

SAMPLE THEORY QUESTIONS AND ANSWERS

FEATURING

- Property Law Practice
- Criminal Litigation
- Corporate Law Practice
- Civil Litigation
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EASYREAD SERIES



SAMPLE THEORY QUESTIONS AND ANSWERS

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SAMPLE THEORY QUESTIONS AND ANSWERS

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OUR VISION

As the saying goes, “**Old ideas die hard**”. Legal writing has been bad for a long time. For an entertaining and educational explanation, read Peter Tiersma’s book, Legal Language (Tiersma, Legal Language (1999). which give a fascinating history of how we got to the present state.

As lawyers, what we do most is write. Abraham Lincoln said that “lawyers’ time and advice are our stock in trade, but we express the advice in words”. And we use our time in drafting, in communicating mostly by the written word. Sometimes, though, we fail to remember the first object of writing is to communicate. The first question is all writing is: For whom are you writing?

Most legal writing is atrocious. Fred Rodell, Dean of Yale Law School before most of us were born, had it right when he said, “There are two things wrong with most legal writing. One is style, the other is content.”

Cases are selected from law report not because they are examples of good writing, or even clarity, but because they illustrate the precepts of law in that course. Even when edited, many of these cases are wordy, redundant, and confusing. If the exposure to indecipherable writing in university/ law school were not bad enough, then the young lawyer would ventures forth into the “real world” of law practice.

Hence, avoid the use of unnecessary preambles which weaken or hide the point they introduce. Some examples are; it is important to add that . . ., it may be recalled that . . . In this regard it is of significance that . . . It is interesting to note that . . . etc. Eschew legalese. “Hereinafter,” “aforesaid,” and the like do not add anything but wordiness and detract from readability.

It is important not use two or three or four words to illustrate one word e.g. “devise and bequeath”; “grant, bargain, and sell”; “right, title, and interest”; “make, ordain, constitute, and appoint”. This goofiness originated with the Norman Conquest, after which it was necessary to use both the English and French words so that all could understand. Most of us now understand plain English. A related tendency of us will likely want to use many words when one is more understandable. This should be discouraged.

I encourage you to strive to explain yourself in writing in a way that an average person can understand. ***The fewer the words, the more memorable the point,*** Short paragraphs give the reader a chance to pause and digest what has gone before. For these reason some few words have been stated down for appropriate correction;

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BAD

The means by which
Entered a contract to
Filed a counterclaim
Filed a motion
Filed an application
Adequate number of
For the reason that
In the event of
In light of the fact that
Notwithstanding the fact that
Notwithstanding
Cause of action
In order to
At this point in time
Until such time as
Whether or not
During the month of May
By means of
As a consequence of
A distance of five miles
At a later date
Is of the opinion that
Effectuate
In violation of
Made a complaint
Utilize
A period of a week
Made application
Made provision
It is contended by plaintiff
With regard to
In connection with
Performed a seach on
Each and every
Provide responses
Offer testimony
Make inquiry
Provide assistance
Place a limitation upon
Make an examination of
Provide protection to
Reach a resolution
Bears a significant resemblance
Reveal the identity of

GOOD

How
Contracted
Counterclaimed
Moved
Applied
Enough
Because
If
Because
Although
Despite
Claim
To
Now
Until
Whether (usually)
In May
By
Because of
Five miles
Later
Believes
Cause
Violates
Complained
Use
A week
Applied
Provided
Plaintiff contends
About
With
Searched
Either one
Respond
Testify
Ask
Help
Limit
Examine
Protect
Resolve
Resembles
Identify

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Makes mention of	Mentions
Are in compliance with	Comply
Make allegations	Allege
Was in conformity with	Conformed
To effect settlement	Settle

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TESTIMONIALS

"I used the easy read books and it helped me cover each topic before each class, the sample questions and drafts are important and effective to my excellent results at the law school".

-Abdulhaleem Sunusi Ahmed ESQ (BAYERO UNIVERSITY KANO) (FIRST CLASS GRADUATE- NLS)

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THEORY
QUESTIONS
AND ANSWERS

ON

**PROPERTY LAW
PRACTICE**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

Mention ten laws applicable to property law transactions?

ANSWERS

1. Conveyancing Act
2. Property and Conveyancing Law
3. Registration of Titles Law
4. Stamp Duties Act
5. Land Use Act
6. Land Instrument Registration Law
7. Statute of Fraud
8. Illiterate Protection Law
9. Companies and Allied Matters Act
10. Rules of Professional Conduct 2007
11. Land Instrument (Remuneration for Legal Documentation and Other Land Document) Order 1991
12. Capital Gains Tax Act
13. Personal Income Tax Act
14. Companies Income Tax Act

QUESTION 2

Identify and explain the types of deed?

ANSWERS

- a) DEED INDENTURE: This involves two or more parties executing the deed in the transfer of interest e.g. mortgage transaction.
- b) DEED POLL: This involves one party executing the deed e.g. Power of Attorney.

QUESTION 3

Can a deed be valid without a seal?

ANSWERS

In *Foro Bottling Co. V Osuji*, it was held that actual seal is not essential for the validity of deed as a printed circle with the inscription L.S suffices for a seal. Under section 159 Evidence Act a document is presumed sealed and delivered if signed and attested without a seal.

QUESTION 4

What are the parts of a deed?

ANSWERS

- a) Introductory part: Comprises of commencement, date, parties and recitals
- b) Operative part: Comprises of testatum, consideration clause, receipt

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clause, covenant for title, word of grant, operative word, parcel clause and habendum

- c) Miscellaneous part: This is usually optional and it comprises of indemnity clause, undertaking for safe custody and acknowledgment for production clause and reservation if any.
- d) Concluding part: Comprises of Testimonium, schedule (if any), execution and attestation.

QUESTION 5

State the function(s) of the following contents of a deed of assignment:

- a) Recital
- b) Testatum,
- c) Consideration clause,
- d) Receipt clause,
- e) Habendum,
- f) Testimonium

ANSWERS

a. Function of recital

- 1. Document recited for at least 20 years presume genuineness. See section 162 Evidence Act (The ancient document rule)
- 2. Statements in a recital constitute estoppels against the party making them
- 3. Recital aids the interpretation of ambiguous provisions in the deed

b. Function of testatum

- 1. The testatum introduces the operative part of the deed.

c. Functions of the consideration clause.

- 1. It is an evidence of payment of the purchase price.
- 2. It is used for the purpose of assessing stamp duty (stamp ad valorem).
- 3. It implies that a receipt will be issued to cover the amount.

d. Functions of the receipt clause

- 1. There is no need for any further receipt since it is a sufficient discharge to the person paying the money. See section 54 Conveyancing Act 1881 and section 92 Property and Conveyancing Law 1959.
- 2. It is sufficient evidence of payment to a subsequent purchaser. See section 55 Conveyancing Act 1881 and section 93 Property and Conveyancing Law 159.
- 3. It is sufficient authority for the purchaser to pay the purchase price to the vendor's solicitor upon the production of the deed.

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See section 56 Conveyancing Act 1881 and section 94 Property and Conveyancing Law 1959.

e. **Functions of Habendum**

1. It describes the quantum of interest granted to the Assignee.

f. **Function of Testimonium**

1. It provides the link between the execution/attestation clauses with the other part of the deed.

QUESTION 6

Comment on the validity or otherwise of an undated deed.

ANSWERS

The absence of a date in a deed does not invalidate it. See Anuku v. Standard bank Ltd. (1972) UILR 106

QUESTION 7

Mention and briefly explain six documents affecting land which are not required to be by deed?

ANSWERS

- a) **Assent:** This is a document prepared by personal representative to transfer landed property to the beneficiary as stated in the will. This document need not be by deed as it can be in writing.
- b) **Surrender by operation of law:** The giving up of an estate to the landlord by the legal effect of a tenant's act
- c) **Tenancy:** A lease of 3 years and below need not be by deed as it can be in writing. See Section 2 of the Statute of Fraud 1677.
- d) **Vesting order:** An order of court that creates or conveys a legal estate.
- e) **Receipts of discharge:** A receipt endorsed on a mortgage is effective to discharge the mortgage even though it's not by deed.
- f) Transactions covered by the rule in Walsh V Lonsdale
- g) **Power of attorney:** A power of attorney need not be by deed if the instruction requires the donee to carry out an act which could be done in writing. See Abina v Farhat

QUESTION 8

What document will the parties need to execute to effect a transfer of the unexpired residue in a property to another?

ANSWERS

Deed of Assignment

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QUESTION 9

State the covenants or terms to be implied to an assignment where the assignor assigns as a beneficial owner.

ANSWERS

Where the assignor assigns as a beneficial owner, the following covenants will be implied into the assignment:

1. A right to convey
2. Quiet enjoyment
3. Freedom from encumbrances other than those disclosed
4. Further assurances
5. That the lease is valid and subsisting
6. That all the rents and covenants contained in the lease on the part of the lessee, to be paid, observed and performed, have been paid, observed and performed up to the time of the assignment.

QUESTION 10

Draft the introductory part of a deed of assignment.

ANSWERS

THIS DEED OF ASSIGNMENT is made on the _____ day of _____, 20____ BETWEEN Chief Jimmy Promise of No 10 Adeniyi Jones Avenue, Ikeja, Lagos (The Assignor) of the one part AND Agor Lucky Chima of No 30, Aba Road, Port Harcourt, Rivers State (The Assignee) of the other part.

THIS DEED RECITE AS FOLLOWS;

1. The Assignor is the rightful owner of the property lying at_____
2. The Assignor agrees to assign and the assignee agrees to take the property

QUESTION 11

List and draft the operative part of a deed of assignment.

ANSWERS

The operative part of a deed of assignment has seven (7) contents namely;

1. Testatum,
2. Consideration,
3. Receipt clause,
4. Capacity clause or Covenant of title,
5. Words of grant,
6. Parcel Clause, and
7. Habendum

NOW THIS DEED witnesses as follows;

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In consideration of the sum of _____ paid to the Assignor by the Assignee (In receipt of which the Assignor hereby acknowledges), The Assignor as beneficial owner ASSIGNS to the Assignee ALL THAT PARCEL OF LAND situated at No____ TO HOLD UNTO THE unexpired residue of the Assignor's interest"

QUESTION 12

Draft the Testimonium, Execution and Attestation clauses of a Deed of Assignment?

ANSWERS

"IN WITNESS OF WHICH the parties have executed this deed dated this_____ day of _____ 20____"

Or

"IN WITNESS OF WHICH the parties have executed this deed in the manner below the day and year first above written"

SIGNED, SEALED and DELIVERED by Chief Jimmy Promise (The Assignor) _____ LS

IN THE PRESENCE OF:

NAME: _____

OCCUPATION: _____

ADDREESS: _____

SIGNATURE: _____

SIGNED, SEALED and DELIVERED by Agor Lucky Chima (The Assignee) _____ LS

IN THE PRESENCE OF:

NAME: _____

OCCUPATION: _____

ADDREESS: _____

SIGNATURE: _____

QUESTION 13

Advise an Assignor on the clause to be inserted in a deed of assignment where he is selling a part of his property covered by a single title document and comment on the significance of such clause in a deed of assignment and offer an appropriate draft.

ANSWERS

The clause to be inserted in the deed is acknowledgement for safe custody and production clause. This clause becomes relevant in a deed where a vendor retains the original title document because he is selling

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only a part of the property that is covered by the same title document. By this clause, the Assignor makes an acknowledgement for custody (to keep safe) and production of the document whenever requested by the Assignee.

The Acknowledgment for safe custody and production clause is drafted as:

“The Assignor undertakes with the Assignee for the safe custody of the documents listed in the schedule and acknowledges his right to the production of the documents for inspection”.

QUESTION 14

Draft the execution/attestation clauses of a deed of assignment where it is a company executing.

ANSWERS

THE COMMON SEAL of EASYREAD PRESS PUBLICATION LTD was affixed to this deed in the presence of

Director

Secretary

QUESTION 15

Draft a power of attorney.

ANSWERS

THIS POWER OF ATTORNEY Made this _____ day of
_____, 20____ I, Mrs. Florence of No 32 Agbani Street, Enugu State (Donor) HEREBY APPOINT Ajayi Shehun of No. 1 bologna Street, Ekiti, Ekiti state (Donee) to be my true and lawful attorney in my name and on my behalf to do all or any of the following acts or things namely:

- a) To manage, collect rent and evict any tenant who breaches any of the covenants of my three duplex apartments in No. 34 Folagoro Street, Shomolu Lagos State;

IN WITNESS OF WHICH the donor has executed this power of attorney dated this _____ day of _____.

SIGNED AND DELIVERED

By Mrs. Florence (Donor)

IN THE PRESENCE OF:

NAME: _____

OCCUPATION: _____

ADDRESS: _____

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SIGNATURE: _____

QUESTION 16

What is the effect of the absence of Governor's consent to a power of attorney?

ANSWERS

The absence of governor consent to a power of attorney does not affect the document creating such power reason being that; A Power of Attorney does not transfer an interest in land or is it an instrument of alienation; therefore it does not require a Governor's consent except in Lagos.

QUESTION 17

Every power of attorney is a land instrument and therefore must be registered at the land registry. Comment on the validity or otherwise of this statement.

ANSWERS

Only a power of attorney that authorise the donee in respect of alienation of land may be executed as a registrable instrument which is to be registered at the land registry.

QUESTION 18

Comment on the sale of land by a donee of a power of attorney who was appointed to create tenancies in respect of the property and do all other things necessary and incidental thereto?

ANSWERS

My comment on the sale of land by a donee who was appointed to create tenancies is that where a donee of a power of attorney was appointed to create tenancies in respect of the property and do all other things necessary and incidental thereto, it does not include sale of the land. Hence the sale is invalid.

QUESTION 19

Draft the appointment cause of a power of attorney

ANSWERS

HEREBY APPOINT Ajayi Shehun of No. 1 bologna Street, Ekiti, Ekiti state (Donee) to be my true and lawful attorney in my name

QUESTION 20

Draft the authority cause of a power of attorney

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ANSWERS

And on my behalf to do all or any of the following acts or things namely:

- a) To manage, collect rent and evict any tenant who breaches any of the covenants of my three duplex apartments in No. 34 Folagoro Street, Shomolu Lagos State;

QUESTION 21

Hon. Tokunbo wants to appoint Mr Ayo Ayorinde as his lawful attorney to effect the sale of his landed property in Accra and to execute on his behalf the deed of assignment for the transfer of the property. Advise on the mode of appointment of Mr Ayo Ayorinde and the attestation of the instrument of his appointment.

ANSWERS

Where the donee is required to execute a deed on behalf of the donor, then his appointing instrument must be by deed. See *Abina v Farhat* [1938] 14 NLR 17.

Also, where a power of attorney is to be used for the execution of a transaction abroad, it is preferable for it to be attested by a notary public since he enjoys worldwide credit. See *Hutcheon v. Mannington* (1791) 30 ER 1327.

QUESTION 22

Comment on the validity of the sale of a property by the owner after he had given a power of attorney to another person to sell the same property and advice a donee who seeks to institute an action against the donor for the usurpation of his duties.

ANSWERS

My comment on the validity of the sale of property by the donor after giving the donee the power of sale in respect of same property is that such a sale is valid as power of attorney is revocable by nature unless it was made irrevocable. Therefore, the act of the donor selling the property constitute implied revocation in as much as the donee has not effected the sale, thereby making it impossible for the donee to exercise the same powers. See *Chime v Chime*. Hence a donee of a Power of Attorney cannot therefore rightly institute an action to challenge the exercise, if the power of attorney is donated to him by the donor. (Please note that my position would have been different if such power of attorney is irrevocable)

QUESTION 23

Explain the effect of the death of the donor on a power of attorney granted to the donee

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ANSWERS

Generally, death of either party brings a power of attorney to an end unless it is given for a valuable consideration or expressed to be irrevocable for a period of time, not exceeding 12 months or subject to an interest. Therefore, the death of a Donor revokes a Power of Attorney as power of attorney is by nature revocable.

QUESTION 24

As a Solicitor engaged to effect a contract for sale of land, set out in the correct order, the steps that you would take from the beginning to the end to effect the transaction?

ANSWERS

- a) Pre-Contract stage (Negotiation and Preliminary investigation)
- b) Contract stage (Execution and Exchange of formal contract)
- c) Post Contract stage(Deducing of title, investigation of title, search report)
- d) Completion stage (Preparation and execution of Deed of Assignment, and exchange of contract)
- e) Post completion stage/Perfection of title stage (Governor's Consent, Stamping and Registration)

QUESTION 25

State the purpose of the following clauses in a contract of sale:

- a) The date of completion
- b) Possession before completion,
- c) Fixtures and fittings.

ANSWERS

1. Date of completion: Unless otherwise agreed, time is not of essence in a contract sale of land. Where there is no express term on the completion date, the law implies that the contract sale of land should be completed within a reasonable time. See *Johnson v. Humphrey* (1946) 1 All ER 460 at 463
2. Possession before completion: Unless otherwise agreed and stated in the contract of sale, possession is delivered to the purchaser at completion stage.
3. Fixtures and fittings: It is advisable, that the sale of fixtures and fittings should be done under the contract of sale so that only the price of the real property (excluding the price of the fixtures and fittings) will be reflected in the deed of assignment in order for the purchaser/ assignee to enjoy the benefit of paying less stamp duty on the deed of assignment at completion stage.

QUESTION 26

As a Solicitor engaged by a purchaser to investigate the Vendor's title,

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mention the places you would visit in the course of your investigations?

ANSWERS

As a solicitor engaged by a purchaser to investigate the vendor's title I would visit the places mention below;

1. Land registry
2. Corporate Affairs Commission
3. Court Registry
4. Probate Registry
5. Visiting and inspecting the land itself
6. Searches at the land registry, probate registry, Corporate Affairs Commission.
7. Investigating traditional title, if necessary.
8. Investigating court judgments and orders, if any.
9. Examination of abstracted documents (critical inspection of photocopies of documents submitted by vendor to ascertain the names, description of the property, signature of the parties, etc.).

QUESTION 27

As a Solicitor engaged by a Purchaser to investigate the Vendor's title to a property, state the documents you would need to collect from the Vendor to enable you investigate the title?

ANSWERS

1. Letter of consent from the Vendor,
2. Copy of the Land Certificate and
3. Statutory declaration that I obtained his consent to undertake the investigation

QUESTION 28

State the elements of documents that constitute good root of title.

ANSWERS

The elements of a good root of title are;

1. The instrument relied upon by the vendor must convey legal and equitable title to him.
2. It must adequately describe the property.
3. It must contain no evidence of fraud or cause to doubt its genuineness.
4. It must not be subject to a higher interest. See *Lawson v Ajibola and Ors* (1997) 6 SCNJ.

QUESTION 29

Is a certificate of occupancy a good root of title?

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ANSWERS

A certificate of occupancy issued in ratification of deemed right (those who are in possession of land before the promulgation of the then Land Use Decree) is not necessary good root of title since the certificate of occupancy only raises a rebuttable presumption that the holder is in exclusive possession and has a right to the land and such presumption may be rebutted by the proof of a better title. It is in this sense that a certificate of occupancy is regarded as a bad root of title. However, where the certificate of occupancy is issued in respect of state grant, it will be a good root of title. See Ogunleye v. Oni (1990) 2 NWLR (pt. 135) P. 745

QUESTION 30

Mention 5 examples each of good root of title and bad root of title.

ANSWERS

The following are examples of a good root of title:

1. A deed of assignment
2. A deed of gift
3. A deed of legal mortgage
4. Assent
5. Registered title

The following are examples of a bad root of title:

1. A lease
2. A will
3. An equitable mortgage
4. A power of attorney
5. Certificate of occupancy

QUESTION 31

Why would you advise your client to enter a contract of sale before the preparation and execution of the deed of assignment?

ANSWERS

I will advise my client to enter a contract of sale before the preparation and execution of the deed of assignment because of the following advantages:

1. It affords purchaser ample time to investigate the title of the vendor.
2. It makes the position of the parties to be clear.
3. It prevents last minute withdrawal (Gazundary).
4. It prevents Gazumping i.e. the vendor cannot increase the purchase price after the contract has been concluded.
5. It enables fixtures to be transferred at the contract of sale stage and therefore, gives the purchaser the benefit of paying reduced stamp duty on the deed of assignment.
6. The equitable doctrine of conversion is applicable to contract of sale.

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7. Death of any of the parties will not affect the completion of the transaction.

QUESTION 32

State four requisitions in numbered paragraph you will raise on an abstract submitted to you by a Vendor

ANSWERS

1. Whether there is any indication of dispute or occupation?
2. Whether the land is subject to any mortgage?
3. Who were the previous owners of the land (if any)?
4. How long has the owner been in possession of the land?

QUESTION 33

Draft the Commencement of the *initial document* in a contract for sale of land

ANSWERS

THIS CONTRACT OF SALE

QUESTION 34

Draft the introductory part of the *final document* to be executed in a contract for sale of land?

ANSWERS

THIS DEED of Assignment made this_____ day of _____ 2022 between Chief Jimmy Promise of No 10 Adeniyi Jones Avenue, Ikeja, Lagos (The Assignor) of the one part AND Agor Lucky Chima of No 30, Aba Road, Port Harcourt, Rivers State (The Assignee) of the other part

QUESTION 35

What steps would you take to perfect the title of a Purchaser?

ANSWERS

The steps I would take in perfecting the title of the Purchaser are;

1. Obtaining the Consent of the Governor
2. Payment of Stamp duties
3. Registration at the Land Registry

QUESTION 36

List the documents needed for applying for Governor's consent in respect of a contract for sale of land?

ANSWERS

1. Covering letter

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2. Application in the proper application forms(in Lagos- form 1 C obtainable at the Land Registry)
3. 3 years tax clearance certificate of the parties
4. Original copy of the deed of conveyance duly executed by the parties
5. Evidence of payment of ground rent(if not developed)
6. Evidence of tenement rate(if developed)
7. Evidence of development levy(in state where it is required)
8. Receipt for payment of consent fee; charting fee; endorsement fee

QUESTION 37

State the legal implication of failure to pay stamp duty on a deed of assignment

ANSWERS

The legal consequences for failure to stamp the deed of assignment are as follows:

1. It will not be accepted for registration
2. It will attract sanction for late payment

Note that In the case of Benjamin v Kalio [2018] ALL FWLR (Pt. 920)1 whether the document is stamped or not, the document will still be admissible in evidence.

QUESTION 38

State the legal implications of failure to register a deed of assignment.

ANSWERS

The effect of non-registration of a deed of assignment is that the instrument loses priority as against any other subsequent instrument that registered unless the subsequent purchaser is not a bonafide purchaser for value without notice.

QUESTION 39

What document is required to complete a transaction granted for a term of five years of which the demise premises is situate at No 23 Aba road Port Harcourt, Rivers State with Certificate of Occupancy 134/12/09?

ANSWERS

DEED OF SUB-LEASE

QUESTION 40

Mention five crucial lessee's covenants that need to be included in a lease agreement.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Covenant on Assignment
2. Covenant to pay Rent
3. Option to renew
4. Covenant to pay rate, rates and other outgoings
5. Rent review clause

QUESTION 41

State the clause to be inserted in a lease to ensure that the lessee has the opportunity of retaining the possession of the property beyond the first term of the lease.

ANSWERS

Option to renew clause

QUESTION 42

Comment on the refusal of Hon. Tokunbo to give his consent to the subletting of the property by Mr. Adams Mud' D Sa'ad on the ground of religion.

ANSWERS

The right to withhold consent must be reasonable. What is regarded as "reasonable withholding of consent" is a question of fact to be determined in each case. But for refusal to be reasonable, it must relate to:

1. The personality of the intended user
2. The nature of the property; and
3. The use for which the property is to be put

The refusal of consent on ground of religion is therefore unreasonable.

QUESTION 43

Assuming a Landlord informs a tenant that he wishes to reserve part of the demised premises to a guest of his, comment of the effect on the validity of a lease transaction?

ANSWERS

My comment on the effect of the validity of the lease transaction is that one of the essentials elements of a valid lease is that the lessee must be granted exclusive possession to enjoy and control the property to exclusion of all persons including the lessor. See Tejumola & Sons v UBA Ltd. Therefore, if the landlord wishes to reserve part of the demised premises to a guest of his, it is a breach of vital element of a lease; hence the lease would be invalid.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 44

Draft a search report with covering letter.

ANSWERS

EASYREAD LEGAL CONSULTANT

Address: Plot 34 Avenue, Victoria Island Lagos.

Phone No: 08033333333

E: mail: esayreadcaleb@yahoo.com

Website:

Our Ref_____ Your Ref_____

6 May, 2022

Chief Bob Bernard,
No.2, Ribadu Close,
Asokoro, Abuja

Dear Sir,

A SEARCH REPORT CONDUCTED ON PLOT 13, JABI DISTRICT, and ABUJA

The above subject matter refers. Kindly find the attached copy of the search report of our findings on the title of Chief Christopher Umesiobu on Plot 13, Jabi District, Abuja

Yours faithfully,
Oboagwina Caleb Esq.
Principal Partner
ENCL: Search Report

SEARCH REPORT CONDUCTED ON PLOT 13, JABI DISTRICT, ABUJA

1. DATE OF SEARCH: 14/08/09
2. PLACE OF SEARCH: AGIS (Land Registry, FCT)
3. NAME OF OWNER: CHIEF CHRISTOPHER UMESIOBU
4. NATURE OF INTEREST: RIGHT OF OCCUPANCY
5. ANY ENCUMBERANCE: EXISTING MORTGAGE WITH STANBIC IBTC BANK, MAITAMA, ABUJA
6. VALUATION REPORT:
7. COMMENT: NOT ADVISABLE UNLESS THE LOAN IS DISCHARGED

Oboagwina Caleb Esq.
Principal Partner

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 45

State the essential elements of an assent.

ANSWERS

1. It must be in writing.
2. It must name the beneficiary in whose favour the assent is given.
3. It must be signed by the personal representative.

QUESTION 46

Draft a standard covenant to prevent tenants from assigning or subletting the premises without the permission of the landlord?

ANSWERS

The tenant covenants not to assign, sublet or otherwise part with the possession of the demised premises or any part of it without the written consent of the landlord first had and obtained and such consent not to be unreasonably withheld in the case of a reasonable and respectable person.

QUESTION 47

In what circumstances will rent be paid in arrears or in advance?

ANSWERS

Where the lease is silent on the time of payment of rent, rent is payable in arrears. See G. B. Olivant v Alakija. On the other hand, where the lease expressly provides that rent is payable in advance, it shall be paid in advance.

QUESTION 48

State the differences between lease and tenancy

ANSWERS

1. Lease is usually granted for a long term which exceeds three years while tenancy is given for a short term which is three years and below.
2. Lease is made by deed while tenancy is made in writing.
3. The parties to lease are called lessor and while tenancy the parties are called Landlord and Tenant.

QUESTION 49

State the conditions to ascertain the party that would insure the demised premises in a lease transaction.

ANSWERS

The party that will insure usually depends on the agreement of the parties and the following factors:

SAMPLE THEORY QUESTIONS AND ANSWERS

- a) Nature of the premises/ interest
- b) Duration of lease
- c) Existing obligations

QUESTION 50

Comment on the propriety of the execution clause, "In witness of which the parties have executed this deed of lease in the manner below day and year first mentioned signed sealed and Delivered by the Assignor" and do a redraft if necessary?

ANSWERS

The Clause combines the Testimonium and execution clauses. It is also wrong to refer to the party as an Assignor in a Lease Agreement.

A property draft should read:

IN WITNESS OF WHICH the parties have executed this deed the day and year first above written

SIGNED, SEALED AND DELIVERED

By Mr. Ajayi Seun LESSOR

QUESTION 51

Comment briefly on whether a tenant requires his landlord person's permission before he can put his younger brother in occupation of one of the rooms?

ANSWERS

My comment on whether a tenant requires the landlord permission before he can put his younger brother in occupation of one room is that where there is a clause in a lease agreement prohibiting a tenant from sub-letting or assigning the demised premises, the covenant is not breached where the tenant allows his relation to occupies part of the premises. See Ishola Williams's v Hammond Projects.

QUESTION 52

Draft the rent clause (Reddendum) of a lease agreement?

ANSWERS

YIELDING AND PAYING yearly the sum of N2, 000,000.00 (Two Million Naira) only, clear of all deductions by the yearly payments in advance the sum of N2, 000,000.00 (Two Million Naira) only (the receipt of which the lessor hereby acknowledges).

QUESTION 53

State the particulars or information required for the preparation of a lease

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Particulars of the parties; names, address and occupation.
2. Commencement date.
3. Detailed description of the premises is being demised.
4. Duration of the lease.
5. Rent payable and method of payment either in advance or arrears.
6. Covenants to be performed by the lessee.
7. Covenants to be performed by the lessor.
8. Party to insure the property, duties and liabilities in respect of the insurance policy.
9. Instructions (if desired) on the rent review, renewal of the lease, forfeiture and re-entry.
10. Witness to attest agreement.

QUESTION 54

Comment on the legal implication of Mr Nzotta Phillip subletting the demised premises in view of the following covenant in the lease: "Not to assign sublet, charge or part with the possession of the premises". Offer an appropriate redraft where necessary.

ANSWERS

The covenant amounts to an absolute covenant against assignment or sub-letting. This is a difficult situation for the lessee who might want to assign or sub-let for one reason or the other. He should, therefore, negotiate for the amendment of the clause to accommodate his right to assign or sublet.

The following is an appropriate redraft:

"Not to assign, sub-let, charge or otherwise part with possession of the demised premises or any part of it without first obtaining the written consent of the lessor, such consent not to be unreasonably withheld in the case of a responsible or respectable person".

QUESTION 55

Draft the Testimonium and execution/attestation clauses in a deed of lease between Mr. Ajayi Seun and Chief Agor Lucky Chima.

ANSWERS

IN WITNESS OF WHICH the parties have executed this deed dated this _____ Day of _____

SIGNED, SEALED AND DELIVERED
By Mr. Ajayi Seun LESSOR

IN THE PRESENCE OF:

Name: Jimmy Jones Promise

SAMPLE THEORY QUESTIONS AND ANSWERS

Address: No. 4 Kolovos street Shomolu Lagos

Occupation: Surveyor

Signature: _____

SIGNED, SEALED AND DELIVERED

By Chief Agor Lucky Chima LESSEE

IN THE PRESENCE OF:

Name: Grace Bond

Address: No. 3 Folagoro Shomolu Lagos

Occupation: Surveyor

Signature: _____

QUESTION 56

Draft the deed of lease

ANSWERS

THIS DEED OF LEASE is made this _____ day of _____ 2022 BETWEEN Okeke Clinton of No.45 Democracy Layout, Asokoro, Abuja (The "Lessor") of the one part AND Nwankwo Charles of No23 Buhari Road, Abuja (The "Lessee") of the other part.

THIS DEED RECITE AS FOLLOWS:

1. The LESSOR is the beneficial owner/titleholder of the premises situate and known as No 23, Aba Road, Port-Harcourt Rivers state.
2. The LESSOR desires let the demise premises to the LESSEE for a term of seven (7) years.

NOW THIS LEASE AGREEMENT WITNESSETH AS FOLLOWS:

In consideration of the rent and the Lessee's covenants reserved and contained in this lease, the Lessor as the beneficial owner demises unto the Lessee ALL THAT PARCEL OF LAND situate at No 23, Aba Road, Port-Harcourt Rivers state (the demised premises) TO HOLD UNTO to the Lessee for term of seven (7) years certain commencing on the 6th of December, 2022 and to expire on the 4th of December, 2029; YIELDING and PAYING for the said term the next yearly rent of N1,000,000.00 (One Million Naira) clear of all deductions be yearly payments in advance, the first of such payments to be made on _____ day of _____ 2022 clear of all deductions.

THE LESSEE HEREBY COVENANTS with the Lessor as follows:

1. To pay the rent reserved in the lease at the time and in the manner provided in the clause _____ of this lease.
2. To pay all taxes, rates, duties, assessments, impositions and outgoings payable now or subsequently introduce in respect of the premises

SAMPLE THEORY QUESTIONS AND ANSWERS

- wither payable by the Lessor or Lessee.
3. To permit the LESSOR or his duly authorized agent to enter the said premises at reasonable intervals and during reasonable hours of the day for the purpose of viewing the condition thereof.
 4. Not to assign, underlet, charge or in any way part with the possession of the said premises or any part thereof without the written consent of the LESSOR being had and obtained and such consent not to be unreasonably withheld in the case of a reasonable and responsible person.
 5. Not to erect or cause to be erected any payment structure in whatever form under whatever guise without the written consent of the LESSOR being had and obtained.
 6. To deliver up the said property at the end of the lease.

THE LESSOR COVENANTS with the Lessee as follows:

1. That the Lessee paying the said rent and performing and observing all the covenant under this lease, may quietly hold and enjoy the said premises during the subsistence of the lease without any interruption or disturbance by the Lessor or any person rightfully claiming through or under or in trust for him.

IN WITNESS OF WHICH the parties have executed this deed dated this _____ Day of _____

SIGNED, SEALED AND DELIVERED

By Mr. Okeke Clinton (LESSOR)

IN THE PRESENCE OF:

Name: Jimmy Jones Promise
Address: No. 4 Kolovos street Shomolu Lagos
Occupation: Surveyor
Signature: _____

SIGNED, SEALED AND DELIVERED

By Mr Nwankwo Charles (LESSEE)

IN THE PRESENCE OF:

Name: Grace Bond
Address: No. 3 Folagoro Shomolu Lagos
Occupation: Surveyor
Signature: _____

QUESTION 57

Give a checklist of matters to be included in a standard insurance clause

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Who should insure
2. The identity of the insurance company
3. The risk(s) to be insured
4. The amount of the cover
5. How the insurance money will be applied

QUESTION 58

State the essentials of a valid lease.

ANSWERS

The following are the essentials of a valid lease:

1. Certainty of the parties
2. Certainty of the property
3. Certainty of term. See UBA v. Tejumola (1988) 2 NWLR (pt. 79) 662
4. Exclusive possession
5. Commencement date must be certain and capable of being ascertained. See UBA v Tejumola (Supra)
6. The lease must be created in the proper form.

QUESTION 59

Advice a Lessor who wants to collect rent in advance for 7 years?

ANSWERS

My advice to a lessor/ landlord who wants to collect rent in advance for 7 years is he should consider the following; inflation, taxation and the applicable laws.

QUESTION 60

What are the options open to a Mortgagee as modes of creation of legal mortgages in Rivers State

ANSWERS

River state falls within the ambit of CA states hence the mode of creating legal mortgage would be;

1. Deed of sub-demise of at least one day less than the interest of the mortgagor with a cesser on redemption
2. Assignment of the unexpired residue in the statutory right of occupancy
3. Deed of Statutory mortgage. See Section 26 (1) Conveyancing Act

QUESTION 61

Which of the modes of creation of legal mortgage under the CA states is most preferable and Give your reasons?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

The preferred option for the creation of a legal mortgage under the Conveyancing Act is mortgage by Assignment of the unexpired residue. This is because the mortgagee has the power to transfer the title of the mortgagor in the event of default, the mortgagee will have the right to retain the original title documents.

QUESTION 62

In case of a legal mortgage created by sub-demise in Enugu, comment on the likely challenges the Bank might face in exercising the power of sale in case of default and advise the Bank on how such challenges might be taken care of?

ANSWERS

For a legal mortgage created by sub-demise in Enugu which operates the Conveyancing Act, the challenge that the Mortgagee might face in exercising the power of sale of the property in the event of default is that the mortgagor exercises the reversionary interest in the property and there is no right automatic to exercise the power of sale by the mortgagee. The challenge faced by the mortgagee may be taken care of by the inclusion of the remedial devices of a power of attorney and a trust declaration.

QUESTION 63

From the above question would your answer be different in question 62; if the property was located in Ogun State?

ANSWERS

My answer will be different if the property is situate in Ogun State which operates the Property and Conveyancing Law, because the remedial devices of a power of attorney or a trust declaration are unnecessary since the Property and Conveyancing Law expressly contains the right of a mortgagee to exercise the power of sale even where the mortgage was created by a sub-demise. **Section 112 PCL.**

QUESTION 64

Draft the search report in Mortgage transaction without covering letter?

ANSWERS

EASYREAD LEGAL CONSULT

Address: Plot 34 Avenue, Victoria Island Lagos.

Phone No: 08033333333

E: mail: esayreadcaleb@yahoo.com

Website:

SAMPLE THEORY QUESTIONS AND ANSWERS

Our Ref_____ Your Ref_____

6 May, 2021
Chief Bob Bernard,
No.2, Ribadu Close,
Asokoro, Abuja

Dear Sir,

A SEARCH REPORT CONDUCTED ON PLOT 13, JABI DISTRICT, ABUJA

The above subject matter refers. Kindly find the attached copy of the search report of our findings;

1. DATE OF SEARCH: 14/08/09
2. PLACE OF SEARCH: AGIS (Land Registry, FCT)
3. NAME OF OWNER: CHIEF CHRISTOPHER UMESIOBU
4. NATURE OF INTEREST: RIGHT OF OCCUPANCY
5. EXISTING ENCUMBRANCE(S) ON THE PROPERTY: THERE ARE NO ENCUMBRANCES.
6. OBSERVATIONS AND COMMENTS BY SOLICITOR: CHIEF CHRISTOPHER UMESIOBU HAS A GOOD TITLE TO THE PROPERTY AND AN UNENCUMBERED POWER TO USE IT AS SECURITY FOR THE GRANT OF THE LOAN FACILITY.
7. ANY OTHER COMMENT: I THEREFORE RECOMMEND THAT CHIEF CHRISTOPHER UMESIOBU BE GRANTED THE LOAN FACILITY ON THE PROPERTY OFFERED AS COLLATERAL.

Signed

Oboagwina Caleb Esq.
Principal Partner

QUESTION 65

Mention 2 basic rights available to a mortgagor.

ANSWERS

1. Equitable right to redeem
2. Equity of redemption

QUESTION 66

Mention the documents required for the perfection of a legal mortgage.

ANSWERS

1. Copies of the duly executed mortgage deed original title documents

SAMPLE THEORY QUESTIONS AND ANSWERS

2. 3 years tax clearance certificate of the parties
3. Land use charge receipt
4. Receipt of payment of current ground rent on the property to be mortgaged.
5. Receipt of payment of tenement rate over the property to be mortgaged.
6. Duly stamped Form 1C or application for governor's consent.
7. A copy of the valuation report of the property.
8. A copy of the approved plan of the property.
9. Consent fees
10. Receipt for stamp duty
11. Receipt for registration fee
12. Charting and endorsement fees

QUESTION 67

Give a checklist of the content of a search report

ANSWERS

1. Date of search.
2. Name of the borrower.
3. Person providing the security.
4. Description of the property.
5. Title of the property.
6. Any encumbrances (charges, mortgages, etc.)
7. Conclusion and advise

QUESTION 68

State at least four ways a mortgage can realize his security

ANSWERS

1. Take possession of the mortgaged property
2. Sale of the mortgaged property
3. Foreclosure order
4. Appointment of a receiver

QUESTION 69

State instances under which a mortgage transaction can be tripartite.

ANSWERS

1. Where the mortgagee includes a guarantor. That is where the mortgagee request for a guarantor before loan can be granted.
2. Where the mortgaged property belongs to another person (third party) other than the borrower. In this case the third party would be called a surety.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 70

What is up-stamping?

ANSWERS

This is a payment made in respect of an additional loan where the mortgagor uses same property to obtain an additional loan from same mortgagee. For a mortgage to qualify for up stamping, such a mortgage must be a legal mortgage. See Owoniboys Technical Services Ltd v. UBN Plc.

QUESTION 71

State the conditions for up-stamping.

ANSWERS

1. The parties (*mortgagor & mortgagee*) must be the same.
2. The property must be the same.
3. The value of the property should accommodate for the subsequent loan granted.
4. The previous mortgage must be legal.

QUESTION 72

State the elements of consolidation.

ANSWERS

1. The mortgagor must be the same in respect of the different mortgages.
2. The mortgagee must be the same in respect of the different mortgages.
3. The legal due date must have elapsed in respect of all the mortgages.
4. There must be express covenant to consolidate the different mortgages

QUESTION 73

Comment on the propriety or otherwise of the validity of a sale of mortgage property ten days after the legal due date had passed and which sale was made to a person unaware of the mortgage transaction and for N100, 000,000 when the property was professionally valued at 200,000,000

ANSWERS

Generally, the exercise of statutory power of sale is valid where the right of sale has arisen and become exercisable. See Section 19 (1) Conveyancing Act; Section 20 Conveyancing Act, but once the power of sale has arisen, but before it can be exercisable, an exercise of a power of sale is nevertheless valid. Also the sale of a property at a low price alone

SAMPLE THEORY QUESTIONS AND ANSWERS

without more, will not be a ground to set aside the sale unless there is evidence of bad faith or collusion. See ACB v Ihekweoba.

QUESTION 74

What is the mode of discharging a loan by a Company?

ANSWERS

A mortgage (debenture) created in respect of a Company property may be discharged by filing a memorandum of satisfaction in Form CAC 10. See section 229 the Companies and Allied Matters Act 2020. Although under the Companies and Allied Matters Act 1990, Debenture was discharged using Form CAC 9 (memorandum of satisfaction). Therefore, using the extant law, Debenture is discharged using Form CAC 10.

QUESTION 75

Draft a legal mortgage

ANSWERS

THIS DEED OF MORTGAGE is made the _____ day of _____ 2022 BETWEEN Oluwatayo Adebukola Abosede of No.23 Iyaganku Street, Ring Road, Ibadan (mortgagor) of the one part AND Zenith Bank Plc o No.2 Law School Road, Ibadan (mortgagee) of the other part.

THIS DEED RECITES AS FOLLOWS:

1. The mortgagor is by virtue of a certificate of occupancy issued by the Oyo State Governor dated 07/12/20 in vol. 876 at the Ibadan Lands Registry seized of the statutory right of occupancy over the whole property described in the schedule hereto expressed to be hereby conveyed (referred to as "the mortgaged property").
2. The mortgagor has agreed with the mortgagee to mortgage the residue of the interest for a term of 4 years as security for a loan of N500, 000,000.00 (Five Hundred Million Naira) subject to cesser upon redemption.

