



**NIGERIAN LAW SCHOOL**

**BWARI - ABUJA**

**BAR EXAMINATION-PART II FINAL**

**PROFESSIONAL ETHICS & ETHICS**

**FRIDAY, AUGUST 17, 2018**

**TIME ALLOWED: 3 HOURS**

**INSTRUCTIONS:**

**THIS PAPER IS DIVIDED INTO TWO SECTIONS. TWO ANSWER BOOKLETS ARE PROVIDED. QUESTIONS FROM EACH SECTION SHOULD BE ANSWERED ON A SEPARATE ANSWER BOOKLET. QUESTIONS 1 AND 4 ARE COMPULSORY. ONE OTHER QUESTION FROM EACH SECTION SHOULD BE ATTEMPTED.**

**WRITE YOUR EXAMINATION NUMBER ON EACH ANSWER BOOKLET.**

**SECTION A**

**QUESTION 1**

Mrs. Pretty Skeleton, a director in the Federal Ministry of Justice appeared in the High Court of the Federal Capital Territory for a matter dressed in trouser suit and lawyer's robe (wig, gown and collaret). She came in 30 minutes after the Court began sitting, and sat at the inner bar. At the conclusion of the ruling of the Court which was on-going when she arrived, Mrs. Skelton mentioned her matter which was slated for mention on the cause list out of turn. One of the opposing Counsel in her matter is Chief Brown Jenkins, a Life Member of the Body of

Benchers. While he was about announcing his appearance, Mrs. Pretty Skelton raised an objection that he does not have a right to audience because he had not paid his practicing fee for the current year. She argued that it was well past March 31, and Chief Jenkin's name is not on the list of practicing lawyers in the jurisdiction who have paid their practicing fee. The Court overruled the objection and recorded Chief Jenkin's appearance. Counsel to the 3rd defendant, Mr. Long John Olotu announced appearance for himself and for the 3rd defendant who was his brother, since they were jointly sued. The Registrar of Court drew the attention of the Judge to an application letter by Counsel to the 4th defendant, Mr. Abraham Adamu, who was absent in Court.

**Answer the following questions:**

(a) Comment on the following:

(i) The manner in which Mrs. Pretty Skeleton was attired. Describe the appropriate attire for Mrs. pretty Skeleton's court appearance, if any. Is this different from the appropriate attire for male lawyers appearing in Courts of superior record? Briefly explain.

(ii) The arrival time of Mrs. Pretty Skeleton and the part of the Court where she sat. Give reason for your answer.

(iii) The propriety or otherwise of Mrs. Pretty Skeleton mentioning her case on the cause list out of turn. Would your answer be different if she was the Attorney-General?

(b). (i) Comment on the propriety of Mrs. Pretty Skeleton's objection and the Court's reaction.

(ii) With the aid of authorities, comment on the propriety of Mr. Long John Olotu's announcing appearance for himself.

(iii) Assuming you are Mrs. Iretty Skeiton, announce your appearance.

(c) Assuming you were Mr. Abraham Adamu, draft the application to Court asking that your matter be adjourned to another date and apologizing for your inability to attend Court as earlier scheduled.

## **QUESTION 2**

Mrs Pauline Orie is a legal Practitioner in the law office of Kevwe, Onoche & Co. She was assigned to handle the briefs of Madam Kofo Okeke, a client of the law firm. In July, 2018, Madam Okeke briefed the law office to institute a suit for the recovery of a contract sum of N10 million from Oil & Gas Fortune Ltd and to draft a Power of Attorney on her behalf authorizing her business partner to sell her house.

**Answer the following questions based on the scenario:**

(a) Outline the stages of legal interview using Avrom Sherr's model, which Mrs Pauline Orie will deploy to take instructions.

(b) What are the sources of legal literature Mrs Pauline Orie will consult to handle the brief?

(c) Assuming you are Mrs Pauline Orie, write a letter to Madam Okeke to confirm your instructions.

(d) Comment on the legal significance of heading the letter of acceptance of the contract between Madam Okeke and Oil & Gas Fortune "without prejudice".

(e) Assuming Oil & Gas Fortune Ltd proposed negotiation as a means of resolving the issue and Mrs Pauline Orie is preparing for the negotiation, state the negotiating strategies and five tactics she may adopt to her client's advantage.

(f) Assuming Kevwe, Onoche & Co had previously handled matters for Oil & Gas Fortune Ltd, comment on the current engagement of the law firm by Madam Okeke to handle her brief against Oil &&Gas Fortune Ltd.

(g) Assuming Mrs Pauline Orie drafted an ordinary Power of Attorney instead of a Deed of Power of Attorney as instructed, what will be your comment?

