- c. The matter was commenced in the wrong judicial division.
- d. The matter falls within the exclusive jurisdiction of Federal High Court .

12. The ruling in the above case is regarded in the as:

- a. Interlocutory application.
- b. Interlocutory decision.
- c. Final ruling.
- d. Final decision.

13. Assuming in the above ruling, the court has assumed jurisdiction, it will be regarded as:

- a. Final ruling.
- b. interlocutory decision.
- c. Final decision.

d. Interlocutory ruling.

14. The sole ground for dissolution of marriage under the matrimonial causes Act is:

- a. Adultery.
- b. Living a part for two years and respondent does not object .
- c. Desertion .
- d. That the marriage has broken down irretrievably.

15 . The principle for grant of an injunction does not include:

- a. Legal right .
- b. Substantive issue to be tried.
- c. Undertaking as to success.
- d. Attitude of the applicant.

16. A counsel handling a matter is not allowed to depose to an affidavit in one of the following:

- a. In all cases he is handing.
- b. In matters likely to be contentious.
- c. In non-contentious matters.
- d. In matters where he is a party.

17. A defendant served with a writ outside jurisdiction must be given at least:

- a. 8 days to enter appearance .
- b. 14 days to enter appearance.
- c. 30 days to enter appearance.
- d. 45 days to enter appearance.

18. In view of the lingering crisis in Bauchi State House of assembly over the amendment of the 1999 Constitution, the House has been unable to sit for more than 3 months. Whereupon, the National Assembly decided to take over the legislative functions if Assembly is not happy with this development and has briefed you to sue the National Assembly .

In which Court will you institute the action?

- a. Supreme Court .
- b. Court of Appeal.
- c. Federal High Court.
- d. Bauchi State High Court.

19. If a party is evading service of court process, he can be served by any of the following means:

- a. substituted service
- b. accelerated service
- c. urgent service
- d. all of the above

20. All but one of the following is correct.

- a. Nomenclature of parties depend on the type of action and the rules of court .
- b. A person can be plaintiff and defendant in the same action.
- c. In interlocutory applications, parties are referred to as applicant and respondent.
- d. Mistake in stating correct names of the parties is not fatal to case.

CRIMINAL LITIGATION

At the trial of Anne and Joy for drug trafficking before the Federal High Court, Ibadan, Anne refused to plead to the charge while Joy stood mute when the charge was read to her. The court however wasted no time in recording a plea of not guilty for the two accused persons. When the National Drug Law Enforcement Agency (NDLEA) prosecuting Counsel applied to Court to open its case the defence counsel objected on the ground that only the office of the Attorney General could prosecute such offence. The objection was overruled. The Officer who investigated the matter sought to tender a confessional statement made by Anne in the Court of his testimony before the Court, but this was opposed by the defence counsel on the ground that no such statement was made.

The Court went into trial within trial to determine whether or not the statement was made. The prosecution called only the Officer who investigated the case and closed its case. The defence called no witnesses and did not give any final address. The prosecution addressed the Court. The two accused person were convicted and sentenced to 5 years imprisonment each.

Now answer the following question 1-6.

1. The Court was wrong to have hurriedly recorded a plea of not guilty for Joy when she stood mute because:
 - a. The muteness could have been as a result of stress.
 - b. The muteness could have been as a result of annoyance.
 - c. The muteness could have been as a result of malice or visitation of God.
 - d. None of the above.

2. The objection to the right of the NDLEA official to prosecute the accused person was
 - a. Wrongly overruled.
 - b. Right overruled.
 - c. All of the above.
 - d. None of the above.

3. When the admissibility of the purported confessional statement of Anne was objected to on the ground that it was not made, the Court should have:
 - a. Simply rejected the statement.
 - b. Simply ask the prosecution if the statement was made in the presence of anyone.
 - c. Simply ask Joy if Anne truly made the statement
 - d. Simply admitted the statement but look for other pieces of evidence adducted at trial to corroborate the content of the statement before ruling on it.

4. Trial within trial is only necessary where the admissibility of a confessional statement is challenged on the ground that it was obtained as a result of
 - a. Inducement.
 - b. Threat.
 - c. Promise of an advantage.
 - d. All of the above.

5. The prosecution's evidence would be insufficient in the absence of any one of the following:
 - a. Case diary.
 - b. Expert report of a national chemist.
 - c. Post mortem report.
 - d. Confessional statements of the accused persons.

6. Final address by the defence is important because
 - a. It is part of evidence of a party.
 - b. It is the sole determinant of who wins a criminal matter.

- c. It helps the trial judge to avoid going through the bulky evidence adduced by the parties.
- d. It assists the court in identifying the strength of a party's case and the weakness of the other based on their respective evidence already adduced before the Court.

At the arraignment of Ajasco Randy for rape recently at the High Court, Abagana, Enugu State, when the charge was read to him he refused to make a plea out of annoyance. The judge went ahead and recorded 'not guilty' for him. The two witnesses for the prosecution remained in Court. PW1 gave his evidence and sat down. The prosecution without calling PW2 closed its case. Counsel for defence protested to the court that prosecution ought to have called all his witnesses before closing his case. The accused Ajasco Randy still refused to enter his defence. He was sentenced to life imprisonment and 40 strokes of Haddi lashing.

Answer the following questions 7-10 based on the above scenario.

7. When Ajasco Randy refused to enter a plea the Court should have:
 - a. Adjourned the matter sine die.
 - b. Investigated the reason for his refusal.
 - c. Enter a plea of guilty for him and sentence him accordingly.
 - d. Ordered him to plea to the charge.

8. The evidence of the Prosecution witness who remained in Court should have been:
 - a. Disregarded by the Court.
 - b. Inadmissible in its entirety.
 - c. Admitted but the Court should attach less weight to it.
 - d. All of the above.