NOW THIS MORTGAGE DEED WITNESSES as follows:

1. In pursuance of the said agreement and in consideration of the sum of N500, 000,000.00 (Five Hundred Million Naira) paid to the mortgagor by the mortgagee (in receipt of which the mortgagor hereby acknowledges) the mortgagor hereby covenants with the mortgagee to pay to the mortgagee on the 15th of January, 2026 the said sum of N500, 000,000.00 (Five Hundred Million Naira) with interest thereon from the date hereof at the rate of 24% per annum.

SAMPLE THEORY QUESTIONS AND ANSWERS

2. The mortgagor as beneficial owner hereby conveys to the mortgagee ALL THAT parcel of land located at No.23 Iyaganku Street, Ring Road, Ibadan and more particularly described and delineated in Plan No. 876 and edged red which attached to the schedule to this TO HOLD UNTO the mortgagee for a term of 4 years and subject to the provision for cesser on redemption.
3. PROVIDED that if the mortgagor shall on the 15th of January, 2026 pay to the mortgagee the principal sum with interest thereon from the date stated at the rate fixed above the term hereby created shall cease.

THE MORTGAGOR HEREBY FURTHER COVENANTS WITH THE MORTGAGEE AS FOLLOWS:

- a) The mortgagor shall not redeem the mortgaged property until at least 24 months after the execution of this deed.

IN WITNESS of which the parties have executed this deed in the manner below the day and year first above written

SIGNED, SEALED AND DELIVERED

By Oluwatayo Adebukola Abosede (mortgagor)

IN THE PRESENCE OF:

NAME: _____

ADDRESS: _____

OCCUPATION: _____

SIGNATURE: _____

THE COMMON SEAL OF ZENITH BANK PLC is affixed to this deed following a resolution of the company dated 20th January, 2022 and the deed was duly delivered in the presence of:

DIRECTOR

SECRETARY

I consent to the transaction contained in this deed

GOVERNOR OF OYO STATE

PREPARED BY:
OBOAGWINA C.O.
(LEGAL PRACTITIONER)
0703596958

QUESTION 76

Comment on the propriety of the procedure for recovery of professional fees by a Solicitor whose first step in that regard was to institute an action at the Chief Magistrate Court after the Client refused to pay?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

It is improper for a Solicitor to institute an action at the Magistrate as a first step to recover his professional fees, as the magistrate court lacks jurisdiction to entertain matter for recovery of professional fees, the proper position is stated below;

1. The legal practitioner prepares the bill of charges
2. The legal practitioner signs the bill of charges and if it a firm by one of the legal practitioner in the firm
3. It must be served on the client personally, post or last known address of the client
4. The legal practitioner is to wait for one month
5. If the client is in default after one month, then takes a writ at the high court where the firm operates.

QUESTION 77

Advice a Solicitor who instituted an action to recover his professional fees 2 weeks after the failure of the Client to pay the fees as requested?

ANSWERS

My advice to a solicitor who instituted an action to recover his professional fees 2 weeks after the failure of the client to pay the fee is wrong as he is expected to wait for a period of one month after failure to pay within the one month he can take a writ at the High court unless it is shown that waiting after one month will defeat the process of bill of charge.

QUESTION 78

Outline the contents of a bill of charges?

ANSWERS

1. The lawyer's name and address
2. Client's name and address
3. Date of the bill
4. Principal items charged
5. Particulars of principal items
6. Professional fees charged
7. Signature of Solicitor

QUESTION 79

What is the consequence of sending a bill of charges without setting out the particulars of the principal charges?

ANSWERS

The consequence of a Bill of Charges not containing the particulars is that the Bill will become incompetent.

QUESTION 80

What steps can a Client take who wishes to contest the quantum of

SAMPLE THEORY QUESTIONS AND ANSWERS

professional charges?

ANSWERS

A Client who wishes to contest the quantum of professional charges should apply for the taxation of the fees. See Section 17 LPA; Oyekanmi v NEPA.

QUESTION 81

List 5 places your client can keep his will to ensure safe custody

ANSWERS

1. Probate Registry
2. The testator may keep a copy in his safe or a safe place in his home.
3. Bank
4. The solicitor who prepared the will may keep a copy in his strong room.
5. Clubs or associations that keep valuables for members

QUESTION 82

State the type of gifts or legacies in the following clauses in Chief Tokunbo's will:

1. N500,000.00 to my daughter, Ijeoma Ajoku Tokunbo
2. My house No 5. Kadiri street, Ogba Lagos to my son Osoni Michael Tokunbo
3. N1,000,000.00 to my daughter, to be drawn from my current account 1010129822 at Zenith bank Plc. Wuse Branch, Abuja.

ANSWERS

- a) General Pecuniary legacy
- b) Specific legacy
- c) Demonstrative Pecuniary legacy

QUESTION 83

Why would you advise your client to make a will?

ANSWERS

I will advise my client to make a will for the following reasons:

1. It excludes the rules of intestate succession under the Administration of Estate Law and under customary law.
2. It affords the testator the opportunity of appointing executors of his choice.
3. It is cheaper to process probate for a will than letters of administration.
4. It gives the testator the opportunity to appoint a guardian for his infant dependents(s).
5. There is continuity in the administration of the estate of the testator

SAMPLE THEORY QUESTIONS AND ANSWERS

since the executor(s) of the last surviving executor shall by operation of law continue to administer the estate.

6. It affords the testator the opportunity of making gifts to charities or persons not related to him.

QUESTION 84

Distinguish between lapse and ademption

ANSWERS

The doctrine of lapse occurs where the beneficiary dies before the testator. On the other hand, ademption is where a gift ceases to exist at the time of death of a testator.

QUESTION 85

State the nature of information or particulars required to prepare a will.

ANSWERS

1. Full name (including aliases) and address of the testator.
2. The names and addresses of all the executors to the will.
3. The names and addresses of the beneficiaries in the Will.
4. List and particulars of property owned by the testator and how he wants them to be shared.
5. What should happen in the event of a beneficiary or in the event that the gift fails or ceases to exist? Provisions for substitutional gifts.
6. The place of origin or ethnic nationality of the testator in order to determine whether there is any native law and custom that restricts the disposition of any particular property.
7. The religion of the testator in order to determine whether he is subject to Islamic law which restricts disposition of his property.
8. Any relatives or dependants of the testator in order to make reasonable financial provisions for them if they were maintained by him.
9. How the testator desires that the residue of his estates be shared.
10. The names and addresses of witnesses to ensure that they are available to attest the Will. Also, this helps the solicitor to determine if the witnesses are competent.
11. Obtain any previous will or codicil of the testator and compare it with the instructions given.
12. Details of persons who may be appointed as guardians of any infants of the testator.
13. Any directions the testator may wish to give on his burial.
14. Custody of the Will.
15. Remuneration for executors.

QUESTION 86

Comment on the validity or otherwise of Chief Tokunbo signing on the

SAMPLE THEORY QUESTIONS AND ANSWERS

margin rather than at the foot of his will.

ANSWERS

The will is valid notwithstanding that the testator signed on the margin rather than at the foot of the will. Although, any gift below the signature will fail.

QUESTION 87

Comment on the validity of a gift given to a beneficiary who is a witness to the will and state the exceptions (if any).

ANSWERS

If a witness or his or her spouse is a beneficiary in a will, that is the beneficiary attest to the will, the gift or legacy to such witness/beneficiary or his or her spouse will fail subject however to the following exceptions:

1. Privileged will.
2. Where the marriage between the witness and the spouse beneficiary was after the making of the will. See Thorpe v Bestwick (1881), 6 QBD 311.
3. Where the witness is merely a trustee of the gift. See Cresswell v Cresswell (1868) LR 6 EQ 69.
4. Where the gift to the beneficiary is subsequently confirmed in a codicil not attested to by the witness beneficiary.
5. Where there are two or more witnesses beside the witness beneficiary.
6. Where the gift was made in settlement of debt owed by the testator.

QUESTION 88

Draft the commencement and Testimonium of a Will

ANSWERS

THIS IS THE LAST WILL AND TESTAMENT OF _____.

IN WITNESS OF WHICH the testator have executed his Will the day, month and year first above written

QUESTION 89

Draft the Execution and attestation of a Will.

ANSWERS

SIGNED by the TESTATOR

Agor Lucky

In our presence and attested by us present at the same time, in his presence.

SAMPLE THEORY QUESTIONS AND ANSWERS

Mr. Fortune (witness)

Jimmy promise (witness)

QUESTION 90

Comment on propriety or otherwise of the effect of omission of a residual clause in a Will?

ANSWERS

The effect of the omission of a residual clause in a Will is that it results in partial intestacy.

QUESTION 91

Assuming the Executors of a Will had applied for and was granted probate; advise them on the steps to take to deal with the property of the deceased testator outside jurisdiction?

ANSWERS

The property of a Testator outside jurisdiction can only be administered if the Executors apply for a resealing of the grant.

QUESTION 92

Comment on the validity of a purported revocation of a Will by a Testator by a sheet of paper, signed by the Testator alone?

ANSWERS

Although a gift can be revoked by a written intention to revoke by the Testator, for the revocation to be valid, the written intention must also be attested to by at least two witnesses in the presence of the testator. In the Goods of Durance. Therefore, since the sheet of paper was signed by the testator only, the revocation is not valid.

QUESTION 93

State the category of persons who can be appointed as executors in a will.

ANSWERS

1. Individuals
 2. Solicitors or other professionals acting as individuals or as a firm
 3. Trust corporation or a bank

QUESTION 94

State the circumstances under which executors may be entitled to remuneration.

ANSWERS

1. Where the court has an inherent jurisdiction to grant remuneration for services; see *Bainbridge v. Blair* 50 E.R. 231

SAMPLE THEORY QUESTIONS AND ANSWERS

2. Refund of out of pocket expenses under the rule of Craddle v Piper
41 E.R. 1422,
3. Charging clause. See Re Pooley.
4. The executor is also appointed a Solicitor

QUESTION 95

State the factors to be considered by a testator before appointing the executors of his will.

ANSWERS

The factors to be considered in appointed executors include the following:

1. They must be persons who are available, willing and capable to act as executors.
2. They should be persons of integrity and credibility.
3. They should be persons who can work in harmony with each other.
4. Persons younger than the testator should be appointed.
5. Persons whose interests will not conflict with the estate should be appointed.
6. They should be persons who have some knowledge of the business of the testator.
7. The logistics of the executors performing their duties should also be considered.

QUESTION 96

List the documents required for non-contentious probate.

ANSWERS

1. Application for probate.
2. Death certificate of the deceased.
3. Declaration on oath by executors.
4. Bank certificate.
5. Inventory.
6. Affidavit of attesting witnesses of the will.
7. Particulars of freehold/leasehold property left by the deceased.

QUESTION 97

List the documents required to process letters of administration.

ANSWERS

1. Application for letters of administration
2. Inventory
3. Affidavit of next of kin
4. Oath for administration
5. Administration bond
6. Justification of sureties

SAMPLE THEORY QUESTIONS AND ANSWERS

7. Bank certificate
8. Particulars of freehold/leasehold property left by the deceased

QUESTION 98

List the persons entitled in their order of priority to grant of letters of administration without will annex.

ANSWERS

1. Spouse of the deceased
2. Children of the deceased
3. Parents of the deceased
4. Brother and sister of full-blood of the deceased
5. Brother and sister of half-blood of the deceased
6. Grandparents of the deceased
7. Uncles and aunts of the deceased
8. Creditors of the deceased.

Administrator general. See section 49(1) Administration of Estate Law of Lagos.

QUESTION 99

The wife of a deceased person who died intestate, have sought your legal services on what would she need to do to legally administer the estate of her husband?.

ANSWERS

In order for her to administer the estate of her husband, she should apply for a Letter of Administration (simple Administration).

QUESTION 100

What type of grant should be applied for the purpose of the administration of the estate of a deceased who died testate but without naming an Executor?

ANSWERS

Letter of Administration with Will annexed

QUESTION 101

What is the implication of a person being the only executor of his late father's estate?

ANSWERS

Generally, no specific number is required by law in the appointment of an executor although only maximum of four (4) would be granted probate. Therefore, the implication of appointing a sole executor in a will depend on the circumstance; if the sole executor predeceased the testator or renounce probate it will be deemed that the will is made without an executor.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 102

Would his appointment as an executor be appropriate if he is a minor?

ANSWERS

Where the testator appoints a minor as his executor, the court will usually appoint someone else until the infant attains majority.

QUESTION 103

What is the implication of a testator appointing a sole executor of which his beneficiaries are minor?

ANSWERS

Where the beneficiaries are minor, the court shall appoint another executor unless it is a trust corporation.

QUESTION 104

Who is entitled to be granted probate in their order of priority?

ANSWERS

1. Executors
2. Residuary legatee or device holding in trust for any other person
3. Any residuary legatee or devisee for life;
4. The ultimate residuary legatee or devisee, including one entitled on the happening of any contingency.

QUESTION 105

State the type of grant of probate for a case where two brothers of the deceased have a protest against the will and highlight the procedure to be followed?

ANSWERS

Where there is a protest against the Will of a Deceased Testator, the type of probate granted will be a probate in solemn form (contentious grant).

The procedure for the grant of probate in solemn form is as follows:

1. The Will is discovered and read
2. The Executors will apply for probate
3. The application will be advertised in the newspaper or government gazette
4. The person challenging the Will file a Caveat
5. The Applicant will be served a Citation
6. There will be an action in Court to determine the outcome to the Will
7. Grant of probate depending of the outcome of the action.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 106

Comment on the steps to be taken by a person who intends to challenge the validity of a Will?

ANSWERS

A person who seeks to challenge the Will has to file a caveat.

QUESTION 107

Mention the contents of the account to be filed by the Personal Representative of a Deceased Testator's estate.

ANSWERS

1. Full Inventories of asset in the estate
2. Accounts of the administration,
3. Vouchers in possession of the administrator;
4. All incomes and expenditure incurred in course of administration
5. Affidavit in verification

QUESTION 108

Chief Ajasa died testate leaving landed properties in Lagos and Port-Harcourt. Probate was granted in Lagos. Advise the executors of the will on the step to take in order to legally administer the properties in Port-Harcourt.

ANSWERS

The executors will apply for re-sealing of the probate in Port-Harcourt

QUESTION 109

List the document for re-sealing of grant?

ANSWERS

1. Application for re-sealing.
2. Oath leading to re-sealing.
3. Full inventories
4. Particulars of landed properties.
5. Bank certificate

QUESTION 110

State the circumstances under which double probate may be applied for.

ANSWERS

1. Where the executor was under aged
2. Where the executor was abroad when the other executors applied for probate and he is now back.
3. Where the testator appointed more than four executors out of which

SAMPLE THEORY QUESTIONS AND ANSWERS

probate is granted only four, any application to fill a vacancy in the future shall be by a grant of double probate.

4. Where the executor was sick at the time the other executors applied for probate.

QUESTION 111

State the circumstances when caveat may cease to be effective against an application for probate.

ANSWERS

Caveat ceases to be effective in the following circumstances:

1. Where Caveator fails to enter appearance within the prescribed time and citor files affidavit to that effect.
2. Where Caveator files caveat with knowledge of pendency of action in court.
3. Where the caveat is enter after the period of publication

QUESTION 112

Mention 5 taxes payable on transactions related to land.

ANSWERS

1. Capital Gains tax
2. Tenement rate
3. Stamp duties
4. Consent fee
5. Registration fee

QUESTION 113

State the persons who are exempted from capital gains tax.

ANSWERS

The following persons are exempted from capital gains tax in respect of properties disposed by them:

1. Ecclesiastical, charitable or educational institution of a public character
2. Statutory or registered friendly society
3. Co-operative society registered under the co-operative society's law of a State.
4. Trade union registered under the Trade Union Act
5. Gains accruing to any local government
6. Gains accruing to any company and authority established by law to purchase and export commodities from Nigeria, or one for fostering economic development of Nigeria.

QUESTION 114

What is meant by "allowable income" and give examples of them.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

Allowable income refers to income that is wholly, exclusively and necessarily incurred for the acquisition of the asset together with the incidental costs. Allowable income generally includes:

1. Cost of acquisition
2. Incidental cost of acquisition
3. Expenditure incurred in enhancing the value
4. Expenditure incurred in establishing and defending title
5. Incidental cost towards disposing the asset
6. Fees, Commission and Remuneration paid to Professionals.

QUESTION 115

Chief Tokunbo is the owner of a duplex located at Pinnacle Estate, Utako, Abuja. He purchased the house from Alhaji Umar Gadam at the cost of N10, 000, 000.00 in 2012. Chief Tokunbo instructed his Solicitor, Miss Nwandinobi Ijeoma Jennifer to conduct the sale of the house to any prospective buyer on his behalf. In order to make the house look presentable, Chief Tokunbo carried out extensive repairs and renovations on the house at the cost of N1, 000,000.00. The Solicitor later placed an advertisement for the sale of the house in a national newspaper at the advertisement cost of N450, 000.00. The house was eventually sold for N140, 000,000.00 to Chief Obi Cubana in 2021 and a formal contract was executed to effect the transaction. Calculate the capital gains tax.

ANSWERS

Step 1: selling price minus buying price = $140,000,000 - 10,000,000 = 130,000,000$

Step 2: deduct the gain from the allowable income/ expenses= $130,000,000 - 1,450,000 (1,000,000 + 450,000) = 128,550,000$

Step 3: the capital gain divided by 10 or 10% of the capital gain= $12,855,000$.

Therefore, the capital gain is N 12,855,000

SAMPLE THEORY QUESTIONS AND ANSWERS

**SELF - ASSESSMENT
EXERCISE**

ON

**PROPERTY LAW
PRACTICE**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

A deed of lease was executed between Dr. Neil Carver of No.3 Bamgbose Road, Kaduna State as lessor and Mrs. Ranti Tombrown of No.4 Agwan Sarki Road, Kaduna State as lessee. The lease is for four (4) years at a rent of N1million. The lease contains a covenant to pay rates and charges and covenant not to assign, sublet or otherwise part with the possession of the demised premises. You acted for the lessor in the said lease transaction but he has failed to pay you your professional fees despite several oral reminders to that effect.

- i) Assuming the premises is No.4 Agwan Sarki Road, Kaduna State covered with certificate of title, Draft the introductory part of the lease.

ANSWER

- ii) Draft a covenant to pay rates and charges that would take care of present and subsequent charges levied on the property.

ANSWER

- iii) Draft a covenant against assignment that would cater for the interest of both parties.

ANSWER

- iv) Assuming the parties are interested in a renewal of the lease after hits expiration, advise them on the clause to be inserted.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

v) Draft the clause mentioned in (IV) above.

ANSWER

vi) Advise the parties on ways by which a lease may be determined

ANSWER

vi) Advise the parties on ways by which a lease may be determined

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1B

Mr. Mike Kwere (a blind man) lives at 10, Marina, Lagos and has concluded arrangements to sell of his duplex at 16, Brian Street, Marina, Lagos State with Registration number 123/123/11 to Madam Bele Eku of 11, Eku Street, Onitsha, Anambra State. Before completed, some of the following are yet to be resolved. They are;

- i) The documents Mr. Kwere is obliged to give to Madam Eku for purposes of investigation of title.

ANSWER

- ii) The class of questions or inquiries Mr. Kwere is not obliged to answer during investigation.

ANSWER

- iii) Give a checklist of bodies accredited to conduct a search at Land Information Management System

ANSWER

- iv) Give a checklist of requires registers to be kept at Land Information Management System

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- v) The documents Mr. Kwere must hand over to Madam Eku during completion of the transaction.

ANSWER

- vi) The procedure for completion.

ANSWER

QUESTION 1c

Assuming Mr. Kwere has chosen to be represented in the transaction by Jude Mosu of 20, Maimi Lane, Onitsha, Anambra State.

ANSWER

- ii) State any five (5) applicable taxes and to whom each is payable.

ANSWER

- iii) What factors would a lawyer called upon to represent both parties consider before accepting the offer?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

Mr. Peter Ibibio who speaks and writes in only Ibibio Language is hospitalized in a London Hospital. He decided to sell his duplex in Maitama, Abuja to raise funds. Due to the urgency with which he required the money, he got a loan of N2million British Pounds Sterling from his friend Mr. Ebube Chike to who he gave an instrument of delegation to act on his behalf and sell the property to offset the loan.

Mr. Peter Ibibio later revoked the instrument of delegation in favour of Mr. Chike and executed another one in favour of Mr. Shadepe Oke.

- i) Identify and explain the instrument Mr. Peter Ibibio would have executed in favour of Mr. Chike.

ANSWER

- ii) What pre-caution must be inserted in the appropriate instrument to ensure that Mr. Peter Ibibio is not disadvantaged by the fact that he speaks and writes only in Ibibio Language?

ANSWER

- iii) Draft the precautionary statement you identified in (ii) above not disadvantaged by the fact that he speaks and writes only in Ibibio Language?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- iv) Draft the execution clause of the final instrument Mr. Ebube Chike would execute only when selling Mr. Peter Ibibio's house.

ANSWER

- v) Draft the appointment clause of the instrument for delegation executed by Mr. Peter Ibibio.

ANSWER

- vi) What precautionary measure would Mr. Ebube Chike take in respect of the instrument of delegation executed in London?

ANSWER

- vii) Under what other circumstance apart from that mentioned in the scenario can Mr. Peter Ibibio execute an instrument of delegation?

ANSWER

- viii) Draft the authority clause of the instrument of delegation given by Mr. Peter Ibibio to Mr. Ebube Chike.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

Following successful first year result, the management of Ediye Limited (located at No.2, Ali BabyFace Street, Lekki Phase I, Lagos) wants to expand the business by opening an outlet in Abuja. The company wants to acquire the unexpired residue of a 6-bedroom duplex with swimming pool facilities located at No 1657, Zambezi Road, Maitama, Abuja from its owners, Chief Chukwudi Moneyman and his wife, Chizoram, both of No. 27, Lake Chad Street, Wuse II, Abuja. The parties have agreed to a price of N350million.

Answer the following questions;

- i) The Managing Director of Ediye Limited has instructed his solicitor, Mr. Caleb Senok, the principal partner in Senok and Senok (Legal Practitioners) of No. 27 Admiralty Way, Lekki, Lagos, to advise the company on the stages of the parties will go through to ensure that the company acquires a good title. The Managing Director will also like to know two matters that are to be undertaken at each stage. Advise the company.

ANSWER

- ii) Assuming that Ediye Limited has instructed you to prepare the relevant documents for the parties in the scenario, justify the inclusion of the following clauses;
 - i. Recital
 - ii. Receipt Clause

ANSWER

- iii) Draft the Testimonium and execution clauses of the document in (ii) above.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- iv) Assuming that after the purchase, the company intends to grant a term of two years to Austin and Grace Limited, advise the parties on:

 - i. The appropriate documents that you will prepare for the parties.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- ii) The consequences, if any, of not including a covenant against assignment and a user covenant in the document the parties will execute. Will your answer be different if the property were located in Ikeja GRA, Lagos State?

ANSWER

- iii) Draft the commencement clause and the execution clause.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4

Senator Uwaifo Kelechi now lives at Enugu as a result of inability to retain his seat at the last election.

He has decided to engage in the business of farming and for this purpose required large sums of money to buy the land and machinery needed. He decided to secure a loan instead of outright sales of his plot of land in Jabi, Abuja, a house at Asaba, Delta State, and two bungalows at Enugu Road, Awka, Anambra State. Zenith Bank Plc has agreed to grant him a loan of N300, 000,000.00 using the four properties as securities. Zenith Bank has approached you to negotiate the loan on their behalf. Senator Uwaifo Kelechi, not wanting to expose the fact of his loan to many people, has decided to also have you represent him in negotiating the loan.

ANSWER

- ii) Assuming that Zenith Bank wants to consolidate the mortgage, list the conditions precedent for the consolidation.

ANSWER

- iii) State why you will advise Zenith Bank not to take the possession of the mortgaged properties.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- iv) Assuming that Senator Uwaifo Kelechi merely deposited his title documents as security, in the event of default, explain the conditions precedent for the Bank to be able to sell the property.

ANSWER

- v) At the conclusion of the transaction, compute your fees using the attached scale of charges.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

Mr. Imam Oluwole Odukoya, a Muslim of No.3 Oba Akran Street, Ikeja, Lagos State, married Hajia Mariam Odukoya at the Central Mosque, Idumota, Lagos, on December 25, 1982. The marriage is blessed with four children; Mohammed (35years), Mariam Jnr (32years), Khadijat (30years) and Ibrahim (26years). By a Will dated January 20, 2018, Imam Oluwole Odukoya made the following dispositions;

- i) I appoint my wife Hajia Mariam Odukoya and all our children - Mohammed, Mariam (Jnr), Khadijat and Ibrahim as the executors/executrixes of my will.
- ii) I give my house at No. 20 Herbert Macaulay Way, Yaba, Lagos State to my wife for life and thereafter my children in equal shares.
- iii) I give sum of N2 Million in my Unity bank Plc, Ikeja Branch Current Account No 0034567810 to my children in equal shares.
- iv) I give the sum of N1 million to the Islamic Religious Rights Ambassadors, Lagos.
- v) I give the remainder of my properties to all my children in equal shares.

On February 5, 2019, Mr. Imam Oluwole Odukoya died at the Lagos State University Teaching Hospital, Ikeja, Lagos State.

Answering the following questions;

- i) Highlight the information you would have required from Mr. Imam Oluwole Odukoya in order to prepare his Will and give reason(s) why the information is necessary.

ANSWER

- ii) Assuming that paragraph (i) above is omitted from the Will of Mr. Imam Oluwole Odukoya, comment on the effect of the omission of the Will.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- iii) Comment on the property of Mr. Imam Oluwole Odukoya's disposition of his property the way he did in this scenario as a Muslim.

ANSWER

- iv) Assuming that the N2 Million given to the children of Mr. Imam Oluwole was found in his Savings Account instead of the Current Bank Account mentioned in his Will, state the effect, if any, on the legacy.

ANSWER

- v) Assuming that Hajia Odukoya died before her husband, comment on the effect of her death on the devise to her in paragraph (ii) of the Will.

ANSWER

- vi) Complete the attached Probate Form (Oath of Executor)

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- vii) Comment on the importance of attaching Bank Certificate to an application for the grant of Probate/Letters of Administration.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 6

In November 1995, Mr. Christian Osita bought a bungalow at No.6 Ike Street, Onitsha. The purchase price was N10million. He spent N2million to renovate the roof. In 2005 he paid an Estate Valuer N500, 000.00 to value the property after which he sold the property to Chief Mrs. Eskor for the sum of N30million. He also paid N500, 000.00 for advertising the sale in "The Nation", a daily newspaper with wide circulation in Nigeria.

- i) Compute the Capital Gains Tax Mr. Osita will be required to pay.

ANSWER

- ii) What other taxes will Mr. Christian Osita be required to pay in respect of this property?

ANSWER

- iii) List at least 3 types of fees that a Solicitor may charge in respect of property transaction.

ANSWER

- iii) List at least 3 types of fees that a Solicitor may charge in respect of property transaction.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- iv) List the items to be included in her Bill of Charge.

ANSWER

- v) Assuming Mr. Christian Osita refuses to pay Ms. Patience Adabor her professional fees what conditions must be satisfy before she can recover her charges in court?

ANSWER

- vi) What is the consequence of Ms. Patience Adabor sending a Bill of Charge to her client without setting out the particulars of the principal items in her Bill of Charge?

SAMPLE THEORY QUESTIONS AND ANSWERS

MARKING SCHEME

QUESTION 1 A

- i) Draft the introductory part

ANSWER:

THIS DEED OF SUB LEASE MADE THIS _____ DAY
OF _____ 2019 BETWEEN DR. NEIL CARVER OF NO. 3
BAMGBOSE ROAD, KADUNA STATE (SUB LESSOR) OF THE ONE
PART AND MRS. RANTI TOMBROWN OF NO. 4 AGWAN SARKI
ROAD, KADUNA STATE (SUB LESSEE) OF THE OTHER PART

- ii) Draft a covenant to pay rates and charges that would take care of present and subsequent charges levied.

ANSWER:

"The lessee covenants to pay all rates, taxes, levies, charges and outgoings payable on the demised premises either presently or subsequently and whether payable by the landlord or tenant"

- iii) Draft a covenant against assignment that would cater for the interest of both parties:

ANSWER:

"The lessee covenants not to assign, sublet or otherwise part with possession of the demised premises or any part thereof without the written consent of the lessor, such consent not to be unreasonably withheld in the case of reasonable and responsible persons"

- iv) Assuming the parties are interested in the renewal of the lease, advise them on the clause to be inserted.

ANSWER:

If the parties intend to renew the lease upon expiration of the current term, they should include **Option to renew clause** in the Deed of lease:

- v) Draft the option to renew clause:

ANSWER:

"The Lessor shall on the written request of the tenant made _____ months before the expiration of the term hereby created, grant to the lessee the lease of the demised premises for another term of _____ years from the expiration of the term subject to the covenants and terms to be agreed upon by the lessor and lessee"

Or

SAMPLE THEORY QUESTIONS AND ANSWERS

"The lessor covenants with the lessee that upon the lessee paying the rent and observing all the terms and covenants in the lease, and upon giving {three months} notice before the date of expiration of the present lease, the lessor shall grant him further term of years at the rent and subject to the covenants and terms to be agreed upon by the lessor and lessee"

vi) Advice the parties on ways by which a lease may be determined:

ANSWER:

A lease may be determined in any of the following ways:

1. Effluxion of time
2. Merger –this is where the tenant or third party retains the lease and acquires the reversion before expiration of the lease.
3. Notice to quit.
4. By surrender
5. Disclaimer–where a lessee sets up an adverse claim to the ownership of the property or claims direct ownership, the lessor is entitled to determine the lease.
6. Frustration: where the property is destroyed and the lessee remains in possession, he cannot plead frustration.
7. Forfeiture

QUESTION 1B

i) The documents Mr. Kwere is obliged to give to Madam Eku for purposes of investigation title;

ANSWER:

The documents that will enable Madam Eku investigate the title are the epitome and abstract of title and a copy of the contract of sale agreement.

ii) The class of questions or inquiries Mr. Kwere is not obliged to answer during investigation:

ANSWER

The vendor may not respond to the following questions or inquiries:

1. Questions relating to facts which can be discovered by physical inspection of the land i.e. patent defects.
2. Questions that is irrelevant and unrelated to the epitome and abstract of title.
3. Inquiries or questions relating to a clear and unambiguous root of title.

iii) Give a checklist of bodies accredited to conduct a search at Land Information Management System

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

1. Law Firms;
2. Financial Institutions;
3. Corporate Organisations;
4. Registered Estate Surveyors and Valuer.

iv) Give a checklist of registers to be kept at Land Information Management System

ANSWER

1. Day list;
2. Mortgage;
3. Caution;
4. Any other register prescribed for use by the Registrar.

v) The documents Mr. Kwere must hand over to Madam Eku during completion of the transaction

ANSWER:

The documents to be delivered to the purchaser during the completion of the transaction are:

1. Duly executed deed of assignment
2. Original title documents of the vendor
3. Statement of change of ownership if the property is occupied by tenants
4. The keys to the property if with buildings.

vi) The procedure for completion of the Sale of land:

ANSWER

The procedure for completion is:

1. Preparation of deed of assignment by Assignee's solicitor.
2. Vetting of deed of assignment by Assignor's solicitor.
3. Engrossed copies (several original copies) to be made by Assignee's solicitor.
4. Payment of outstanding purchase price, if any.
5. Execution of deed of assignment by both parties.
6. Surrender of original title documents by vendor to purchaser (including keys, if developed); and notice of change of ownership to tenants if already occupied by tenants.
7. Assignment of insurance policy if any.

QUESTION 1c

i) Draft a Power of Attorney up to appointment.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER:

THIS DEED OF POWER OF ATTORNEY MADE THIS.....DAY OF.....2019 BETWEEN MR. MIKE KWERE OF NO. 10 MARINA, LAGOS STATE (DONOR) OF THE ONE PART AND JUDE MOSU OF 20 MIAMI LANE, ONITSHA ANAMBRA STATE (DONEE) OF THE OTHER PART

I, MR. MIKE KWERE, OF NO. 10 MARINA, LAGOS STATE DO HEREBY APPOINT JUDE MONU OF 20 MIAMI LANE, ONITSHA ANAMBRA STATE TO BE MY TRUE AND LAWFUL ATTORNEY...

ii) State any five applicable taxes and to whom each is payable

ANSWER

1. Stamp duties payable by the assignee/purchaser to the Federal Government through the Federal Board of Internal Revenue (FBIR)
2. Capital Gain Tax payable by the assignor/vendor payable to the State government through its internal revenue Board
3. Personal Income Tax payable vendor to the State Government
4. Consent fee payable by assignor/vendor to the Governor of the state where the land is situate through the appropriate ministry.
5. Registration fee payable by the assignee/purchaser payable to the State government through the land registry
6. Tenement rate payable by the vendor to the state government for developments on the land

iii) What factor would a lawyer called upon to represent both parties consider before accepting the offer?

ANSWER:

The factors to be considered before one solicitor can act for both parties are;

1. Where the title to the property is sound/vendor has good root of title
2. Where there is no likelihood of conflict between the parties
3. Where the transaction is of no serious legal consequence (consideration is small value)
4. Where the term of the contract had been fully negotiated and agreed upon by the parties
5. Where both parties consents to it; Smith v Mansi

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

- i) Identify and explain the instrument Mr Peter Ibibio would have executed in favour of Mr Chike

ANSWER:

The instrument is a Power of Attorney. A Power of Attorney is a document in writing by which a person authorises another to act on his behalf. In property law transactions, a Power of Attorney has been defined to be an instrument of delegation which can be used to authorize a person with legal ability to act on behalf the donor; see UDE V NWARA, CHIME V CHIME

A Power of Attorney need not be by deed unless the donee is expected to transfer interest in land by executing a deed as in the instant case; see ABINA V FARHAT, POWELL V LONDON AND PROVINCIAL BANK

- ii) What pre-caution must be inserted in the appropriate instrument to ensure that Mr. Peter Ibibio is not disadvantaged by the fact that he speaks and writes only in Ibibio language?

ANSWER:

The precaution to be inserted in the instrument is a jurat (illiterate jurat) stating that the content of the document was read and interpreted to him in Ibibio language.

- iii) Draft the precautionary statement you identified in (ii) above

ANSWER:

“The content of the document have been read and interpreted to the Donor from English language to Ibibio Language by me (name and address of the interpreter) and when he appeared to perfectly understand same before affixing sign, thump print or mark”

- iv) Draft the Execution clause of the final instrument Mr Ebube Chike would execute only when selling Mr Peter Ibibio's house.

ANSWER:

SIGNED, SEALED AND DELIVERED BY THE ASSIGNOR

MR PETER IBIBIO

SAMPLE THEORY QUESTIONS AND ANSWERS

THROUGH HIS LAWFUL ATTORNEY MR EBUBE CHIKE BY
VIRTUE OF A POWER OF ATTORNEY DATED _____ DAY
OF _____ 20____ AND REGISTERED AS ____/____/____
AT THE LAND REGISTRY OF _____ STATE _____

MR EBUBE CHIKE

- v) Draft the appointment clause of the instrument of delegation executed by Mr Peter Ibibio.

ANSWER:

BY THIS POWER OF ATTORNEY MADE THIS....DAY OF....20.... I
MR PETER IBIBIO OF_____ (ADDRESS) DO HEREBY
APPOINT MR EBUBE CHIKE OF_____ (ADDRESS) TO BE
MY TRUE AND LAWFUL ATTORNEY AND TO DO ON MY
BEHALF THE FOLLOWING:

- vi) What precautionary measure would Mr Ebube Chike take in respect of the instrument of delegation executed in London?

ANSWER:

Where a Power of Attorney is executed outside Nigeria, the precaution to take is to ensure that the Power of Attorney executed before a Notary Public and duly notarized.

- vii) Under what other circumstances apart from that mentioned in the scenario can Mr Peter Ibibio execute an instrument of delegation?

ANSWER:

ANSWER: Circumstances requiring Power of Attorney include:

- Circumstances Requiring Power of Attorney include:**

 1. Where the donor for some reasons may not be able to carry out the act personally either due to unavailability as a result of being physically away from the property or being engaged in busy schedules which makes it impossible for him to devote time to handling the property- Ezeigwe v. Awudu
 2. Where expert skills of the donee is required such as where a donor donates to an Estate agent or Solicitor the responsibilities to put tenants in possession, collect rent, and evict tenants on a property.
 3. Where it is to secure interest of a purchaser pending the perfection of title of purchaser or performance of an obligation owed the donee.
 4. Where a mortgage is by demise or sub-demise under the Conveyancing Act pending the payment of mortgage sum - *Re White Rose Cottage*
 5. Where the donor has vast estate: S. 46, 47 CA and S. 141 PCL; Chime v Chime

SAMPLE THEORY QUESTIONS AND ANSWERS

- viii) Draft the authority clause of the instrument of delegation given by Mr. Peter Ibibio to Mr. Ebube Chike

ANSWER:

“AND I HEREBY DECLARE that my attorney may do all other things as I may lawfully do as follows”

1. To sell my Duplex in Maitama Abuja and from the proceeds pay off the sum of Two million Pounds owed by the donor to the donee

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

- i) The Managing Director of Ediye Limited has instructed his solicitor, Mr. Caleb Senok, the principal partner in Senok and Senok (Legal Practitioners) of No. 27 Admiralty Way, Lekki, Lagos, to advise the company on the stages of the parties will go through to ensure that the company acquires a good title. The Managing Director will also like to know two matters that are to be undertaken at each stage. Advise the company

ANSWER:

The transaction is sale of land. The stages the parties would go through to enable Ediye Limited acquire a good title and matters that would take place during each stage, are as follows:

- i. The Pre-Contract Stage
 - Preliminary inquiries
 - Negotiation of price
 - ii. The Contract Stage
 - Agreeing on terms of the sale
 - Preparation and execution of the Formal Contract of Sale
 - Exchange of contract
 - iii. The post-contract stage
 - Deducing of title by the Vendor (or his solicitor)
 - Investigation of the title by the Purchaser (or his solicitor)
 - Raising requisitions if necessary
 - iv. The Completion Stage
 - Preparation and execution of the Deed of Assignment
 - Transmission of all original and relevant documents from the Assignor to the Assignee.
 - v. The post-completion stage (Perfection)
 - Governor's consent
 - Stamping
 - Registration
- ii) Assuming that Ediye Limited has instructed you to prepare the relevant documents for the parties in the scenario, justify the inclusion of the following clauses;
- i. Recital

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER:

- a) Recital gives the historical background of the devolution of the title as well as background facts relating to the state of affairs in the present transaction. Recitals could either be narrative or introductory. Recitals serve the following purposes;
 - 1) Evidential purpose; Statements in a recital contained in an instrument 20 years old as at the date of the contract are to be presumed correct i.e. conclusive evidence of the matter stated unless the contrary is proved. *JOHNSON V LAWANSON*.
 - 2) Recitals as Estoppel: A statement in a recital in a deed may operate by way of estoppel against the party that made the statement from denying the facts of the statement. The estoppel operates to bind the party that made the statement and his successors in title (those in claiming under him).
 - 3) Construction of Operative Part: Where a recital is clear and unambiguous, it could be referred to in aid of the construction of the operative part of a deed. *District Bank Ltd V Webb*.
- ii. Receipt Clause

ANSWER:

Receipt clause serves the following purposes;

1. It makes a separate receipt for the transaction unnecessary See s (54) C.A & s. 92 PCL.
 2. It is sufficient authority to the purchaser's solicitor to pay the balance of purchase price to the vendor's solicitor where he produces the conveyance duly executed by the vendor. S. 56 C.A 1881 & 5 (94) PCL.
 3. It serves as sufficient evidence of payment in favour of a subsequent purchaser, without notice that the money had not been paid. S. 55 C.A & s. 93 PCL.
- iii) Draft the Testimonium and execution clauses of the document in (b) above.

ANSWER:

IN WITNESS OF WHICH the parties have executed this Deed in the manner below the day and year first above written

SIGNED, SEALED AND DELIVERED by the within named ASSIGNORS:

1) _____

MR. CHUKWUDI MONEYMAN

2) _____

MRS. CHIZORAM MONEYMAN

IN THE PRESENCE OF:

SAMPLE THEORY QUESTIONS AND ANSWERS

NAME: _____
ADDRESS: _____
OCCUPATION: _____
SIGNATURE: _____

THE COMMON SEAL OF EDIYE LIITED (ASSIGNEE) was affixed to this Deed and the Deed was delivered in the presence of:

DIRECTOR

SECRETARY

- iv) Assuming that after the purchase, the company intends to grant a term of two years to Austin and Grace Limited, advise the parties on:
i. The appropriate documents that you will prepare for the parties.

ANSWER:

TENANCY AGREEMENT

- ii. The consequences, if any, of not including a covenant against assignment and a user covenant in the document the parties will execute. Will your answer be different if the property were located in Ikeja GRA, Lagos State?

ANSWER:

1. **COVENANT AGAINST ASSIGNMENT:** This clause usually forbids assignment, charge, subletting, or disposal of possession of the demised premises or any part of it, without a prior written consent of the lessor. If the clause is not included, the lessee reserves the right to assign, underlet, charge, etc. and this may affect the value of the property as it may fall into the hands of undesirable elements.
2. **USER COVENANT:** This is present to specify the use to which the demised premises might be put by the lessee. In the absence, lessee can use it for any purpose, including that not intended by the lessor, as long as it is legal; this might work against the lessor's interests and the value of the property.