## **SECTION B**

**PLEASE USE ANOTHER BOOKLET FOR THIS SECTION**

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### **QUESTION 3**

Emeka Francis who was called to the Nigerian Bar in 2017 has just joined Trister Chambers. Emeka Francis and five (5) other lawyers including the Head of Chambers are on monthly salary. This is aside housing and other allowances paid by their principal, Mr. Chibuiké. Emeka noticed upon joining the firm principal that the office does not keep any record of the firm's financial transactions. The principal also

runs the firm's finances with his account at Hallmark Bank which he opened 20 years ago during his service year in Akwa Ibom State.

The firm is involved in diverse areas of practice including, litigation corporate practice and sole trusteeship of several estates.

**Answer the following questions:**

(a) (i) Enumerate the books of account which ought to be kept by the law firm.

(ii) Which rule of law provides for enforcement where such books are not kept and which body has the responsibility for enforcing same?

(b) Comment on the propriety of paying rents due from a client's property into Mr. Chibuike Charles' account in Hallmark bank before paying it to the client.

(d) Highlight the Rules for making entries in (two) 2 of the books of account mentioned by you in (1) above.

(d) (i). How would you classify the unit of practice adopted by Trister Chambers? Mention three (3) of its advantages.

(ii) List five (5) office equipment that Trister Chambers should have.

(iii) Mention 3 ways in which Trister Chambers could deploy IT to its advantage and mention three (3) problems which Trister Chambers may encounter in its use of IT and proffer three (3) solutions.

(e) Where the principal of the law firm Mr. Chibuike Charles wishes to apply for the conferment of the rank of Senior Advocate of Nigeria; highlight the requirements he needs to satisfy.

**COUNCIL OF LEGAL EDUCATION**

**NIGERIAN LAW SCHOOL**

**BAR PT II EXAMINATIONS**

**AUGUST 2018**

**PROFESSIONAL ETHICS & ETHICS**

**MARKING SCHEME**

**SECTION A**

**QUESTION 1**

**(a)(i)**

- The manner in which Mrs. Pretty Skeleton was attired as was improper.
- As a female lawyer appearing before a superior court of record in Nigeria Mrs. Pretty Skeleton should be attired in any of the ways listed below:

(a) Black knee length (or below the knee) skirt suit, with a white camisole or blouse shirt, collaret, wig and gown and a pair of black court shoes; or

(b) Black knee length (or below the knee) dress suit, collaret, wig and gown and a pair of black court shoes; or

(c) Black knee length (or below the knee) long sleeved dress, or a pair of black court shoes.

**2 mks**

- Yes, a female lawyer's attire is different from that of a male lawyer appearing before a superior court of record.
- A male lawyer is supposed to dress in any of the following ways.

(a) Black suit, white collarless shirt with winged collar attached by two studs, or a white winged collar shirt, bib, a black pair of socks and a pair black shoes.

(b) Barrister's striped trouser and jacket, white collarless shirt with collar attached by two studs, winged collar shirt, a bib, a black pair of socks and a pair black shoes. **Rule 36(a) RPC**

**2 mks**

- The arrival time of Mrs Skelton is not proper. Lawyers are expected to be seated at least 30 minutes before the courts begin sitting at 9am. **½ mk**
- Reasons:

(1) Lawyers are expected to wait for Judges and not the reverse.

(2) Arriving early will afford the lawyer the opportunity to meet with the client and the witnesses before the court begins sitting and keep them at ease.

(3) The lawyer will have the time to help the client and the witnesses get familiar with the courtroom e.g. witness box etc.

(4) The lawyer will be able to write his name on the cause list

(5) The lawyer will have the time to get himself composed and prepared.

(6) To avoid the lawyer's case being struck out.

**1 mk (for any One rerson)**

- The part of the court where Mrs. Skeleton sat is also not proper.
- Although she is a Director in the Federal Ministry of Justice and a law officer, she is not qualified to sit at the inner bar.
- The Legal Practitioners Act (LPA) stipulates that the law officers who can sit at the inner bar are the Attorney General of the Federation (AGF) or Attorney General of a State (AG State) and the Solicitor General of the Federation (SGF), Senior Advocates of Nigeria (SANs) as well as Life Benchers are also entitled to sit at the inner bar.

