

OLABISI ONABANJO UNIVERSITY, AGO IWOYE
FACULTY OF LAW
HARMATTAN EXAMINATION
LAW OF EVIDENCE

COURSE CODE: PUL 401
2016/2017 SESSION

TIME: 2 1/2 HOURS

INSTRUCTION: Answer 4 questions in all. Methodical presentation of argument will attract extra marks.

QUESTIONS

1. The law of evidence is dynamic, its development has been casuistic, afflicted by a number of statutory rules and exceptions which do not seem to have any logical connection. The above position makes the law of evidence somewhat difficult. Attempt a definition of the course vis a vis all the definitions of learned jurists.
2. The knowledge of the source or origin of the law of evidence impacts on its validity or legitimacy. Do you agree?
3. Jude, a graduate of Law, lives very close to Jane's house. Jane works with the Ago Iwoye Broadcasting Corporation and she is well noted for her sonorous voice when newscasting. On many occasions, he had assisted Jane to the market and often dropped her off at the Itamerin Office. For almost three years, Jude had confessed his love to Jane as a result of which Jane eventually fell in love with him. She reflected on one of the days they had went out together, Jude had said: "I love you, I want to spend the rest of my life in your arms. It is for better for worse." These words coming from Jude, Jane believed that she had eventually gotten her own hubby for life. Meanwhile, Qudus had been coming and bringing gifts, but Jane would have none of it. Other suitors also came but she was firm in her view that Jude was the man God had given her. They had done family introduction and wedding was fixed for May, about three months to come. Then, Jude found another lady and fell in love with her. He told Jane all was over between them. All entreaties from Jane and her friends fell on deaf ears.

Jane is your friend and she is contemplating instituting legal action against Jude. Advise her.

4. Dr. Dan became the head of Ajao Family when Pa Ajao died in 2016. Pa Ajao took Dr. Dan to all the landed properties belonging to the family. About four hectares of these vast land being claimed by Ajao family have become an issue between them and Bimpy family. Bimpy family is claiming ownership of the vast land along Etukere River in Ago Iwoye. Meanwhile, Pa Ajao had told Dr. Dan all the history about the land in the presence of Chief Ajasco and Madam Cash. The matter is likely to go to court. Dr. Dan believes that Mr. Soja, a solicitor, who has worked for their family in the past would give evidence on their

behalf while Bimpy family is relying on Mr. Soja too because he had assisted them in writing letter of protest in the past to Ajao Family.

Examine who amongst Mr. Soja, Dr. Dan, Pa Ajao, Chief Ajasco and Madam Cash may be eligible to give evidence on behalf of both parties. Support your discussion with recent cases.

5. You are the Counsel representing the claimant in *Gbolagunte v. Onitolo* case. The Counsel to the defendant had indicated to the court that he has 10 witnesses to call to give evidence. Your contention is that some of the facts in respect of which counsel to the defendant intends to call evidence are facts which need not be proved.

Discuss the three groups of cases which fall into this category.

6. (a) In an action instituted at an Ijebu Ode High Court by Mr. Olagoke against Bamidele & 2 Ors for a declaration of title to a family land sold by Mr. Bamidele to the other defendants without the concurrence of other family members, Mr. Bamidele in his statement of defence, averred that the land in question had earlier been partitioned among the family members and that it was the portion belonging to him he sold to the other two defendants. At the hearing of the suit, arguments arose as to which of the parties was to start calling evidence in the light of the nature of pleadings. The court eventually took the view that since the burden of proof is always on the plaintiff in a civil matter, Mr. Olagoke should first introduce evidence in the case. While Mr. Olagoke testified personally and in addition had 10 other witnesses testified in his favour, all of whom gave evidence that entered into the realm of fantasy, Mr. Bamidele did not testify personally. He only called two witnesses.

In his final address, counsel for Plaintiff made heavy weather of the fact that the defendant did not testify personally. He argued that since the Plaintiff called 11 witnesses as against the 2 called by the defendant, judgment should be given in the Plaintiff's favour. This the court eventually did.

Mr. Bamidele is desirous of contesting the judgment on appeal. Advise him.

- (b) If the commission of a crime by a party to any proceedings is directly in issue in any proceeding, civil or criminal, it must be proved beyond reasonable doubt. -Section 135 of the Evidence Act 2011 (as amended). Discuss.