9. The objection of the defence Counsel that the prosecution ought to call the other witness listed should be overruled:
 - a. Because the prosecution is not bound to call all his witnesses.
 - b. No, it should be upheld because once witnesses are listed on the charge sheet, they must all be called.
 - c. Because only the eye witness is necessary in the proceedings.
 - d. Because only the eye witness is necessary in the proceedings

10. The punishment imposed by the Court should have been:
 - a. 12 strokes of Haddi lashing instead of 40 strokes.
 - b. 40 strokes of Haddi lashing only.
 - c. Terms of imprisonment with or without canning.
 - d. Terms of imprisonment and 12 strokes of Haddi lashing.

11. Assuming Major kasali was convicted by the Court martial for obtaining by false pretence and sentenced accordingly;
 - a. He can still be tried by the High Court.
 - b. He can only be tried by the High Court upon leave of the Court of Appeal.
 - c. He cannot be tried again by any Court whatsoever.
 - d. He can only be tried by the High Court upon leave of President of the Court Martial.

Thomas Agary was arrested for being in possession of heroin by NDLEA officials. He was detained for 4 days without access to his lawyer. He was tried before the Chief Magistrate Court, Lagos. At the trial his Lawyer tried to apply for bail on his behalf. The bail was turned down. His lawyer intends to apply to the High Court for his release.

Answer the following questions.

12. Assuming the Counsel is to contest the jurisdiction of the Court, which Court has jurisdiction to try the offence:

- a. The State High Court.
 - b. The Federal High Court.
 - c. The Industrial Court.
 - d. The Magistrate Court.
 - e.
13. His detention for 4 days without access to his lawyer and without being informed of the offence against him are in breach of the accused.
- a. Right to Counsel of his choice only.
 - b. Right to personal liberty only.
 - c. Right to be informed of the case against him and right to Counsel.
 - d. All of the above.
14. The bail application made by the Counsel to the accused is referred to as
- a. Bail pending trial.
 - b. Bail pending investigation.
 - c. Police Bail.
 - d. Bail pending Appeal.
15. When Edet the accused person was called upon to enter his defence at the close of prosecution's case, the Court informed him of the options open to him under s.287(1)(a)CPA. The court said that the options are exercisable by him.
- a. Only if he is represented by Counsel.
 - b. Only if he asks for them
 - c. Only at the discretion of the court.
 - d. Whether he is represented by Counsel or not.
16. All but one of the following are compulsory requirements in a valid charge sheet.
- a. The state of origin of the accused person.
 - b. The place of commission of the offence charged.
 - c. The date of commission of the offence.
 - d. The name of the accused person.

Nwaogu Chuka who resides at NO 5 Todun street, Minna reported to the police that his house was broken into and that some of his property were stolen. He told the police that he suspected Ogunde Bello of the theft. A search warrant was issued and on the day the search warrant was executed, the police searched the house and all occupants including the wife of Bello. Bello, his wife and two sons were subsequently taken to the police station and detained.

Answer the following questions:

17. To apply for police bail of Bello, his wife and sons, the counsel could apply in any of the following ways except one:
- a. Orally.
 - b. By motion on notice.
 - c. By summons.
 - d. By written brief.
18. A research conducted on a woman by a man is irregular according to:
- a. S.79 CPC
 - b. S.80 CPC
 - c. S.81 CPC
 - d. S.82 CPC

19. A first information report is used to institute criminal matters:
 - a. In a Magistrates Court in the North.
 - b. In a Magistrates Court in the South.
 - c. In a High Court in the North.
 - d. In a High Court in the South.

20. An information for instituting criminal actions in the south contains:
 - a. A preamble, statement of particulars, and particulars of offence.
 - b. A preamble, statement of offences and particulars of offence.
 - c. A preamble, counts and statements of offence.
 - d. A preamble, statement of offence and ingredients of the offence.

CORPORATE LAW PRATICE

At the general meeting of Adamco Nigeria Limited held on the 30th day of May, 2010, the members of the company passed a special resolution for voluntary winding up of the company. It also resolved that a liquidator be appointed to sell off the whole undertakings to another company for a consideration of fully paid up shares in the company. The company's directors also made a statutory declaration of solvency.

1. Which of the following Corporate restructuring is best described by the above scenario:
 - a. Members' voluntary winding up.
 - b. Creditors voluntary winding up.
 - c. Arrangement on sale.
 - d. Merger.

2. The following is true about statutory declaration of solvency except:
 - a. It is made within five (5) weeks of passing the resolution for voluntary winding up of the company.
 - b. It is made by all or majority of the directors.
 - c. It embodies a statement of the Company's assets and liabilities.
 - d. The directors of the company are of the opinion that the company will be able to pay its debts in full within 18 months from the commencement of the winding up.

3. In winding up of a company compulsorily by the Court, the company is deemed wound up:
 - a. When the court makes a dissolution order on the company on the application of the liquidator.
 - b. When the court makes a winding up order.
 - c. When a liquidator is appointed.
 - d. Three months after registration by CAC of the accounts and returns of the final meeting of the company from the liquidator.

Akinpawpaw (Nig) Plc is a company licensed by Nigerian Government for the production of telecommunications equipment and recharge cards in January, 2010.

The company at its last Annual General Meeting announced to its board of Directors and the members of the Company that it had met the listing requirements on the floor of the Nigerian Stock Exchange.

Answer the following questions:

4. In the event of any dispute between Akinpawpaw (Nigeria) Plc and other capital market operators the adjudicatory body will be one of the following:
 - a. The Federal High Court.
 - b. The Investments and Securities
 - c. State High Court.
 - d. High Court of the Federal Capital Territory.