**Section 6(1)(a), (2) &(3) LPA.**

**(Any one reason) 1mk**

- It was improper for Mrs. Skeleton to have mentioned her case on the cause list out of turn. **1 mark**
- Law officers who can mention their cases out of turn are AGF, AG State and SGF. **1 mark**
- Other lawyers who can do so are SANs and Life Benchers. **1 mark**
- Section 6(1)(b), (2) &(3) LPA



- Yes, the answer will be different if she is the AGF because by virtue of section 6(1) (b) & (2) the AGF can mention his case which is on the cause list for mention, out of turn. . **1 mark**

**(b) (i)**

- Mrs. Pretty Skeleton's objection was appropriate.
- One of the right can be enjoyed when a lawyer has paid his Bar Practising Fee (BPF) for that particular year.
- The BPF has to be paid on or before March 31st of every year.
- Non payment of the fee puts the right of audience in abeyance.
- Having failed to pay his annual BPF as at when due, Chief Brown Jenkins cannot announce his appearance or be heard in his capacity as a lawyer in court.
- **Section S. 8(2) LPA and Rule 9(1)(2)**
- The court acted in error by overruling the objection raised by Mrs. Skeleton.
- The court did not avert its mind to section **S. 8(2) LPA and Rule 9(1)(2) RPC. 1mk.**

**ii.**

- It is appropriate for Mr. LongJohn Olotu to announce appearance for appearance for himself as a litigant.

- He can represent himself as a lawyer but he cannot appear as counsel for his brother in the legal proceeding in which he is also a party.    ½ mk
- **Rule 17(5) RPC; Cani Fawehinnmi v NBA ( No. 2).      1mk**

iii.

- May it please this honourable court, P.. Skeleton (Mrs/Miss/Ms.), Director, Federal Ministry of Justice. My appearance is for the State for the Prosecution or the Plaintiff depending on Whether it is a criminal or civil matter]; OR
- May it please my Lord or Your Lordship, Pretty Skelton, Director, Federal Ministry of Justice, appearing for the State.    **1mk (Any of the two modes)**

iv.

Abraham Adamu Law Office

Legacy Chambers

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[adamuabraham\(@yahoo.co.uk](mailto:adamuabraham@yahoo.co.uk)

[www.legacychambers.com](http://www.legacychambers.com)

Phone number: 080119933 44

Our ref

Your ref:

17th August, 2018. ½mk

The Registrar,

High Court 3

High Court of the Federal Capital Territory,. ½mk

High Court Complex

Abuja.

**APPLICATION FOR ADJOURNMENT**

**RE: SUIT NO- HCFCT/01/2001**

**ATTORNEY GENERAL OF THE FEDERATION v. MR. MARCUS FIDELIS & 3  
ORS**

I write as counsel to the 4th defendant in the above names suit listed for mention on the cause list dated 27" August, 2018.

I have another matter before the Court of Appeal Benin Judicial Division, with Appeal No. CA/B41 9/12 which coincidentally is slated for hearing on the same day as this suit. May I therefore humbly request that this suit be adjourned. I suggest 04/09/2018, 07/09/2018 or 09/2018 subicct to the convenience of the court. ½ mark

Kindly bring this letter to the attention of His Lordship and extend my Soncere apologies for any inconvieniences caused. Thank you for your co-operation. ½ mark

**Yours faithfully,      ½ mark**

**¥¥¥¥¥¥**

**Abraham Adamu**

**(Counsel to the 4th defendant)      ½ mark**

**Cc: Counsel to the Plaintiff and Counsel to the 1st-3rd defendants.**

**(PLEASE NOTE: Any address, date, suit no., and cogent reason for seeking an adjournment will suffice.)**

## **QUESTION 2**

a) Avrom Sherr's three stages of legal interview are listening, questioning and advising., ceconday and tertiary sources.

b) Primary, secondary and tertiary sources. ½ **mark**

c) A letter to confirm instructions by Pauline Orie to Madam Okeke using the letterhead of Kevwe, Onoche & Co and signed by Pauline Orie for the law office.

Kevwe, Onoche & Co.

15 Zimbabwe Close,

Central Business District, Lagos. ½ mk

Info@keweeonocheandco.org

234(1) 7602421

Our ref:.....

Your ref:..... Date.....

Mrs. Kofo Okeke,

House 2, Theophilus Orji Close ½ mk

Banana Island Estate,

Ikoyi, Lagos.

Dear Madam, ½ mk

**LETTER OF CONFIRMATION INSTRUCTION IN RESPECT OF  
RECOVERY OF CONTRACT SUM AND THE PREPARATION OF A  
POWER OF ATTORNEY. ½ mk**

We write in furtherance to your oral instructions to us on..... July, 2018  
in respect of the above subject matter.