The above position would be the same if the property were in Ikeja, GRA. This is because the Tenancy Law 2011 of Lagos State does not apply to this part of Lagos State as such these covenants must be expressly provided in the lease agreement. On the other hand, if the property were in a part of Ikeja where the Tenancy Law of Lagos applies to, where the covenants are excluded, such would be implied into the lease relationship. See s 1(3) and Section 7 (6) of the Tenancy Law, 2011, Lagos.

SAMPLE THEORY QUESTIONS AND ANSWERS

iii. Draft the commencement clause and the execution clause.

ANSWER:

COMMENCEMENT:
THIS TENANCY AGREEMENT

THE COMMON SEAL OF EDIYE LIMITED (LANDLORD) was affixed to this Document and the Document was delivered in the presence of:

DIRECTOR

SECRETARY

THE COMMON SEAL OF AUSTIN & GRACE LIMITED (TENANT) was affixed to this Document and the Document was delivered in the presence of:

DIRECTOR

SECRETARY

QUESTION 4

- i) State the method you will adopt in creating the Legal mortgage in respect of the properties in Awka, Anambra State and Asaba, Delta State.

ANSWER:

1. Anambra state is within the Conveyancing Act jurisdiction: Assignment (b) Sub-demise and (c) Statutory Mortgage/Charge
 2. Delta State is within Property & Conveyancing jurisdiction: Charge by Deed expressed to be by way of Legal Mortgage, (b) sub-demise
- ii) Assuming that Zenith Bank wants to consolidate the mortgage, list the conditions precedent for the consolidation.

ANSWER:

The mortgage must have two or more existing mortgages in favour of the same mortgagee.

1. There must be a consolidation clause in the mortgage deed.
 2. All the mortgages must be due for redemption. Section 17 of the Conveyancing Act (CA), 1881, & Section 115 of the Property & Conveyancing Law (PCL)
- iii) State why you will advise Zenith Bank not to take the possession of the mortgaged properties.

ANSWER:

Where the mortgagee takes possession, he (the mortgagee) would strictly liable to render account to the mortgagor for his (mortgagee's) actions while in possession. *White v City of London Brewery*

- iv) Assuming that Senator Uwaifo Kelechi merely deposited his title documents as security, in the event of default, explain the conditions precedent for the Bank to be able to sell the property

ANSWER:

The mortgagee should apply to the High Court for an order for sale of the property.

- v) At the conclusion of the transaction, compute your fees using the attached scale of charges.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER:

**MORTGAGOR'S LEGAL PRACTITIONER'S FEES
FOR NEGOTIATING LOAN:**

For the first N1, 000: 1000

$$100 \times \underline{11.25} = N112.50$$

For the second and third N1, 000:

2000

$$100 \times \underline{11.25} = N225.00$$

For the fourth N1, 000 up to N 20,000:

17,000

$$100 \times \underline{3.75} = N637.50$$

Remainder without limit:

299,980,000

$$\underline{100 \times 2.50} = N7,499.500$$

TOTAL: N112.5 + N225 + N637.50 + N7,499.500 = N7,500,475.00

Mortgager's legal practitioner's fees for negotiating loan =
N7,500,475.00

**MORTGAGEE'S LEGAL PRACTITIONER'S FEES FOR
NEGOTIATING LOAN**

For the first N1, 000:

1000

$$\underline{100 \times 22.50} = 225$$

For the second and third N1, 000:

2000

$$\underline{100 \times 22.60} = 452$$

For the fourth N1, 000 to N20, 000

17,000

$$\underline{100 \times 7.70} = 1,309$$

SAMPLE THEORY QUESTIONS AND ANSWERS

For the remainder without limit:

299,980,000

100 x 500 + 14,999,000

$$\text{Total} = 225+452+1,309 + 14,999,000 = 15,000,986$$

Legal practitioner's representing both the Mortgagor and the Mortgagee is the sum total of the Mortgagee's fees and half the Mortgagor's fees:

$$\text{Mortgagor's fee} = N7,500,475.00 \div 2 = N3,750,237.5$$

$$\text{Mortgagee's fee} = N15,000,986.00$$

The legal practitioner's total fee is N3,750,237.5 + N15,000,986 = N18,751,223.50

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

- i) Highlight the information you would have required from Mr. Imam Oluwole Odukoya in order to prepare his Will and give reason(s) why the information is necessary.

ANSWER:

The information required to draft Mr. Imam Oluwole Odukoya's Will:

1. Particulars of testator
2. Nickname/alias (if any)
3. Particulars of beneficiaries
4. Alternate beneficiaries
5. Particulars of executors
6. Particulars of witnesses
7. Marital status of the testator (and if married, nature of marriage)
8. Composition of testator's estate
9. Manner of disposition or distribution
10. Solicitor's remuneration
11. Inventory of the estate
12. How residuary estate should be managed or disposed of
13. Any other directives the testator may wish to make in the Will
14. Whether there were previous wills/codicils
15. Debts and liabilities
16. Need for survivorship

The above information is necessary to enable the legal practitioner prepare a will that complies with the requirements of the law; and to avoid being held liable in negligence; to ultimately ensure that the will reflects the intention of the testator.

- ii) Assuming that paragraph (i) above is omitted from the Will of Mr. Imam Oluwole Odukoya, comment on the effect of the omission of the Will.

ANSWER:

The effect of omission of paragraph (i) from the Will of Mr. Imam Oluwole is that there are no executors appointed in the will. The implication is that application will be made for letters of administration (with will attached) by those entitled.

- iii) Comment on the property of Mr. Imam Oluwole Odukoya's disposition of his property the way he did in this scenario as a Muslim.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER:

Generally, a practicing Muslim will be subject to the limitation imposed by the Islamic Law on his right to dispose of his properties under a will where the applicable Wills Law contains such provision. Under Islamic Law a testator who is a practicing Muslim can only dispose of one third of his estate as he chooses or deems fit. And this he may do under a will. However, Mr. Imam Oluwole Odukoya is not subject to the Islamic limitation because the Wills Law of Lagos State only limits disposition of property subject to the customary law applicable to the person and not to Islamic Law. Thus, the disposition of his property the way he did as a Muslim is valid. *Adesubokan v Yinusa*

- iv) Assuming that the N2 Million given to the children of Mr. Imam Oluwole was found in his Savings Account instead of the Current Bank Account mentioned in his Will, state the effect, if any, on the legacy.

ANSWER:

The sum of N2, 000,000 given to the children of Mr. Imam Oluwole that was not found in the Savings Account but in the Current account will be treated by the court as a general legacy and thus the children will be entitled to the N2, 000,000

- v) Assuming that Hajia Odukoya died before her husband, comment on the effect of her death on the devise to her in paragraph (ii) of the Will

ANSWER:

Where a beneficiary predeceases the testator, the devise ordinarily fails except where the testator has made a substituted gift. Therefore, the death of Hajia Mariam Odukoya before her husband would not result in the failure of the devise because it is a life interest with substituted beneficiaries (the children of the testator). The house would go to the children of the testator.

- vi) Complete the attached Probate Form (Oath of Executor)

COMPLETED PROBATE FORM

- vii) Comment on the importance of attaching Bank Certificate to an application for the grant of Probate/Letters of Administration.

ANSWER:

The importance of attaching BANK CERTIFICATE to an application for the grant of probate/letters of administration enables the Probate Registrar determine the monies due to the estate for the purpose of assessment of the estate duty payable

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 6

- i. Compute the Capital Gains Tax Mr. Osita will be required to pay

ANSWER:

Step 1: Sale of the bungalow - Cost of bungalow: N30, 000,000 - N10, 000,000 = N20, 000,000

Step 2: Allowable expenditure

Renovation of roof = N2, 000,000

Payment to Estate Valuer = N500, 000

Advertisement = N500, 000
= N3, 000,000

Chargeable Gain N20, 000,000 - N3, 000,000 = N17, 000,000

Step 3: Capital Gains Tax = 10%

$$\frac{10}{100} \times N17,000,000 = N1,700,000$$

THE CAPITAL GAIN TAX IS = N 1,700,000

- ii. What other taxes will Mr. Christian Osita be required to pay in respect of this property?

ANSWER:

1. Personal Income Tax
2. Stamp duty
3. Registration fees

- iii. List at least 3 types of fees that a Solicitor may charge in respect of property transaction.

ANSWER:

1. Scale fee
2. Percentage fee
3. Contingent fee

- iv. List the items to be included in her Bill of Charge.

ANSWER:

Items to be provided in the Bill of Charges:

1. Lawyer's name and address
2. Client's name and address
3. Date on the bill
4. Principal items charged
5. Particulars of principal items

SAMPLE THEORY QUESTIONS AND ANSWERS

6. Professional fees charged
 7. cost of advertisement
 8. Estate Surveyor's fees date incurred
 9. Signature of solicitor
- v. Assuming Mr. Christian Osita refuses to pay Ms. Patience Adabor her professional fees what conditions must be satisfy before she can recover her charges in court?

ANSWER:

Step 1: the legal practitioner prepares the bill of charges

Step 2: the legal practitioner signs the bill of charges and if it a firm by one of the legal practitioner in the firm

Step 3: it must be served on the client personally, post or at the last known address of the client

Step 4: the legal practitioner is to wait for one month

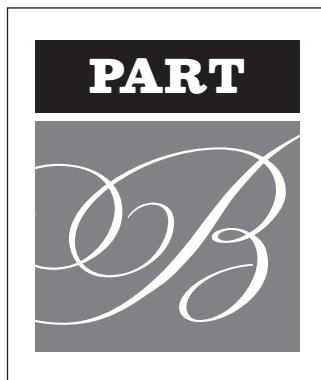
Step 5: if the client is in default after one month, then takes a writ of summons at the High Court where the firm operates.

- vi. What is the consequence of Ms. Patience Adabor sending a Bill of Charge to her client without setting out the particulars of the principal items in her Bill of Charge?

ANSWER:

The court will declare the bill incompetent; Oyekanmi v. NEPA

SAMPLE THEORY QUESTIONS AND ANSWERS



**THEORY
QUESTIONS
AND ANSWERS**

ON

**CRIMINAL
LITIGATION**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

Comment on the propriety or otherwise of the jurisdiction of a State to try an accused/ defendant for an offence which occurred in another state?

ANSWERS

Generally, an offence can only be tried in the state it was committed. *R v Shodipo* Therefore, My comment is that the State in which the offence was not committed, has no jurisdiction to try such offence, even if the accused committed the offence and entered into the other State or was arrested in the other state. Although, where an offence was partly committed in one State and partly in another, both state have jurisdiction to try such offence. *Queen v Osoba*

QUESTION 2

Is it lawful for the Prosecution to arraign an accused/defendant in a Court that has no jurisdiction to try the substantive offence?

ANSWERS

It is unlawful to arraign an accused person before a Court without jurisdiction as this will amount to holding charge which is unknown to Nigerian law.

QUESTION 3

Comment on the propriety or otherwise on whether jurisdiction not raised at the trial court can be raised as a sole ground of appeal?

ANSWERS

The issue of jurisdiction is fundamental and can be raised at appeal as a sole ground. *State v Onagoruwa*.

Although, it should be raised first during arraignment i.e. after the charge sheet is read but before the accused person takes his plea.

QUESTION 4

Can a Magistrate Court try the offence of money laundering and unlawful possession of illicit drugs?

ANSWERS

A Magistrate Court lacks jurisdiction to try the offence of money laundering and unlawful possession of drugs. Those are matters within the exclusive jurisdiction of the Federal High Court. Section 251 (2) (3) of the Constitution as amended

QUESTION 5

Comment on the jurisdiction of the International Criminal Court to try a state for an offence against war crime?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

Generally, the International Criminal court has the jurisdiction to try the offence of war crime but it is only restricted to persons and not state offender. Hence the jurisdiction of the International Criminal Court to try a state for an offence against war crime has ousted their jurisdiction.

QUESTION 6

Comment on the propriety or otherwise of the Area Court Judge refusing a counsel the right of audience in the Area Court?

ANSWERS

By the virtue of Section 390 of the CPCL and Section 28 Area Courts Edit, 1967; a legal practitioners do not have the right of audience in Area Court. These provision have been declared to be inconsistence with section 36(6) (c) of the CFRN (As amended), which guarantee an accused person the right to defend himself in person or be represented by legal practitioner of his own choice. Therefore, Section 390 of the CPCL and Section 28 Area Courts Edit, 1967 are inconsistence with the provision of the Constitution. Also, a legal practitioner may not have the right of audience if he has not paid his practicing fees. Rule 9 Rules of Professional Conduct.

QUESTION 7

What is your response to an objection to the trial of Major Jones by the High court on the ground he has already been tried and acquitted by a court martial? Would your answer be the same if the earlier trial was by the High court?

ANSWERS

Generally, trial of civil offences by a Court Martial does not oust the jurisdiction of a Civil Court (State High Court) to try such offence. However, any Civil Court that tries a person already tried by the Court Martial shall in imposing sentence, having regard to any sentence already imposed by the court Martial. Therefore, the response to an objection to the trial of Major Jones by the High court on the ground he has already been tried and acquitted by a court martial is inappropriate.

My answer will be different, reason because, if an officer was already tried by the State High Court, the Court Martial can no longer try him.

QUESTION 8

Comment on the State High Court to try James aged 13, on the Charge of murder?

ANSWERS

Where a minor is charged with a Capital offence (offence that carries

SAMPLE THEORY QUESTIONS AND ANSWERS

death penalty), he cannot be tried in a Juvenile Court but may be tried in the regular court (State High Court). Section 8(2) of the Children and Young Person Law

QUESTION 9

Comment on a Court Martial trying Mrs. Florence the wife of Major Lucky for embezzling fund belonging to a unit of the Nigerian Army Officer Wives Association?

ANSWERS

Generally, the Court Martial can only try person subject to service law. Section 130, Armed Force Act 1993. Therefore, a court martial cannot try Mrs. Florence the wife of Major Lucky for embezzling fund belonging to a unit of the Nigerian Army Officer Wives Association, rather she would be tried in a regular court (State High Court).

QUESTION 10

Comment on the regularity of the following: Captain Paul, Colonel Peter who convened the Court Martial for the trial and conviction of Major-General Mike?

ANSWERS

Generally, an officer cannot be tried by a Court Martial constituted by officers of lower rank. See Okoro v Nigerian Army Council; Section 133 Armed Force Act 1993. Therefore, Major-General Mike cannot be tried or convicted by Captain Paul, Colonel Peter who convened the Court Martial as they are officer of lower rank.

QUESTION 11

Can a nolle prosequi be used to terminate a proceeding at a coroner's inquest?

ANSWERS

Proceeding at a coroner's inquest cannot be discontinued by the entry of nolle prosequi by the Attorney General.

QUESTION 12

Comment on the validity of a trial held on the 1st of October. Would your answer be the same if the date was agreed upon by both parties in spite of the fact it was a public holiday?

ANSWERS

Generally, the courts in Nigeria can conduct proceedings throughout the year except on Sunday and public holidays which are non-Judicial days. Proceedings held on a non-Judicial days of the court are invalid. Therefore, the trial held on the 1st of October by the court been a public

SAMPLE THEORY QUESTIONS AND ANSWERS

holiday is void.

My answer would be different, where both parties consent to sit on a non-judicial day, as proceedings held on such consent will be valid. *Ososami v C.O.P*

QUESTION 13

How will the court determine the age of a juvenile offender?

ANSWERS

The age of a juvenile can be determined by;

1. Adducing direct evidence,
2. Oral testimony as to the age of the accused person by his parents or relations, or
3. Medical examination by a medical practitioner in a government medical institution. See *R v Oladimeji* (1964) M.M.L.R 31.

QUESTION 14

State the court that has jurisdiction in respect of treason and treasonable felony.

ANSWERS

Federal High Court

QUESTION 15

State the features of a juvenile court.

ANSWERS

1. Juvenile courts are not open to members of the public except officers of the court, the parties to the proceedings, their legal representatives and accredited members of the press.
2. The disclosure and publicity of the identity of the accused person without the leave of the court is prohibited. Any contravention of this provision attracts a penalty of N10,000.00 fines. See section 6(6) of the Children and Young Persons Law.
3. A juvenile if found guilty cannot be "sentenced" or "convicted". Instead a finding of "guilty" shall be recorded.
4. A juvenile cannot be ordered to be imprisoned if he can be suitably dealt with in any other authorized manner such as probation, fine, corporal punishment, and recognizance, to be of good behavior or committal to an approved institution or remand home. See *Guobadia v. The State*
5. Even where a juvenile is imprisoned, he cannot be mixed with adult prisoners.
6. A juvenile shall not be sentenced to death for a capital offence. See *Modupe v The State*

SAMPLE THEORY QUESTIONS AND ANSWERS

7. A juvenile found guilty of a capital offence shall be detained in lawful custody pending the pleasure of the Governor. See Guobadia v The State

QUESTION 16

Who can issue a warrant of arrest?

ANSWERS

The appropriate authorities to issue a warrant of arrest are;

1. Judge,
2. Magistrate
3. Justice of Peace (in the North)

QUESTION 17

What are the contents of a warrant of arrest?

ANSWERS

A warrant of arrest must contain the following:

1. It must be in writing
2. It must contain the date of issue
3. It must contain the particulars of the offence
4. It must state the name of the suspect
5. It must state the name of the officer to execute the warrant
6. It must contain the signature of the Judge; or Magistrate or Justice of Peace

QUESTION 18

Can the magistrate issues warrant of arrest in respect of murder case?

ANSWERS

A magistrate can lawfully issue warrant of arrest irrespective of the fact he lacks jurisdiction to try such offence. Hence a magistrate can issue warrant of arrest in respect of murder case.

QUESTION 19

A warrant of arrest issued in Ikeja by a magistrate was taken to Ibadan by two police officers. Therefore, they found the accused, Nzotta Phillip on his way from the Liberty Stadium and arrested him. Comment on the propriety or otherwise of the execution of the warrant of arrest. Assuming the warrant was properly executed; outline the proper procedure for the execution of the warrant of arrest.

ANSWERS

The warrant of arrest was not properly executed. The proper procedure for the execution of a warrant of arrest outside the State of issue may be outlined as follows:

SAMPLE THEORY QUESTIONS AND ANSWERS

1. The warrant of arrest will be taken before a magistrate in the state of execution for endorsement. The magistrate will endorse it after he has satisfied himself that the warrant was indeed issued by a competent authority and that the alleged offence is known to law;
2. After the endorsement, the police officer or any person directed to execute it, then has sufficient authority to execute the warrant of arrest and upon apprehension of the alleged offender, he must be taken before the endorsing magistrate;
3. When the offender is brought before the magistrate in the State where he was arrested, the magistrate shall make any of the following orders:
 - a) Grant him bail if the offence is bailable;
 - b) Order that the alleged offender should be taken to the magistrate who originally issued the warrant in the custody of the police officer or the person who executed the warrant;
 - c) Where the offence is not known to law, he must order that the alleged offender be discharged.

QUESTION 20

Assuming, the magistrate after issuing the warrant of arrest died, and the warrant of arrest was not executed after it was issued, comment on the legal issue if he was arrested with the same warrant of arrest?

ANSWERS

A warrant of arrest remains in force until executed or cancelled by the issuing authority. Hence since the arrest was not executed, the death of the magistrate does not in any way affect the warrant of arrest, as it can still be executed.

QUESTION 21

State the circumstances where arrest may be effected without warrant and where warrant of arrest may be issued?

ANSWERS

Section 41 of the Administration of Criminal Justice law of Kano State 2019. provides that a police officer may without an order from a magistrate and without a warrant of arrest make an arrest;

1. When he reasonably suspects a person of having committed an indictable offence
2. When an offence is committed in his presence whether an indictable or non-indictable, even when the law says a warrant should be issued.
3. When a person obstruct a police officer while carrying out his duty
4. When a person has escaped lawful custody.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 22

Assuming upon arraignment, his counsel raised an objection to the trial on the ground that the arrest by the police office on Peter was unlawful and therefore invalidate the criminal proceedings, as the prosecuting counsel what would be your possible responds?

ANSWERS

The illegality or defect in the execution of an arrest by a police officer does not invalidate the jurisdiction of the court to try the offence. Hence the objection raised by the counsel is inappropriate. See Okotie V C.O.P

QUESTION 23

Discuss how substituted service of criminal summons is effected in Kano?

ANSWERS

In Kano, substituted service of summons can be effected by placing the duplicated copy on the conspicuous part of the premises of residence or place of work. Section 138 of Administration Criminal Justice Law of Kano State 2019.

QUESTION 24

A warrant of arrest was issued against Miss Okolo Adaeze by a magistrate's court. Shortly, thereafter, the magistrate died. The warrant was not executed until 6 months after it was issued. After the arrest of Miss Okolo Adaeze, she was released on bail. Two weeks later, Inspector Olaoye Israel re-arrested her on the same warrant of arrest. Discuss the legal issues arising from the above scenario.

ANSWERS

A warrant of arrest remains in force until executed or cancelled by the issuing authority. Once a warrant of arrest has been executed (i.e. used to effect an arrest) it expires and can no longer be used to effect another arrest. See R v Akinyanju (1959) W RNLR at 253. Therefore, the arrest by Inspector Olaoye Israel using same warrant of arrest after it has been executed is void.

QUESTION 25

State the circumstances under which a private person may effect an arrest without warrant.

ANSWERS

A private person may arrest without warrant in the following circumstance:

1. Any person who commits an indictable offence in his presence

SAMPLE THEORY QUESTIONS AND ANSWERS

2. Any person whom he reasonably suspects of having committed a felony; or
3. Any person who commits a misdemeanor by night.

QUESTION 26

State the circumstances under which a warrant of arrest may be issued.

ANSWERS

A warrant of arrest is usually issued in respect of the following circumstances;

1. Where the law creating the offence states that an offender cannot be arrested without warrant;
2. Where a summons to appear is disobeyed
3. When a serious offence is alleged against the offender, although the law allows the arrest of the offender without a warrant of arrest.

QUESTION 27

Comment on the propriety or otherwise on the Search of a woman by a man?

ANSWERS

The search of the body of a woman by a male Police officer is wrong. The body of a woman can only be search by another woman which must be done with regards to decency.

Please note that the exception where a man can search the body of a woman only applies at the Federal Capital Territory by the provision of section 9(3) of the Administration of Criminal Justice Act 2015.

QUESTION 28

Who can issue a search warrant?

ANSWERS

1. Magistrate
2. Judge (Judicial Officer)
3. Justice of Peace (in the North)

QUESTION 29

Comment on the propriety or otherwise of a police man who search the premises and a woman in purdah?

ANSWERS

Where there is in occupation of a premises to be searched, a woman in purdah (not being the person to be arrested), and who according to custom does not appear in public, such person shall be allowed to

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withdraw before the execution of the search warrant.

QUESTION 30

Comment on the propriety or otherwise on the effect of evidence obtained from an illegally executed search warrant?

ANSWERS

Illegally obtained evidence is admissible (as relevance determines admissibility), unless the Court considers that the desirability of admitting the evidence is outweighed by the undesirability of admitting the evidence.

QUESTION 31

Is it proper for a Police man to forcefully break into a premise to effect a search warrant?

ANSWERS

A Police officer executing a search warrant has the right to demand free access into the premises and where this is refused; he can lawfully break in and break out of the premises. See section 45 Police Act 2020

QUESTION 32

Comment on the admissibility or otherwise of a parcel of cocaine unlawfully recovered in the course of executing a defective search warrant.

ANSWERS

The materials and documents recovered during searches are admissible evidence notwithstanding that the proper procedure was not followed in executing the search warrant. Such materials and documents which are illegally obtained are admissible so long as the materials and documents are relevant to the case. This is so because the basis of admission of evidence is relevancy. See Musa Salau v The State (1969) NMLR, 208.

QUESTION 33

Comment generally on identification parade and where it should be conducted?

ANSWERS

Identification parade is conducted where the identity of the suspect is in doubt. In an identification parade, the suspect and other innocent persons of about the same height, age, complexion, facial expression, physical appearance and disposition with the suspect (at least eight in number) and dressed in the same manner, with nothing to distinguish the suspect from the other persons; and paraded together. The witnesses

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are then allowed; unfettered and unaided to identify the suspect he had earlier described to the Police. *Ikemson v. State*.

Identification parade should be conducted at the Police Station.

QUESTION 34

How many persons should be in a parade?

ANSWERS

An identification parade shall consist of at least eight persons where it is one suspect, but where there are two suspects who are of roughly similar physical appearance then they may be paraded with at least twelve persons.

QUESTION 35

Identify the Duty of the Police/Prosecution where alibi has been raised?

ANSWERS

The duty of the Police/Prosecution where the defense of alibi has been properly raised is to investigate and disprove the alibi. Failure to do this will cast doubts on the Prosecution's case.

QUESTION 36

What is the effect of the Police not investigating alibi?

ANSWERS

Failure to investigate an alibi properly raised by an accused person is detrimental to the case of the Prosecution as this will cast doubts on the Prosecution's case.

QUESTION 37

Comment on the propriety or otherwise on the Admissibility of confessional statement?

ANSWERS

For a confession to be admissible, it must be voluntary, where it is not obtained voluntarily then it would not be admissible by the court.

QUESTION 38

Comment on the propriety or otherwise of a confessional statement made against co-accused persons?

ANSWERS

A confession made by defendant is admissible against him only. Where more persons than one are charged jointly with an offence and one of

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them makes a confession, such confession shall not be admissible against the other co-accused person(s) even if made in his presence except he adopted the said confessional statement by words or conduct. Section 29 (4) Evidence Act.

QUESTION 39

Comment on the propriety or otherwise on the duty of Court when challenged on grounds of voluntariness?

ANSWERS

Where the admissibility of a confession is challenged on the ground that it is involuntary, the duty of the Court is to order a trial within trial to ascertain the voluntariness or otherwise of the confessional statement. *R v Onabanjo*

QUESTION 40

Comment on the propriety or otherwise on the Duty of Court when challenged on grounds of retraction?

ANSWERS

Mere denial of a confessional statement does not affect the admissibility of a confessional statement. Where the admissibility of a confession is challenged on the ground that it was not made, that amounts to a retraction. The duty of the Court is to nevertheless admit the confessional statement and decide on what weight to attach to it at the end of the trial. *Salawu v State*

QUESTION 41

Comment on the propriety or otherwise of the Power of Police to institute proceedings in the High Court?

ANSWERS

A police officer can prosecute criminal cases in all court in Nigeria except for court martial. The only limitation to the power of the police to prosecute is that it is made subject to the power of the Attorney General. See section 66 of the Police Act 2020, FRN V OSAHON

QUESTION 42

Comment on the propriety or otherwise of a Solicitor General who enter an oral application of nolle prosequi?

ANSWERS

The power to enter a nolle by the Attorney General of the State or Federation is inherent in his person and not in his office (where there is no incumbent Attorney in office, the power of nolle prosequi cannot be entered by the Solicitor General of any other officer as the powers are

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personal to the Attorney General). It can only be entered orally by him as he can also delegate such a power to any person in his department, and such person(s) cannot enter a nolle orally but by written authorisation. Hence, a nolle prosequi entered by a Solicitor General is deemed to be void ab initio. *Ilori v the State*.

QUESTION 43

Comment on the validity or otherwise of a plea of nolle prosequi entered on behalf of the Attorney-General of Delta State by his Personal Secretary.

ANSWERS

Generally, the Attorneys-General of the Federation and of each state can validly delegate nolle prosequi to officers of their department by written authorisation. However, Personal Secretary is not an officer in the department of the Attorney General. Therefore, the delegation of nolle prosequi to the personal secretary is unconstitutional.

QUESTION 44

Can a plea of nolle prosequi be entered on the day reserved for judgment?

ANSWERS

The Attorneys-General of the Federation and of each State have the power to discontinue at any stage before judgment is delivered any criminal proceedings instituted or undertaken by him or any other authority or person in any court in Nigeria except a court martial. See section 174 (1) (c) and S.211 (1) (c) of the 1999 Constitution as amended. A plea of nolle prosequi can be entered on the day reserved for judgment in as much the judgement has not been delivered. See the *State v. Ilori (1983) 1 SCNLR 94*.

QUESTION 45

What is the effect of a nolle prosequi when properly entered in a criminal action?

ANSWERS

The effect of a nolle prosequi when properly entered in a criminal action is a mere discharge.

QUESTION 46

What remedies, if any, are available to an aggrieved person where a *nolle prosequi* has been entered and how effective are such remedies?

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ANSWERS

The remedies available to an aggrieved person where a *nolle prosequi* has been entered are, application to the governor or president for the removal of the Attorney General or by public opinion but the effectiveness of such remedies are likely not to succeed as the power of nolle is a constitutional right of the Attorney General.

ANSWERS

The office of the Attorney-General can institute criminal proceedings even without an incumbent Attorney-General. *The State v. Ilori*

QUESTION 48

Under the extant law of the Federal Capital Territory, can a private counsel institute an action?

ANSWERS

A private counsel can institute an action at the Federal Capital Territory, under the extant law, where he has fiat of the Attorney General of Federation. See section 106 (b) Administration of Criminal Justice Act 2015.

QUESTION 49

Comment on the propriety or otherwise of Hon. Justice Oluwaseun Oderinde granting an application for leave to prefer a charge after refusal by Hon. Justice Oluwaseun Oluwafunmi.

ANSWERS

Where a Judge refuses an application for consent to file information or prefer a charge, the applicant may take the same application to another High Court. See *Gaji v. The State* (1975) 5 SC 61.

QUESTION 50

List the documents required to accompany an application for leave to prefer a charge or for leave or consent to file information.

ANSWERS

The following are the documents required to accompany an application for leave to prefer a charge or for leave or consent to file information;

1. A copy of proposed charge sheet
2. Affidavit in support of the application
3. The unedited statement of the accused person
4. Proofs of evidence of the witnesses
5. The list of witnesses to be called

QUESTION 51

Comment on the propriety or otherwise of a police officer bringing an

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accused person arrested without a warrant before a Magistrate upon a charge duly signed by a Police officer in the Magistrate Court of Kano?

ANSWERS

Generally in the North, there are two basic ways in which a person can be arraigned in the magistrate court, by laying a complaint before a Magistrate or by laying a First Information Report before a Magistrate. Hence, a police officer bringing an accused person arrested without a warrant before a Magistrate upon a charge duly signed by a Police officer in the Magistrate Court of Kano is unknown to the magistrate court in Kano.

QUESTION 52

Comment on the propriety or otherwise of a First Information Report before a Magistrate in the south?

ANSWERS

Laying of First Information Report before a Magistrate in the south is unknown as it is only applicable in the magistrate court in the North.

QUESTION 53

What is the legal implication of failure to obtain leave of court in preferring a charge at Kano?

ANSWERS

Leave of court before a charge is filed is very vital. Hence failure to obtain Leave of court in preferring a charge at Kano is fatal to the charge and it a ground for preliminary objection. Bature v. The State.

QUESTION 54

What is the admissibility or otherwise of a confessional statement where the accused denied making the confessional statement or his signature on the confessional statement.

ANSWERS

Where a confessional statement is merely retracted, (denied) the Judge must admit the statement but the issue goes to the weight to be attached to the confessional statement.

QUESTION 55

Draft the bail application to be made at the police station

ANSWERS

EASREAD LEGAL CONSULTANT

Our Ref: _____ Your Ref: _____

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30th May 2022

The Divisional Police Officer,
Bwari Police Station,
Bwari, Abuja.

Sir,

APPLICATION FOR BAIL

We are solicitor to Onyemaechi Thank God of 21, Ihugo, Bwari, Abuja who is currently under arrest and detention at your station and shall latter be referred to as "Our Client". We humbly apply for his bail.

It is part of our client's instruction that he was arrested and detained in connection with an alleged offence of stealing an Infinix note 5 belonging to one MR. Okocha, of no 3 okirin street, Ekiti at central market Abuja.

Sir, our client pledges to appear at the station anytime he is requested by you or any of your officers, we recommend the brother of our client, Lucky Chima Agor, of our client of No.4 Aba Road Port Harcourt, as surety for our client's bail.

We remain.

Yours Faithfully

Ehis Barnabas
Managing Partner

QUESTION 56

**IN THE MAGISTRATES' COURT OF KOGI STATE
IN THE OKENE JUDICIAL DIVISION
SITING AT OKENE**

CHARGE NO._____

BETWEEN:		
THE STATE	--	CLAIMANT
AND		
OBI DAUDA	--	DEFENDANT

I, Inspector Edet Umaru, accuse you, Obi Dauda as follows:

Count 1

That you, Obi Dauda, on January 10, 2017, at Emirate Road, Okene within Okene Judicial Division, fraudulently took the sum of ten thousand naira (N10,000) belonging to Mallam Yaro Ayuba and thereby committed an

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offence punishable under Section 287 of the Penal Code Law of Kogi State and triable by this court.

Signed_____

For: insp. Edet Umaru
Hon. Commissioner of Police
Kogi State Command

- I. Serially point out the errors, if any, without redrafting in the charge sheet.

ANSWERS

1. It ought to be magisterial district not judicial division.
2. It ought to be Holden at and not sitting at.
3. It ought to be case number and not Charge number.
4. It ought to be the Commissioner of Police and not the State.
5. It ought to be Complainant and not Claimant.
6. It ought to be Accused and not Defendant.
7. The Introduction ought to be done by the presiding magistrate and not Inspector Edet Umaru.
8. The main body ought to begin with Charge 1 and not Count 1.
9. The location ought to be within Okene magisterial district and not within Okene Judicial Division.
10. The charge sheet ought to be dated in this case it was not dated
11. The charge sheet ought to be franked by the presiding magistrate and not ought to be done by the presiding magistrate and not Inspector for the Hon. Commissioner of Police Kogi State Command

QUESTION 57

Draft a charge in the High court in Oyo.

ANSWERS

IN THE HIGH COURT OF OYO STATE IN THE IBADAN JUDICIAL DIVISION HOLDEN AT IBADAN

CHARGE NO_____

BETWEEN		
THE STATE	--	COMPLAINANT
AND		
FEMI ADEYEMI	--	DEFENDANT

At the session holding at Ibadan Judicial division on the _____ day of _____ 20 ____ the Court is informed by the Attorney-General of Oyo state on behalf of the State that:

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FEMI ADEYEMI (m) is charged with the following offences:

Count 1

STATEMENT OFFENCE

Stealing contrary to section 390 of the Criminal Code Law of Oyo State

PARTICULARS OF OFFENCE

FEMI ADEYEMI on or about 20th August, 2022 at No. 5, Awolowo Road, Ibadan, Oyo in the Lagos Judicial Division stole a Nokia 3310 Hand Set property of Mr. Daramola Stanley. (Paragraph 2)

Dated _____ day of _____ 20_____

Signed

Donald Okechukwu Esq

Senior State Counsel

For: Attorney General of Oyo State

QUESTION 58

State the step (s) to be complied with after the leave to amend a charge sheet has been granted during trial?

ANSWERS

1. The amended charge must be read and explained to the accused person and when the court is satisfied that the charge is understood by the accused he shall call for a fresh plea from the accused.
2. Take plea after amendment
3. Endorse the order for amendment showing the date of amendment.
4. Ask the accused whether he is ready to be tried on the amended charge.
5. Inform the parties of their right to call/recall witnesses or right to adjournment after the examination of witnesses after amendment

QUESTION 59

Comment on the proper procedure for a valid arraignment?

ANSWERS

The procedure for a valid arraignment is to place the accused before the dock unfettered. The charge is then read and explained to the accused person in the language that he understands, to the satisfaction of the court. The accused is then called upon to plead instantly to the charge read. The plea is then recorded by the Judge.

QUESTION 60

Comment on the propriety or otherwise of an accused taking a plea on behalf of co-defendant.

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ANSWERS

Each defendant is supposed to plead individually to the charge against him. A defendant is not allowed to take a plea on behalf of another defendants. Adamu v State.

QUESTION 61

Comment on what court should do where a defendant pleads guilty to a charge requiring scientific proof?

ANSWERS

Where a defendant pleads guilty to the commission of a crime requiring scientific proof, he cannot be convicted on his plea of guilty without scientific evidence to prove that what he had in his custody was the alleged substance. Therefore, court will order a review of facts. Stevenson v Police.

QUESTION 62

Comment on what court should do where a defendant pleads “guilty with reasons”?

ANSWERS

Where a defendant pleads “guilty with reasons” to the commission of an offence the Court is to enter/record a plea of not guilty for him. Plea of guilty should be unequivocal and not ambiguous. Onuoha v The State.

QUESTION 63

Comment on what court should do a defendant keeps mute?

ANSWERS

Where a defendant keeps mute during arraignment, the duty of the Court is to inquire into the cause of his muteness whether it is out of malice or visitation of the Gods. If the muteness is out of malice, the Court shall enter a plea of not guilty. Yesufu v State. But if it is due to the visitation of the Gods, the Court should order that the defendant be detained at the pleasure of the Governor. R v Ogor.

QUESTION 64

State the terms and conditions on which Mr. Onyesom Daniel that is charged with manslaughter before the High Court, Benin may be granted bail?

ANSWERS

1. Bail on recognizance
2. Bail on a bond for a fixed amount
3. Bail on a bond with surety or sureties

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4. Deposit of money instead of a bond

QUESTION 65

State the factors the court will consider in granting or refusing bail to Mr. Onyesom Daniel who is charged with manslaughter before the High Court, Benin.

ANSWERS

1. The nature of the offence, the severity of the punishment and the character of the evidence. See *The State v. Felix*
2. Whether there is likelihood that the accused will interfere with police investigation if admitted to bail. See *Dantata v. IGP*
3. The criminal antecedents of the accused person. The criminal record of an accused person is of important consideration in the grant or refusal of bail. A first offender is more likely to be admitted to bail than a habitual criminal. See *Eyu v. The State*

ANSWERS

1. The nature of the offence, the severity of the punishment and the character of the evidence. See *The State v. Felix*
2. Whether there is likelihood that the accused will interfere with police investigation if admitted to bail. See *Dantata v. IGP*
3. The criminal antecedents of the accused person. The criminal record of an accused person is of important consideration in the grant or refusal of bail. A first offender is more likely to be admitted to bail than a habitual criminal. See *Eyu v. The State*
4. The prevalence or frequency of such offences.
5. The likelihood of the accused committing another offence if admitted to bail. See *R v. Jammal*
6. The health condition of the accused person. The ill-health of an accused person is a relevant factor in the consideration of his application for bail. See *Fawehinmi v The State*

QUESTION 66

Sate the circumstances under which the court may revoke bail.

ANSWERS

The following are the circumstances under which the court may revoke bail:

1. Where an accused person who has been admitted to bail by a magistrate is indicted by a law officer.
2. Where an accused jumps bail
3. Where the surety applies to be discharged. See *Onyebuchi v FRN*

QUESTION 67

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Draft a motion for bail with the supporting affidavit

ANSWERS

**IN THE HIGH COURT OF KANO STATE
IN THE KANO JUDICIAL DIVISION
HOLDEN AT KANO**

CASE NO_____

BETWEEN

THE STATE --- COMPLAINANT/RESPONDENT
AND
OLUWA SHEHUN -- DEFENDANT/APPLICANT

**MOTION ON NOTICE
BROUGHT PURSUANT SECTION 172 OF THE
ADMINISTRATION OF CRIMINAL JUSTICE LAW OF KANO
STATE 2019 AND SECTION 36(5) OF THE CONSTITUTION OF
THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS
AMENDED)**

TAKE NOTICE that this Honourable court shall be moved on the _____ Day of _____ 20____ at the hour of 9 o'clock or so soon thereafter as counsel for the Defendant/Applicant, OLUWA SHEHUN shall be heard praying this Honourable court for:

AN ORDER admitting OLUWA SHEHUN the accused/applicant to bail; ANY FURTHER ORDER OR ORDERS as this Honourable court may deem fit to make in the circumstance.

Dated this _____ Day of _____ 20____ [Date of the exams]

Oyanrin Michael Esq.
Oyatobility chambers,
Counsel to the Applicant.

FOR SERVICE ON:
The Attorney-General,
Ministry of Justice,
Kano State

**IN THE HIGH COURT OF KANO STATE
IN THE KANO JUDICIAL DIVISION**

SAMPLE THEORY QUESTIONS AND ANSWERS

HOLDEN AT KANO

CASE NO: _____

BETWEEN
THE STATE -- COMPLAINANT/RESPONDENT
AND
OLUWA SHEHUN -- DEFENDANT/APPLICANT

AFFIDAVIT IN SUPPORT OF APPLICATION FOR BAIL

I, Oluwa Shehun, male, adult Nigerian, resident at 15, Udoneria Street, Shomolu, Lagos, do hereby make oath and state as follows:

1. That I am the accused/applicant in this case and by virtue of my position, I am conversant with the facts of the case and the circumstances leading to this case.
2. That I was arrested by the police officers of the Kano Division, Kano on Friday the 20th of February 2022 on the allegation of robbery of one Miss Akoura Chinelo on the dame date.
3. That we were arraigned before the Judge of the High Court Kano, on 20th March 2022 on a charge of robbery. The charge sheet is hereby attached and marked as EXHIBIT K1
4. That I have never been arrested, charged nor convicted of any offence before.
5. That I was with my wife on the said day and the time in which the offence was said to have been committed.
6. That I am an out-patient at the Gwagwalada Specialist Hospital where I have been undergoing treatment for renal failure. The report is hereby attached and marked EXHIBIT K2.
7. That the prison which I am kept has no facilities for the treatment of the kind of ailment.
8. That I can barely stand on my feet for more than 10 minutes at most.
9. That I make this affidavit in good faith believing same to be true by virtue of the Oaths Act

Deponent

SWORN to at the High Court Registry, Abuja
This _____ day of _____ 20____

BEFORE ME

COMMISSIONER FOR OATHS

QUESTION 68

State the options open to a suspect upon refusal of police.

ANSWERS

1. Habeas Corpus

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2. Fundamental rights enforcement

QUESTION 69

Can the Prosecution decide not to call all the witnesses listed in the proof of evidence?

ANSWERS

The prosecution is not bound to call all the witnesses listed in the proof of evidence and there is no consequence for failure to call a witness, although named in the proof of evidence so long as the prosecution can prove its case beyond reasonable doubt. Even one witness or piece of evidence will suffice. *Adaje v State*

QUESTION 70

What are the options available to an accused when the prosecution has closed its case?