The said instructions are as follows:

1. That we institute a court action on your behalf for the recovery of the sum of 10,000,000.00(Ten Million Naira) against Oil & Gas Fortune Limited, an office with its address at Victoria Island, Lagos.
2. That we prepare a Power of Attorney on your behalf authorizing Mr. Azubuike, your business partner to sell your house situate atvNo. 20

Okoawo Close, Victoria Island, Lagos, at a sum not less than N200m (Two Hundred Million Naira).

Kndly Confirm that the above reflects your instructions to us. ½ mk

We shall appreciate yor early response, please.

Yours faithfally, ½ mk

Signature ½ mk

Mrs Pauline Orie. ½ mk

Legal Practitioner,

For: Kewve, Onoche && Co.

**PLEASE NOTE: Any address, date, name and price will suffice.)**

d) Generally, any document made in the course of negotiation with a view to settlement of a dispute with a caption

aadress "without prejudice" is inadmissible in evidence.

**S. 26 & 196 Evidence Act; Fawehinmi v NBA (No. 2); Olukoya v CFAO; Kolo v. FBN.**

In the instant case, a letter of acceptance of contract does not presuppose the existence of a negotiation towards settlement of a dispute.

Therefore, a letter of acceptance is admissible notwithstanding the caption "without prejudice"

**2 mks**

e) Negotiating strategies are:

- ✓ Positional/competitive/win-lose strategy, and
- ✓ Cooperative or problem solving strategy/win-Win strategy.
- Tactics include behaviour, limited authority, lack of authority, blackmail, control, agenda, nibble, piecemeal, overwhelming numerical strength, take it or leave it, package, contextual manipulation, threats, puffs, deadline, etc. **2½ mks**

**(Any five)**

(f)

- Generally, at the point of retainer by a client, a lawyer is expected to disclose any conflict of interest i.e. all the circumstances of his relations with the parties. **Rule 17 RPC. 1 mk**
- Thus, the current engagement of the law office by Madam Okeke against Oil & Gas Fortune Ltd having previously represented Oil & Gas Fortune Ltd previously, runs contrary to Rule 17 RPC except, where the Law firm had disclosed the conflict of interest and Madam Okeke consented.
- **Onigbongho Community v. Minister of Lagos Affairs & 31 Ors in Re: Chief FRA Williams.**

(g)

- Drafting an ordinary Power of Attorney onstead of a Deed of Power of Attorney is a breach of the duty to follow client's instructions.
- It may also show a lack of dedication and devotion to the client' s matter.
- These amount to professlonal misconduct
- **Rules 14 & 15 RPC.**
- It may result in a suit against counsel for negligence. **Rule 14(3) RPC. ½ mark**

## **SECTION B**

### **QUESTION 3A**

i) The books acount which ought to be kept by the law firm are:

a)Cashbook

b) Ledger

c) Journal

d) Record of bill of costs. **1½ mk**

ii) The Rule of law which provides for enforcement where such books are not kept is THE LEGAL PRACTITIONERS' ACCOUNT RULES 1964



The body responsible for enforcing same is THE GENERAL COUNCIL OF THE BAR (Or GENERAL BAR COUNCIL). **1½ mk**

### QUESTION 3B

- Mr Chibuiké's act of paying rent due from a client's property into his personal account first before paying into the client account is improper. **See Rule 23 (2) of RPC**
- A legal practitioner has an obligation to keep three (3) types of accounts, to wit

1) client's account

2) Trust account

3) Personal account. **1½ mk**

- **Rule 3 Legal Practitioners Accounts Rules. (LPAR)**
- A legal practitioner should not use client's money as his own or mix it with his own.

### QUESTION 3C

Two (2) books of account mentioned in Question 3(a)(i) include:

a) Cashbook

b) Ledger

The Rules for making entries into the Cashbook are:

1. Monies received should be entered into the Debit Column.
3. The details of the account should be provided.
4. The difference between the summation of the debit and the credit columns respectively will make up the balance carried down.
4. Will make up the The addition of the credit column and that of the debit column respectively will make up the balance brought down.

**(Any 2)**

The Rules for making entries into Ledger are:

Monies received should be entered into the Credit column.

Monies spent should be entered into the Debit Column. **1 mk**

### **QUESTION 3D**

i) The unit of practice adopted by Trister Chaimebers is a SOLE PROPRIETORSHIP

Advantages of a sole proprietorship includes:

- a) Quick decision making
- b) The sole proprietor takes all the profit
- c) Takes credit for the success of the business
- d) Can go on vacation
- e) His successor(s) can inherit his practice
- f) Specialization is possible

g) Not professionally isolated/ Can brainstorm etc.