ANSWERS

The rights available to an accused person when the prosecution has closed its case are;

1. Enter upon his defence,
2. He may make a no case submission or
3. He may rest his case on that of the prosecution.

QUESTION 71

What are the options open to an accused person if he intends to enter upon his defence?

ANSWERS

The following are the options open to an accused person upon entering his defence:

1. He may testify (statement) from the dock
2. He may testify (evidence) from the witness box; or
3. He may choose to say nothing at all in his defence

QUESTION 72

State the grounds for making a no-case submission

ANSWERS

1. When there has been no evidence to prove an essential element of the offence.
2. When the evidence adduced by the prosecution has been so discredited as a result of cross-examination or is so manifestly unreliable that no reasonable tribunal could safely convict on it. See *Emedo v The State*

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QUESTION 73

State the conditions for a successful plea of autre fois acquit or convict.

ANSWERS

In order to successfully raise the plea of autre fois acquit or convict, the accused person must satisfy the following conditions:

1. The first trial of the accused person must have been on a criminal charge. See *R. v Jinadu*
2. The first trial must be by a court of competent jurisdiction.
3. The first trial of the accused person must have ended with a conviction or an acquittal.
4. The offence for which the accused was tried is the same as the new charge against him or that the new charge is one in respect of which the accused could have been convicted at the former trial although he was not charged with it. *Uguru v. The State*

QUESTION 74

State the circumstances under which members of the public may be barred from a criminal proceeding in court.

ANSWERS

1. The court may exclude members of the public from its proceedings in the interest of defence, public safety, public order or public morality.
2. When it is intended due to special circumstances to protect the private lives of the parties.
3. Juvenile courts are not opened to members of the public except the officers of the court, parties to the proceedings, their legal representatives and accredited members of the press.
4. When a Minister or Commissioner satisfies the court that it is not in the public interest for a matter to be disclosed publicly, the court may hear such matter in private.
5. When a young person is to give evidence in a matter that is contrary to decency or morality.

QUESTION 75

What is the proper procedure where an accused person pleads guilty to a charge of murder?

ANSWERS

Where the offence charged is a capital offence, a plea of not guilty shall be recorded notwithstanding a plea of guilty by the accused person. See *Sanmabo v The State (1967) NMLR 314*

SAMPLE THEORY QUESTIONS AND ANSWERS

Therefore, since murder is a capital offence as it attracts death penalty, the court should record the plea of not guilty regardless of his plea of guilt.

QUESTION 76

State the procedure for visit to the locus in quo.

ANSWERS

The court may conduct a visit to the locus in quo by either of the two following methods:

1. Adjourn the court to the place, person or thing and conduct the proceedings at the locus; or
2. Adjourn the case and proceed to view the place, person or thing concerned and thereafter, to the court room where proceedings in relation to the visit to the locus in quo will be conducted.

QUESTION 77

State the circumstances where leading questions may be allowed.

ANSWERS

Leading question may be allowed in the following circumstances;

1. Introductory matters such as name, address and occupation of the witness.
2. Matters which have, in the opinion of the court, been already sufficiently proved.
3. Undisputed matters.
4. Leading questions not objected to and permitted by the court.
5. Where a person called as a witness is treated as a hostile witness, he may be asked to leading questions in examination-in-chief.
6. Cross examination

QUESTION 78

Comment on when an accused makes statement from the dock, whether he can be crossed examined?

ANSWERS

Where an accused enters into his defence and elects to make a statement from the dock in which case he will not be sworn and cannot be cross examined. It will be wrong for the Court to allow an accused to be cross examined from the dock.

QUESTION 79

State the main aim of an examination in chief?

ANSWERS

The main aim of examination in chief is to elicit or obtain favourable

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testimony in support of the party who called the witness.

QUESTION 80

What are the questions disallowed in cross examination?

ANSWERS

1. Questions irrelevant to the proceedings,
2. Indecent and scandalous questions,
3. Questions that are needlessly offensive,
4. Questions calculated to embarrass and
5. Questions intended to insult or annoy.

QUESTION 81

Mention three purposes of a cross examination?

ANSWERS

- a. To test the accuracy, veracity and credibility of the witness
- b. To elicit favourable evidence for the opposing party
- c. To shake his credit by injuring his character;

QUESTION 82

List the Techniques in cross examination?

ANSWERS

1. Probing,
2. Insinuation and
3. Confrontation

QUESTION 83

Comment on the effect of testimony of witness who remains in Court during other witnesses' testimony?

ANSWERS

The effect of the testimony of a witness who stayed in Court when the other witnesses were testifying is that the testimony is still admissible however, the Court will attach little or no weight to the evidence of that witness.

QUESTION 84

What is the procedure for tendering documents in evidence?

ANSWERS

1. Ask the witness if he has seen the document before
2. Ask the witness to identify the document
3. State the means of identification that it was actually the document

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4. Seek to tender the document

QUESTION 85

What should the Court do where an accused does not understand the language of the Court?

ANSWERS

Where an accused person does not understand the language of the Court, he should be provided with an interpreter by the Court, at no cost to him. Section 36(6) (e) Constitution 1999 (as amended); Ajayi v Zaria Native Authority

QUESTION 86

Mention the factors the court would consider before granting the application for adjournment to procure a witness?

ANSWERS

1. That the witness is a material witness;
2. That he is not guilty of latches i.e. delay;
3. That he will be able to procure the witness at next adjourned date. See Yanor & Ors. V. The State.

QUESTION 87

Comment on whether Court can convict an accused person without a final address?

ANSWERS

It is wrong for a Court to sentence an accused person without first listening to the address of Counsel. Though the court can write his Judgement after listening to the evidence of both parties but it would be wrong to convict an accused without first listen to the final address.

QUESTION 88

Who addresses the Court first in final address?

ANSWERS

The Defence Counsel is entitled to address the Court first and not the Prosecution.

QUESTION 89

When does the Prosecution not have a right of reply?

ANSWERS

Where the accused has not called any witness apart from himself or he called witness solely as to his character and no document was tendered in evidence for him, the prosecution shall not be entitled to reply to the accused person's final address unless the Prosecuting Counsel is a Law

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Officer, then, he is always entitled to a reply except he waives such right.'

QUESTION 90

Can a Magistrate Court in Lagos deliver an oral judgment?

ANSWERS

A Magistrate in Lagos cannot deliver an oral judgment. An oral judgment delivered by a Magistrate in Lagos will be invalid. Section 275 of the Administration of Criminal Justice Law of Lagos state 2021.

QUESTION 91

Comment on the propriety or otherwise of the effect of non -compliance with the time within which Judgement can be delivered?

ANSWERS

The Judgment of the Court should be delivered within 90 days of final address. Section 294 (1) Constitution 1999 (as amended). However where a judgment is delivered outside the 90 days period, it remains valid except the appellate Court is satisfied that the non -compliance has occasioned a miscarriage of justice. Section 294(5) Constitution 1999 (as amended)

QUESTION 92

Comment on the propriety or otherwise on where a Statute provides for mandatory punishment, whether Court can grant less?

ANSWERS

Where a Statute has prescribed a mandatory punishment for an offence e.g. death sentence for the offence of murder, the Court has no discretion in the matter and must impose the mandatory sentence. Any sentence imposed by the Court which is less than the mandatory sentence would be improper. Rabiu v State

QUESTION 93

What is the mode of execution of the death penalty in Nigeria?

ANSWERS

Generally, the mode of executing death sentence in Nigeria is by hanging. Although at the Federal Capital territory, the mode of executing death sentence is by hanging or lethal injection. Section 402 Administration of Criminal Justice Act 2015.

QUESTION 94

Comment on the propriety or otherwise on whether a woman can be the subject of a sentence of caning?

ANSWERS

The sentence of caning is not applicable to women. The sentence of

SAMPLE THEORY QUESTIONS AND ANSWERS

caning passed on a woman will be invalid.

QUESTION 95

What is the maximum sentence of caning a Court can impose?

ANSWERS

The maximum sentence of caning a Court can impose is 12 strokes of the cane.

QUESTION 96

State the form of pronouncing the death sentence in the south and the legal implication of failure to do so.

ANSWERS

"The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul"

Failure to comply with the form of pronouncing the death sentence is not fatal to the trial or sentence. *Gambo v The State*

QUESTION 97

Draft grounds of appeal?

ANSWERS

GROUND ONE

The learned trial court erred in Law when it held that Police Officers have no power to prosecute Criminal cases in the superior Courts.

PARTICULARS OF ERROR

There is nothing in the law limiting the powers of public prosecution of the police to the inferior courts.

QUESTION 98

Draft the omnibus ground of appeal?

ANSWERS

That the decision of the court is unreasonable and cannot be supported by evidence

QUESTION 99

When may an appellate court order a re-trial in a criminal appeal?

ANSWERS

1. There has been an error in law or an irregularity in procedure such that although the trial was not rendered a nullity, it cannot be said

SAMPLE THEORY QUESTIONS AND ANSWERS

- that a miscarriage of justice had not been occasioned.
2. That, leaving aside the error or irregularity the evidence taken as a whole discloses a substantial case against the appellant
 3. That, there are no special circumstances as would render it oppressive to put the appellant on a trial a second time
 4. That, the offence(s) of which the appellant was convicted or the consequences to the appellant or any other person of the conviction or acquittal of the appellant, are not merely trivial; and
 5. That, to refuse an order for retrial would occasion a greater miscarriage of justice than to grant it.

ANSWERS

1. There has been an error in law or an irregularity in procedure such that although the trial was nor rendered a nullity, it cannot be said that a miscarriage of justice had not been occasioned.
2. That, leaving aside the error or irregularity the evidence taken as a whole discloses a substantial case against the appellant

QUESTION 100

Can the Trial Judge validly convict Jones based on the sole testimony of Adam who is 12 years?

ANSWERS

The evidence of Adam requires corroboration as he is to give unsworn evidence. The evidence alone cannot secure conviction for Jones.

QUESTION 101

Explain the difference between abatement of appeal and abandonment of appeal.

ANSWERS

An appeal against a sentence of imprisonment shall abate upon the death of the appellant. However, a criminal appeal against the sentence of a fine survives the death of the appellant. R v. Rowe. On the other hand, an appellant may abandon his appeal either expressly or impliedly. Where an appellant desires to abandon his appeal, he may give a written notice of his intention to abandon his appeal to the Registrar of the court against whose decision he had appealed.

SAMPLE THEORY QUESTIONS AND ANSWERS

**SELF- ASSESSMENT EXERCISE
ON
CRIMINAL LITIGATION**

QUESTION 1

Ocha Bukar was arraigned at the Chief Magistrate Court, Adamawa State upon a first information report which stated that Ocha Bukar killed one Vimtim Sule with a knife at a football viewing centre in Kakuri on 15th May, 2019 over disagreement as to who was a better footballer, between Messi and c. Ronaldo. Counsel to Ocha objected to the court taking cognizance of the first information report on the grounds that the court had no jurisdiction to try a capital offence. The objection was overruled. The magistrate thereafter proceeded as follows;

Court:

"No plea taken for wants of jurisdiction. Accused is hereby remanded at the Federal Prisons, Yola pending police investigation and DPP's legal advice. The case is adjourned to 30th June, 2019 for mention".

In the course of investigation by the police, it was discovered that Ocha Bukar had sex intercourse with Bilikisu Dare a 12 year old vegetable hawker whom he enticed into a room with the sum of N1,000.00 on the 15th January, 2018. The incident took place at a house in Yola, close to the high Court premises. Ocha's room mate and friend Nuhu Ibrahim had agreed with the plan because the girl had previously insulted him. The DPP, Adamawa State eventually advised in favour of prosecution.

Draft the charge(s) in this case.

THE LAW

PENAL CODE

SECTION 221

"Except in the circumstances mentioned in Section 222 culpable homicide shall be punished with death".

SECTION 283 "Whoever commits rape, shall be punished with imprisonment for life or for any less term and shall also be liable to fine".

SECTION 97 (1) "Whoever is a party to a criminal conspiracy to commit an offence punishable with death or with imprisonment shall where no express provision is made in this Penal Code for punishment of such a conspiracy be punished in the same manner as if he had abetted such offence".

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1B

- i) Was it lawful for the police to arraign the accused before a court that has no jurisdiction over the substantive offence?

ANSWER

- ii) What procedure would you follow to tender a medical report (as to cause of death) issued by a Pathologist in the employment of the Kaduna State Government to anticipate any potential objection of the defence would raise to admissibility.

ANSWER

- iii) Can the court convict on the evidence of Bilikisu Dare alone? Why?

ANSWER

- iv) If due to oversight the blood stained and semen stained underwear of the victim were not tendered until the defence had closed its case, how can the prosecution tender these exhibits? State the procedure.

SAMPLE THEORY QUESTIONS AND ANSWERS

- v) If at the close of the case for the prosecution none of the witnesses mentioned Nuhu Ibrahim's name what should counsel do?

ANSWER

QUESTION 1C

- i) Comment on the propriety or otherwise of trial judge convicting a defendant merely on his plea of guilty to possession of Indian hemp. Justify your contention.

ANSWER

- ii) As opposing Counsel, briefly state your reply to the following objections in the course of a trial:

- i. An objection by defence counsel to the appearance of a Police Officer before the Federal High Court, Abuja.

ANSWER

- ii. An objection by a Prosecuting Counsel on the ground that the issue of jurisdiction, having not been raised at the Court of trial cannot be raised as a sole ground of Appeal.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

12th February, 2019, the nation woke up to a TV broadcast announcing the joint trial of Retired General Idris Damba, Lieutenant Colonel Musa Hussein and Senator Yinusa Raji before a General Court Martial (GCM) before the GCM on 1st March 2019, constituted by Captain B.C Abua. The trio was arraigned for stealing, illegal possession and distribution of firearms. After the charges were reads to the, to which they all pleaded not guilty, the prosecution applied to amend the charges against the accused persons to include a charge of conspiracy, which the court granted.

The prosecution called 3 witnesses and closed its case; while the accused persons chose to remain silent. The General Court Martial in its judgment convicted and sentenced the accused persons to 30 years imprisonment each. The accused persons are dissatisfied with the judgment which was neither signed nor dated.

- i) Comment on the jurisdiction of the General Court Martial to try the 1st and 3rd accused persons.

ANSWER

- ii) Assuming Lieutenant Colonel Hussein is challenging the jurisdiction the General Court Martial to try him on the ground that he had earlier been tried and convicted for the same offences by the High Court of Justice, Jos, what would be your reply.

ANSWER

- iii) Assuming the said 1st trial was by the General Court Martial and now he is being tried before the High Court of Justice, Jos, Plateau State. Would your answer remain the same?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- iv) Assuming Senator Yinusa is challenging his arrest on the ground that he was sitting in the Senate when he was arrested, what would be your reply?

ANSWER

- v) Comment on the propriety or otherwise of the constitution of the General Court Martial by Captain B.C Abua.

ANSWER

- vi) Comment on the proper step(s) the court ought to have taken after the charge was amended.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

vii) Comment on the validity or otherwise of the judgment.

ANSWER

viii) Advise the aggrieved convicts, on the possible option(s) available to them.

ANSWER

QUESTION 3

On the night of December 20, 2018 when the working of Nupec Petroleum Company closed for business for the year, Benjamin Okoroafor, Accountant conspired with his colleague Dauda Belubelu an Accounts Clerk in his department to set the building on fire in order to conceal the fraud on the company account. They did set the building on fire with the help of the gateman, Mallam Samanbo who let them in on this fateful night. But for the timely intervention of the fire Brigade Officers stationed at Maitama District, Abuja, close to the company, the entire building would have been razed to the ground. The duo thinking they have succeeded with their act headed for the Nnamdi Azikiwe International Airport Abuja with the intention of escaping to Cairo, Egypt. Two investigating police officers were sent to the houses of the suspects when the incident was reported to carry out searches. In the house of the first suspect, Benjamin Okorofor, accounting documents belonging to the company were found in addition to fake passports and fake US Dollars.

In the house of the second suspect, Dauda Belubelu, his wife Hanatu who was in purdah was thoroughly searched by the policemen and although noting incriminating was found on her, she was nevertheless arrested and taken to the police station.

The two suspects ran into their old time friend Chibuzor who delayed them by exchanging pleasantries and in the process, they missed their flight to Cairo, Egypt. Whilst they were considering what to do, Dauda's wife phoned him and told him that she has been arrested and was now in police custody. Dauda Belubelu went to the police station to see his wife and he was immediately arrested and kept in custody along with the gateman, Mallam Samanbo who was already arrested by the police. Three days later Benjamin Okorofor was arrested on a tip off whilst trying to cross the border to Cameroun. One week after their arrest, the three suspects were arraigned before the High Court FCT, Abuja on charges of conspiracy, arson and unlawful possession of fake passport and fake currencies. The accused persons pleaded guilty to all the counts including the unlawful possession of fake US Dollars and fake international passports. The trial judge immediately convicted them and sentenced them to terms of imprisonment of three years on each count. With the aid of judicial and statutory authorities answer the following questions:

- i) Comment on the search conducted by the policemen on Mrs. Hanatu Belubelu

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

-
-
-
- ii) What is the procedure that the court will follow before convicting them upon a plea of guilty?

ANSWER

-
-
-
- iii) As prosecuting counsel what steps would you have taken to ensure that the counts relating to the fake US Dollars and fake international passports were proved beyond reasonable doubt?

ANSWER

-
-
-
- iv) Assuming the arrest of Mrs. Dauda Belubelu was in Lagos, comment on the legality or otherwise of the arrest.

ANSWER

QUESTION 4

On or about the 13th day of April, 2019, Dodo Oluwole and Gorimapa broke into the house of Alhaji Bala Danladi in Jaji area of Suleja in Niger State. They disarmed the security and tied him down to gain access into the compound. Alhaji Bala Danladi was away on business trip while his wife and daughter were assaulted and robbed.

Aisha Danladi (daughter) was raped several times by Oluwole despite passionate pleas from her mother, Hajia Maimunat. Maimunat was slapped and shoved into the bedroom and ordered to bring out her valuables worth millions of Naira and carted same away.

On their way out Dodo noticed that the security man had untied himself. He (Dodo) shot him in the head. The security man died instantly. The robbers' spotted Alhaji Danladi's brand new Toyota Prado jeep parked in the garage, demanded for the key and drove it away with their loot.

Luck however ran out on them when they tried to cross the border to sell the car. They were apprehended and taken into custody. Whilst in custody, Dodo, the 1st accused person became critically ill and was diagnosed with hypertension and diabetes.

They were later arraigned before the High Court, Suleja, Niger State on the three counts of culpable homicide punishable with death, rape and assault. The 1st count was for both culpable and rape and the 2nd count was for assault alone.

At the trial, Aisha Danladi was called as the 1st prosecuting witness (PW1)

The following exchange took place during the **examination-in-chief**.

Question 1: Your names are Aisha Danladi

Answer: Yes

Question 2: Do you know the 2nd accused person?

Answer: Yes, his name is Oluwole

Question 3: The defendant came to your house on 13th April, 2018.

Answer: Yes

Question 4: Tell this Honourable court how he raped you.

(Counsel for the defendant stood up)

Objection my Lord!

Court: Objection overruled

Answer: He came to my house with the two other defendants in this case. He forced me and raped me several times.

Question 5: Did he not slap you?

Answer: Yes, he slapped me three times.

SAMPLE THEORY QUESTIONS AND ANSWERS

Answer the following questions:

- i) Is Question (1) above allowed in examination-in-chief? State your reasons.

ANSWER

- ii) What type of question is question 3? As counsel for the defendant would you have objected to the question? If yes, state your reason.

ANSWER

- iii) Was the court right in overruling the objection by counsel to the defendant to question 4? Give reasons.

ANSWER

- iv) What possible objection would you as counsel for the defendant raise to count 1?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- v) What will you consider as the first application to make on behalf of Dodo, 1st accused person upon arraignment, as his counsel?

ANSWER

- vi) Draft the application with particular reference to the health condition of Dodo.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

During investigation of the case, the Divisional Police Officer issued a warrant for the arrest of the robbers and their godfathers to Inspector Dudu Abbas. In the course of executing the warrant of arrest, Inspector Dudu Abbas also searched the suspects' houses and recovered 5kg of substance suspected to be cocaine from Emmanuel Juwa's house and two AK-47 riles from Chief Jaguda Ole's residence.

Adamu Jack in his statement to the police admitted being a member of the gang. He also stated that the guns used for the robbery were given to the gang by Chief Banza Ole. He however denied participating in the robbery.

With the aid of relevant authorities, answer the following questions:

- i) What is the propriety or otherwise of the warrant of arrest issued by the Divisional Police Officer (DPO)?

ANSWER

- ii) Are the exhibits recovered from the suspects' houses admissible in evidence at their trial? Give reason(s) for your answer.

ANSWER

- iii) Can Adamu Jack's confessional statement be used against the other defendants? Give reason(s) for your answer

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- iv) Assuming during trial, Adamu Jack denied making the statement on the ground(s) that he did not sign the statement, because the Investigating Police Officer (IPO) refused to take him and the statement to a superior police officer for confirmation. How will the trial judge treat such confessional statement?

ANSWER

QUESTION 6

On January 21, 2019, Mr. Dele Okon was in his room at No.13, Palace Road, Umuahia, where John Dokas also lives listening to music. Mr. Dokas went to Okon's room and requested him to reduce the volume of his DVD player for being too loud and disturbing.

The deceased refused to comply, contending that it was not loud. The accused forcefully threw the DVD player outside and stabbed the deceased with a knife. He was taken to the Umuahia General Hospital where he died.

During interrogation, the accused confessed to killing Mr. Dele Okon. He was charged for murder at the Aba High Court, Umuahia, where he pleaded not guilty and vehemently objected to and challenged the voluntaries of his confessional statement sought to be tendered by the prosecution. He alleged that he was beaten thoroughly before he made the confessional statement.

Nevertheless, the trial court convicted him of the charge of murder based on his confessional statement and sentenced him to death by firing squad. In addition, he was to be given 15 strokes of the cane before execution.

The convict was remanded in the maximum security section of the prison, without access. In view of this, his counsel drafted and filed a Notice of Appeal at the Court of Appeal, Umuahia, Umuahia Judicial Division. The record of proceedings took a very long time to be compiled. Before the appeal could be heard, the Abia State Governor signed his death warrant and he was executed.

Answer the following questions:

- i) Comment on the propriety or otherwise of filing the Notice of Appeal in the Court of Appeal.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- ii) As counsel to the accused person, what possible step will you take at the close of the prosecution's case given the facts above?

ANSWER

- iii) Examine critically the court's sentence after the conviction of John Dokas.

ANSWER

- iv) As a judge, how would you draft the sentence of the court (having convicted the accused for murder) in your judgment?

ANSWER

- v) What steps would the court take if the accused pleaded guilty to the offence of murder?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

MARKING SCHEME

Draft the charge(s) in this case.

ANSWERS:

**IN THE HIGH COURT OF ADAMAWA STATE
IN THE YOLA JUDICIAL DIVISION
HOLDEN AT YOLA**

CASE NO._____

BETWEEN
THE STATE -- COMPLAINANT
AND
OCHA BUKAR -- ACCUSED

At the session Holding at Yola judicial division on the _____
day of _____ 2019 the Court is informed by the Attorney-
General of Yola State on behalf of the State that:
OCHA BUKAR (m) is charged with the following offence:

COUNT 1

STATEMENT OFFENCE

Culpable homicide with death punishable under section 221 of the Penal
Code Laws of Adamawa State

PARTICULARS OF OFFENCE

OCHA BUKAR on the 15th day of May, 2019 at a football viewing centre
at Kakuri in the Yola Judicial Division committed culpable homicide
with death by stabbing Vimtim Sule with a knife

Dated this _____ day of _____ 2019

SIGNED.
MOSES KPAKO
DIRECTOR OF PUBLIC PROSECUTION
ADAMAWA STATE MINISTRY OF JUSTICE
FOR: THE ATTORNEY-GENERAL,
ADAMAWA STATE

**IN THE HIGH COURT OF ADAMAWA STATE
IN THE YOLA JUDICIAL DIVISION
HOLDEN AT YOLA**

CASE NO._____

BETWEEN
THE STATE -- COMPLAINANT

SAMPLE THEORY QUESTIONS AND ANSWERS

AND

1. OCHA BUKAR
2. NUHU IBRAHIM

--- ACCUSED PERSON

At the session Holding at Yola judicial division on the _____ day of _____ 2019 the Court is informed by the Attorney-General of Yola State on behalf of the State that:

1. OCHA BUKAR (m)
2. NUHU IBRAHIM (M.)

ARE charged with the following offences:

COUNT 1

STATEMENT OFFENCE

Conspiracy to commit rape punishable under section 97(1) of the Penal Code Laws of Adamawa State

PARTICULARS OF OFFENCE

OCHA BUKAR AND NUHU on the 15th January, 2018 at a house in Yola in Yola Judicial Division did conspire to rape one Bilikisu Dare

COUNT 2

STATEMENT OFFENCE

Rape punishable under section 283 of the Penal Code Laws of Adamawa State

PARTICULARS OF OFFENCE

OCHA BUKAR on the 15th January, 2018 at a house in Yola in Yola Judicial Division raped one Bilikisu Dare

Dated this _____ day of _____ 2019

SIGNED.

MOSES KPAKO

DIRECTOR OF PUBLIC PROSECUTION
ADAMAWA STATE MINISTRY OF JUSTICE
FOR: THE ATTORNEY-GENERAL,
ADAMAWA STATE

QUESTION 1B

- i) Was it lawful for the police to arraign the accused before a court that has no jurisdiction over the substantive offence?

ANSWERS:

It is unlawful to arraign the accused before a court without jurisdiction. This will amount to a holding charge which is unknown to Nigerian law.

SAMPLE THEORY QUESTIONS AND ANSWERS

- ii) What procedure would you follow to tender a medical report (as to cause of death) issued by a Pathologist in the employment of the Kaduna State Government to anticipate any potential objection of the defence would raise to admissibility.

ANSWERS:

The medical report as to the cause of death will be tendered by calling the pathologist to give oral evidence as to the cause of death and tender the medical report - s.77 (d) (i) Evidence Act.

- iii) Can the court convict on the evidence of Bilikisu Dare alone? Why?

ANSWERS:

The evidence of a victim of a sexual offence requires corroboration. An accused person shall not be convicted upon the uncorroborated testimony of one witness - s.179 (5) Evidence Act. The evidence of Bilikisu Dare requires corroboration. The court cannot convict on her testimony alone.

- iv) If due to oversight the blood stained and semen stained underwear of the victim were not tendered until the defence had closed its case, how can the prosecution tender these exhibits? State the procedure.

ANSWERS:

The prosecution can apply for leave of court to reopen its case and call further evidence
(EX IMPROVISO RULE)

- v) If at the close of the case for the prosecution none of the witnesses mentioned Nuhu Ibrahim's name what should counsel do?

ANSWERS:

The counsel for the accused Nuhu Ibrahim can make a no case submission on his behalf.

QUESTION 1C

- i) Comment on the propriety or otherwise of trial judge convicting a defendant merely on his plea of guilty to possession of Indian hemp. Justify your contention.

ANSWERS:

Where the offence for which an accused person has pleaded guilty can only be constituted by scientific or expert evidence (review of fact), such evidence must be tendered by the prosecution before he can be

SAMPLE THEORY QUESTIONS AND ANSWERS

convicted upon his plea. STEVENSON V. POLICE.

- ii) As opposing Counsel, briefly state your reply to the following objections in the course of a trial:
 - i. An objection by defence counsel to the appearance of a Police Officer before the Federal High Court, Abuja.

ANSWERS:

A police officer can appear and prosecute criminal cases in all courts including the Federal High Court Abuja. The only limitation is the power of the AG to take over or discontinue such proceedings. OLUSEMO V COP; FRN V OSAHON

- ii. An objection by a Prosecuting Counsel on the ground that the issue of jurisdiction, having not been raised at the Court of trial cannot be raised as a sole ground of Appeal.

ANSWERS:

The issue of jurisdiction can be raised at any stage of the trial even on appeal.

QUESTION 2

- i) Comment on the jurisdiction of the General Court Martial to try the 1st and 3rd accused persons.

ANSWERS:

The court martial can only assume jurisdiction over person's who are subject to serve law like the Nigerian Army, Navy and Air Force. Therefore, the General Court Martial wrongly assumed jurisdiction over the 1st accused person who has a retired general and the 3rd accused person who is a civilian. Section 171 of the Armed Forces Act.

- ii) Assuming Lieutenant Colonel Hussein is challenging the jurisdiction the General Court Martial to try him on the ground that he had earlier been tried and convicted for the same offences by the High Court of Justice, Jos, what would be your reply.

ANSWERS:

My reply would be that, once the regular court like the High Court in this circumstance had tried a person subject to service law for a civil offence as in this case, the court martial will no longer have jurisdiction to try such person.

- iii) Assuming the said 1st trial was by the General Court Martial and now he is being tried before the High Court of Justice, Jos, Plateau State. Would your answer remain the same?

ANSWERS:

No my answer will not remain the same. This is because a person tried by the court martial for a civil offence, can still be tried for the same offence by a regular court (like the High Court) but the regular court in sentencing the accused person will take into consideration the punishment already imposed on the accused person by the court martial.

- iv) Assuming Senator Yinusa is challenging his arrest on the ground that he was sitting in the Senate when he was arrested, what would be your reply?

ANSWERS:

Generally, a warrant of arrest cannot be executed in a legislative house while the house is on session except with the consent of the Senate President. See Tony Momoh v Senate; National Assembly. However, the mere fact that a person was irregularly arrested will not affect his trial and conviction. See the case of State v Osler

SAMPLE THEORY QUESTIONS AND ANSWERS

- v) Comment on the propriety or otherwise of the constitution of the General Court Martial by Captain B.C Abua.

ANSWERS:

The position of the law is that a general court martial is properly constituted by at least four members who must all be above the rank of the officers to be court martial. See Okoro v Nigerian Army. Therefore, the general court martial was not properly constituted by Captain B.C Agua because he is below the rank of Lieutenant Colonel Musa Husseni.

- vi) Comment on the proper step(s) the court ought to have taken after the charge was amended.

ANSWERS:

Upon amendment of a charge, the court will follow the following steps:

1. The arrested charge will be read and explained to the accused to take a fresh plea.
2. The court will endorse a note of amendment on the amended charge.
3. The court will ask the accused if he is ready to go ahead with the trial, if not grant him reasonable adjournment.
4. Both the prosecution and the accused will be entitled to call or recall witnesses earlier called

- vii) Comment on the validity or otherwise of the judgment.

ANSWERS:

For a judgment to be valid, it must be in writing, dated and signed by the judge who tried the matter. See Unakalamba v C.O.P section 294(1) of the CFRN. Therefore, the judgment is invalid because it was neither signed nor dated.

- viii) Advise the aggrieved convicts, on the possible option(s) available to them.

ANSWERS:

The available option to the aggrieved convicts is to appeal against the judgment of the court martial to the Court of Appeal.

QUESTION 3

- i) Comment on the search conducted by the policemen on Mrs. Hanatu Belubelu

ANSWERS:

The search conducted by the 2 male police men on the body of Hanatu was illegal and a breach of right of dignity of the human person, being a woman. Also as a woman observing puhdah and not being the suspect she should be given reasonable time to withdraw from the premises before the search for the officers to enter to conduct the search into the house. There was no reasonable suspicion of omissions of any offence to warrant the arrest of Mrs. Daudu, therefore, the arrest was illegal and unlawful.

- ii) What is the procedure that the court will follow before convicting them upon a plea of guilty?

ANSWERS:

The court shall record the plea of Benjamin and Daudu as nearly as possible in the words used by them. Plea must be clear, unambiguous and unequivocal. If the court is satisfied that the accused intend to admit the commission of the offence, it shall proceed to convict them after the prosecution is called upon to narrate the facts of the case, which must support the charge. Where expert evidence is required, such evidence to be provided. Stevenson v. Police.

- iii) As prosecuting counsel what steps would you have taken to ensure that the counts relating to the fake US Dollars and fake international passports were proved beyond reasonable doubt?

ANSWERS:

I will make sure that I tender in evidence the fake US Dollars and the fake passport recovered from the suspects as exhibits. I will adduce forensic (expert) evidence to prove that the US Dollars and passports are indeed fake and were found in the possession of the accused persons. Essien v. King; Stevenson v. Police

- iv) Assuming the arrest of Mrs. Dauda Belubelu was in Lagos, comment on the legality or otherwise of the arrest.

ANSWERS:

If the arrest of Mrs. Daudu were to be in Lagos, the answer would have been the same. Also, there was no reasonable suspicion of commission of any offence to warrant the arrest of Mrs. Daudu, therefore, the arrest was illegal and unlawful.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4

- i) Is Question (1) above allowed in examination-in-chief? State your reasons.

ANSWERS:

Question 1 is not generally allowed in examination-in-chief unless it is introductory matters.

- ii) What type of question is question 3? As counsel for the defendant would you have objected to the question? If yes, state your reason.

ANSWERS:

Question 3 is a leading question. I would have objected to the question because leading questions should not be asked in examination-in-chief

- iii) Was the court right in overruling the objection by counsel to the defendant to question 4? Give reasons.

ANSWERS:

The court was wrong in overruling the objection to question 4. The question was a leading question.

- iv) What possible objection would you as counsel for the defendant raise to count 1?

ANSWERS:

The possible objection to Count 1 is that the Charge is bad for duplicity.

- v) What will you consider as the first application to make on behalf of Dodo, 1st accused person upon arraignment, as his counsel?

ANSWERS:

Application for bail

- vi) Draft the application with particular reference to the health condition of Dodo.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS:

**IN THE HIGH COURT OF NIGER STATE
IN THE MINNA JUDICIAL DIVISION
HOLDEN AT MINNA**

CASE NO._____

BETWEEN
THE STATE ----- COMPLAINANT/RESPONDENT
AND
MATHEW DODO ----- ACCUSED/APPLICANT

**MOTION ON NOTICE
BROUGHT PURSUANT TO SECTION 36(5) OF THE
CONSTITUTION OF THE FEDERAL REPUBLIC OF
NIGERIA, 1999 AND THE INHERENT JURISDICTION OF
THE HONOURABLE COURT**

TAKE NOTICE that this Honourable Court will be moved on _____ the day of _____ 2019 at the hour of 9:00 AM in the forenoon or so soon thereafter as Counsel to the Accused/Applicant may be heard praying the court for the following reliefs;

1. An order admitting the Accused/Applicant to bail pending the determination of this case.
2. Any order or further order as the Honourable Court may deem fit to make in the circumstances of the case.

Dated this _____ day of _____ 2019

SIGNED
A.B & Co
Counsel to the Accused/Applicant
No.1 Emir Road, Minna.

FOR SERVICE ON:
Attorney General, Niger State
Ministry of Justice, Minna.

SAMPLE THEORY QUESTIONS AND ANSWERS

**IN THE HIGH COURT OF NIGER STATE
IN THE MINNA JUDICIAL DIVISION
HOLDEN AT MINNA**

CASE NO._____

BETWEEN
THE STATE -- COMPLAINANT/RESPONDENT
AND
MATHEW DODO -- ACCUSED/APPLICANT

AFFIDAVIT IN SUPPORT OF MOTION FOR BAIL

I, Sunday Dodo, Male, Nigerian, Christian of No.20 Old Minna-Abuja Road, Minna, Niger State, do hereby make oath and state as follows:

1. That I am the brother of Mathew Dodo, the accused in this case and I have authority and consent of the Applicant to depose to this Affidavit.
2. That the accused person is standing trial before this Honourable Court for Culpable Homicide, Rape and Assault.
3. That the accused was arrested on 10th January, 2018 and detained at the Minna Central Police Station.
4. That the accused person suddenly took ill and has been diagnosed with hypertension and diabetes. A copy of the medical report of the accused's state of health is attached herewith and marked as Exhibit A.
5. That there are no adequate medical facilities in the Prisons to cater for this sickness.
6. That the accused needs to visit the hospital regularly to attend to his health.
7. That the accused person will attend to his trial if granted bail.
8. That the accused will provide reliable sureties if granted bail.
9. That it is in the interest of justice to grant the accused bail.
10. That I swear to this affidavit in good faith.

DEPONENT

SWORN TO AT THE HIGH COURT REGISTRY, MINNA

This _____ Day of _____ 2019

BEFORE ME

COMMISSIONER FOR OATHS

QUESTION 5

- i) What is the propriety or otherwise of the warrant of arrest issued by the Divisional Police Officer (DPO)?

ANSWERS:

A warrant of Arrest can only be issued by a judicial officer such as a Judge, Magistrate and Justice of Peace in the North. A police officer has no authority to issue a Warrant of Arrest. The Warrant of Arrest issued by the DPO is null and void.

- ii) Are the exhibits recovered from the suspects' houses admissible in evidence at their trial? Give reason(s) for your answer.

ANSWERS:

The exhibits recovered are admissible in evidence at the trial. This is because any incriminating item found and recovered in the course of a search, even if found as a result of illegal search, is admissible in evidence at the trial of the person in whose possession it was found. Unless the court is of the opinion that the desirability of admitting the evidence is outweighed by the undesirability of admitting the evidence. MUSA SADAU V STATE; S.14 EA.

- iii) Can Adamu Jack's confessional statement be used against the other defendants? Give reason(s) for your answer.

ANSWERS:

The confessional statement of a co accused can only be used against a co accused if he adopts it by words or conduct. S. 29(4) EA; OTUFALE V. STATE. Adam Jack's confessional statement cannot be used against other defendants except they adopt it.

- iv) Assuming during trial, Adamu Jack denied making the statement on the ground(s) that he did not sign the statement, because the Investigating Police Officer (IPO) refused to take him and the statement to a superior police officer for confirmation. How will the trial judge treat such confessional statement?

ANSWERS:

Mere denial (retraction) of a confessional statement will not affect its admissibility. The court will admit the statement and consider it with other admissible evidence to determine its essential value.

QUESTION 6

- i) Comment on the propriety or otherwise of filing the Notice of Appeal in the Court of Appeal.

ANSWERS:

The Notice of Appeal ought to have been filed in the lower court, i.e. the High Court of Abia State sitting in Umuahia.

- ii) As counsel to the accused person, what possible step will you take at the close of the prosecution's case given the facts above?

ANSWERS:

As counsel to the accused person, the step I would take at the close of the case for the prosecution given the facts of this case is to make a no case submission.

- iii) Examine critically the court's sentence after the conviction of John Dokas.

ANSWERS:

The courts sentence after the conviction of John Dokas in this case is wrong for the following reasons:

- a) Death by hanging is the appropriate sentence and not death by firing squad.
 - b) You cannot impose sentence of caning after a death sentence
- iv) As a judge, how would you draft the sentence of the court (having convicted the accused for murder) in your judgment?

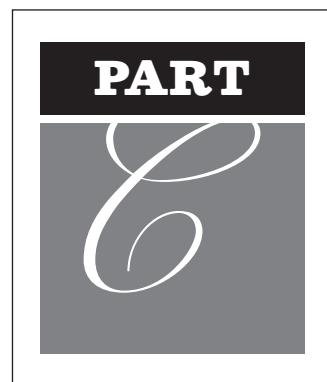
ANSWERS:

The sentence of this court upon is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul"

- v) What steps would the court take if the accused pleaded guilty to the offence of murder?

ANSWERS:

If the accused person had pleaded guilty to the offence of murder being a capital offence, the court shall notwithstanding his plea of guilt, record a plea of not guilty and order the prosecution to prove its case.



THEORY
QUESTIONS
AND ANSWERS

ON

**CORPORATE LAW
PRACTICE**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

Highlight the relevant laws regulating the legal framework for doing business in Nigeria?

ANSWERS

1. Companies and Allied Matters Act 2020
2. Investments and Securities Act 2007
3. Companies Income Tax Act
4. Foreign Exchange (Monitoring and Miscellaneous Provisions) Act
5. Industrial Inspectorate Act
6. Central Bank of Nigeria Act
7. Banks and Other Financial Institutions Act
8. Insurance Act
9. Nigerian Investment Promotion Commission Act
10. Petroleum Industrial Act 2021
11. Federal Competition and Consumers Protection Act 2019
12. National Agency for Food and Drug Administration and Control Act
13. Standard Organization Act
14. Immigration Act
15. Industrial Development (income Tax Relief) Act
16. Industrial Inspectorate Act
17. Companies Income Tax (Amendment) Act
18. Petroleum Profit Tax Act
19. Federal Inland Revenue Service (Amendment) Act
20. Stamp Duties Act
21. Partnership Law
22. Nigerian Constitution
23. Asset Management Corporation of Nigeria Act

QUESTION 2

Identify the relevant regulatory bodies saddled with the control of corporate business activities in Nigeria?

ANSWERS

1. Corporate Affairs Commission
2. Securities and Exchange Commission
3. Investment & Securities Tribunal
4. Nigerian Stock Exchange
5. Central Bank of Nigeria
6. National Insurance Commission
7. Federal Inland Revenue Service
8. Federal Competition and Consumer Protection Commission
9. Nigerian Investment Promotion Commission
10. Nigerian Communication Commission
11. National Agency for Food and Drug Administration and Control
12. Standard Organization of Nigeria

SAMPLE THEORY QUESTIONS AND ANSWERS

13. National Office for Technology Acquisition and Promotion
14. Federal High Court
15. Asset Management Corporation of Nigeria
16. National Industrial Court
17. Nigerian Deposit Insurance Commission
18. National Pension Commission
19. National Information Technology Development Agency
20. Nigerian Ports Authority
21. National Tourism Development Corporation
22. Economic and Financial Crimes Commission

QUESTION 3

List the documents to submit for accreditation with the Securities and Exchange Commission by a legal practitioner in accordance with the provision of Consolidated SEC RULES 2013?

ANSWERS

1. Set of duly completed Form SEC 2
2. Curriculum vitae of at least two officers(known as sponsored individuals) including details of activities arranged in order of time from secondary school till date;
3. Profile of the firm including details of past and current activities;
4. Full postal and electronic address of immediate past employer of sponsored individuals;
5. Sworn undertaking to keep proper records and render returns as may be specified by the Commission from time to time;
6. Evidence of minimum net worth N500, 000 for individual. See R.178 (2)(B) Consolidated SEC RULES 2013.

QUESTION 4

List the documents to submit for accreditation with the Corporate Affairs Commission for a legal practitioner?

ANSWERS

1. CAC Accreditation form duly completed submitted with the following documents:
2. Two passport photographs;
3. Evidence of payment of practicing fee for the current year;
4. Professional Certificate i.e. Call to Bar Certificate; and
5. NYSC Discharge Certificate.
6. Application for individual is N5,000

QUESTION 5

Mention the functions of the Corporate Affairs Commission?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Administer the Act, including the registration, regulation and supervision of the following:
 - a. The formation, incorporation, management, striking off and winding up of companies, Limited Liability Partnerships and Limited Partnerships.
 - b. The formation, incorporation, management and removal of business names from the register, and
 - c. The formation, incorporation, management and dissolution of incorporated trustees.
2. Establishment and maintenance of Companies Registry and offices in all the states of the Federation.
3. Investigation into the affairs of any company where the interest of the shareholders and the public so demand.
4. Other functions as may be specified by any Act or enactment for giving full effect to the provisions of this Act. See section 8 of the Companies and Allied Matters Act 2020.

QUESTION 6

Mention the documents that must be presented to the CAC in order to register a Business Name under part E of CAMA 2020?

ANSWERS

1. 2 Copies of the Application Form (FORM 1-FIRMS) and (FORM 2 -INDIVIDUALS);
2. Form CAC 1-Availability and Reservation of Name
3. CAC/BN/01-Form of application for registration of Business Name
4. 2 Passport photographs of each individual
5. Tax Clearance Certificate of each individual;
6. Qualifying Certificate; and
7. Registration Fees

QUESTION 7

Mention the documents that must be presented to the CAC in order to register a Limited Liability Partnership under part C of CAMA 2020?

ANSWERS

1. The COMPLETED FORM CAC 1
2. The COMPLETED FORM CAC/LLP 01 (Application to register a Limited Liability Partnership)
3. 2 Passport photographs of each individual.
4. Tax Clearance Certificate of each individual;
5. Qualifying Certificate; and
6. Registration Fees

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 8

Mention the documents that must be presented to the CAC in order to register a Limited Partnership under part D of CAMA 2020?

ANSWERS

1. The COMPLETED FORM CAC 1
2. The COMPLETED FORM CAC/LP 01
3. 2 Passport photographs of each individual.
4. Tax Clearance Certificate of each individual;
5. Qualifying Certificate; and
6. Registration Fees

QUESTION 9

Mention the documents that must be presented to the CAC in order to register an Incorporated Trustees under part F of CAMA 2020?

ANSWERS

1. Completed application Form CAC/IT/01 to be submitted in 3 copies
2. Form CAC 1- Availability check and Reservation of Name;
3. Formal Application Letter by the Legal Practitioner;
4. Two (2) printed copies of the Constitution;
5. Impression of the Common Seal;
6. Signed copy of the minutes of the meeting where the Trustees were appointed;
7. Copy of the resolution adopting the special clause;
8. Two (2) passport photographs of each trustee;
9. Evidence of advertisement in 2 national newspapers;
10. Evidence of land ownership or undertaking in lieu;
11. Sworn affidavit by each trustee (replacing SSS Report);
12. Letter of Authority to the legal Practitioner; and
13. Payment of filing fee (N20,000.00).
14. Collect the Certificate of Incorporation of the Association.

QUESTION 10

Mention the documents that must be presented to the CAC in order to register a Company under part B of CAMA 2020?

ANSWERS

1. The COMPLETED FORM CAC 1
2. The COMPLETED AND STAMPED FORM CAC 1.1
3. The STAMPED MEMO and ARTICLES.
4. Statement of capital and initial shareholding (for companies with share capital).
5. Statement of Guarantee (for companies without share capital).
6. Statement of proposed directors.
7. Evidence of Payment of Prescribed Fee.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 11

Ilo Essien, Olu Fadaka and Umar Abdul are partners in a business. Illustrate three business names they can adopt if they desire to avoid registration?

ANSWERS

Where a business name contains the following, it need not be registered;

1. Only the true surnames of the partners - Essien, Fadaka & Abdul
2. Only the true surnames and forenames of the partners - Ilo Essien, Olu Fadaka & Umar Abdul
3. Only the true surnames and initials of the partners - I. Essien, O. Fadaka & U. Abdul

QUESTION 12

How many Trustees does Part F of the CAMA require for registration?

ANSWERS

The number of trustees required to set up an Incorporated Trustees is at least two (2) trustees. See section 823(1) of Companies and Allied Matters Act 2020.

QUESTION 13

What formalities do you need to comply with before you can use the proposed name of a company for the incorporation of the company?

ANSWERS

Reservation of propose name are done online using Availability checks and reservation of name to be conducted at the Corporate Affairs Commission website and if available the name is reserved for 60 days.

QUESTION 14

Give a checklist of matters to be contained in the constitution of incorporated trustee.

ANSWERS

1. Name of the Association
2. Commencement
3. Special clause
4. Nature of the Association
5. Registered address
6. Aims and Objectives
7. Powers and duties of trustees
8. Sources of fund
9. Board of Trustees - appointment, duties, functions and powers, etc.
10. Common seal - custody and use of common seal

SAMPLE THEORY QUESTIONS AND ANSWERS

11. Auditors - appointment, functions, duties, etc.
12. Officers of the association
13. Functions of officers
14. Election of officers
15. Tenure of office of officers
16. Vacation of office by officers
17. Executive committee
18. Bye election
19. Meetings
20. Amendments

QUESTION 15

What clauses will you insert in the Articles of Association of Floxy Nigerian Ltd to give Florence Okonbia upper hand in the management of the company?

ANSWERS

1. A clause making him a life director
2. Clauses giving him power and control over appointment of other directors.
3. Clauses enabling creation of classes of shares with varying rights attached.
4. Custody of the common seal and one of the signatories to any document bearing the common seal.

QUESTION 16

State the significance of the following clauses in a partnership agreement;

1. salary
2. capital
3. expulsion and suspension

ANSWERS

1. Payment of salaries: Payment of salaries to partners must be provided for otherwise partners will not be entitled to salary.
2. Capital: Contribution by each partner should be expressly stated otherwise partners shall contribute equally.
3. Expulsion and Suspension: Where a partner acts in breach of the partnership agreement, it should be provided that a majority of the partners can expel or suspend him otherwise there will be no power of expulsion and suspension. It must be provided that expulsion will not dissolve the partnership.

QUESTION 17

Give three reasons why you would advise partners to have a written

SAMPLE THEORY QUESTIONS AND ANSWERS

agreement?

ANSWERS

1. A written partnership agreement is necessary for submission to banks for the operation of current accounts; and also necessary for submission to government for transactions that require certain corporate documentation etc.
2. To exclude common law principles.
3. For easy resolution of any conflict.

QUESTION 18

What is a Special Clause?

ANSWERS

A Special Clause is the Clause in the Constitution of an Incorporated Trustee and the Memorandum of Association of a Company Limited by Guarantee which provides for the application of the income and property of the association to the effect that the income and assets of the association shall be applied solely towards the promotion of the objects of the body and no portion of it shall be paid or transferred by way of profit to the members of the body; and that, if in the event of the winding up or dissolution of the body, there remains, after the satisfaction of all its debts and liabilities, any property, the same shall not be paid to or distributed among the members of the association, but shall be given or transferred to some other institution having objects similar to the objects of the body, or transferred to some charitable objects.

QUESTION 19

Draft the special clause of the Memorandum of Association of a Company Limited by Guarantee?

ANSWERS

1. The income and property of the company shall be applied solely towards the promotion of its objects, and no portion of the income or property shall be paid or transferred directly or indirectly to the members of the company. However, nothing herein shall prevent the payment in good faith of remuneration to any servant of the company or to any other person, for services actually rendered.
2. Every member of the company undertakes to contribute to the assets of the company in the event of the company being wound-up, where he is a member, or within one year after he ceases to be a member, and the costs, charges and expenses of winding-up shall not be less than N100,000.00.

SAMPLE THEORY QUESTIONS AND ANSWERS

3. If upon the winding-up or dissolution of the company there shall remain, after the satisfaction of all its debts and liabilities, any property of the company, the same shall not be paid to or distributed among the members of the company but shall be given or transferred among some other companies having similar objects of this company which shall be determined by the members prior to the dissolution of the company.

QUESTION 20

Advise the Trustees of a proposed Association on the legality or otherwise of carrying out its objectives prior to registration?

ANSWERS

The Trustees of an Association can legally carry out its objectives prior to registration and may even decide not to register at all if so authorized by the association. However the proposed association will not be entitled to enjoy the benefits that accrue to an association on registration as an Incorporated Trustee E.g. Tax exemption.

QUESTION 21

State the similarities between incorporated trustee and companies limited by guarantee.

ANSWERS

Similarities between Incorporated Trustee(s) and Company Limited by Guarantee are;

1. The objects of both organizations are non-profit oriented.
2. Both bodies enjoy tax exemptions.
3. They are both administered by the Corporate Affairs Commission (CAC).
4. Both bodies are conferred with corporate personally (separate legal personality).
5. Upon winding up, the remaining assets of both bodies after the settlement of all their debts and liabilities shall be transferred to a body with similar objects or where no such body exists, to other charitable object.

QUESTION 22

State the differences between incorporated trustee and companies limited by guarantee.

ANSWERS

Differences between incorporated trustee and companies limited by guarantee

1. While companies limited by guarantee may do limited business,

SAMPLE THEORY QUESTIONS AND ANSWERS

- incorporated trustees does not do business at all.
2. While a company limited by guarantee requires the approval of its memorandum by the Attorney-General of the Federation as part of its registration requirements, this requirement does not apply to incorporated trustees.
 3. Incorporated trustee must fulfill the advertisement requirement before registration but a company limited by guarantee need not comply with this requirement.

QUESTION 23

Outline the features of a private company limited by shares?

ANSWERS

1. Their membership is made up of a minimum of two (2) members, and a maximum of fifty (50) members, except for a small private company which may have a minimum number of one (1).
2. They are business organizations and they also make profit.
3. Their minimum issued share capital is N100, 000.
4. They do not hold statutory meetings nor do they file statutory reports.
5. Unless provided in its articles, a private company may place a restriction on the transfer of shares.
6. Their directors do not suffer compulsory retirement (70 years and above).
7. Their shares are not offered to the public by way of prospectus (invitation to the public), instead, obtaining shares from private companies is done by private placement.
8. Their secretaries need not be professionally certified before appointment. However, for a small private company the appointment of a company secretary is not necessary.
9. There is no special procedure for removal of a company secretary
10. Private companies do not engage in takeovers as a restructuring option.
11. They end with the word Ltd. or Limited
12. They cannot keep two (2) statutory books; namely: index of members and register of substantial interest in shares.

QUESTION 24

Outline the features of a public company limited by shares?

ANSWERS

1. Their membership is a minimum of two (2) members, with no maximum number.
2. They are business organizations and they make profits.
3. Their minimum issued share capital is N2, 000, 000.
4. They must hold statutory meetings and file statutory reports. Failure to do so will amount to winding up.

SAMPLE THEORY QUESTIONS AND ANSWERS

5. Directors of this type of company are compelled to retire at the age of 70 and those above 70 can only participate in re-election upon the disclosure of their age to members at the general meeting.
6. They can offer their shares to the public by way of prospectus. For this to be possible, they must be registered with the Nigeria Stock Exchange (NSE) and obtain the status of a QUOTED or LISTED company. Public companies not registered with the NSE are called UNQUOTED or UNLISTED companies and can only offer their shares by private placement.
7. The secretary of this type of company must be professionally certified before their appointment.
8. There is a specified procedure for the removal of company secretaries.
9. They engage in takeover bids.
10. Their names end with the word PLC.

QUESTION 25

Outline the features of a Company Limited by Guarantee?

ANSWERS

1. They are set up to promote the following agendas; promotion of commerce, art, science, religion, sports, culture, education, research, charity or other similar objects.
2. The income and properties of the company are to be applied solely towards the promotion of its objects and no portion thereof is to be paid or transferred directly or indirectly to the members of the company.
3. They are the only organization allowed to use the word "CHAMBER OF COMMERCE" as part of their name.
4. They are exempted from paying tax.
5. The Attorney General of the Federation shall, within 30 days, approve the Memorandum of the Company Limited by Guarantee. Where he fails to do so, the promoters of the company shall advertise in three (3) national dailies, and if no objection is made within 28 days, the commission shall register the company and issue a certificate of incorporation (there would be no need for the approval of the Attorney General of the Federation).
6. Upon dissolution, members are entitled to make a contribution of at least N100,000 to settle the debts of the company (if any).
7. Upon dissolution, their assets should be transferred to bodies with similar objectives.
8. They do not have share capital.
9. The number of people forming it must be clearly stated in their article.
10. There is no automatic right to proxy attendance at a general meeting, unless it is expressly stated in the article.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 26

Outline the features of an unlimited Company?

ANSWERS

1. The memorandum and articles of association will provide for unlimited liability for its members.
2. The members answer to all the claims against the company especially at winding up.
3. Members share the liability incurred by the company.
4. The company must have capital and not by guarantee

QUESTION 27

Outline the features of Limited Liability Partnership?

ANSWERS

1. All Limited Liability Partnership must be registered with the Corporate Affairs Commission in the form prescribed by the commission, in order to be given effect under the law.
2. After registration, the business becomes a legal entity separate from its partners, which may sue and be sued.
3. Partners are agents of the Limited Liability Partnership and not of the other partners and cannot be liable for the wrongful actions of other partners.
4. The life of the Limited Liability Partnership is not affected by the demise, retirement, insolvency or withdrawal of any of the partners.
5. Limited Liability Partnership must be registered with at least two designated partners (One of whom must be resident in Nigeria).
6. Limited Liability Partnership are regulated by an agreement signed by all the partners.
7. Foreign companies can carry on business as Limited Liability Partnership as long as they are registered in the manner prescribed by the Act.
8. Every limited liability partnership shall have the words, "limited liability partnership" or the acronym, "LLP" as the last words of its name.

QUESTION 28

Outline the features of Limited Partnership?

ANSWERS

1. A limited partnership (LP) exists when two or more partners go into business together, but the limited partners are only liable up to the amount of their investment.
2. A limited partnership has both limited partners and a general partner (which has unlimited liability).
3. A limited partnership shall not consist of more than 20 persons.

SAMPLE THEORY QUESTIONS AND ANSWERS

4. The name of a limited partnership must end with the words "limited partnership" or the abbreviation "LP".

QUESTION 29

State the similarity and differences between a limited partnership and a limited liability partnership

ANSWERS

They both have a similar structure that is set up to make profit with a minimum of two juristic persons. However, limited partnerships have general partners and limited partners, while Limited Liability Partnerships have no general partners, as all partners in a Limited Liability Partnership have limited liability.

QUESTION 30

Outline the features of an incorporated Trustee

ANSWERS

1. They are regulated by Part F of CAMA.
2. They are non-business organizations as well as non-profit organizations.
3. They are set up to promote the following agendas; Sport (b). Science (c). Religion (d). Art (e). Education (f). Research (g) Charity, etc.
4. They must advertise in at least two (2) national dailies circulating in the area where the association is to be situated, and at least one of the newspapers shall be a national newspaper.
5. They are regulated by the constitution.
6. They can be set up by at least two (2) trustees.
7. Upon dissolution, their assets are transferred to bodies with similar objectives.
8. They are exempted from paying tax.
9. Their name must contain "THE INCORPORATED TRUSTEES OF "
10. It may only be dissolved by the Federal High Court upon a petition by the governing council/board of trustees, 50% of its members or the CAC.

QUESTION 31

Mention four pre-incorporation contracts/ documents you will advise your clients to execute in furtherance of the incorporation of a company involving Nigerians and Japanese Counterparts?

ANSWERS

1. Joint Venture Agreement, especially between Nigerians and aliens.
2. Shareholders' Agreements.
3. Contract for payment of Promoters' expenses.
4. Directors' Service Contract (Appointment of the Managing Director).

SAMPLE THEORY QUESTIONS AND ANSWERS

5. Contract/Agreement for the acquisition of business or property (Take-over agreement).
6. Contract for conversion of partnership to incorporated companies.

QUESTION 32

Mention any five clauses you will include in the Memorandum of Understanding?

ANSWERS

1. Commencement
2. Name of Company
3. Parties
4. Recital
5. Object/Business

QUESTION 33

Draft the commencement of a Memorandum of Understanding between Nigerian and Japanese Business Partners to be executed on March 15, 2022?

ANSWERS

THIS MEMORANDUM OF UNDERSTANDING (is) made this 15th day of March 2022 BETWEEN Toshiba Japan Incorporated of _____ (Referred to in this Agreement as "The Japanese Company") of the one part AND Zonix (Nig.) Limited of _____ (Referred to in this Agreement as the "Nigerian Company") the other part

QUESTION 34

List the content of a Memorandum of Association of the company limited by shares?

ANSWERS

1. Heading
2. Name clause
3. Registered office clause
4. Object clause
5. Type of company/status clause
6. Liability clause
7. Share capital clause
8. Subscription clause
9. Subscription box.
10. Date
11. Attestation clause.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 35

List the clauses 1 - 6 of a Memorandum of Association of the company limited by Guarantee?

ANSWERS

1. Name clause
2. Registered office clause
3. Object clause
4. Type of company/status clause
5. Liability clause
6. Special clause

QUESTION 36

Draft the heading and clauses 1-7 of a Memorandum of Association of the company limited by shares?

ANSWERS

THE FEDERAL REPUBLIC OF NIGERIA
THE COMPANIES AND ALLIED MATTERS ACT 2020
(COMPANY LIMITED BY SHARES)

MEMORANDUM OF ASSOCIATION OF ISAAC JIMMY LIMITED

1. The name of the Company is ISAAC JIMMY LIMITED
2. The Registered Office of the company shall be situated in Nigeria.
3. The business for which the company is established are:
 - a. To carry on the business as established are:
 - b. Journalists literary advertising and publicity agents, printers, engravers, bookbinders, designers and draughts men and to sell and act as agent for the sale of journals and other publications of all kinds.
 - c. Any other matter necessary or incidental to the objects stated above

AND IT IS HEREBY DECLARED THAT:

The objects specified in each paragraph of this clause shall be regarded as independent objects and shall in no way be limited or restricted (except the contrary is expressly stated) by reference to or inference from the terms of any other paragraph or the name of the Company, but may be carried out in as full and as ample a manner and construed in as wide a sense as if each of the said paragraphs defined the objects clause of a separate and distinct company.

4. The company is a private company
5. The liability of the members is limited by shares.
6. The authorized share capital of the company is One million Naira (1,000,000.00) divided into 1,000,000 Naira ordinary shares of One Naira each (with such respective rights as are defined by the Articles

SAMPLE THEORY QUESTIONS AND ANSWERS

- of Association registered herewith)
7. We the several persons, whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

QUESTION 37

Draft the subscription clause of a Memorandum of Association of the company limited by shares?

ANSWERS

We the several persons, whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

QUESTION 38

State the matters in respect of which a solicitor is required to take instructions for the incorporation of a company during client interview.

ANSWERS

1. Client personal details
2. Date for completion of registration
3. Name of company (with alternative name)
4. Type of company
5. Object of business of the company
6. Capital of the company
7. Subscribers to the memorandum and articles of association
8. Membership
9. Registered office of the company
10. First directors
11. Expatriate employees (if any)
12. Control and management

QUESTION 39

State the matters in respect of which a solicitor is required to take instructions for the registration of incorporated trustee during client interview.

ANSWERS

Instructions should be taken in the course of conducting client interview in respect of the following:

1. Name of the association
2. Aims and objects of the association

SAMPLE THEORY QUESTIONS AND ANSWERS

3. Address of the association
4. Name, address, occupation and age of trustees
5. Membership
6. Common seal; its use and custody
7. Executive members such as president, secretary, financial secretary, etc.
8. Special clause
9. Extract of the meetings where the trustees were appointed.

QUESTION 40

State the matters in respect of which a solicitor is required to take instructions for the registration of business name during client interview.

ANSWERS

In conducting client interview in relation to the registration of business name, instructions should be taken in respect of the following:

1. The proposed name of the business and alternative name
2. The general nature of the business
3. Address of the principal place of business and of branch if any (including post office box where available).
4. Full names of the partners or of the sole proprietor without any abbreviations including a maiden name of a married woman
5. Nationality
6. Sex
7. Age
8. Residential address of the partners or the sole proprietor
9. Particulars of husband in the case of a married woman
10. Date of commencement of business
11. Where the business is to be carried on as nominee, trustee or general agent full particulars of the principals should be taken.
12. Particulars of any corporation that is a partner with a copy of its certificate of incorporation, CTC of particulars of directors and evidence of annual returns paid up to date.

QUESTION 41

Draft a letter to Corporate Affairs Commission seeking their permission to use the name “GROUP”.

ANSWERS

EASYREAD LEGAL CONSULT

Address: Plot 34 Seaside Avenue, Victoria Island Lagos.

Phone No: 08033552338

E: mail: info@easyreadlegal.com

website: www.easyreadlegal.com

Our Ref: _____

Your Ref: _____

SAMPLE THEORY QUESTIONS AND ANSWERS

11th December 2021

The Registrar-General,
Corporate Affairs Commission,
5 Wuse Street, Abuja.

Sir,

RE: APPLICATION FOR CONSENT TO USE THE NAME ABC COMPANY 'GROUP' PLC PURSUANT TO SECTION 852 (1) OF THE COMPANIES AND ALLIED MATTERS ACT 2020

We refer to the above subject matter as there has been a fulfillment of the requirements stated in section 852 (1) of the Companies and Allied Matters Act 2020.

We hereby apply to use the above name for the proposed company. The proposed company has three associate companies and enclosed are the following as required:

1. A copy of the Certificate of Incorporation of the three associate companies.
2. Certified true copies of the statement of share capital and return on allotment of shares of the three associate companies.
3. Particulars of the first directors of the three associate companies.
4. Resolutions passed differently by the three associate companies consenting to the Group relationship.
5. Update of the annual returns of the three associate companies; and
6. Statement of majority of directors of the associate companies that the Group Company's share capital shall not be less than the share capital of the highest of the three associate companies.

Thank you.

Yours faithfully,

Oboagwina C.
(Principal Partner)
Easyread Legal Consult.

QUESTION 42

Give a checklist of the content of joint venture agreement.

ANSWERS

1. Commencement
2. Date

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3. Parties
4. Nature of the proposed business enterprise
5. Number of directors and their powers
6. Supremacy clause
7. Profit sharing ratio
8. Property sharing ratio
9. Capital contribution
10. Governing law
11. Arbitration clause
12. Deadlock clause
13. Dissolution clause, etc.

QUESTION 43

List the laws regulating foreign participation in business in Nigeria.

ANSWERS

1. Companies and Allied Matters Act 2020
2. Nigerian Investment Promotion Commission
3. Foreign Exchange (Monitoring and Miscellaneous Provisions) Act
4. Immigration Act
5. Investment and Securities Act
6. National Office for Technology Acquisition and Promotion Act
7. Industrial Inspectorate Act

QUESTION 44

State the procedure for establishing a business in Nigeria by foreigners (Foreign Direct Investment)

ANSWERS

1. Prepare joint-venture agreement and any other necessary pre-incorporation agreement (if any).
2. Take steps to form a company or a Limited Liability Partnership to be registered by the Corporate Affairs Commission.
3. Application to the Nigerian Investment Promotion Commission (NIPC).
4. Application to the Securities and Exchange Commission for registration of the security/investment.
5. Application for other permits such as Combined Expatriate Resident Permit and Aliens Card (CERPAC)
6. Importation of capital through an authorized dealer and obtaining certificate of capital importation.
7. Application for incentives

QUESTION 45

State the procedure for purchase of shares by aliens in an existing Nigerian company (Foreign Portfolio Investment).

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ANSWERS

1. Application for shares by the alien through the Nigerian Stock Market.
2. Passing of resolution by the Directors of the company allotting the shares to the alien subject to requisite approvals being obtained.
3. Apply to the Securities and Exchange Commission for registration of security.
4. Importation of the capital through an authorized dealer and obtaining certificate of capital importation.
5. Issuance of share certificate.

QUESTION 46

What are the modes of foreign participation in Nigeria?

ANSWERS

1. Foreign Direct Investment (FDI)
2. Foreign Portfolio Investment (FPI). It is also known as Foreign Indirect Investment (FII)
3. Exemption.

QUESTION 47

List six documents that will accompany an application to the NIPC for obtaining business permit?

ANSWERS

1. 2(Two) copies of receipt of payment of N10,000.00
2. Joint venture agreement (if any)
3. Certified True copy of the memo and article of the company.
4. Certificate of Incorporation
5. Tax clearance certificate
6. Certificate of capital importation

QUESTION 48

Give examples of companies exempted from incorporation.

ANSWERS

1. A foreign company or Limited Liability Partnership invited to Nigeria by or with the approval of the federal government to execute a specified individual project.
2. A foreign company or Limited Liability Partnership which is in Nigeria for the execution of a specific individual loan project on behalf of the donor organisation or agency.
3. A foreign government-owned company or Limited Liability Partnership engaged solely in export promotion activities.
4. Engineering consultants and technical experts engaged in any individual specific project under contract with any of the

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governments of the federation or any of their agencies or with any person where the government has approved such contract. See Section 80 (1) and Section 788 (2) Companies and Allied Matters Act 2020

QUESTION 49

Mention two incentives that will be available to a Company engaged in gas refining for export purposes financed with foreign loan?

ANSWERS

1. Exemption from tax for the first three years of its operation for investment in solid minerals. Section 22(2) of Minerals and Mining Act.
2. Export incentives and exemption from tax for the first three consecutive assessment years.

QUESTION 50

Highlight the incentives available to a Company under relevant Nigerian statutes for manufacturing a pioneer product, doing business in Nigeria with foreign loan and importing raw materials to manufacture goods for export?

ANSWERS

1. Pioneer Status - Tax exemption is granted for a period of 5 years subject to extension for another 2 years.
2. Duty Drawback and Suspension Scheme -Duty Drawback Scheme/Regulation provides for the refund of import duties on raw materials used in manufacturing goods that are exported.
3. Doing business in Nigeria with foreign capital - Purchase of foreign capital at official CBN rate; free repatriation of capital/profit and tax relief.

QUESTION 51

State the requirements for pioneer status.

QUESTION 52

State the procedure for exemption

ANSWERS

1. A letter of exemption is addressed to the Minister of Trade.
2. The Minister of trade or Secretary to the Government of the Federation considers the application for Approval.
3. Once the application is granted by the Minister of Trade, the foreign company or Limited Liability Partnership is issued Certificate of Exemption.
4. The foreign company or Limited Liability Partnership must register

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- with NIPC.
5. And any other relevant registration that may be required.

QUESTION 53

Give a checklist of document(s) that will accompany the letter of exemption

ANSWERS

1. The name and place of business of the foreign company outside Nigeria.
2. The name and place of business or the proposed name and place of business of the foreign company in Nigeria.
3. The name and address of each director, partner or other principal officer of the foreign company.
4. A certified copy of the charter, statutes, or memorandum and articles of association of the company, or other instrument constituting or defining the constitution of the company, a certified translation of the instrument where necessary.
5. The names and addresses of one or more persons resident in Nigeria, authorized to accept service of process and any notices required to be served on the foreign company on the company's behalf.
6. The business or proposed business in Nigeria of the foreign company and the duration of such businesses.
7. Particulars of any project previously carried out by the company as an exempted foreign company.
8. Such other particulars as may be required by the Secretary to the Federal Government

QUESTION 54

Draft the letter of exemption

ANSWERS

JIMMY GBH LIMITED

Herrn Dieter Wellhausen Lansstraße 81 D-11179 Berlin, Germany.

20th June, 2022

The Minister of Trade,
Ministry of Trade,
Federal Capital Territory
Abuja.

Sir,

SAMPLE THEORY QUESTIONS AND ANSWERS

**APPLICATION FOR EXEMPTION FROM INCORPORATION
AS A NIGERIAN COMPANY**

We, the above named foreign company, having been invited to Nigeria by the Federal Government of Nigeria to execute a project, hereby apply for exemption from incorporating as a Nigerian company.

Please find attached the necessary documents as stipulated by Section 80 (2) of the Companies and Allied Matters Act, 2020.

Yours Faithfully,
Company Secretary.

ENCLS:

1. The name and place of business of the foreign company outside Nigeria.
2. The name and place of business or the proposed name and place of business of the foreign company in Nigeria.
3. The name and address of each director, partner or other principal officer of the foreign company.

QUESTION 55

Give a checklist of statutory books required to be kept by a Companies under the extent law.

ANSWERS

1. Register of Members
2. Index of Members
3. Register of Substantial Interest in Shares
4. Register of Charges
5. Register of Debenture Holders
6. Minutes Book
7. Register of Directors' Share Holdings
8. Register of Directors
9. Register of Directors' Residential Addresses
10. Register of Secretaries
11. Accounting Record

QUESTION 56

What type of resolution is to be passed f
or the re-registration of a company from private to public company?

ANSWERS

Special resolution

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QUESTION 57

State the consequential alteration(s) to be made in the Memorandum of Association of a Company to bring it in line with that of a public company?

ANSWERS

1. Name clause: name of the company will be changed to public limited company (Plc)
2. Status clause: the status clause will be changed to public company

QUESTION 58

Outline the procedural steps to take to re-register a company from private to public?

ANSWERS

1. Board resolution proposing the conversion and re-registration from LTD -PLC
2. Board authorises the company secretary to issue notice of General Meeting to members to pass special resolution
3. Passing of special resolution at general meeting
4. Sending of relevant document to Corporate Affairs Commission
5. A copy of any prospectus or statement in lieu of prospectus must be delivered within the preceding 12 months to SEC.

QUESTION 59

Give a checklist of documents to be sent to CAC upon re-registering a company from private to public?

ANSWERS

1. Printed copy of the memo and articles as altered
2. A copy of a written statement on oath by the directors and secretary showing that the paid up capital as at the date of the application is not less than 25% of the authorised capital.
3. A copy of the balance sheet as at the date of the resolution or the preceding 7 months, whichever is later;
4. A statutory declaration by a director and the secretary that the special resolution has been passed and the company's assets are not less than the aggregate of the paid up capital and undistributed reserves.

QUESTION 60

Draft the resolution of the company made at the General Meeting to change its status from a private to a public company?

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ANSWERS

**ISAAC & JIMMY NIGERIA LTD
RESOLUTION FOR CONVERSION OF PRIVATE COMPANY
TO PUBLIC COMPANY**

(Pursuant to section 55 of the Companies and Allied Matters Act 2020)

At the general meeting of Isaac & Jimmy Nigeria Ltd held on 27th May, 2022 at the registered office of the company situated at No. 23 Bwari Crescent, Abuja at 9:00am, the following resolution was proposed and duly passed:

1. THAT the company be converted to a public company by the name of Isaac & Jimmy Plc.
2. THAT the following consequential alterations be made in the Memorandum of Association and Articles of Association of the company;
3. THAT the Memorandum of Association of the company be altered by;
 - a. Substituting Clause 1 with: "The name of the company is Isaac & Jimmy Public Limited Company"
 - b. Substituting Clause 2 with: "The Company is a Public company".
4. THAT the Articles of Association of the company be altered by:
 - a. Deleting in Article 5 the word "members" and replacing it with the word "public".

Dated this 27th day of May, 2022

Director

Secretary

QUESTION 61

What administrative steps should a company take on a successful change of name?

ANSWERS

1. Alteration of company seal, certificates, letter heads, etc.
2. Memorandum and Articles issued after alteration to embody the alteration.
3. Advertisement of change of name in a daily newspaper circulating nationwide.
4. Advertisement of change of name in the Official Gazette of the Federation.

QUESTION 62

Outline the procedure for increase of share capital.

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ANSWERS

1. The Board of Directors passes a resolution that the capital be increased and authorizing the secretary to take necessary steps to effect the increase.
2. Notice of General Meeting of the company is issued to members where an ordinary resolution increasing the share capital is passed.
3. Prepare and deliver to CAC within 15 days of the passing of the ordinary resolution authorizing the increase the following documents:
 - a. A printed copy of the notice of increase
 - b. A statement of increase duly stamped
 - c. A copy of the ordinary resolution
4. Within 6 months of giving notice of the increase, ensure that not less than 25 percent of the share capital including the increasing has been issued.
5. Have the Directors deliver to CAC a statutory declaration verifying the fact that 25 percent of the share capital including the increase has been issued.
6. Obtain certificate of increase to be issued by CAC.
7. Have a copy each of the resolution and certificate of increase annexed to the Memorandum of Association.

QUESTION 63

Outline the procedure for reduction of share capital.

ANSWERS

1. The Board of Directors resolves that the share capital be reduced.
2. The Board of Directors prepare scheme of reduction
3. The notice of general meeting should be accompanied by explanatory circular and the scheme of reduction to be issued to members.
4. At the meeting, the members pass a special resolution reducing the capital and approve the scheme of reduction
5. Apply to the court to confirm the reduction and approve the scheme of reduction.
6. If the court is satisfied, it will make an order confirming the reduction
7. A copy of the order of the court and a copy of the minute of the meeting of the company approved by the court must be delivered to CAC for registration.
8. Public the notice of registration in such manner as the court may direct.
9. Alter the memorandum and articles of association and other documents accordingly.

QUESTION 64

Outline the procedure for change of name.

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ANSWERS

1. Pass directors' resolution authorizing change of name.
2. Search for availability and reservation of name to be carried out at the Corporate Affairs Commission.
3. Passing of special resolution
4. Documents to be delivered to CAC.
 - a. Notice of special resolution
 - b. Letter to CAC requesting its consent to the change of name
 - c. Original certificate of incorporation; and
 - d. Memorandum and Articles of Association as altered to reflect the new name.

QUESTION 65

Outline the procedure for alteration of the objects clause of the memorandum of association of a company.

ANSWERS

1. Board of Directors pass the resolution
2. Board of Directors authorise the company secretary to issue notice of General Meeting by giving 21 days' notice of meeting and specifying in the notice the intention to pass the resolution as a Special Resolution.
3. Passing of special resolution at general meeting
4. Application to the court for cancellation within 28 days of passing the resolution
5. Give notice of the application to cancel to the CAC
6. Deliver a copy of the court order and memo as altered (where the court does not approve the application for cancellation) to the CAC.

Note: Any member who voted in favour of, or consented to, the resolution cannot apply for cancellation.

QUESTION 66

If a Company is incorporated on August 22, 2021, its first Annual General Meetings should hold when?

ANSWERS

The first annual general meeting a Company must be held within eighteen months from the date of incorporation. See section 237 (1) (a) of Companies and Allied Matters Act 2020. Therefore, company incorporated on August 22, 2021, its first annual general meeting must be held not later than February 21, 2023.

QUESTION 67

List three persons that are entitled to receive notice of meeting

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ANSWERS

1. Every member of the company.
2. Those whom shares have been transmitted to by way of personal representatives.
3. Every auditor for the time being.
4. Directors of the company.
5. Company Secretary.
6. The Commission (CAC) in the case of public companies. See section 243 (1) of Companies and Allied Matters Act 2020

QUESTION 68

What is the effect of failing to give notice of meeting to a member who is entitled?

ANSWERS

Generally, all members of a company must be notified of a meeting and failure to send a notice of meeting may nullify such meeting unless such failure is an accidental omission on the part of the person giving the notice. See section 245 (1) of Companies and Allied Matters Act 2020

QUESTION 69

Comment on the validity or otherwise of the appointment of another person as Chairman of an AGM in the absence of the Chairman after 30 minutes of the time scheduled for the commencement of the meeting?

ANSWERS

The Chairman of the Board of Directors preside at every general meeting and where he is not present within one hour after the time appointed for the holding of same or is unwilling to act, the Directors present may choose one of their to be the Chairman of the meeting. See section 265 (1) of Companies and Allied Matters Act 2020. Therefore, the appointment of a chairman in the absence of the Chairman after 30 minutes of the time scheduled for the commencement of the meeting is inappropriate.

QUESTION 70

Advice a Shareholder who cannot attend an Annual General Meetings due to his daughter's wedding on how his views and opinions can be presented at the meeting.

ANSWERS

My Advice to a shareholder who cannot attend Annual General Meetings is for him to appoint a proxy to represent him at the meeting and vote in his stead.

QUESTION 71

Who is a proxy?

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ANSWERS

A proxy is a person sent to represent a member of a company at a meeting from which they would be absent. See section 254 (1) of Companies and Allied Matters Act 2020

QUESTION 72

Outline the right of a proxy

ANSWERS

1. Right to attend meetings.
2. Right to vote at the meeting.
3. Right to be counted to determine quorum.
4. Right to demand poll votes when necessary.

QUESTION 73

How is proxy appointed?

ANSWERS

The instrument appointing a proxy must be in writing and must be accompanied by a Certified True Copy of a power of attorney. See section 254 (6) of Companies and Allied Matters Act 2020

QUESTION 74

Briefly explain the concept of “whistle- blowing”?

ANSWERS

The concept of whistle- blowing is to encourage stakeholders to bring unethical conduct and illegal violations to the attention of an internal and or external authority so that action can be taken to resolve the problem.

QUESTION 75

Briefly explain the protection open to a whistle blower?

ANSWERS

The identity of the whistle-blower shall be kept confidential. Hence a whistle blower who has suffered any detriment by reason of disclosure made pursuant to the provision of these Guidelines shall be entitled to compensation and/or reinstatement provided that in the case of compensation, the employee's entitlement shall be computed as if he had attained the maximum age of retirement or had completed the maximum period of service, in accordance with his condition of service. For other stakeholders, the whistle-blower shall be adequately compensated. This is without prejudice to the right of the whistleblower to take appropriate legal action.

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QUESTION 76

List the codes so far produced by regulatory institutions to compel Banks and other Financial Institutions to institutionalize good corporate governance in Nigeria.

ANSWERS

1. Code of Corporate Governance for Banks and Other Financial Institutions in Nigeria issued by the Central Bank of Nigeria.
2. Code of Corporate Governance for Public Companies in Nigeria 2011 issued by SEC.

QUESTION 77

How has the codes identified above affected the combination of the positions of Chairman and Managing Director/Chief Executive Officer in an individual?

ANSWERS

To ensure transparency and avoid the dominance of an individual in the managing the affairs of companies including banks, code abolished the concentration or combination of the positions of Chairman and Managing Director/Chief Executive Officer in an individual.

QUESTION 78

How has the codes identified above affected Tenure of office of a Bank's Managing Director.

ANSWERS

The Code limits the nature of office of a Bank's Managing Director to maximum of 10 years of 5 years each.

QUESTION 79

Explain the following theories of corporate governance;

- a. Agency theory,
- b. Stakeholder theories and
- c. Stewardship theories

ANSWERS

1. Agency/Shareholder Theory: This theory stipulates that the shareholders are the principal of the company while the board and management team are the agent. The principal provides funds for the investment while the agent provides management skills to manage funds in the investment.
2. Stakeholders Theory: This theory stipulates that it is not only the shareholders and management team that are actors in a corporation; the Stakeholders also impact on the corporation of the company. The

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stakeholders' theory formed the basis of holding the organization to good ethical practices and corporate social responsibility. These stakeholders are long term employees who develop specialized skills or value to the corporation, and suppliers, customers and others who make specialized investments.

3. Stewardship Theory: This theory stipulates that man is essentially trustworthy and capable of acting in good faith and in the interest of other people with integrity and honesty.

QUESTION 80

State the practices and principles that promote good corporate governance

ANSWERS

1. To ensure transparency and avoid dominance of an individual as both chairman and managing director.
2. Installation of a committed and focused Board of Directors which will exercise its oversight functions with a high degree of independence from management and individual shareholders.
3. The Board should meet regularly at a minimum of four (4) regular meetings in a financial year. There should also be adequate advance notice for all Board meetings as specified in the Memorandum and Articles of Association.
4. The code limits the tenure of office of a bank managing director to a maximum of 10 years.
5. The Board should have full and effective oversight on the bank and monitor its executive management.
6. There is a balance of power and authority so that no individual or coalition of individuals has unfettered powers of decision making.
7. The Articles of Association should clearly specify those matters that are exclusively the rights of the Board to approve, apart from those for notification.
8. The number of non-executive directors should exceed that of executive directors.
9. Shareholders need to be responsive, responsible and enlightened.
10. Culture of compliance with rules and regulations.
11. Effective and efficient Audit Committee of the Board.
12. External and internal auditors of high integrity, independence and competence.
13. An individual should not own 5% of the share capital of the Bank
14. Not more than two persons from the same family can be on the Board of Directors at the same time.
15. Corporate social responsibility

QUESTION 81

What is the difference between a shadow director and an alternate

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director?

ANSWERS

A shadow director is any person on whose instructions and directions the directors are accustomed to act. Section 270 (1) of Companies and Allied Matters Act 2020. On the other hand, an alternate director is a director appointed under the Articles to act in place of a director whenever he is absent.

QUESTION 82

With the aid of relevant authorities, write a reply on points of law to the contention that once made a Life Director, only death can terminate the appointment?

ANSWERS

By the provision of Section 281 of Companies and Allied Matters Act 2020, a person may be appointed as a Director for life. However, such person shall be removable under Section 288 of Companies and Allied Matters Act 2020 just like any other Director. The only exemption that a Life Director enjoys is that he is not subject to retirement by rotation under Section 285 of Companies and Allied Matters Act 2020. The contention that once made a Life Director, only death can terminate a person's appointment is not correct.

QUESTION 83

Assuming all the Directors of a Bank died in a plane crash on their way to a meeting with a core investor in London, what will be your advice to the creditors?