**(Any 3). 2½ mks**

ii) Trister Chambers should have the following office equipment:

a) Computers

b) Printer

c) Scanner

d) Telephone

e) Inverter

f) Photocopiers etc.

**(Any 5). 2½ mks**

iii) Three ways in which Trister Chambers can deploy Information Technology to its advantage include:

a) For executing their financial transactions. E.g. Microsoft Excel, Microsoft Word.

b) For Library and research through the use of virtual library, law pavilion etc.

c) For law office management by profiling records of lawyers, support staff and clients.

d) To type documents

e) To store documents

- f) To conduct research
- g) To communicate
- h) To interact on social media etc

**(Any 3). 1½ mks**

Three problems which Trister Chambers may encounter in the use of Information Technology include:

- a) Erratic electricity supply
- b) Problem of Virus attack
- c) Computer fraud
- d) I.T Illiteracy
- e) Cyber Theft etc. **1½ mks**

**(Any 3)**

Three Solutions include:

- a) Stand by generator
- b) Appropriate staff training
- c) Install antivirus
- d) Use of firewalls
- e) Use of passwords

f) Insurance etc.     **1½ mks**

**(Any 3)**

### **QUESTTON 3E**

Requirements Mr Chibuike Charles needs to satisfy for the conferment of the rank of SeniorAdvocate of Nigeria include:

- 1) Must be a qualified legal practitioner and must have been so qualified and practiced for a period not less than 10 years.
- 3) The payment of N60,000 non-refundable processing fee for the first filter and subsequent payment of N200,000 for the second filter as conferment fee.
- 3) 20 final judgments of tlhe High court or superior courts of record, 5 final judgments of Court of Appeal and 4 final judgments of the supreme court or 3 final judgments of Supreme Court where he personally conducted the cases from the trial court to the Supreme Court.
- 4) The names of 10 judges of the superior courts of rocord from which 3 will be selected for recommendation for the applicant.
- 5)The names of 6 legal practitioner against or with whom he has appeared from which 3 will be selected for reconmendation for the applicant,
- 6) He must be of good character.
- 7) Must have a standard law ofice (i.e standard law library, good quality office space and well-trained support staff).

8) Must have done pro-bono cases.

9) Must have leadership qualities.

10) Must have contributed to the development of the law either as an academic or in legal practice.

**Guidelines for Conferment of the rank of SAN.**

**5 mks (Any 5)**

**QUESTION 4A**

**LONG TITLE:**

ABILL FOR AN ACT TO PROHIBIT THE DISTRIBUTION AND SALE OF THE BRANDS OF COUGH SYRUF CONTAINING CODEINE, WITOUT PRESCRIPTION BY QUALIFIED MEDICAL PERSONNEL, TO PRESCRIBE PUNISHMENT FOR ITS VIOLATION AND TO ESTABLISH CODEINE ABUSE MONITORING AGENCY AND FOR MATTERS CONNECTED THERET. **2 mks**

**COMMENCEMENT:**

This Act shall come into force on the day the President assents to it.

**1½ mks**

**ENACTING CLAUSE:**

ENACTED BY the National Assembly o the Federal Fepublic of Nigeria, as follows:

**1½ mks**

Or

The National Assenmbly of the Federal Republic of Nigeria enacts  
as follows:

**INTERPRETATION CLAUSE: ½ mk**

In this Act, except as otherwise provided

1)Mental Disorder includes:...

2) Youth incude:

3) Cough Syup includes:

4) Codeine means

5) Sale means:

6 Distribution means..

**(PLEASE NOTE: Interpretation of any word using "includes and means will suffice)**

**SHORT TITLE** This Act may be cited as The Codeine Abuse Prohibition Act, No.... 2018

**DURATION:**

This Act shall be in force for a period of five (5) years firom the day the Presideat gives his assent. **1½ mks**

**ESTABLISHMENT CLAUSE:**

There is hereby established a body to be known as the Codeine Abuse Agency (Hereinafter referred to as " the Agency "). **1½ mks**

**OR**

There is hereby established a body to be known as Anti-Codeine Monitoring Agency.

**QUESTION 4B**

(1) The body responsible for the Professional discipline of legal practitioner is the Legal Practitioners Disciplinary Committee.

(ii) The classes of offences are:

- a) Infamous conduct in a professional respect
- b) Conviction by a court, in Nigeria for offences incompatible the status of a legal practitioner.
- c) Obtaining enrolment by fraud.
- d) Conducts incompatible with the status of a legal practitioner.

(ii) The sanctions for the above offences include:

- i) Striking Off the name of the legal practitioner
- ii) Suspension
- iii) Admonition/ Warning
- iv) An order to refund money and documents in his possession.

**4 mks**