ANSWERS

In the event of the death of all the Directors of a Company, any of the personal representatives shall be able to apply to the Court for an order to convene a meeting of all the personal representatives of the shareholders to attend and vote at a meeting to appoint new Directors to manage the company and if they fail to do so, the Creditors shall have the powers to do so. See section 273 (2) of the Companies and Allied Matters Act 2020

QUESTION 84

As a Company Secretary, state the rules applicable to rotation of Directors at the AGM?

ANSWERS

The procedure for retirement is governed by the company's articles but when the articles are silent, the provision of CAMA will prevail. According to Section 285 of Companies and Allied Matters Act 2020, the

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procedures are as follows:

1. At the First AGM, all directors retire, except for life and shadow directors.
2. At the Subsequent AGM, one-third of all the directors retire or the number nearest to one-third. The number of persons to retire will be determined by their dates of appointment (First to be appointed = first to be retired).

NB: Where all directors are appointed on the same day, the company should call for voluntary retirement. Where nobody retires voluntarily, the company casts lots to determine who retires.

QUESTION 85

Examine the possibility of appointing a 72 year old man and a 16 year old as Directors of Axe (Nig) Plc?

ANSWERS

Generally, the minimum age of directors for every company is eighteen (18) years and for public companies, a director retires once he attains the age of seventy (70) years. Although, a person above the age of 70 years owes the Company the duty to disclose his age to the members at the general meeting through special notice. Section 282 of Companies and Allied Matters Act 2020. Therefore, the notice seeking to appoint a 72 year old man must state the age of the person.

On the other hand, an infant, being a person less than 18 years old is disqualified from appointment as a Director of a Company. Section 283 of Companies and Allied Matters Act 2020.

QUESTION 86

State the procedure and post-procedure requirement for the removal of a director

ANSWERS

1. A special notice is sent to the Board of Directors for the removal of a director.
2. The Board of Director informs the director of such notice within seven (7) days so as to prepare his representation.
3. The Board of Directors issues membership notices to members at least twenty-one (21) days before the meeting.
4. The members at the meeting pass an ordinary resolution.
5. At the close of the meeting, the Secretary sends the following documents to CAC;
 - a. A copy of the ordinary resolution
 - b. Form CAC 7A (Notice of removal)
 - c. Form CAC 7B *(Change of Director)*

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- d. Evidence of payment of filing fees

After the director has been removed, the Secretary can make alterations on the following books;

- a. Register of Directors.
- b. Register of Directors Shareholding.
- c. Filing to CAC the relevant documents.

QUESTION 87

Draft the resolution that a Company will file with the CAC to effect a change of a Director?

ANSWERS

ISAAC & JIMMY NIGERIA LTD

RESOLUTION FOR THE REMOVAL OF A DIRECTOR

(Pursuant to sections 288 of Companies and Allied Matters Act 2020)

At the general meeting of Isaac & Jimmy Nigeria Ltd held on the 20th day of June, 2022 at No. 23 Bwari Crescent, Abuja at 9:00am, it was resolved:

That Chike Obiora be and is hereby removed from office as a director of the company and that Rotimi Ameachi be appointed as director.

Further that the Secretary of the company should and is hereby directed to prepare and file every necessary document for effective change of director to Corporate Affairs Commission.

Dated this 20th day of June, 2022

Director

Secretary

QUESTION 88

Prepare a checklist of the duties of a Company Secretary before, during and after an AGM?

ANSWERS

The duties of the company secretary before meeting are:

1. To prepare the notice of meeting.
2. To ensure that the notice of meeting has been served to members.
3. To ensure that the venue of the meeting is secured.
4. The company secretary is required to take the following documents to the meeting:
 - a. A copy of the Memorandum of Association.

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- b. A copy of the Articles of Association.
- c. A copy of the minute's book.
- d. A copy of CAMA.
- e. Attendance register

The duties of the company secretary during meeting are:

- 1. To enter the names of those present at and those absent from the meeting.
- 2. To check the time the Chairman arrives at the meeting.
- 3. Take count of those present at the meeting.
- 4. Take record of proceedings at the meeting.

The duties of the company secretary after the meeting:

- 1. To ensure that the final copy of the minutes of the meeting has been signed by the Chairman only.
- 2. To make possible alteration in the statutory books.
- 3. Filing the relevant documents to the CAC.

QUESTION 8g

Give a checklist of ordinary business and special business to be transacted at the Annual General Meetings of a company.

ANSWERS

The ordinary businesses to be transacted at the Annual General Meetings of a company are;

- 1. Declaring of dividends.
- 2. Payment of dividends.
- 3. Appointment of Auditors.
- 4. Appointment of Audit Committee.
- 5. Remuneration of Auditor.
- 6. Auditor's Reports'
- 7. Election of Directors.
- 8. Retirement of Directors.
- 9. Directors' Reports.
- 10. Annual Returns (*filed by Nigerian registered companies*)
- 11. Annual Reports (*filed by unregistered companies granted exemption*)
- 12. Presentation of Financial Statements
- 13. Disclosure of remuneration of managers of a company.

On the other hand the special businesses to be transacted at the Annual General Meetings of a company are;

- 1. Change of Name.
- 2. Change of registered address.

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3. Change of object clause.
4. Conversion of company.
5. Increase in share capital.
6. Reduction in share capital.
7. Removal of Directors.
8. Appointment of Directors.
9. Remuneration of Directors.
10. Removal of Auditor.

QUESTION 90

As Secretary of a Company, state three returns you will make to the Corporate Affairs Commission and the period for filing each return?

ANSWERS

1. A copy of resolution - within 15 days after the resolution is passed.
2. Notice of removal of Director or Secretary - within 14 days after the removal.
3. Notice of increase in share capital - within 15 days.
4. Statutory report - within 14 days.
5. Annual returns - within 42 days.
6. Returns of allotment - within 1 month.
7. Register of Charges - within 90 days.

QUESTION 91

Draft a notice of statutory meeting.

ANSWERS

**ISAAC PROMISE NIGERIA PLC.
RC 5668**

NOTICE OF STATUTORY-MEETING

NOTICE IS HEREBY GIVEN that the Statutory Meeting of Isaac Promise Nigeria Plc. required to be held by section 235 of the Companies and Allied Matters Act 2020 will be held at Transco Hotel Abuja on the _____ day of _____ at 9 o'clock a.m. for the purpose of;

- a. Considering the statutory report
- b. And of considering all other business which ought to be conducted at such statutory meeting.

NOTE: A member entitled to attend and vote at the meeting is entitled to appoint one or more proxies to attend and vote in his stead. A proxy need not be a member of the company.

Dated this _____ Day of _____ 20_____

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By Order of the Board

Company Secretary

QUESTION 92

Draft the notice of Annual General Meeting.

ANSWERS

**AGOR LUCKY LIMITED
RC NO 0867**

NOTICE OF 7TH ANNUAL GENERAL MEETING

NOTICE IS HEREBY GIVEN that the Seventh Annual General Meeting of members of Agor Lucky Limited will be held at the Conference/Banquet Hall, Sheraton Hotels and Towers, Maitama, Abuja on 20TH February 2022 at 10.30 am to transact the following business.

Ordinary Business

- 1) To receive and consider the financial statement for the year ended 31st December together with the Directors and Auditors' Report thereon. (To receive the Report of the Audit Committee)
- 2) To declare a final dividend _____

Special Business

- 1) To approve the remuneration of the Directors.

NOTE: A member entitled to attend and vote at the meeting is entitled to appoint one or more proxies to attend and vote in his stead. A proxy need not be a member of the company.

Dated this _____ Day of _____ 20_____

By Order of the Board

Company Secretary

QUESTION 93

State five (5) circumstances in which a director can be made to vacate his office.

ANSWERS

A person appointed director will vacate his office if he:

1. Ceases to be director as a result of failing to meet up with share qualification
2. Becomes bankrupt
3. Becomes prohibited from becoming a director by reason being fraudulent
4. Becomes of unsound mind; or
5. Resigns his office by notice in writing to the company.

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QUESTION 94

State the procedure for the removal of a company secretary in a public company.

ANSWERS

The procedure for the removal of public companies secretary is as follows;

1. The Board of Directors must issue a notice to the Secretary containing the following;
 - i. An intention to remove.
 - ii. Reasons for the removal.
 - iii. An option to resign within 7 days.
 - iv. An option to enter a defence within 7 days.

NB: If the Secretary neither resigns nor enters his defence or responds to the notice, such Secretary may be removed by the Board of Directors and a notification shall be made to members at the general meeting.

2. If the Secretary enters a defence and such defence is not satisfactory, the Secretary may be removed on the following grounds;
 - i. If the offence is a great misconduct or if it relates to fraud, such Secretary may be removed.
 - ii. If the offence is a minor offence, such Secretary will only be suspended.
3. If the Secretary is suspended, notice of suspension shall be sent to members at general meeting and if the members ratify such suspension, it will amount to removal and the date of removal shall be the date of his/her suspension. Section 333 (1) - (4) of Companies and Allied Matters Act 2020.

QUESTION 95

State at least 5 matters to be included in the agenda of the notice of the first meeting of the Board of Directors of Floxy Beauty Touch Plc

ANSWERS

The businesses to be transacted at the first board meeting include:

1. Appointment of the Chairman of the board.
2. Receipt and adoption of the certificate of incorporation,
3. Adoption of the company seal,
4. Appointment of Managing Director.
5. Appointment of FIRST Auditor.
6. Appointment of legal practitioner.
7. Appointment of Accountant.
8. Fixing the Financial Statement of the year of the company which is

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known as Accounting Reference year.

QUESTION 96

Mention at least 5 matters which require special resolution.

ANSWERS

1. Alteration of the Article
2. Change of name
3. Reduction of share capital
4. Change of objects
5. Re-registration of a public company as private

QUESTION 97

React to an objection to the minutes of meeting of a company on the ground that it is in the form of loose sheets or electronic form such as CD, DVD etc.

ANSWERS

The minutes of meeting of a company must be entered in books kept for that purpose. The minutes books may be in bound books; loose leaves. Pasted or not; photographic film or any information storage device. If the minutes are entered in any other form aside bound books, precautions should be taken for guarding against falsification and for facilitating its discovery. Section 731 (1) - (4) of Companies and Allied Matters Act 2020

QUESTION 98

State and explain the four modes by which a person can acquire shares of a Company and become a member of the Company?

ANSWERS

1. **Subscription:** Upon registration, the subscribers to the Memorandum of Association shall become members and their names must be inserted in the register of members. Note: The first members of the company acquire their membership by subscription. They must together subscribe to shares amounting in value to at least 25 percent of the authorised share capital.
2. **Allotment:** Upon an application for shares by an individual, the company may allot shares to him by notifying him of the company's acceptance of the offer made in his application. He then becomes a member and is entitled to have his name entered in the Register of Members. Note: Where the company accepts the application, the company is expected to make an allotment to the applicant and within forty two (42) days notify the applicant of the fact of the allotment and the number of shares allotted to the applicant.
3. **Transfer:** This is where an existing member transfers all or part of

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his shares to another person. The instrument for transfer is called a deed of transfer and the parties involved are called the "transferor" and "transferee". Note that shares can also be transferred through electronic instrument of transfer.

4. **Transmission:** This is an involuntary transfer occurring on the death or bankruptcy of a member. The ownership of the shares, on the occurrence of such an event, will automatically vest (by operation of law) in the personal representatives in the case of a deceased member, and trustee in bankruptcy in the case of a bankrupt member respectively. Note: He shall become a member of the company upon the registration of his name in the Register of Members.

QUESTION 99

The members of a company sought to pass a resolution to re-register a company from private to public, increase its share capital etc. to revive the ailing company but the Board of Directors for selfish reasons refused. Identify the legal reasons and the appropriate minority protection suit that could be instituted by the members to revive the resolutions?

ANSWERS

Generally, by the virtue of Section 341 of Companies and Allied Matters Act 2020 and Foss v Harbottle, where any wrong is done to the Company, or there has been an irregularity in the management of the company, only the Company has the capacity to sue to remedy the wrong. However, where there is a wrong committed against the member or the company, the minority protection right arises. There are several minority actions that can be instituted by the members to revive the resolution including member's direct action, derivative action, investigation by the CAC, and petition based on grounds of oppressive and prejudicial conduct. The most appropriate minority protection suit that could be instituted to revive the resolution is derivative action because it is a wrong against the company.

QUESTION 100

State the conditions for derivative action.

ANSWERS

The court will only grant leave to bring a derivative action if the member satisfies the following conditions;

1. That the Director has been informed of the wrong.
2. That the Director has failed to take the necessary steps/actions.
3. That the application is in the best interest of the company.
4. That the applicant acted in good faith.
5. That the cause of action has arisen from an actual or proposed act or

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omission involving negligence, default, breach of duty or trust by a director or a former director of the company.

QUESTION 101

Mention the financial statements which the Directors of a Private Company are obliged to lay before the AGM?

ANSWERS

1. The balance sheet as the last day of the financial year;
2. A profit and loss account or, in the case of a company not trading for profit an income and expenditure account for the financial year;
3. Notes on the accounts;
4. The auditor's report;
5. The director's report

QUESTION 102

Comment on the propriety or otherwise of the validity challenging the appointment of an auditor of a company on the ground that he was appointed at the Annual General Meeting instead of the Board of Directors?

ANSWERS

Generally, the appointment of an Auditor of a Company is done at Annual General Meeting of the Company. It is only the appointment of the first Auditor that is done by the Board of Directors. Therefore, the contention that an auditor ought to be appointed by the board instead of Annual General Meeting is inappropriate.

QUESTION 103

Who can bring a petition for relief on the grounds of unfairly prejudicial and oppressive conduct?

ANSWERS

1. A member of the company,
2. The personal representative of a deceased member
3. Any person to whom shares have been transferred or transmitted by operation of law.
4. Director or officer or former Director or officer of the company.
5. Creditor;
6. Corporate Affairs Commission; or
7. Any other person who, in the discretion of the Court, is the proper to make the application

QUESTION 104

Who entitled to receive financial statement?

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ANSWERS

1. Every member of the company (whether or not so entitled);
2. Every holder of the company's debentures (whether or not so entitled); and
3. All persons other than members and debenture holders, being persons so entitled.

QUESTION 105

State the procedure for the allotment of shares to an applicant?

ANSWERS

1. Preparation of prospectus and registration with SEC.
2. Open a subscription list.
3. The names of the applicants shall be entered into the application and allotment sheet.
4. The board of directors or the allotment committee shall convene a meeting to discuss the following:
 - i. Those to whom they shall issue letters of allotment.
 - ii. Those to whom they shall issue letters of regret.
 - iii. How to deal with a letter of renunciation (if any). NB: the above should be done within 42 days of the application.
5. The allottees will be issued share certificates within 2 months.
6. The names of the allottees shall be entered into the register of members.
7. Returns of allotment shall be made to the CAC within 1 month in Form CAC 5.

QUESTION 106

State the procedure for creating a charge

ANSWERS

1. Convene Board meeting to pass resolution authorizing the loan and preparation of loan documents including prospects, if necessary.
2. Preparation, execution and stamping of the following documents; Deed of mortgage (charge by way of legal mortgage debenture); Power of Attorney (if any); Debenture Trust Deed (if any).
3. Obtain Governor's consent if necessary, and where necessary.
4. File the above documents at the Land Registry.
5. File the documents for registration at the CAC; i.e. Mortgage/Charge by way of Legal Mortgage or Debenture; Trust Deed and Particulars of Charge in Form CAC 9.
6. Leave copies of all documents for inspection at the registered office of the company, that is, in the Record of instruments, and enter particulars of the charge in the Register of Charges and also in the Register of debenture holders (Where applicable).
7. Obtain the Certificate of registration from the CAC and have a copy of

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the charge endorsed on every debenture or certificate of debenture stock issued by the company, the payment of which is secured by the charge.

QUESTION 107

Outline the procedure for full transfer of shares by a shareholder

ANSWERS

1. The transferor prepares a deed of transfer which is executed by both parties.
2. The transferor hands over to the transferee the following documents;
 - a. A copy of the share certificate.
 - b. A copy of the deed of transfer.
3. The copy of the deed of transfer shall be stamped at the stamp duties office.
4. The copy of the stamped deed of transfer together with the share certificate shall be sent to the company.
5. The board of directors shall pass a resolution approving the transfer and send to the CAC the returns of allotment in Form CAC 5 within 1 month.
6. Issuance of share certificate within 3 months of transfer.
7. Their names are entered into the register of members

QUESTION 108

Where all shares of a shareholder are transferred to his two sons, what is the type of transfer and outline the procedure for the transfer of shares by the shareholder

ANSWERS

Where an existing member transfers all his shares to two (2) or more persons such transfer is partial. The Procedures for Partial Transfer:

1. The transferor prepares the deed of transfer and it is executed by both parties.
2. The transferor stamps the deed of transfer at the stamp duties office.
3. The transferor send to the company, the following documents;
 - a. A copy of the stamped deed of transfer.
 - b. A copy of the share certificate which shall be marked certificate lodged.
4. The board of directors shall pass a resolution approving the transfer and send to the CAC returns of allotment in Form CAC 5 within 1 month.
5. Issuance of share certificate within 3 months of transfer
6. Entering of their names into the register of members

QUESTION 109

If you have been appointed as a Company Secretary of Bank of

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Commerce Plc., state the remedies available under the Law to recover the loan granted to another Company?

ANSWERS

The remedies available to the Debenture Holder in the event of failure of the Company to repay include:

1. Action to recover principal sum and interest
2. Action for recovery for principal and interest;
3. Debenture holder's action;
4. Power of sale;
5. Foreclosure action;
6. Valuation of security and proving the balance on winding-up; and
7. Appointment of Receiver/Manager.

QUESTION 110

State the effect of non-registration of a charge

ANSWERS

Debentures or charge should be registered with the CAC within 90 days of execution using Form CAC 9. Section 222 (1) of Companies and Allied Matters Act 2020. Where a company fails to register the debenture, it shall be void against the liquidator and the debenture holder (creditors).

QUESTION 111

Briefly explain the following terms;

- a. Capital Market Operators
- b. Primary Market
- c. Secondary Market
- d. Issuing House
- e. Right Issue
- f. Bonus Issue
- g. Initial Public Offer
- h. Hybrid Issue
- I. Capital gearing

ANSWERS

1. Capital Market Operators: These are stock brokers or professionals who render assistance to the public at the capital market.
2. Primary Market: This is where the company sells its shares by itself without the help of an external body.
3. Secondary Market - This is where the company sells its shares by an external body.

NB: there are two (2) types of secondary market:

- i. Organised Markets are markets with physical structures such as the NSE.

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- ii. Unorganised markets are markets that are conducted over the telephone or computer without physical structure and they are also known as over-the-counter markets.
4. Issuing House: These are houses that help companies present their documents for registration. They can act in two (2) capacities;
 - i. As an agent
 - ii. As an underwriter.
5. Right Issue: These are shares issued to existing members only. These shares are paid by members and failure to pay for such shares shall amount to a forfeiture of the shares.
6. Bonus Issue: These are shares issued to existing members only but which have already been paid for by the company.
7. Initial Public Offer: This is the first time the company offers its shares to the public.
8. Hybrid Issue: This is a combination of Right issue and Initial Public Offer.
9. Capital gearing: This is the combination of the ordinary shares and the preference shares as to its value. Where the ordinary shares are more than the preference shares, we have low capital gearing. Where the ordinary shares are equal with the preference shares, we have medium capital gearing. Where the preference shares are higher than the ordinary shares, we have high capital gearing

QUESTION 112

Distinguish between the ownership of shares and investment in collective investments schemes?

ANSWERS

1. A shareholder has individual rights in the Company but Unit holders have collective interest as their money loses its individuality.
2. Investors in collective investments schemes have participatory interest while shareholders are members of the Company.

QUESTION 113

Mention and explain the types of Collective Investments Schemes under the Investment and Securities Act 2007

ANSWERS

1. Unit Trust Scheme: This is where the manager only provides a single investment scheme. The unit trust is to be duly registered with SEC.
2. Trust Scheme - Where the manager offers several options of investment.
3. Open End Trust Scheme: Where the manager offers a flexible scheme of investment; where the manager or investor determines the

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one he wants.

4. Real Estate Trust Scheme - Where the manager is involved in housing estate. Note that a collective investment scheme must not be established, operated, carried on without authorization and registration by the Securities and Exchange Commission.
5. Community Trust Scheme: This is the oldest form of trust scheme where the members of the same community pool resources together in order to make profit. E.g. esusu.
6. Any other type of trust scheme which the SEC, by a notice published in a Gazette has designated as a collective investment scheme.

QUESTION 114

State the duties incumbent on a company upon the creation of a debenture secured by a charge

ANSWERS

1. Register the charge with the Corporate Affairs Commission
2. Enter the particulars of the property charged in the Register of Charges
3. Place a copy of the debenture in the Record of Instrument
4. Enter the particulars of the debenture holder in the Register of Debenture Holders.

QUESTION 115

Advise your client on steps to be taken to ascertain the existence or otherwise of any encumbrances on a company's property which is to be used in securing a debenture.

ANSWERS

1. Check property and interest of any person in possession
2. Examine register of debenture and debenture holders
3. Conduct search at CAC to ensure there is no previous charge on the property
4. Examine register of charges

QUESTION 116

State the rights of a shareholder.

ANSWERS

1. Right to dividend
2. Right to inspect company statutory books
3. Right to elect members of the board
4. Right to initiate proceedings in court for the protection of his personal rights
5. Right to attend meetings
6. Right to receive notice of meeting

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7. Right to petition for winding up
8. Right to receive financial statements of the company

QUESTION 117

State the records to be kept by a company upon the creation of debenture/charge

ANSWERS

1. Register of Charges
2. Record of Instruments creating charges
3. Register of Debenture Holders

QUESTION 118

State the methods of public offer/sale of securities

ANSWERS

1. Direct Offer/Prospectus Issue - In this case, the shares are issued to the issuing house as an agent. Where the issuing house acts as an agent, the company bears the liability of under subscription.
2. Offer for Sale - In this case, the shares are issued to the issuing house as an underwriter. Here, the issuing house bears the liability of under subscription.
3. Placement - In this case, the capacity in which the shares are issued is not relevant, rather the shares are issued to a select few.

QUESTION 119

Briefly explain the following terms:

- a. Perpetual debentures,
- b. Convertible debentures,
- c. Secured debenture,
- d. Naked debenture,
- e. Redeemable debentures.

ANSWERS

1. Perpetual Debenture: These are debentures created with an agreement not to redeem or redeemable upon the happening of an event. Section 196 of Companies and Allied Matters Act 2020.
2. Convertible Debenture: These are debentures created with an understanding that the debenture will be converted to shares. Section 197 of Companies and Allied Matters Act 2020.
3. Secured Debenture: These are debentures that are coupled with security which can either be fixed charge (land) or floating charge (shares). Section 198 (1) & (2) of Companies and Allied Matters Act 2020.
4. Unsecured/Naked Debenture: These are debentures that are coupled with no security. Section 198 (1) of Companies and Allied

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Matters Act 2020.

5. Redeemable Debenture: These are debentures created with an agreement to redeem on a fixed date. Section 199 of Companies and Allied Matters Act 2020.

QUESTION 120

What are the options available to an insolvent company under the extant law in Nigeria?

ANSWERS

1. Company voluntary arrangements
2. Company administration
3. Netting

QUESTION 121

Outline the features of Company voluntary arrangements

ANSWERS

1. Company voluntary arrangements (CVA) represent a shift from the traditional mindset that the only option available to an insolvent company is to be wound up.
2. The primary objective of Company voluntary arrangements is to restore a company to profitability so that it may be able to meet its financial obligations to its creditors.
3. Unlike other corporate insolvency arrangement options such as administration, a CVA allows directors to remain in control of the affairs of the company.
4. The approval by creditors of a company for a CVA only binds the Company and all unsecured creditors (including unsecured creditors that do not agree to the CVA). Secured creditors who do not consent to the CVA are not bound by the CVA and can enforce their security, notwithstanding the CVA.

QUESTION 122

State the procedure for Company voluntary arrangements

ANSWERS

1. A licensed Insolvency Practitioner must be contacted to create the arrangement and draft a written proposal after gathering the necessary information about the company's affairs.
2. Once the proposal has been reviewed by the directors the Insolvency Practitioner will then write to creditors and invite them to vote at a creditors' meeting.
3. The Insolvency Practitioner shall, within 28 days of receiving the notice of the proposal for a CVA, submit a report to the Federal High Court, stating whether, in his opinion, meetings of the company and

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of its creditors should be summoned to consider the proposal. Note that the above requirement for the nominee (Insolvency Practitioner) to submit a report to the Court only applies where the company is not in administration or winding up. Where the company is in administration or winding up, the nominee may proceed to summon the necessary meetings without recourse to the Court.

4. The meetings of the members and creditors are to be held separately.
5. Once the CVA has been approved and the Insolvency Practitioner has been appointed as the Supervisor, they will distribute a report to the court and the creditors detailing the information of the meetings that were held and the votes that were cast. Section 434- 438 of Companies and Allied Matters Act 2020.

QUESTION 123

Who can bring application to the court for administration order?

ANSWERS

1. The company;
2. Its directors;
3. One or more creditors of the company;
4. The designated officer of the Court appointed to act as a receiver

QUESTION 124

Who can appoint an administrator for a company?

ANSWERS

A person may be appointed as administrator of a company by:

1. An administration order of the Court;
2. The holder of a floating charge; or
3. The company or its directors. Section 443 (1) of Companies and Allied Matters Act 2020.

QUESTION 125

What is the difference between company voluntary arrangements and company administration?

ANSWERS

1. A company would go into administration if it was officially insolvent but remained viable. CVA's are usually done before the point of insolvency, as a means of avoiding that state of affairs being reached.
2. Companies in administration are under the control of insolvency practitioners whereas those under a CVA continue to be managed by directors.

QUESTION 126

What is netting?

ANSWERS

Netting entails offsetting the value of multiple payments due to be exchanged between two or more parties from the several contracts to achieve a reduced net obligation. See section 718 of Companies and Allied Matters Act 2020. For instance if “Company EASY” enters into a contract with “Company BENZ” (first contract) amounting to about N10 million in favour of “Company EASY” on the 6th of August 2021; and a second contract was executed on the 2 October 2021 amounting to N20 million between the same parties now in favour of “Company BENZ”. These two different agreements are individually valid and enforceable, however they may be combined by the process of netting so that eventually Company BENZ is settled by a single payment of N10 million from Company EASY.

QUESTION 127

Outline the regulatory bodies regulating Netting in Nigeria.

ANSWERS

1. Central Bank of Nigeria;
2. Securities and Exchange Commission;
3. National Insurance Commission;
4. National Pension Commission; and
5. Any other financial regulatory authority established by an Act of the National Assembly.

QUESTION 128

What are the benefits of netting agreement?

ANSWERS

1. Netting saves companies unnecessary waste of time and costs by reducing several deals entered into by corporations into a single transaction by narrowing the transaction and deal.
2. In the foreign exchange market, companies or banks can consolidate the number of currencies and foreign exchange deals into larger trades, reaping the benefits of improved pricing.
3. In situations where companies have more organized time frames and predictability in settlements, they can more accurately forecast their cash flows.
4. Netting is a method of reducing risks in financial contracts by combining or aggregating multiple financial obligations to arrive at a net obligation amount.
5. Netting is used to reduce settlement, credit, and other financial risks between two or more parties.

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QUESTION 129

Briefly explain the concept of corporate restructuring options.

ANSWERS

Companies undertake corporate restructuring options in case of financial difficulties or where the company has completed its objective or is not doing business that is a moribund state. Restructuring options available to companies undergoing financial difficulties are; Arrangement and Compromise, Management Buy-Out, Reduction in Share Capital, Merger, Take Over, Acquisition and Management Buy-In. On the other hand, for a moribund company, the restructuring options are Arrangement on Sale, Purchase and Assumption and Cherry Picking.

QUESTION 130

State the procedure for arrangement and compromise

ANSWERS

1. The board of directors prepares a scheme of arrangement which should be sanctioned by the board of directors. Note that a scheme of arrangement may be proposed between two or more companies who are members of another company.
2. A copy of the scheme of arrangement shall be sent to creditors and concerned members.
3. An application shall be made to the Federal High Court to convene the meeting by way of originating summons.
4. At the meeting, 75% of members must vote in support of the scheme of arrangement.
5. A copy of the resolution shall be sent to the Federal High Court for sanctioning.
6. The Federal High Court, before sanctioning, shall send the scheme and the resolution to the SEC for investigation.
7. Once the scheme has been sanctioned by the Federal High Court, it must be registered with the CAC within 7 days of making the order.
NB: Upon registration with the CAC, the scheme becomes effective.

QUESTION 131

State the procedure for arraignment on sale

ANSWERS

1. The Board of Directors must prepare a statutory declaration of solvency 5 weeks before the meeting containing the following;
 - a. A statement indicating that the company is willing to pay up its debt within 12 months of the commencement of winding up.
 - b. It must contain the assets and liability of the company.
 - c. It must be signed by a majority of directors.

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2. Membership notice is sent to members to convene the Extraordinary General Meeting.
3. The members pass a special resolution and appoint a liquidator to sell.
4. The dissenting members (those that disagree) shall notify the liquidator within 30 days and the liquidator has the following options;
 - a. He may cease to carry out the resolution.
 - b. He may enter an agreement as to how the shares are to be sold. (This is for private companies and for aliens; their negotiation shall be done by the SEC).
5. The liquidator re-convenes a meeting to render accounts.
6. Notification to CAC.

QUESTION 132

State the procedure for the merger of two companies with a combined turnover of four billion naira

ANSWERS

1. A party to a small merger may voluntarily notify the Federal Competition and Consumer Protection Commission (FCCPC) of the merger at any time.
2. SEC may within six (6) months after a small merger has commenced implementation, require the parties to the merger to notify it of the merger in the prescribed manner and form.
3. Within 20 working days of parties to a small merger having fulfilled notification requirements. Note: This can be extended by a single period not exceeding 40 working days. The FCCPC must notify the parties after the initial consideration, that it;
 - a. Approved the merger
 - b. Approved the merger conditionally
 - c. Prohibits the implementation of the merger
 - d. Declaration that it prohibits the merger if already implemented.
4. Where the FCCPC approves the merger; the parties shall apply to the court to sanction the merger.
5. Notification to Corporate Affairs Commission.

QUESTION 133

State the procedure for the merger of two companies with a combined turnover of ten billion naira

ANSWERS

1. A party to a large merger shall notify the FCCPC of the merger in the prescribed manner and form.
2. The primary acquiring company and the primary target company

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- shall each provide a copy of the notification to FCCPC to;
- a. Any registered trade union that represents a substantial number of its employees
 - b. The employees concerned or representatives of the employees concerned where there are no trade unions. Note: The parties shall not implement the merger until it is approved by the SEC.
3. The FCCPC will investigate or appoint inspectors to investigate the merger.
 4. The FCCPC shall, after receiving notice of a large merger, refer the notice to the court; and within 40 working days after all parties to a large merger, have fulfilled notification requirements, forward to the court a statement, detailing whether or not it has:
 - a. Approved the merger
 - b. Approved the merger conditionally
 - c. Prohibits the implementation of the merger by issuing a certificate.
 5. Notification to Corporate Affairs Commission.

QUESTION 134

Briefly explain the categories of merger under the extant law in Nigeria.

ANSWERS

1. Small merger: A Small Merger means a merger or proposed merger with a value at or below the lower thresholds as established from time to time by Federal Competition and Consumer Protection Commissions (FCCPC); currently the lower threshold for a small merger shall be below N5, 000,000,000.00 (five billion). Section 92(1) Federal Competition and Consumer Protection Act 2019
2. Large merger: A Large Merger means a merger or proposed merger with a value at or below the lower thresholds as established from time to time by Federal Competition and Consumer Protection Commissions (FCCPC); currently, the lower threshold for a small merger shall be N5, 000,000,000.00 (five billion) and above.

QUESTION 135

Briefly explain the classifications of merger under the extant law in Nigeria.

ANSWERS

1. Horizontal Merger: Horizontal mergers are the combination of two (2) or more companies in the same line of business. NB: these companies are usually rivals. E.g. merger of Access Bank and Diamond Bank.

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2. Vertical Merger: These are companies in the same sector of business but whose objectives are complementary in nature.

QUESTION 136

State the procedure for merger of incorporated trustees

ANSWERS

1. The parties to the merger must have similar aims and objectives.
2. The Resolution should be passed by 75% of the members of each of the associations.
3. Publication of application for merger in two daily newspapers circulating in the area where the associations are situated, one of which shall be a national newspaper.
4. The objections to the merger should be made to the Registrar-General of the Commission within 28 days of the last publication (if any).
5. Scheme of merger sanctioned by the Federal High Court

QUESTION 137

State the role of legal practitioners in the merger of two companies

ANSWERS

1. Conducting legal due diligence
2. Participating in the negotiation process
3. Drafting the memorandum of understanding, transaction implementation agreement, merger agreement and such other agreements that may be drafted such as exclusivity agreements.
4. Reviewing legal documentation and provide a legal opinion on actual and/or threatened litigation
5. Securing all necessary approvals
6. Ensuring the passing of all necessary resolutions required to effect the merger
7. Obtaining court hearing date for the proposed merger and obtain court order for court-ordered meeting
8. Obtaining court sanction for the merger scheme
9. Ensuring that proper procedure is followed and that the process is implemented in full compliance with all relevant legal requirement
10. Conducting the order of proceedings at the court-ordered meetings

QUESTION 138

State the role of legal practitioners in public offer of securities

ANSWERS

1. Ensuring the company is a public company: If it is a private company, the solicitor must ensure the proper procedures are followed for conversion from private to public company

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2. Ensure that the shares to be issued are within the nominal share capital of the company.
3. Ensure that all requirements of the Regulatory bodies are duly complied with.

QUESTION 139

With the aid of relevant authorities, write a reply on points of law to the contention that the Federal High Court lacks jurisdiction in all matters touching on shares of a company because such matters are now reserved for exclusion jurisdiction of the IST?

ANSWERS

The objection is wrong on the ground that the dispute in question touches on the shares of a company because issues relating to the operation of the CAMA and the internal affairs of a Company are within the exclusive jurisdiction of the Federal High Court by Section 251 of the Constitution (as amended); Garba v Sheba International Company Ltd. Although the Administrative Proceedings Committee of Corporate Affairs Commission has jurisdiction on shares as it's relates to private company. Section 851 of Companies and Allied Matters Act 2020.

QUESTION 140

State the procedure for dissolution of partnership by a partner

ANSWERS

1. Notice of dissolution by one of the partners to the other.
2. Preparation and execution of dissolution agreement.
3. Distribution of assets and liabilities.
4. Notice of cessation of business to the Registrar of Business Names.
5. Notice of dissolution should be inserted in the Gazette and at least 1 newspaper circulating the area of the partnership as notice to the public.

QUESTION 141

State the circumstances which a company may voluntarily wind up by passing an ordinary resolution.

ANSWERS

1. When the period fixed for the duration of the company by the articles expires.
2. The event, if any, occurs, on occurrence of which the articles provided that the company is to be dissolved.

QUESTION 142

State the grounds for compulsory winding up by the court.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. The company has, by special resolution, resolved that the company be wound up by the court.
2. Where there is default in delivering the statutory report to the commission or in holding the statutory meeting. Note that this is only applicable to a public company.
3. The number of members is reduced to less than two.
4. The company is unable to pay its debts.
5. The condition precedent to the operation of the company has ceased to exist.
6. The court is of the opinion that it is just and equitable that the company should be wound up. Section 571 of Companies and Allied Matters Act 2020.

QUESTION 143

State the persons who may petition for winding up by the court.

ANSWERS

1. The company
2. A creditor, including a contingent or prospective creditor of the company
3. The official receiver
4. A contributory
5. A trustee in bankruptcy to, or a personal representative of a creditor or contributory
6. The commission
7. A receiver if authorized by the instrument under which he was appointed
8. By all or any of those parties, together or separately. Section 573 of Companies and Allied Matters Act 2020.

QUESTION 144

Draft a petition for winding up.

ANSWERS

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO:_____

**IN THE MATTER OF OYEMECHI & SONS PLC
AND
IN THE MATTER OF COMPANIES AND ALLIED MATTERS
ACT 2020**

BETWEEN:

SAMPLE THEORY QUESTIONS AND ANSWERS

ZENITH BANK PLC -- PETITIONER
AND

ONYEMAECHI & SONS PLC. -- RESPONDENT

**PETITION FOR WINDING UP OF OYEMECHI
& SONS PLC**

The humble petition for the winding up of Onyemaechi & sons PLC., a company incorporated under the Companies and Allied Matters Act whose registered address is located at No 1 Wadena Close, Kano State, for the ZENITH BANK PLC, a financial Institution incorporate under the Companies and Allied Matters Act whose registered address is situated at No. 1 Benjamin Street, Off Agbor way, Garki, Abuja states as follows:

1. The above-named company was incorporates as a company limited by shares under the Companies and Allied Matters Act.
2. That the registered office of the company is situated at No 1 Wadena Close, Kano State.
3. That the object for which the company was established was the manufacturing, processing and exporting of sugar within and outside the country and as set out in paragraph 3 of the memorandum of association of the company.
4. The Share Capital of the company is N5, 000,000,000.00 (Five billion Naira) divided into 5 billion ordinary shares of N1.00 each.
5. Your petitioner states that on 3rd day of February 2018, the company borrowed the sum of N55, 000,000.00 (Fifty five Million Naira) from the petitioner as a mortgage under a deed duly executed between the petitioner and the company for the purpose of finance the setting up of its sugar factory.
6. That the mortgage sum taken by the company had become due for payment since December 2021.
7. Your Petitioner humbly pray the court for the following RELIEFS:
 - a. That the affairs of the company be wound up as provided under the Companies and Allied Matters Act;
 - b. That a liquidator be appointed by the court to effect the winding up and settlement of the mortgage sum owed the petitioner.

Dated this _____ Day Of _____ 20_____

PETITIONER'S COUNSEL
Inyene Ekpoattai Esq
Easread Legal Consult.
NO 18 KINGSWAY, MAITAMA, ABUJA.

FOR SERVICE ON:

THE RESPONDENT'S COUNSEL
Uzoma Norbert Esq.
Plot G1 Plaza Motel, Wuse, Abuja

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 145

State the grounds for dissolution of incorporated trustee.

ANSWERS

1. Where the purpose of which it was created has been fulfilled.
2. Where the purpose is against public policy.
3. Where it is just and equitable
4. Where the period has elapsed. Section 870 (2) of Companies and Allied Matters Act 2020.

QUESTION 146

State the persons who can petition for dissolution of incorporated trustee

ANSWERS

1. Governing bodies.
2. One or more trustees.
3. Members constituting at least 50%.
4. Corporate Affairs Commission. Section 870 (1) of Companies and Allied Matters Act 2020.

QUESTION 147

Distinguish between “Provisional Liquidator” and the “Official Receiver”.

ANSWERS

The “Provisional Liquidator” is a person appointed by the court upon the presentation of a petition for winding up to take charge of the properties pending the appointment of a liquidator while the “Official Receiver” means the Deputy Chief Registrar of the Federal High Court or an office designated for the purpose by the Chief Judge of the Court.

QUESTION 148

State the circumstance(s) under which members' voluntary winding up of a company may be converted to creditors voluntary winding up

ANSWERS

Members' voluntary winding up may be converted to creditors' voluntary winding up where the statutory declaration of solvency is not filed with the Corporate Affairs Commission. Section 634 of Companies and Allied Matters Act 2020.

QUESTION 149

State the circumstance(s) upon which an unregistered company can be wound up

ANSWERS

An unregistered company may be wound up by the court in the following circumstances;

1. Company is dissolved, or has ceased to carry on business or is carrying on business only for the purpose of winding-up its affairs,
2. The company is unable to pay its debts (an unregistered company is deemed to be unable to pay its debt if company is indebted to with the sum of N100,0000 and above and demand has been made to pay back, and the company neglect within the period of 21 days after winding up action can be brought by the creditor),
3. The court is of the opinion that it is just and equitable that the company should be wound up. Section 699 of Companies and Allied Matters Act 2020.

SAMPLE THEORY QUESTIONS AND ANSWERS

**SELF- ASSESSMENT
EXERCISE
ON
CORPORATE LAW
PRACTICE**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

Paul Terrace was instructed by his client, Mrs. Foy Awa to incorporate a company to be called Marjory Textiles Nigeria Limited. The company is to engage in the manufacturing of textile materials and the share capital of the company is N10, 000,000.00 divided into 10,000,000 ordinary shares of N1.00 each. Six months after taking instructions and his professional fees paid, Paul Terrace did not incorporate the company. He started avoiding and refused to take her calls. She later reported the matter to the Chairman of the NBA of which Paul Terrace is a member.

Mrs. Awa instructed another lawyer, Ikechukwu Lebo who finally incorporated the company for her. Over the years, the company has prospered in its business. At the 5th Annual general Meeting of the company, the members resolved that the company be re-registered as a public company and also increased its share capital from N10,000,000.00 to N100,000,000.00 in order to raise fund for expansion purposes.

Apart from the funds raised from the public offer of its shares, the company also borrowed the sum of N50,000,000.00 from Happy Bank Plc. at No.20, Benue Court, Apo, Abuja and mortgaged its weaving factoring at No.6, Ngwa Road, Aba. The legal mortgage in favour of Happy Bank Plc is dated the 29th day of January, 2022 and the registration fee payable is N500, 000.00. It was later registered on the 15th day of July, 2022.

- a) Draft the Memorandum of Association of the company excluding the subscription clauses and subscription box.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- b) State 3 matters each that will be contained in the ordinary and special businesses to be transacted at the Annual General Meeting of the company

ANSWER

- c) What type of resolution is to be passed for the re-registration of the company and state two consequential alterations each to be made in the Memorandum and Articles of Association of the company to bring it in line with that of a public company

ANSWER

- d) Draft the resolution increasing the share capital of the company

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- e) Complete the attached Forms 2.7 (DETACH AND ATTACH THE FORMS TO YOUR ANSWER SCRIPT).
- f) As the Company Secretary, state three returns you will make to the Corporate Affairs Commission and the period for filing each return

ANSWER

- g) Complete the attached Forms 9 (DETACH AND ATTACH THE FORMS TO YOUR ANSWER SCRIPT).
- h) State the period within which to register a charge and discuss the legal implication of failure to register the charge within the specified period.

ANSWER

- i) Briefly comment on the ethical implication of Paul Terrace's conduct towards Mrs. Awa and possible consequences.

ANSWER

- j) Give a checklist of the books to be kept by the company upon creation of the charge and state the mode of the discharge.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

Naira Rain Micro Finance Bank Plc, one of the fast growing micro-finance banks in Nigeria, has been having difficult business times due to the economic meltdown that hit the capital market where it invested the depositor's funds. It could not honour the depositor's demand for funds or pay accumulated dividends for preferential shareholders.

Many depositors have planned to stage a mass protest at the company's corporate office and threatened to petition the Economic and Financial Crimes Commission.

The Board of Directors of Naira Rain Microfinance Bank Plc. has consulted you for advice:

- a) Outline the various corporate restructuring options available under the Nigerian Corporate Law and Practice and recommend a suitable option to salvage the company.

ANSWER

- b) Assuming in your advice in (a) above, you favoured a scheme of arrangement involving internal re-organization of the company whereby the depositors and the preferential shareholders would relinquish their credits in lieu of shares in the company, outline the procedure to adopt to actualize the scheme under Companies and Allied Matters Act of Nigeria.

ANSWER

- c) List at least 3 relevant documents that would be prepared under the scheme of arrangement as in (b) above.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- d) Outline the key steps to be followed should Naira Rain choose to merge with Dollar Rain Microfinance Bank Plc.

ANSWER

- e) Briefly mention the grounds for the revocation of a merger approval of the Securities and Exchange Commission (SEC).

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

VINTAGE EXPRESS LIMITED - SUMMARY OF THE ACTIVITIES OF THE BOARD OF DIRECTORS

1st Board meeting was held on 1st April 2011 at Lagoon Hotel Sokoto
6th Board meeting was held on 30th May 2017. The directors did not meet physically; one of the directors was available in Nigeria signed the resolutions forwarded to him by the Company Secretary. The other two directors communicated their consent to the Company Secretary via e-mail.

8th Board meeting was held on 8th January 2018 at the Company's Conference Hall. Two of the directors present resolved to form a business named "Vintage Messengers" as a subsidiary of the Company.

(The decision to form Vintage Messengers was subsequently approved by the members in the next Annual General Meeting).

9th Board meeting was held at the Company's Conference Hall on 17th April 2018. It was resolved that Vintage Messengers should form a partnership with Mr. Xing a Chinese merchant.

- a) Draft the Notice of the first meeting of the Board of Directors held on 1st April 2011.

ANSWER

- b) Comment on the validity or otherwise of the resolutions by the Board on 30th May, 2017.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) Advise the company on whether it is necessary or not for the company to set-up Vintage Messengers.

ANSWER

- d) Mention the documents that must be presented to the Commission in order to register the business name

ANSWER

- e) Draft the introductory clause of the partnership agreement between Vintage Messengers and Mr. Xing.

ANSWER

- f) Advice the company on the major steps to be taken to ensure that the business Vintage Messengers and Mr. Xing does not offend the provisions of the law.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4 A

The crisis in the banking sector of the Nigerian economy is not over yet. The CBN's sack of the Chief Executives and executive directors of eight banks and injection of N620million convertible loans into the banks only averted the crisis for a few months. The subsequent acquisition of qualifying non-performing loans (NPLS) from all the banks by the Asset Management Corporation of Nigeria (AMCON) and injection of equity in to the banks could not be aid to have ended the crisis. According to reports, the negative asset value of the eight rescued banks as at December 31st, 2016 stood at N1.28 trillion despite all the efforts of the CBN – appointed management of the banks. By April 2017 CBN directed that the rescued banks must devise a strategy for restructuring and capitalization before 30th September 2017 or face liquidation.

- a. Comment on the validity of the strategies employed by the following banks:
 - i) The general meeting of Equatorial Trust Bank Limited accepted an oral takeover bid by UBA Plc by unanimous resolution dated the 14th day of May 2018 as a result of which the bank was taken over by UBA Plc.

ANSWER

- ii) The management of Spring Bank Plc with the approval of the general meeting donated N50million to the campaign of a prominent political party with the hope that if it wins in the election of May 2019 it will use its influence to save the bank from liquidation.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- iii) The Executive Directors of Fin Bank Plc who are also the shareholders of the bank sold 30 of the 42 branches of the Bank to GT Bank by a resolution passed at a meeting held without notice to the four non-executive directors of the Bank because the non-executive directors are not shareholders of the Bank and so “had nothing to lose” top put it in their words.

ANSWER

- b. Comment on the following;
- i) Assuming all the directors of the rescued banks who are the only shareholders of the bank died in a plane crash on the way to a meeting with a core-investor in London, what will be your advice to the creditors of the bank

ANSWER

- ii) Access Bank Plc. and Intercontinental Bank Plc. have decided to merge.
- a) Mention 3 regulatory authorities that may have role to play in the business combination.

ANSWER

- b) State 3 laws that will regulate the business combination

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- c) As a solicitor to Access Bank Plc, state 5 areas of Intercontinental Bank you may have to conduct due diligence

ANSWER

- d) State 5 principal provisions you will include in the merger agreement between the two banks.

ANSWER

- e) State 5 of your role as a solicitor engaged for the merger of the two banks.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4B

The modern world summit of Nigerians in Diaspora Organization (NIDO) held in Dubai, U.A.E in July 2014. One of the main resolutions of the summit is the establishment of a commercial bank to give loan facilities to young Nigerian professionals depositing their certificates as collateral security professional support bank, to stem their emigration abroad in search of greener pasture. They are bothered by the challenge of transparency in corporate governance and desire to know if there is any legal regulatory framework benchmarked on the Organization for Economic Cooperation and Development (OECD) and other modern codes for commercial banks in Nigeria.

- a) List the codes so far produced by regulatory institutions to compel Institutions to institutionalize good corporate governance in Nigeria.

ANSWER

- b) How has the codes identified above affected:

- i) The combination of the positions of Chairman and Managing Director/Chief Executive Officer in an individual

ANSWER

- ii) Tenure of office of a Bank's Managing Director; and Non-Executive Directors

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- iii) The quantum of shares individuals may now hold in commercial banks in Nigeria.

ANSWER

- c) Give a check list of the OECD principles

ANSWER

- d) List the codes so far produced by regulatory institutions to compel Institutions to institutionalize good corporate governance internationally.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

A. Mr. Emeka Ade is a sole legal practitioner based in Abuja. He is one of the solicitors to Delta Oil Group Plc. based in Port Harcourt, Rivers State, Nigeria. In January, 2008, Mr. Emeka Ade negotiated the purchase of "Camp Five" oil rig in the Escravos on the instruction of Delta Oil Group Plc. from Elyon Producing (Nigeria) Limited for the sum of \$100 Million (USD).

His client agreed to pay him 5% of the purchase price has professional fees. The relationship of Mr. Emeka Ade and Delta Oil has since turned sour over the company's refusal to honour their agreement to pay the professional fee of \$5Million (USD) 1½ years after the transaction despite repeated demand. He intends to file a petition before the relevant court in Port-Harcourt to wind up the company.

Answer the following questions:

- a) Comment on the chances of success of Mr. Ade Emeka's proposed action against his estranged client. State the appropriate court for the proposed action.

ANSWER

- b) Draft the petition for winding up on behalf of Mr. Ade Emeka

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) Prepare a Bill of Charges in respect of the above transaction on behalf of Mr. Ade Emeka.

ANSWER

- d) Mr. Ade Emeka wants to know the grounds on which a company may be wound up by the court. Advise him

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 6

Dangote Nig Limited Was incorporated on March 11, 2021 with the object of processing Yam flour for export purposes. The Directors of the Company are: Chief Donald, Chief Fola Oyinda and Chief Dami all of No.1, Agbani Road, Enugu. After one year of incorporation of the Company the board of directors of the Company discovered that one of the directors, Chief Dami, a life director was revealing some trade secrets of the Company to a rival company for a fee. A meeting of the Board of Directors was summoned the same day and Chief Dami was removed as a Director of the Company, while Mr. Laudis green was appointed as a Director to fill the casual vacancy.

At the first Annual General Meeting of the Company held on 15th August, 2022, it was resolved that the Share Capital of the Company be increased from Five Million Naira (N5,000,000:00) divided into Five Million ordinary shares of One naira each to Twenty Million Naira (N20,000,000:00) divided into Twenty Million ordinary shares of One Naira each. The shareholding equilibrium is to be maintained.

Answer the following questions:

- a) Who appoints the first Directors, additional directors and directors to fill casual vacancy under the Companies and allied Matters Act Cap 2020?

ANSWER

- b) Explain in details the rules guiding retirement by rotation of directors under the extent laws(s) in Nigeria.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) When is the first Annual General Meeting of the Company in the above scenario supposed to hold? Draft the notice of the first Annual General Meeting of the Company

ANSWER

- d) Advise Chief Dami on the propriety or otherwise of his removal as a director of the Company.

ANSWER

- e) Who is an alternative director.

ANSWER

- f) From the scenario, mention the returns the Company secretary will make to the Corporate affairs commission and the prescribed period of making that said returns.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- g) Outline five matters to be transacted at the first board of directors meetings

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

**MARKING SCHEME FOR SELF -
ASSESSMENT EXERCISE**

QUESTION 1

A.

THE FEDERAL REPUBLIC OF NIGERIA
THE COMPANIES AND ALLIED MATTERS ACT 2020
COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION
OF
MARJORY TEXTILES NIGERIA LIMITED
(Or MARJORY TEXTILES NIGERIA PLC)

1. The name of the company is "MARJORY TEXTILES NIGERIA LIMITED (or MARJORY TEXTILES NIGERIA PLC)
2. The registered office of the company will be situated in Nigeria.
3. The business for which the company is established is the manufacturing of textile materials.
4. The company is a private company (or public company).
5. The liability of the members is limited by shares.
6. The share capital of the company is N10, 000,000.00 divided into 10,000,000 ordinary shares of N1.00 each.

B.

Ordinary Business of Annual General Meeting:

1. Declaration of dividend
2. Presentation of the financial statements and directors and auditors report
3. Election of directors in the place of those retiring
4. Appointment and fixing of the remuneration of the auditors, and;
5. Appointment of the members of the audit committee

Special Business may be;

1. To alter the object clause of a memorandum
2. To change the name of a
3. To alter any provision in the memorandum
4. To reduce the capital on the authorization of the article and with the consent of the court
5. To alter the articles of association of a company
6. For appointment or approving the appointment of a director over 70 years for public companies
7. To remove a director before the expiration of his term of office
8. To appoint as director some other person instead of the director so

SAMPLE THEORY QUESTIONS AND ANSWERS

- removed at the meeting at which he is removed
9. To remove an auditor before the expiration of his term of office
10. Conversion of company

C.

Special resolution is required.

The alterations to be made in the memorandum are:

- a) Name clause will be changed to public limited company (Plc)
- b) Status will be changed to public company
- c) Capital shares must show N100,000,000.00 instead of N10,000,000.00

While for the articles are:

- a) The name must end with PLC
- b) Provision for written resolution must be deleted
- c) Provision for restriction of transfer of shares be deleted

D.

MARJORY TEXTILES NIGERIA LIMITED

RC NO. 1234

(Any Address)

RESOLUTION TO INCREASE SHARE CAPITAL

Pursuant to the relevant section of the Companies and Allied Matters Act 2020

At the 5th Annual General Meeting of Marjory Textiles Nigeria Limited held at _____ on _____ the following resolutions was proposed and passed:

“The capital of the company be increased to N100,000,000.00 by the creation of 90,000,000 ordinary shares of N1 each, such new shares to rank parri passu in all respects with the existing ordinary shares in the capital of the company”.

Dated this _____ Day of _____ (date of exams)

Director

Secretary

E. CAC 2.7

F.

Statutory Returns:

These include but not limited to the following:

1. A copy of resolution - within 15 days after the resolution is passed.

SAMPLE THEORY QUESTIONS AND ANSWERS

2. Notice of removal of Director or Secretary - within 14 days after the removal.
3. Notice of increase in share capital - within 15 days.
4. Statutory report - within 14 days.
5. Annual returns - within 42 days.
6. Returns of allotment - within 1 month.
7. Register of Charges - within 90 days.

G. FORM CAC 9

H.

Every charge created in accordance with the provision of law is a registrable instrument which must be delivered to the commission for registration in the manner participated to the commission for registration in the manner prescribed within 90days after the date of creation - s.222 (1) CAMA 2020. They are void against any liquidator and any creditor of the company if not registered.

I.

It amounts to breach of trust and a breach of professional responsibility, he may be sued to refund the fees collected and be reported to the NBA and further to the Legal Practitioner disciplinary committee for punishment. Rule 1 RPC.

J.

The books to be kept are;

1. Register of Charges
2. Register of debenture holder
3. Register of Instrument

It is discharge by form CAC 10 (memorandum of satisfaction) and Deed of release or surrender

QUESTION 2

- a. The various corporate restructuring options available under Nigerian corporate law are:
 1. Merger
 2. Take-Over
 3. Arrangement or Compromise
 4. Arrangement on Sale
 5. Management Buy-Out
 6. Share reconstruction/Consolidation
 7. Increase of share capital
- b. The most appropriate upon in the circumstance is arrangement or compromise under Section 710 of CAMA 2020. In view of the company's inability to meet its financial commitments to its depositors and shareholders, it will be appropriate to explore the possibility of persuading the depositors to accept an amount less than what they are entitled to under Section 710.

The procedure for Arrangement or Compromise is contained in Section **710 CAMA 2020**.

1. The board of director prepares a scheme of arrangement
 2. Application in a summary way should be made to the court by the company, creditors or members for an order convening a meeting
 3. A special resolution passed by the affected class of creditors approving the scheme of arrangement or compromise;
 4. An application for order of court sanctioning the scheme of arrangement as endorsed by the special resolution;
 5. The court shall refer the scheme to the Securities and Exchange Commission for the investigation of the fairness
 6. SEC shall make a written report to the court within a specified period;
 7. If the court is satisfied as to the fairness of the arrangement or compromise, it shall sanction it and the scheme shall become binding on all the affected creditors of the company.
 8. Notification send to Corporate Affairs commissions
- c.** The 3 relevant documents are;
1. Scheme of arrangement
 2. Notice of meeting
 3. Special resolution of the creditors sanctioning the scheme of arrangement
 4. SEC Report on fairness or otherwise of the scheme
 5. Order of court convening a meeting
 6. Order of court sanctioning the scheme of arrangement

SAMPLE THEORY QUESTIONS AND ANSWERS

- d. The appropriate procedure will depend on the category of merger contemplated i.e. small or large merger. Since there is no specification on the category, there is no uniform procedure.
- e. The grounds for the revocation of a merger approval are ;
 - 1. Where the approval was based on **incorrect information** for which a party to the merger is responsible
 - 2. The approval was **obtained by deceit**; or
 - 3. A company concerned in the merger has **breached an obligation attached** to the decision

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

A.

**VINTAGE EXPRESS LIMITED
RC No 1234
NOTICE OF FIRST BOARD MEETING**

NOTICE IS HEREBY GIVEN that the first board meeting of the company is scheduled to take place at _____ on the 1st April 2011 at 10.00am to transact the following business:

1. Appointment of Managing Director
2. Appointment of Auditor
3. Allotment of Shares
4. Adoption of the Common Seal
5. Appointment of Bankers
6. Fixing of the financial year
7. Adoption of pre-incorporation contracts

Dated 18th _____ Day Of _____
(Date of exams)

By Order of the Board
Company Secretary

B.

By Section 259 CAMA 2020 a written resolution signed by all the members entitled to attend and vote shall be as valid and effective as if passed in a general meeting. The directors do not have to meet physically. However only one of the directors signed the resolution and Consent via email cannot be same thing as signing the resolution. Hence the written resolution is inappropriate.

C.

A company being a legal person can form a business name. Vintage Messengers can be formed for business convenience.

D.

The documents that must be presented to the Commission in order to register the business name are;

1. 2 Copies Application Form (FORM 1-FIRMS) and (FORM 2 -INDIVIDUALS);
2. Form CAC 1-Availability and Reservation of Name
3. CAC/BN/A1-Form of application for registration of Business Name
4. 2 Passport photographs of each individual

SAMPLE THEORY QUESTIONS AND ANSWERS

5. Tax Clearance Certificate of each individual;
6. Qualifying Certificate; and
7. Registration Fees

E.

THIS PARTNERSHIP DEED IS MADE THIS _____ DAY OF _____ BETWEEN VINTAGE EXPRESS LIMITED (A COMPANY REGISTERED UNDER CAMA) TRADING UNDER THE NAME & STYLE OF "VINTAGE MESSENGERS" OF THE ONE PART AND MR XXLING, MERCHANT OF THE OTHER PART.

F.

The Chinese partner must take steps to comply with the provision of the relevant legislations which includes:

1. Incorporation of the company under section 78 CAMA 2020
2. Registration of securities under the ISA
3. Registration of securities under the ISA
4. Immigration Act
5. Foreign Exchange (Monitoring and Miscellaneous Provisions) Act
6. Nigerian Investment Promotion Act

QUESTION 4 A

A (i)

Takeover bid is not capable of acceptance by a private company whether or not there is a unanimous resolution to do so by the private company because a takeover bid must be in a document, Section 136(1) ISA. The acceptance of an oral takeover bid by the **unanimous resolution** of Equatorial Trust Bank dated 14th day of May 2018 can therefore not stand.

A (ii)

A company must not directly or indirectly make a donation or gift of any of its properties or funds to a political party or a political association. The decision of the management of Spring Bank Plc and the approval of the general meeting to make donation to a political party are contrary to law and therefore the money must be refunded by the officers and those who vote to approve the donation

A (iii)

Notice of every general meeting of a company must be given to all directors in the company whether or not they own shares in the company or they are executive or non-executive directors. If the meeting whereat the resolution was passed to sell 30 of the 42 branches of the bank is taken as a resolution of general meeting of Fin Bank Plc the resolution will be invalidated for failure to give notice to the non-executive directors of the company unless it can be shown that such to give notice is due to accidental or omission or inadvertence.

Every notice of board of directors' meeting must also be given to all, as any resolution passed at the board meeting is invalid. By reason of the above the resolution to sell 30 of the 42 branches of Fin Bank Plc to GT Bank cannot stand. FBN v Longe

B (i)

In the event of all the directors and the shareholders of a company (i.e. a bank) dying any of the personal representatives shall be able to apply to court for an order to convene a meeting of all the personal representatives of the shareholders entitled to attend and vote at a general meeting to appoint new directors to manage the company (including meeting obligation of the company to its creditors) and if they fail to convene a meeting the creditors can do so. S. 273 (2) CAMA 2020
Therefore, the death of the **MDs only** who are also shareholders of the company will leave the company with other directors who can carry on the management of the company including meeting its obligations to the creditors.

SAMPLE THEORY QUESTIONS AND ANSWERS

B (ii) (a)

- a. Central Bank of Nigeria
- b. Federal Competition and Consumer Protection Commission
- c. Corporate Affairs Commission
- d. The Nigerian Stock Exchange
- e. Federal High Court

B (ii) (b)

- a. Federal Competition and Consumer Protection Act
- b. Banks & Other Financial Institutions Act
- c. CBN Act
- d. Federal High Court Act
- e. AMCON Act
- f. Companies and Allied Matters Act

B (ii) (c)

- 1. The ownership of the bank
- 2. The directors
- 3. The date of registration
- 4. Currency of banking license
- 5. Filing of annual returns
- 6. Returns to CAC
- 7. All the statutory books
- 8. All titles to properties
- 9. All indebtedness
- 10. All claims and litigations
- 11. Legal status of assets and liabilities
- 12. All agreement relating to all forms of business combinations
- 13. Collective agreements with workers

B (ii) (d)

- 1. Parties to the merger
- 2. Basic terms of the transaction
- 3. Representation and warranties
- 4. Employee matters
- 5. Financial statements
- 6. Covenants and undertakings

B (ii) (d)

- 1. Giving advice at every stage of the transaction
- 2. Conducting due diligence
- 3. Participating in the negotiating process
- 4. Drafting of memorandum of understanding (MOU)

SAMPLE THEORY QUESTIONS AND ANSWERS

5. Drafting of Transaction Implementation Agreement (TIA)
6. Drafting the Merger Agreement
7. Securing all necessary approvals
8. Ensure that the details are correct

QUESTION 4 B

A.

1. Code of Corporate Governance for Banks and Other Financial Institutions in Nigeria issued by the Central Bank of Nigeria.
2. Code of Corporate Governance for Public Companies in Nigeria 2011 issued by SEC.
3. Codes of corporate governance for insurance industry in Nigeria 2009
4. Code of corporate governance for pension operators 2008
5. Code of corporate governance for Telecommunication 2014

B.

(i)

To ensure transparency and avoid the dominance of an individual in the managing the affairs of companies including banks, code abolished the concentration or combination of the positions of Chairman and Managing Director/Chief Executive Officer in an individual.

(ii)

The Code limits the nature of office of a Bank's Managing Director to maximum of 10 years of 5 years each of two terms and for non-executive directors it is maximum of 12 years of 4 years each and three term.

(iii)

An individual should not own 5% of the share capital of the bank.

C.

1. Ensuring the basis for an effective corporate governance framework
2. The rights of shareholders and key ownership functions
3. The equitable treatment of shareholders
4. The role of shareholders and stakeholder in corporate governance
5. Disclosure and transparency
6. The responsibilities of the board

D.

1. OECD Principle of corporate governance 2004
2. UK combined code on corporate governance 2007
3. EU combined code on corporate governance 2011
4. UN Global Compact on Business human right 2011

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

A. Federal High Court

B.

**IN THE FEDERAL HIGH COURT OF NIGERIA
IN THE PORT HARCOURT JUDICIAL DIVISION
HOLDEN AT PORTHARCOURT**

SUIT NO._____

**IN THE MATTER OF DELTA OIL GROUP PLC
AND**

**IN THE MATTER OF COMPANIES AND ALLIED MATTERS
ACT 2020**

BETWEEN

MR EMEKA ADE

--

PETITIONER

AND

DELTA OIL GROUP PLC

--

ESPONDENT

PETITION FOR WINDNG UP

The humble petition of Mr. Emeka Ade (Petitioner) of _____ is presented for filing based on the ground of inability of the Respondent to pay 15% of \$100 Million (USD) based on the following facts:

1. The Petitioner is a Sole legal practitioner with his office at Federal Capital Territory, Abuja.
2. The Respondent is a company incorporated in accordance with provisions of Companies and Allied Matters Act, 2004.
3. The Respondent agreed to pay 15% of \$100 Million (USD) as professional fee to the Petitioner
4. The Petitioner has demanded for payment of his professional fee and the Respondent has refused, failed and or neglected to settle his indebtedness.
5. The Petitioner prayer for the winding up of the Respondent Company.

Dated this _____ day of 20____.

Frank Mbaise, Esq.
Any Address

FOR SERVICE ON
DELTA OIL GROUP PLC

SAMPLE THEORY QUESTIONS AND ANSWERS

C.

[LETTER HEAD]

[DATE]

The Managing Director,
Delta Oil Group Plc

Dear Sir,

**RE: BILL OF CHARGE IN RESPECT OF NEGOTIATION FOR
PURCHASE OF CAMP FIVE OIL RIG ON YOUR BEHALF,
DEMAND FOR 50% OF \$100 MILLION (USD) AS
PROFESSIONAL FEE**

We refer to the above captioned and hereby forward the bill of charge as itemized below:

ITEMS

1. Fee in respect of negotiation for purchase of Camp Five Oil Rig in the Escravos from Elyon Producing (Nigeria) Limited.
2. Professional fee for \$100Million at 5% \$5Million (USD)
Total: \$5 Million (USD)

Dated this _____ day of August 2018.

Yours Faithfully,
Emeka Ade, Esq.

D.

- i. The company has special resolution resolved that the company be wound up by the court.
- ii. Default is made in delivering the statutory report to the CAC or in holding the statutory meeting
- iii. The number of members is reduced below two
- iv. The company is unable to pay its debts; and
- v. The court is of the option that it is just and equitable that the company should be wound up.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 6

- a. First directors are appointed by subscribers to the memorandum of association, additional directors are appointed by members at general meetings and causal vacancy are filed by board of directors where the members fail to appoint a director upon removal. 272, 273 and 274 CAMA 2020.
- b. The rule on rotation of Directors as provided for under Section 285(1), (2) & (3) CAMA to the effect that except as stated in the Articles of Association of the Company, at the first Annual General Meeting of the Company, all Directors shall retire from office except for life directors and shadow directors and subsequent Annual General Meetings, 1/3 or the number nearest to 1/3 of the directors will retire. Note; after ascertaining the numbers that would retire, they retire by those appointed first in office. Also, where the directors were appointed on the same day, they have must agree among themselves who should retire failing which, the question should be decided by lot.
- c. The first Annual General Meeting of the Company must be held within 18 months of incorporation. S.237 CAMA. Therefore from the above scenario the Annual General Meeting of the Company should have been held not later than 10TH September 2016.

**DANGOTE NIG. LIMITED
RC NO 0867
NOTICE OF 1ST ANNUAL GENERAL MEETING**

NOTICE IS HEREBY GIVEN that the First Annual General Meeting of members of Donald Nig. LIMITED, will be held at the Conference/Banquet Hall, Sheraton Hotels and Towers, Maitama, Abuja on 27TH June 2017 at 9.30 am to transact the following business.

Ordinary Business

1. To receive and consider the financial statement for the year ended 31st December together with the Directors and Auditors' Report thereon.
(To receive the Report of the Audit Committee)
2. To declare a final dividend_____

Special Business

1. To approve the remuneration of the Directors.

Dated this 27th Day of June 2017
By Order of the Board
Company Secretary

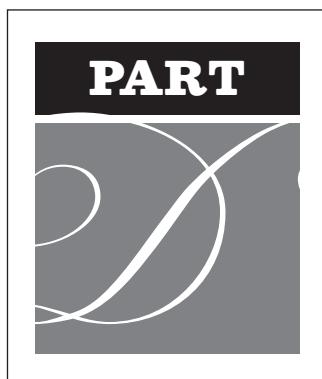
SAMPLE THEORY QUESTIONS AND ANSWERS

- d. Generally, a life director is not subject to retirement by rotation as provided in S. 281 CAMA, but he may be removed in accordance to S. 288 CAMA. Hence is removal by the board of director is inappropriate as such removal ought to be done at the general meetings by members.

My advice is that he institutes an action in court for his wrongful removal and he should be reinstated and if the company is still desirous of his removal it should be done by members at general meetings

- e. An Alternative Director is a director appointed under the articles to act in place of a substantive Director whenever he is absent for the purpose of attending board of director meetings.
- f. The company secretary must make the following returns to Corporate Affairs Commission;
1. Notice of Change of Director in the prescribed form within 14 days
 2. Notice of Increase in Share Capital In prescribed form within 15 days
 3. Resolution for increase in share capital within 15 days
 4. Returns of Allotments in the prescribed form within 1month
- g. The matters to be considered by the Board of Director at the first Board of Directors meetings are;
1. Appointment of Company Secretary
 2. Appointment of Auditor
 3. Appointment of Managing Directors
 4. Adoption of the Common Seal
 5. Adoption of the certificate of incorporation

SAMPLE THEORY QUESTIONS AND ANSWERS



**THEORY
QUESTIONS
AND ANSWERS**

ON

**CIVIL
LITIGATION**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

State the various sources of Civil Procedure?

ANSWERS

1. Rules of court
2. Statute creating the court
3. Other Statute
4. Constitution
5. Decisions of the court on procedure
6. Practice Directions

QUESTION 2

State the court that has jurisdiction in respect of a dispute between the President of the Federal Republic of Nigeria and the National Assembly.

ANSWERS

The court with jurisdiction is the Supreme Court. Section 1(1) of the Supreme Court (Additional Original Jurisdiction) Act 2002

QUESTION 3

Comment on the competence of the Federal High Court to entertain a claim based on simple contract?

ANSWERS

Where the subject matter of an action is based on simple contract, the Federal High Court has no jurisdiction to entertain the action since it is outside the jurisdiction conferred by Section 251 CFRN (as amended). The court with jurisdiction for breach of contract is the State High Court. Onuorha v KRPC Ltd; section 272 CFRN (as amended).

QUESTION 4

State the court that has jurisdiction in respect of a dispute between the National Assembly and the Rivers State House of Assembly over the usurpation of the functions of the latter by the former

ANSWERS

The court with jurisdiction is the Supreme Court. Section 1(1) of the Supreme Court (Additional Original Jurisdiction) Act 2002

QUESTION 5

Does the National Industrial court have jurisdiction to hear and determine an action between two states?

ANSWERS

The National Industrial Court has no jurisdiction to entertain an action

SAMPLE THEORY QUESTIONS AND ANSWERS

between two states. Where a dispute is either between the Federation and a State or between two States, it is the Supreme Court that has jurisdiction to the exclusion of all other Courts to entertain the action. Section 232 CFRN (as amended); Attorney General of Abia v Attorney General of Federation.

QUESTION 6

Recently the House of Assembly of Ekiti State impeached the Governor from office. This led to chaos in the state. The President of Nigeria therefore declared a state of emergency and appointed a military administrator to take charge of affairs of the state. The Economic and Financial Crimes Commission also declared the Governor wanted for alleged fraudulent activities. If the Governor wants to sue the Ekiti State House of Assembly for a declaration that his impeachment is unlawful & unconstitutional, in which court will he commence the action and why?

ANSWERS

The court with jurisdiction is the Federal High Court because by the provision of section 251 (4) CFRN (as amended) provides that; The Federal High Court shall have and exercise to determine any question as to whether the terms of office or a seat of a member of the Senate or House of Representatives or Governor and Deputy Governor has ceased or his seat has become vacant.

QUESTION 7

State the court that has jurisdiction in respect of a dispute between the Governor of Kogi State and the President of the Federal Republic of Nigeria over a declaration of a state of emergency in Kogi State.

ANSWERS

The court with jurisdiction is the Federal High Court

QUESTION 8

State the court that has jurisdiction in respect of a dispute involving the vacancy of the office of the Vice President of Nigeria.

ANSWERS

The court with jurisdiction is the Court of Appeal

QUESTION 9

Assuming in an action for breach of contract between a person (Claimant) and a Company (Defendant), the Defendant Counsel raised a preliminary objection that the State High Court is not the proper venue for the action since it involves the operation of the CAMA 2020 and so the appropriate Court with jurisdiction is the Federal High Court. What

SAMPLE THEORY QUESTIONS AND ANSWERS

would be your response as Claimant's Counsel; and at what time, and how could an objection of this nature be properly raised?

ANSWERS

My response to the objection by Defendant's Counsel would be that although Section 251 CFRN 1999 confers jurisdiction on the Federal High Court over matters pertaining to the operation of CAMA, the cause of action in this case involves a simple contract of which the Constitution has conferred general jurisdiction on the State High Court. Section 272 CFRN (as amended).

An objection to substantive jurisdiction is fundamental and can be raised at any stage in the proceedings even for the first time on appeal. Elabanjo v Dawodu. Although, it is preferable to raise such objection at the earliest opportunity and such objection can be raised in any manner; by a Motion, by Notice of Preliminary Objection challenging the Court's jurisdiction, by oral application challenging the Court's jurisdiction, by the Court suo motu and in the statement of defence.

QUESTION 10

State the court that has jurisdiction in respect of a dispute involving a declaration of vacancy for the seat of a member of the Senate over the defection from PDP to APC

ANSWERS

The court with jurisdiction is the Federal High Court because by the provision of section 251 (4) CFRN (as amended) provides that; The Federal High Court shall have and exercise to determine any question as to whether the terms of office or a seat of a member of the Senate or House of Representatives or Governor and Deputy Governor has ceased or his seat has become vacant.

QUESTION 11

State the quorum of the Supreme Court in respect of a dispute between the Attorney-General of the Federation and the Attorney-General of Lagos State.

ANSWERS

The Supreme Court is duly constituted by at least seven (7) Justices because the Supreme Court is sitting in its original jurisdiction.

QUESTION 12

There is a dispute between the Junior Staff Union of Timmy wares Company Limited and their Employers over failure to increase their salaries, working conditions, and staff welfare. They have instituted an

SAMPLE THEORY QUESTIONS AND ANSWERS

action at the Federal High Court. Advise the parties on the propriety of the court where the action is commenced.

ANSWERS

The Federal High Court Lacks Jurisdiction to entertain matters of Labour dispute as it is not with the exclusive jurisdiction as spelled out in section 251 of the constitution. Therefore, the court with jurisdiction over increase in salaries, working conditions, and staff welfare (Labour Dispute) is the National Industrial Court. Section 254 CFRN (as amended).

QUESTION 13

Assuming a matter under the jurisdiction of the Federal high Court was wrongly instituted in the Lagos State High Court, what appropriate step or procedure should the State High Court adopt?

ANSWERS

Where a State High Court has no jurisdiction in a suit which falls within the exclusive jurisdiction of the Federal High Court, the appropriate step to take is to strike out the action. See Aluminum Manufacturing Co. (Nig) Ltd v Nigerian Ports Authority

QUESTION 14

Assuming a matter is wrongly commenced at the Federal High Court and the Court finds that it is the State High Court that has jurisdiction. What should the Court do? Give reason(s) for your answer?

ANSWERS

Where a Federal High Court finds that it lacks jurisdiction to entertain an action, the appropriate order is to transfer the suit to the appropriate Court with jurisdiction. This is because the Federal High Court is empowered to transfer a case to the appropriate Court where it finds that it lacks jurisdiction to hear the matter. Section 22(2) of the Federal High Court Act.

QUESTION 15

Chief Tokunbo is the Oregun II of Ikeja in Lagos State. The chieftaincy is a non-hereditary one. On 22nd October 2021, the Lagos State Government announced his removal from the throne, without giving reasons. A week later, one Chief Ijayi Oluwa-Shehun is enthroned as the new Oregun II of Ikeja. Aggrieved by the action of the government, Mr. Lucky Agor Chima instituted an action at the Lagos High Court, seeking a declaration that his purported removal was null and void as due process was not followed

SAMPLE THEORY QUESTIONS AND ANSWERS

The heading of the writ of summons filed and served on the Lagos State Government reads thus

**IN THE HIGH COURT OF LAGOS STATE
IN THE IKEJA JUDICIAL DIVISION
HOLDEN AT IKEJA**

SUIT NO. LD/015/14

BETWEEN
MR. LUCKY AGOR CHIMA
CONCERNED CITIZES OF LAGOS
OF STATE -- CLAIMANTS
AND
THE GOVERNOR OF LAGOS STATE
THE ATTORNEY GENERAL OF
LAGOS STATE - DEFENDANTS
THE COMMISIONER FOR
CHIEFTAINCY AFFAIRS,
LAGOS STATE

Counsel to the defendant conducted a search at the Corporate Affairs Commission and found that the 2nd Claimant was not a person known to law.

- a. As Counsel to the Defendant what steps will you take regarding the presence of the 2nd Claimant in the suit? State the reason for your answer.
- b. If Counsel to the Defendant files an application to strike out the suit for being incompetent with regards to the issue in (a) above, what will be your response as Counsel to the Claimant?
- c. What will be your answer to (b) above if the 2nd Claimant were to be the only claimant in the case? Give reason for your answer?
- d. Mr. Ijayi Oluwa-Shehun seeks to be joined as co-defendant in the suit. Outline the procedure you will follow to join him?

ANSWERS

- a. The step to be taken by the counsel is to make an application to the court which is by way of motion on notice supported by affidavit asking that 2nd claimant be struck out. The reason is that the party is unknown to law and hence not a juristic person.
- b. Mis- joinder of party does not vitiate the action, and the most appropriate thing to do is to strike out the party wrongly joined since there is still an existing legal party. Therefore, one must apply that name of party not legal be struck out, and suit continues with Legal party.
- c. Once a party is not known to law, and is the only party to the suit, the

SAMPLE THEORY QUESTIONS AND ANSWERS

- suit will be struck out, as a non-juristic person cannot be a party in a legal suit.
- d. The procedure to be taken by him is to make an application to join a party to a suit and it is by way of motion on notice with a supporting affidavit and such application must be supported by relevant pleadings (statement of Claim and Defends), exhibits intended to be used and the depositions of witnesses.

QUESTION 16

Can the Governor of a State be sued?

ANSWERS

Generally, no civil proceeding can be instituted or continued against any person holding the office of Governor or Deputy Governor, or President or Vice President while he is in office. Section 308(1) (a) CFRN (as amended). Also the appearance of such person cannot be compelled by any process of court. Section 308(1) (c) CFRN (as amended). Therefore, a Governor of a State can neither be sued nor can his presence in such proceedings be compelled by any process of the Court. Tinubu v IMB Securities.

QUESTION 17

Who are the proper parties in a case between two States?

ANSWERS

The proper parties in a case refer to the parties who are directly involved in the cause of action. Therefore, The Attorneys General of the State who are the Chief Law Officers of the States are the proper party in actions involving the State.

QUESTION 18

Assuming a Defendant contends that his failure to fulfill his obligation with the Claimant resulting in the action was due to the fault of a third party, and he wishes to proceed against such third party, draft the application (without the affidavit)?

ANSWERS

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT No: HC/LAG/04/2016

BETWEEN
MRS KAYUBA
AND
AGRICULTURAL BANK PLC

-- CLAIMANT
-- DEFENDANT/APPLICANT

SAMPLE THEORY QUESTIONS AND ANSWERS

ABC INSURANCE PLC - THIRD PARTY

MOTION EX PARTE

**BROUGHT PURSUANT TO ORDER 15 RULES 4 AND 19
PARAGRAPHS (1) AND (2) THEREOF OF THE LAGOS
STATE HIGH COURT CIVIL PROCEDURE RULES, 2019 AND
UNDER THE INHERENT JURISDICTION OF THE COURT**

TAKE NOTICE that this Honourable court shall be moved on the _____ Day of _____, 2022 at the hour of 9 o'clock in the forenoon or so soon thereafter as the counsel to the defendant/applicant shall be heard praying this court for the following orders;

AN ORDER TO JOIN ABC Insurance Plc. as co-defendant in the suit.

AND FOR SUCH FURTHER ORDER OR ORDERS as the honourable court may deem fit to make in the circumstance

Dated this _____ day of _____, 2022

Dweni Bright ESQ
Defendants/applicant solicitor
Easy Read chambers
4, Crescent layout
Ikoyi - Lagos.

QUESTION 19

In an action instituted by a child, hit knocked by a car, assuming the accident was partly due to the negligence of the school in allowing the child go home by himself, and it is sought join the school after the case has been commenced, draft the necessary application (without any supporting documents)?

ANSWERS

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO LAG/01/2016

BETWEEN
MRS AMEH ADA -- CLAIMANT/ APPLICANT
AND
AGRICULTURAL BANK PLC -- DEFENDANT/ RESPONDENT
ABC INSURANCE PLC -- (Party sought to be joined)

SAMPLE THEORY QUESTIONS AND ANSWERS

**MOTION ON NOTICE
 BROUGHT PURSUANT TO ORDER 15 RULE 17 AND ORDER
 43 RULES 1 OF THE LAGOS STATE HIGH COURT (CIVIL
 PROCEDURE) RULES, 2019 AND THE INHERENT
 JURISDICTION OF THE COURT**

TAKE NOTICE that this Honourable Court shall be moved on the _____ day of _____ 022 at the Hour of 9 O'clock in the forenoon or so soon thereafter as Counsel to the Claimant/Applicant shall be praying the court for the following RELIEFS:

AN ORDER joining ABC Insurance Plc. as Co-defendant in this suit

AND FOR SUCH FURTHER ORDER OR ORDERS as the Honourable Court may deem fit to make in the circumstances.

Dated this 28th day of March 2022

Oboagwina Caleb Esq.
Claimant/applicant's solicitor
Oboagwina & co,
No. 3 Rowland way, Ikoyi-Lagos

FOR SERVICE ON:

Oyemechi ThankGod Esq
Defendant/Respondent's Solicitor
Exclusive Associates
No. 37 Asher way, Victoria Island, Lagos

QUESTION 20

List the documents to be filed alongside an application for joinder of parties.

ANSWERS

1. Affidavit
2. Any documents to be attached as exhibits
3. Pleadings
4. Depositions of witnesses
5. Written address

QUESTION 21

State the procedure for representative action.

ANSWERS

1. The parties are required to obtain the leave of court for

SAMPLE THEORY QUESTIONS AND ANSWERS

- representative action.
2. Application for leave is by way of motion ex-parte supported by an affidavit sworn to by the named representatives or one of them on their behalf disclosing the fact that they have authorized the representatives to institute the action on their behalf.
 3. The document or memorandum authorizing the representatives to institute the action must be attached as exhibit.

QUESTION 22

Mention the proper claimant in an action brought by the Nigerian Law School.

ANSWERS

The proper claimant is the Council of Legal Education because the Nigerian Law School is not a juristic person.

QUESTION 23

State the procedure for commencing an action for recovery of debt in a magistrate's court in Lagos

ANSWERS

Generally, action for recovery of debt also known as liquidated money demand at the magistrates' is commenced by the claimant by filing a claim and request by letter to the Registrar for the endorsement of the claim as a summary summons.

QUESTION 24

List the documents that should accompany an Originating Summons?

ANSWERS

1. Affidavit;
2. Exhibits to be relied upon;
3. A written Address and
4. Pre-action Protocol Form 01(Lagos) or Pre action Counseling certificate in Form 6 (Abuja)

QUESTION 25

What is the legal consequence of failure to file any of the processes necessary to commence an action in Lagos?

ANSWERS

The legal consequence of failure to file the necessary processes is that the originating process will not be accepted for filing by the Registrar.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 26

Assuming a party intends to challenge the facts contained in an affidavit, what steps must the party take and what is the legal consequence of not taking such step?

ANSWERS

Where a party intends to challenge the facts in an affidavit, the step to take is to file a counter affidavit. The consequence of failure to file counter affidavit is that the facts in the process of the claimant will be deemed to have been admitted. *Alagbe v His Highness Abimbola & ors*

QUESTION 27

What is the life span of a writ of summons?

ANSWERS

In Lagos and Abuja, the lifespan of a writ (every originating process) is six (6) months and service of the originating process must be within its life span. Although upon the expiration of specified time, the claimant can bring an application for renewal of the writ which is by motion ex parte. Once the application is granted in Lagos and Abuja, it will be renewed for three (3) months and another three (3) months. **Kolawole v Alberto**

QUESTION 28

Assuming the defendant in an action is evading service of an originating process, how will you ensure that he is properly served?

ANSWERS

To ensure the defendant is properly served, the claimant should apply to the Court for leave to serve through substituted service.

QUESTION 29

Comment of the validity of an originating process served by the Claimant on the messenger of the Defendant Company?

ANSWERS

Generally, service is effected through their principal officers. In Abuja, service can be made at their branch offices within Abuja and in Lagos, services can be done on their branch offices anywhere in Nigeria. Order 7 Rule 8 Abuja Rules 2018; Order 9 Rule 9 Lagos Rules 2019; *Mark v Eke*.

QUESTION 30

Assuming a Defendant is resident outside Nigeria and does not have a place of business in Nigeria, what steps should be taken to ensure that he is properly served with an Originating process. Would the procedure be

SAMPLE THEORY QUESTIONS AND ANSWERS

necessary if the Defendant had been resident in or carries on business in Nigeria but in a State different from where the action is commenced?

ANSWERS

Where an originating process is to be served on a Defendant outside Nigeria, the steps to take to ensure that leave of Court for the writ to be issued and served outside of jurisdiction in the foreign country is obtained i.e. in jurisdiction where leave is required unlike Lagos where leave is not required.

The originating process shall be sealed by the Registrar and transmitted by the Chief Registrar of the Court to the Solicitor General who shall thereafter further transmit it to the appropriate authority in that country for service on the Defendant.

The writ would be endorsed for service outside the jurisdiction of Nigeria. See Section 97 Sheriff and Civil Process Act.

The writ must also provide that the Defendant is given not less than 30 days to answer to the writ. See Section 99 Sheriff and Civil Process Act.

However; Where the Defendant resides in or carries on business in Nigeria, but outside the jurisdiction of the Court, there will be no need for leave of Court for the writ to be served outside of jurisdiction since the whole of Nigeria is one jurisdiction under the Sheriff and Civil Process Act. See Adegoke Motors v Adesanya. But, the writ must be endorsed for service outside the jurisdiction of Nigeria. See Section 97 Sheriff and Civil Process Act and the writ must also provide that the Defendant is given not less than 30 days to answer to the writ and 42 days in the case of Lagos.

QUESTION 31

What is the effect of failure to serve a writ of summons on a defendant?

ANSWERS

The court will lack jurisdiction to entertain the matter.

QUESTION 32

What is the legal implication of a writ of summons for service outside jurisdiction not having an endorsement that is to be served out of jurisdiction?

ANSWERS

The lack of an endorsement that the writ is to be served out of jurisdiction amounts to a mere irregularity. Adegoke Motors Ltd v Adesanya

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 33

State the procedure for the issuance and service of a writ of summons for service outside jurisdiction at the Federal Capital Territory.

ANSWERS

1. Leave of court must be obtained before the writ is issued
2. The writ must be endorsed to be served out of jurisdiction.
3. The defendant must be given not less than 30 days to enter an appearance.

QUESTION 34

Upon being served with a writ of summons, state the step(s) the defendant may take if he intends to defend the suit.

ANSWERS

A defendant who desires to contest an action commenced by writ of summons is required to enter an appearance within prescribed time by completing and filing a document known as "Memorandum of Appearance".

QUESTION 35

Mention the persons who can effect the service of originating processes under the Lagos Rules.

ANSWERS

1. A sheriff
2. A Deputy Sheriff
3. A Bailiff
4. A Special Martial or other officer of the court
5. Any Law Chambers, Courier Company or any other person appointed and registered by the Chief Judge

QUESTION 36

List the frontloading documents that will accompany a writ of summons

ANSWERS

1. Statement of claim
2. List of witnesses to be called at the trial
3. Written statements on oath of the witnesses except witnesses on subpoena
4. Copies of every document to be relied on at the trial
5. Pre-action Protocol Form 01 (Lagos) or Pre action counseling certificate in Form 6 (Abuja).

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 37

State at least five (5) advantages of the frontloading system.

ANSWERS

1. It saves time
2. It avoids springing surprises
3. It gives advanced knowledge of the case to the parties
4. It gives advanced knowledge of the case to the court
5. It curtails the number of objections raised to tendering of documents

QUESTION 38

State the preliminary matters or facts you will consider before commencing an action in court.

QUESTION 39

ANSWERS

**IN THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO:_____.

BETWEEN:

AGORLUCKY

--

CLAIMANT

AND

JIMMY PROMISE

--

DEFENDANT

PRE-ACTION COUNSELLING CERTIFICATE

I, Donald Chukwu, Legal Practitioner of EASY READ & CO CHAMBERS, No 1 Mattie Street, Wusih II Abuja to the Claimant, have gone through the facts of the case of the said Claimant and on my own have appropriately counselled him on the relative strength of his case or otherwise and should this turn out to be frivolous, I am prepared to be liable according to the provision of the rules of this court.

Dated this _____ of _____ 20_____

DONALD CHUKWU

Legal Practitioner to the Claimant

Draft a pre-action counseling certificate.

AGORLUCKY

Claimant

QUESTION 40

At what point is an action said to have been commenced.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

An action is said to have commence upon filing and payment of the prescribed filing fees

QUESTION 41

State the importance of pre-action counseling certificate and the legal effect where the case or defence turns out to be frivolous.

ANSWERS

The importance of pre-action counseling certificate is that it indicates that both the claimant and the defendant have been appropriately advised by their counsel as to the relative strength and weakness of their respective cases. Also, it discourages the institution of frivolous actions. The legal effect is that where the case turns out to be frivolous, the counsel shall be personally liable to pay the costs of the proceedings.

QUESTION 42

Where there are two motions before the Court, one seeking to strike out the case and the other seeking to regularize it, which of the motions is the Court bound to take first?

ANSWERS

Generally, a motion is heard according to when they are filed (first come, first serve). However, where there are two (2) pending motions before the court and the first is to dismiss or strike out the suit and the other motion is to regularise the suit, the court should consider the application that regularises the suit first. AGF v A.I.C. Ltd

QUESTION 43

How can the court properly resolve conflicts in affidavits?

ANSWERS

Generally, conflicts in affidavits may be resolved by the court by calling for oral evidence. Falobi v Falobi. However, if there is sufficient documentary evidence that can assist the court in resolving the dispute, it may dispense with oral evidence. Nwosu v Imo State Environmental Sanitation Authority.

QUESTION 44

Under what circumstance will an interpleader summons be required and what must the applicant prove before the application can be granted?

ANSWERS

Interpleader summons an application brought by an applicant in possession of money or goods which are subject to adverse claims by two

SAMPLE THEORY QUESTIONS AND ANSWERS

(2) persons. The applicant must prove that:

1. He claims no interest in the subject matter in dispute other than charges or costs
2. He does not collude with any of the claimants; and
3. He is willing to pay or transfer the subject-matter into court or to dispose of it as the court or judge in chambers may direct.

QUESTION 45

What is the legal effect of failure to state the law under which an application for interlocutory injunction is brought?

ANSWERS

Failure to state the rule or law which an application is brought is not sufficient to make the application incompetent, nor would it make the consequential order of the court invalid, provided the court has jurisdiction. *Uchendo v Ogboni*

QUESTION 46

State the factors or principles for the grant or refusal of an application for interim injunction.

ANSWERS

1. The applicant must establish that he has a legal right that needs to be protected.
2. That there is substantial issue to be tried
3. That the balance of convenience is in his favor
4. That he will suffer irreparable damage not capable of being compensated in damages
5. That his conduct is not reprehensible
6. That the case is one of extreme or real urgency
7. An undertaking to pay damages if the application turns out to be frivolous. *Kotoye v CBN*

QUESTION 47

When is it appropriate for a Court to grant an Order setting down a suit for trial under the default judgment as to appearance procedure?

ANSWERS

Generally, default judgment as to appearance is strictly applicable to the following causes of action; Detention of goods, Mesne profit, Recovery of land and Recovery of money (Liquidated money demand). Therefore for any cause of action not mentioned above, the claimant will not be entitled to a default judgment but the court will set down the matter for hearing. For example in declaratory reliefs which the claimant must prove even if the Defendant admitted the facts.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 48

List the documents required for summary judgment procedure?

ANSWERS

1. Writ of summons
2. Statement of claim
3. Copies of documents to be relied upon
4. Motion on notice for the application of summary judgment.
5. Affidavit
6. Written brief

QUESTION 49

What are the grounds upon which the Court can set aside a default judgment?

ANSWERS

The grounds for setting aside default judgment are;

1. Non-service
2. Lack of Jurisdiction
3. Grounds of fraud

QUESTION 50

List the documents required for Undefended List procedure.

ANSWERS

The claimant applying for undefended list files two (2) documents;

1. Writ of summons
2. Affidavit

QUESTION 51

What should a defendant to an action brought under the Undefended List do if he intends to defend the action?

ANSWERS

The defendant is required to adopt the following procedure if he intends to defend the suit:

1. File a notice of intention to defend the suit within 5 days to the day fixed for hearing.
2. The notice of intention to defend which must be in writing should be supported by an affidavit disclosing a defence on the merit.

QUESTION 52

What procedure would you advice a Claimant to adopt to obtain a speedy judgment where he believes the Defendant has no defence to the claim?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

The procedure that will ensure speedy judgment is a Summary Judgment.

QUESTION 53

Where a claim is based on fraud, can it be successful in the absence of specific pleading?

ANSWERS

In a claim based on illegality or fraud, the action cannot succeed in the absence of specific pleading. The law requires that an allegation of illegality or fraud should be specifically pleaded and that the particulars ought also to be furnished. **Adesanya v Otuewu**

QUESTION 54

At what stage of proceedings can an application for amendment of pleadings be made?

ANSWERS

In Lagos, amendment of pleadings can be done at any time during Case Management Conference and while during trial, it can only be amended twice. While In Abuja, amendment of pleadings can be done at any time during Pre-Trial Conference while during trial it can only be amended twice. Order 26 Rule 1 Lagos (2019); Order 25 Rule 1 Abuja (2018).

QUESTION 55

Assuming an applicant has already been granted two applications to amend his pleadings during the trial of his case in Lagos, comment on the validity of the third application for amendment?

ANSWERS

An application for amendment of pleading in Lagos can be made at any time before the close of Case Management Conference and not more than twice during trial. Therefore, the third application to amend the pleading will be rejected by the court because it exceeds the number as recommended by the rules.

QUESTION 56

Draft the general traverse in a statement of defence?

ANSWERS

SAVE AND EXCEPT as is expressly admitted, the defendant denies each and every allegation contained in the claimant's statement of claim as if same were herein set out and traversed seriatim.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 57

State the differences between a counter-claim and a set-off

ANSWERS

1. Counter-claim is a separate action while set-off is not a separate action as it is predicated on the monetary claim of the claimant.
2. Counter-claim is not necessarily monetary Set-off is always a monetary claim.
3. For counter claim, if the claimant's claim is dismissed, the counter claim will survive the claimant's claim while for set- off, if the claimant's claim is dismissed, the set-off will also be dismissed.

QUESTION 58

State at least 3 circumstances when amendment of pleadings may be allowed

ANSWERS

1. If it will aid substantial justice.
2. If the amendment will bring out the real issues between the parties.
3. If it will bring the pleading in line with the evidence already adduced.

QUESTION 59

State at least 3 circumstances when amendment of pleadings may be refused.

ANSWERS

1. Where it introduces a new case.
2. Where it introduces new evidence.
3. Where the amendment does not cure any defect.
4. Where it is an abuse of court processes.
5. Where it will cause injustice on the adverse party.

QUESTION 60

Draft a statement of claim

ANSWERS

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO: _____

BETWEEN	--	CLAIMANT
KAYUBA ADA	--	
AND		
AGRICULTURAL BANK PLC	--	DEFENDANT

SAMPLE THEORY QUESTIONS AND ANSWERS

STATEMENT OF CLAIM

1. The claimant is Mrs. Kayuba Ada of No. 14 Areole Hopewell Street, Victoria Island, a business woman who deals in exportation of agricultural products.
2. The defendant is a public limited liability company registered in Nigeria which deals in banking and finance with its registered office at No. 5 Ikoyi Street Lagos.
3. _____ (FACTS OF THE CASE IN CHRONOLOGICAL ORDER)
4. WHEREFORE THE CLAIMANT CLAIMS AS FOLLOWS:
 - a. The sum of N7,000,000 (Seven million naira), representing the total price of the delivered cashew nuts

Dated _____ day of _____ (DATE OF EXAMS)

Ere siege. ESQ
OBOAGWINA & Co.
Claimant's Solicitors
10 José Aerogun
Victoria Island, Lagos.

FOR SERVICE ON
AGRICULTURAL BANK PLC
10, Education Street,
Victoria Island
Lagos

QUESTION 61

Comment on the propriety or otherwise of the following statement in a statement of defence and offer an appropriate redraft where necessary:
“The Defendant denies that he offered a bribe of N10, 000, 000.00 to the Claimant.

ANSWERS

The averment amounts to a negative pregnant traverse. This is a form of denial that always leads to further questioning simply because it was not emphatically denied as it proposes that the defendant may have done more or less.

It should be re drafted as; The Defendant denies that he offered a bribe of N10, 000, 000.00 to the Claimant *or any*”

QUESTION 62

State the purposes of the Case Management Conference.

ANSWERS

The purposes of a Case Management Conference are;

1. Disposal of matters which must or can be dealt with on interlocutory application.
2. Giving such directions as to the future course of the action as appear best adapted to secure its just, expeditious and economical disposal.
3. Promoting amicable settlement of the case or adoption of alternative dispute resolution.
4. Reduce the time spent in court during trial.

QUESTION 63

What possible sanction(s) could a Court make against a Defendant who was absent at a case- management Conference and was not represented?

ANSWERS

Where a Defendant is absent at a case-management conference, final judgment may be entered against him. Order 27 Rule 6 Lagos (2019)

QUESTION 64

Assuming Judgment was entered against a Defendant for default in case-management Conference, state the steps the Defendant must take to set aside the Judgment.

ANSWERS

Where a Defendant is absent at a case-management conference, and final judgment was entered against him. He may within 7 days apply to the Court to set aside the judgment. He must also undertake to participate effectively at the case-management conference.

QUESTION 65

What amounts to sufficient pleading of a documentary evidence to warrant its admissibility in evidence?

ANSWERS

The criteria for the admissibility of a documentary evidence is whether the document has been pleaded, whether it is relevant and whether it is admissible, i.e. in the form required by Law for its admissibility. ACB v Gwagwada. What amounts to sufficient pleading of a document is if reference has been made to it.

QUESTION 66

Can a party tender his own copy of an agreement as primary evidence in a case?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

Yes a party can tender his own version of an agreement as primary evidence because primary evidence includes original documents executed in several parts, or in counterparts and documents made from one uniform process. Section 86 Evidence Act 2011.

QUESTION 67

Where a party intends to tender a photocopy of a private document, the original of which is with the adverse party, what proper foundation must the party lay?

ANSWERS

Where a party seeks to tender a photocopy of private document, of which the original is with the adverse party, he should first lay proper foundation by first showing that original is with the adverse party and he is not willing to make same available.

QUESTION 68

In an election petition case, the Petitioners Counsel sought to tender the CTC of polling units results (Form EC8A(1)) and the Respondent's Counsel objected on the ground that since there were agents at all the polling units, only the original copies of the poling units results are admissible in evidence. The tribunal upheld the objection and marked the documents as tendered and rejected. Comment on the ruling of the tribunal?

ANSWERS

The Tribunal was wrong to have upheld the objection to the admissibility of the election results and held that only original copies of election results are admissible. Polling units results (Form EC8A (1)) are public documents as defined in Section 102 Evidence Act 2011. By Section 90 Evidence Act 2011, certified true copies of public documents are admissible as the only form of secondary evidence of public documents. Minister of Lands v Dr. Nnamdi Azikiwe. Public Documents are mostly proved through secondary evidence (i.e. CTC).

QUESTION 69

Comment on a trial Judge's decision to reject a certificate of occupancy on the grounds that it was tendered from the bar, and on the ground that it was not listed as one of the documents to be relied upon at the trial?

ANSWERS

Certified True Copies of public documents may be tendered from the bar. Other documents must be tendered through witnesses except where the adverse party agrees to the tendering of the document from the Bar.

SAMPLE THEORY QUESTIONS AND ANSWERS

In this case, the decision of the Judge to rejecting the certificate of occupancy in the absence of objection from the adverse party was wrong. *Agagu v Dawodu*. Failure to frontload the document does not render it inadmissible as long as it has been properly pleaded. The Judge would be wrong to reject the admissibility of the certificate of occupancy on this ground.

QUESTION 70

Comment on a trial Judge's decision to reject a witness statement on oath on the grounds that it was sworn before the Claimant Counsel, who is a Notary Public?

ANSWERS

An affidavit or witness statement on oath shall not be sworn before a Notary public who is also a Counsel to the party in the suit. In this case, the witness statement on oath, having been sworn before the Claimant's Counsel is inadmissible. Section 19 Notary Public Act; *Buhari v INEC*.

QUESTION 71

Assuming in an action, a Claimant/Applicant attaches a photocopy of a medical report from a Government hospital and the Respondents object to the photocopy, what will be your reaction?

ANSWERS

A medical report from a Government hospital is a public document. The only form of public document accepted as secondary evidence is the Certified True Copy. A photocopy of a medical report is inadmissible.

QUESTION 72

Explain the conditions for granting a no case submission in a civil trial.

ANSWERS

The Conditions for the granting of a no case submission in civil cases are:

1. If no evidence has been established by the Claimant;
2. If the evidence led by the Claimant is so unsatisfactory or unreliable that the Court must hold that the burden of proof on the Claimant has not been discharged.

QUESTION 73

Give examples of final judgment and interlocutory ruling.

ANSWERS

Examples of Final Judgment are;

1. A judgment on jurisdiction
2. A judgment on constitutional reference

SAMPLE THEORY QUESTIONS AND ANSWERS

3. Adjudication on the claim on its merit
4. Consent judgment
5. Non-suit order
6. Dismissal of an action for want of prosecution

Examples of Interlocutory ruling are;

1. An order striking out a suit but with leave to re-list.
2. An order for retrial/further evidence.
3. An order for consolidation.
4. Any decision on any of the constituent issues in a suit.

QUESTION 74

Distinguish between non-suit and dismissal.

ANSWERS

A non-suit order terminates the action in which the order is made but keeps the claim alive as the parties can still re-litigate. On the other hand, dismissal put an end to the claim and thus concludes the rights of the parties as the parties are only subject to appeal.

QUESTION 75

State the circumstances when an order of non-suit may be made.

ANSWERS

1. Where the plaintiff has not failed entirely to prove his case
2. The defendant is not in any event entitled to judgment
3. No wrong or injustice will be occasioned on the defendant by the order

QUESTION 76

State the circumstance when an order of dismissal may be made.

ANSWERS

1. Where the plaintiff has failed entirely to prove his case
2. A wrong or injustice will be occasioned on the defendant by an order of non-suit.

QUESTION 77

When is an appeal said to have been entered and what is the effect.

ANSWERS

Appeal is entered where the record of appeal is transmitted to the Court of Appeal. The Court of Appeal becomes seized of the matter.

QUESTION 78

When is "particulars" dispensed with in framing a ground of appeal

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Where the ground of appeal itself has furnished the particulars needed
2. Omnibus ground of appeal

QUESTION 79

State the circumstances where the parties in civil action will have no right to appeal

ANSWERS

1. Summary judgment
2. Undefended list
3. A matrimonial cause, i.e., decree nisi which has been made absolute.
4. A consent judgment without leave of court.

QUESTION 80

Draft an omnibus ground of appeal in a civil appeal

ANSWERS

The judgment of the trial court is against the weight of evidence

QUESTION 81

Distinguish between cross-appeal and respondent's notice.

ANSWERS

A respondent who is dissatisfied with the judgment appealed against and who seeks a reversal of the judgment or a fundamental or crucial finding therein must file his own notice of appeal. This is known as cross-appeal. On the other hand, where the respondent intends to urge the Court of Appeal to affirm the judgment of the lower court on grounds other than those relied on by the trial Judge, he shall do so by filing a Respondent's Notice.

QUESTION 82

State the trinity prayers for extension of time for leave to appeal.

ANSWERS

1. Extension of time to seek leave to appeal
2. Leave to appeal; and
3. Extension of time within which to file the Notice of Appeal

QUESTION 83

State the circumstances where leave of the High court is required before filing an appeal.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Interlocutory decision.
2. Mixture of law and fact.
3. Final decision from the Magistrates' Court (double appeal).
4. Consent judgment.
5. Interested party not being an initial party in the trial

QUESTION 84

What type of marriage is subject to matrimonial causes?

ANSWERS

Statutory marriages

QUESTION 85

Which court has jurisdiction in respect of matrimonial causes?

ANSWERS

State High Court

QUESTION 86

What is the venue of the court in respect of matrimonial causes?

ANSWERS

The venue of the Court is anywhere in Nigeria. In the case of desertion if any of the spouses have lived in Nigeria for one to three years before the action, the venue shall be in Nigeria.

QUESTION 87

What mode is used to commence an action for matrimonial causes and list the accompanying documents?

ANSWERS

The action is commenced by Petition. The documents which accompany the Petition are;

1. Notice of petition
2. Verifying affidavit
3. Acknowledgement for service
4. Marriage certificate
5. Discretionary statement (if any)
6. Certificate of reconciliation (if any)

QUESTION 88

Who are the parties in matrimonial causes?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

The parties are spouse only. In the case of adultery, the adulterer or adulteress would be added as a co-respondent.

QUESTION 89

What is the designation of parties in matrimonial causes?

ANSWERS

They are called petitioner and respondent

QUESTION 90

What document does the respondent file in response of the petition?

ANSWERS

The respondent files an answer to petition which is brought within 8 days.

QUESTION 91

What are the reliefs in matrimonial causes?

ANSWERS

1. Dissolution of marriage
2. Nullity of void marriage
3. Nullity of voidable marriage
4. Judicial separation
5. Restitution of conjugal rights
6. Jactitation of marriage

QUESTION 92

What are the grounds of dissolution of marriage?

ANSWERS

1. Failure to consummate the marriage
2. Unbecoming behavior
3. Adultery
4. Desertion
5. The marriage has broken down irretrievably

NB: No court shall grant dissolution if below 2 years unless a leave of court is sought stating that great hardship or depravity would be occasioned if the marriage is not broken down.

QUESTION 93

What are the grounds of nullity of void marriage?

ANSWERS

1. Marriage without consent

SAMPLE THEORY QUESTIONS AND ANSWERS

2. Marriage with same sex
3. Marriage with spouse who is under age.
4. Marriage related to blood relatives
5. Marriage to a person married under the act.

QUESTION 94

What are the grounds of nullity of voidable marriage?

ANSWERS

1. Where the wife is pregnant for another man and vice versa.
2. Where any of the spouse is suffering from a venereal or deadly disease.

QUESTION 95

When can the court order compulsory conference?

ANSWERS

1. Custody of children
2. Maintenance of the spouse

QUESTION 96

What is a discretion statement?

ANSWERS

A discretion statement is a statement made by a petitioner for a decree of dissolution of marriage admitting that, since the marriage, but before the presentation of the petition, he has committed adultery but that the court should make the decree notwithstanding the adultery.

QUESTION 97

Assuming a petition for dissolution of marriage is defended, what step do you need to take to ensure the petition is set down for hearing?

ANSWERS

Counsel for the petitioner is required to make a request to set down the suit for trial.

QUESTION 98

In numbered paragraphs, set out the steps you will take to actualize the instructions of his clients to recover possession of his premises?

ANSWERS

1. Obtain letter of consent from the landlord (if the Solicitor or Agent)
2. Serve the statutory notice to quit on the tenant
3. If the tenant does not vacate the premises at the expiration of the notice to quit,

SAMPLE THEORY QUESTIONS AND ANSWERS

4. Serve 7 days' notice of owner's intention to apply to recover possession.
5. If he still fails to vacate at the end of the 7 days, apply to the Court by plaint/claim or writ to recover possession before the appropriate court.

QUESTION 99

Assuming a client sought to be evicted is an employee of the owner who occupied the premises as an incentive and his employment has been terminated, what steps are required to recover the premises from him?

ANSWERS

Where an employee of a landlord had occupied the premises as an incentive, which qualifies him as a service tenant, when his employment is terminated, on the authority of Chukwuma v SPDC, he will be treated as licensee who can be evicted from the premises without service of statutory notices or action in Court. However, on the authority of Sule v Nigeria Cotton Board; upon the termination of the employment of a service tenant, he becomes a statutory tenant who cannot be evicted without the service of the statutory notices and eviction in court.

QUESTION 100

Where a landlord instituted an action at the Magistrate Court Lagos for the recovery of premises where the total claim is N18, 000,000 being rent for two years, and the Tenant objects to the jurisdiction of the Magistrate Court, respond to the objection?

ANSWERS

The position of the law is that what determines the monetary jurisdictional limit of the Magistrate Court Lagos is the **annual rental** value of the premises. If the annual rental value does not N10,000,000 the Magistrate Court has jurisdiction notwithstanding that the cumulative amount claimed, i.e. arrears of rent or mesne profit is more than N10,000,000. Section 28(2) Magistrate Law 2009 and Joyland v Wema bank. Therefore, the total claim of N18,000,000 for two years does not constitute the annual rent but rent in arrears. Hence the magistrate court of Lagos have jurisdiction.

QUESTION 101

When does a mesne profit start to run, and what is the basis for the calculation of mesne profit?

ANSWERS

Mesne profit will begin to run after the expiration of the notice to quit. And the basis of the calculation of mesne profit is the current market value of the premises.

QUESTION 102

Where a tenant objects to the procedure for the recovery of premises on the ground that the Solicitor did not get a written authority from the Landlord, respond to the objection?

ANSWERS

The position of the law is that for an agent or Solicitor of a Landlord to validly issue any of the statutory notices to a tenant, he must first be instructed in writing by the Landlord and given a written authority. *Coker v Adetayo*. The objection is likely to succeed.

QUESTION 103

Where a tenant objects to the procedure for the recovery of premises on the ground that the quit notice prepared by the landlord was invalid having not been served by a Court Bailiff, respond to the objection?

ANSWERS

A quit notice prepared by the landlord is not a court process and does not require service by a Bailiff or other officer of Court for it to be properly served. The objection will fail.

QUESTION 104

State the grounds for recovery of possession of premises.

ANSWERS

1. Tenant is in arrears of rent.
2. Tenant is in breach of an express covenant.
3. Tenant given notice to quit by the landlord in order to sell the premises.
4. Tenant conducted himself as to constitute nuisance to adjoining occupiers.
5. Tenant has been convicted of using the premises as a brothel or for illegal purpose.
6. Condition of premises deteriorated owing to waste committed by tenant.
7. Premises overcrowded as to be injurious to the health of the inmates.
8. Premises as subject of abatement notice served by public authority removal of which demands ejectment of the tenant.
9. Premises required substantial repairs.
10. Premises is reasonably required by landlord for personal use or use of his son or daughter (over 18 years of age), father or mother.

QUESTION 105

State the circumstances where a defendant can sue for counterclaim in an action for recovery of premises.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. An exhausted improvement made on the demised premises.
2. Any expenses incurred with the written consent of the landlord.
3. Excess rent paid on the demised premises.

QUESTION 106

Draft the Notice to Quit

ANSWERS

EASYREAD LEGAL CONSULT

Address: Plot 34 Avenue, Wuse 11 Abuja

Phone No: 08033333333

E: mail: easy read @yahoo.com

Website: www.easyreadlegalcom

Our Ref_____

Your Ref_____

TO:

AKOWE JACOB

Block 2 Flat 39 Ratmutu Street,
Wuse II, Abuja.

Dear Sir,

I, Oboagwina Caleb, a Legal Practitioner of your landlord hereby and on his behalf give you notice to quit and deliver up possession of the two bedroom flat with the premises situate at Block 2, Flat 39 Ratmutu Street, Wuse 2, in the city of Abuja which you hold of him as yearly tenant between 1st day of January 2022 and 31st day of December 2022.

Dated this 30th day of June 2022

Oboagwina Caleb (Esq.)
Legal Practitioner for the Landlord

QUESTION 107

Draft a notice of owner's intention to recover possession.

ANSWERS

EASYREAD LEGAL CONSULT

Address: Plot 34 Avenue, Wuse 11 Abuja

Phone No: 08033333333

E: mail: easy read @yahoo.com

Website: www.easyreadlegalcom

Our Ref_____

Your Ref_____

SAMPLE THEORY QUESTIONS AND ANSWERS

TO:
AKOWE JACOB
Block 2 Flat 39 Ratmutu Street,
Wuse, Abuja.

Dear Sir,

I, Oboagwina Caleb, a Legal Practitioner of your landlord and upon his written authority do hereby give you notice, that unless peaceable possession of the Two Bedroom Flat with the premises situate at Block 2, Flat 39 Ratmutu Street, Wuse, in the city of Abuja which were held of the owner under a tenancy from year to year which was determined by notice to quit from the owner on the 31st day of December 2020 which premises are now held over and detained be given to the owner on or before the expiration of seven(7) clear days from the service of this notice.

TAKE NOTICE that the owner shall on the 8th day of January 2021 apply to the High Court Federal Capital Territory being the division or place in which the premises or any part thereof is situate for a summons to eject any person there from.

Dated this 31st day of December 2020

Oboagwina Caleb ESQ
Legal Practitioner to Landlord

QUESTION 108

Outline the reliefs available to tenant

ANSWERS

1. A declaration that his ejection was forceful, unlawful and therefore null and void and of no effect.
2. An order restoring him into possession
3. Damages for trespass
4. Special damages in respect of any damage chattels by rain, sun or physical destruction
5. General damages.

QUESTION 109

Outline the reliefs available to tenant

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. That a person whose election is questioned was at the time of the election not qualified to contest the election
2. That the election was invalid by reason of corrupt practices or non-compliance with the provisions of the Electoral Act
3. That the respondent was not duly elected by the majority of lawful votes cast at the election

QUESTION 110

State the content of an election petition.

ANSWERS

1. The names of the parties interested in the election petition.
2. The right of the petitioner to bring or present the petition.
3. The holding of the election, the scores of the candidates and the person returned as the winner of the election.
4. The facts of the election petition and the ground(s) on which the petition is based and the relief(s) sought by the petitioner.
5. Signature of the petitioner or all the petitioners or of the solicitor, if any, named at the foot of the petition.

QUESTION 111

What is the proper venue for the presentation of a petition challenging a Governorship election?

ANSWERS

The Governorship Election Tribunals

QUESTION 112

Who are the proper parties to the action for Election petition?

ANSWERS

1. The Petitioner: A candidate at the election;
2. A political party which participated at the election.
3. The Respondent: A person whose election is complained of. See Section 137 Electoral Act.

QUESTION 113

What documents should accompany an election petition?

ANSWERS

1. List of witnesses
2. Written statement on oath of witnesses
3. Copies of list of documents to be relied on.

QUESTION 114

What is the legal consequence of failure to pay security for cost in an election petition?

ANSWERS

The legal consequence of failure to pay security for cost is that hearing of the petition will be stayed until the security for cost is paid. Nwobodo v CC Onoh.

QUESTION 115

State the final appellate court in respect of election petition involving governorship election of a State.

ANSWERS

The Supreme Court

QUESTION 116

Comment on the reliefs in an election petition seeking to declare the petitioner the winner of the election and also to declare the election null and void.

ANSWERS

A petitioner cannot ask the tribunal to declare him winner and at the same time ask the tribunal to declare the election null and void. This will be a contradictory prayer. If an election is declared, there will be no winner and the proper order to ask for re election.

QUESTION 117

Draft the Election petition

ANSWERS

**IN THE GOVERNORSHIP ELECTION TRIBUNAL
OF CROSS RIVER STATE OF NIGERIA
HOLDEN AT CALABAR**

PETITION NO:

THE ELECTION TO THE OFFICE OF THE GOVERNOR OF CROSS
RIVER STATE HELD ON SATURDAY THE
12TH DAY OF APRIL 2023

BETWEEN
CHIEF OGAN BASSY -- 1ST PETITIONER
OVER CAREFUL PARTY
OF NIGERIA -- 2ND PETITIONER
AND
1. DR. ALEX ESSIEN -- 1ST RESPONDENT

SAMPLE THEORY QUESTIONS AND ANSWERS

2. CONFIDENCE PARTY OF NIGERIA -- 2ND RESPONDENT
3. INDEPENDENT NATIONAL ELECTORAL COMMISSION -- 3RD RESPONDENT

PETITION

THE PETITION OF CHIEF OGAN BASSY OF NO 2 AKWA IBOM ROAD, CROSS RIVERS STATE, whose name is subscribed.

1. Your petitioner, Chief Ogan Bassy of No 2 Akwa Ibom road, Cross Rivers State was a candidate in the Governorship election held on 12th April 2023. He was validly nominated by his political party, Over Careful Party of Nigeria as a candidate to the office of the Governor Cross Rivers state.
2. The 1st respondent was a candidate of the 2nd respondent, Confidence Party of Nigeria for the said governorship election held on Saturday 12th April 2023.
3. The 3rd respondent is a creation of statute and the election regulatory body vested with the power to conduct election into various offices, including governorship election of states and it has its office in all states in Nigeria including its office at cross river.
4. The 1st respondent was declared winner of the election by the 3rd respondent on the 12th April 2023 despite irregularities in the conduct of the election resulting to substantial non-compliance with the Electoral Act, 2010 as amended.
5. The result as announced by the 3rd respondent are as follows:

NAME OF CANDIDATE	PARTY	VOTES
CHIEF OGAN BASSY	OVER CAREFUL PARTY OF NIGERIA	334,000
DR ALEX ESSEIN	CONFIDENCE PARTY OF NIGERIA	1,160,000

6. The petitioner shall rely on the election result declared by the 3rd respondent and the list of voters.

GROUNDS FOR THE PETITION

Your petitioner states that the grounds on which he relies for the petition are as follows:

1. The election was marred by irregularities and corrupt practices.

FACTS IN SUPPORT OF THE PETITION

1. The 1st respondent was under aged at the time of the election.
2. The 1st respondent is an ex-convict having been convicted of criminal

SAMPLE THEORY QUESTIONS AND ANSWERS

- breach of trust by the High Court of Federal Capital Territory, Abuja on February 2012.
3. The 1st respondent has not acquired enough educational certificates to qualify him for the election.

PRAYERS

WHEREOF your petitioner prays:

1. A DECLARATION that the 1st respondent is incompetent to contest the Governorship election of Cross River State in the Election of April 12th, 2023.
2. A DECLARATION that the return of the 1st respondent as Governor of Cross river State by the 3rd respondents in the election held on 12th April 2023 is null and void.
3. AN ORDER for re-run.

Dated this _____ day of _____ 20_____

Petitioner's Counsel
PETITIONER'S COUNSEL'S ADDRESS
IYARE & Co.,
No. 23 Enofom II Way,
Cross River.

ADDRESS FOR SERVICE ON:

1. **PETITIONER**
No 2 Akwa Ibom road, Cross Rivers State

OCCUPIER
CHIEF OGAN BASSY

2. **2ND PETITIONER**
No. 23 Enofom II Way, Cross River

OCCUPIER
OVER CAREFUL PARTY OF NIGERIA

3. **1ST RESPONDENT**
No 8 Uteri Estate Cross River

OCCUPIER
DR ALEX ESSEIN

4. **2ND RESPONDENT**
No 4 Omoba Avenue Cross River

SAMPLE THEORY QUESTIONS AND ANSWERS

OCCUPIER
CONFIDENCE PARTY OF NIGERIA

5. 3RD RESPONDENT
C/O INEC National Headquarters
Abuja

OCCUPIER
Independent National Electoral Commission

SIGNED BY _____
CHIEF OGAN BASSY

SIGNED BEFORE ME THIS _____ DAY OF _____ 20____

Secretary

QUESTION 118

List the document which will accompany an application for the enforcement of fundamental rights.

ANSWERS

1. A statement setting out the name and description of the applicant, the reliefs sought and the grounds on which the reliefs are sought.
2. An affidavit setting out the facts upon which the application is made.
3. A written address which shall be a succinct argument in support of the grounds of the application.

QUESTION 119

State the reliefs/remedies in fundamental rights enforcement procedure.

ANSWERS

The following include the reliefs/remedies in fundamental rights enforcement procedure:

1. Bail
2. Production
3. Damages
4. Access to medication
5. Declaration
6. Injunction

QUESTION 120

Respond to an objection to an action for the enforcement of fundamental rights on grounds of locus standi.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

The law of locus standi is no longer applicable to actions for the enforcement of fundamental rights.

QUESTION 121

Make a case for and against the use of the FREP Rules for the enforcement of fundamental rights as against the use of a writ of summons?

ANSWERS

The use of fundamental rights enforcement procedure as against the use of writ of summons to enforce a person's right is supported by the decision of the Supreme Court in *Din v AG of Federation* which held that the Rules prescribe the only procedure for the enforcement of rights under Chapter IV. However, in *Saude v Abdullahi*, the Supreme Court held that the procedure under the Rules does not prescribe the only procedure for seeking redress for infringement of fundamental rights and so such rights may be enforced by any other means by which the Court can be approached and this includes writ of summons. *Abacha v Fawehinmi*.

QUESTION 122

Can a person use the Fundamental Human Right Procedure to incorporate a claim for the theft of his car as his main claim under the FREP Rules 2009?

ANSWERS

It is not appropriate to use the fundamental rights enforcement to incorporate a claim for the theft of a person's car as a main claim. For the fundamental rights enforcement procedure to be applicable, the main claim must relate to an infringement of one of the right under Chapter IV of the Constitution or the African Charter on Human and Peoples Right Act. Consequently, where a person seeks to incorporate the theft of his car as his main claim under the Fundamental rights procedure, he will not succeed. *Grace Jack v University of Agric Makurdi*.

QUESTION 123

Can a person use the Fundamental Human Right Procedure to incorporate a claim for the theft of his car as his main claim under the FREP Rules 2009?

ANSWERS

On the date of hearing of a preliminary objection, the Court will hear the objection alongside the substantive application. Order 8 Rule 4 FREP Rules 2009.

SAMPLE THEORY QUESTIONS AND ANSWERS

**SELF-ASSESSMENT EXERCISE
ON
CIVIL LITIGATION**

QUESTION 1

Goshen Properties Ltd, a Company with its registered office at No.21 Aminu Kano, Wuse II, Abuja, acquired a piece of land lying and situate at Sambas Reserve, Gwarimpa Abuja for the purpose of constructing an ultra-modern housing estate. The land measuring ten acres was allotted to the Company under a certificate of occupancy, issued by the Minister of Housing as part of a larger expanse of land publicly acquired by the Federal Government for overriding public interest. Goshen properties cleared the site and work commenced earnestly on the construction of homes. One day, Chief Boko Mai, while undertaking a tour of his family land discovered that the family land in the area had been bulldozed and taken over by Goshen Properties under the certificate of occupancy. The gazette acquiring the land for public use clearly excluded the land belongs to the Mai Family. The Abuja Geographical Information System, upon a petition from the Mai Family, discovered the error and offered Goshen Properties another plot of land in the same area but the Company did not take the alternative plot of land as it was marshy, it therefore refused to vacate the earlier land allotted under the certificate of occupancy and continued with erection of buildings therein.

The Mai Family intended using the land for agricultural purposes and for housing estate construction posed a great hazard to the suitability of the land for agricultural purposes. Some officers of the Abuja Geographical Information System are alleged to have been hired by the Company and have refused to revoke the Certificate of Occupancy granted to the Company.

At a family meeting held for that purpose, Chief Boko Mai, as head of family, was mandated along with Alhaji Chibouk Mai to institute an action against the Company and the Federal Government, at the High Court of the FCT, claiming inter alia; injunction against Goshen Properties to halt all construction work as it affects the family portion of land, a declaration that the purported grant of Certificate of Occupancy earlier granted; the sum of Fifty Million Naira (N50,000,000.00) being damages for trespass, against the Company and the Federal Government jointly and/or severally; and a perpetual injunction restraining the Government and the Company from ever trespassing on the land.

- a) What other processes do you need to accompany the writ?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- b) In view of the urgency of the matter, draft the necessary application and affidavit to restrain the Company from further engaging in construction work on the land pending when both parties may be heard on the issue.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) Assuming Goshen Properties Limited had its registered office at Ikeja Lagos, what important endorsement would you make on the writ to enable it to be served on the Company in Lagos?

ANSWER

- d) As a Principal State Counsel in the Ministry of Justice of the Federation, the case has been assigned to you to prosecute the defence on behalf of the Federal Government. Enumerate the processes you will file in order to actualize your defence.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

In a recently concluded Governorship Election of Ekiti State, Dr. Sulu Ajala of the Advance Peoples Party (APC) was declared the winner having scored the highest votes of 250,002. Senator Goodwill Fayose contested for the election under People Demonstration Party (PDP) and scored 175,930 votes while Dr. Yusuf Olamide scored 52,783 votes as the candidate for Redeem Party (RD). The result of the election was declared on 4th July, 2023 by the Chief Electoral Officer of the State. Not satisfied with the result of the election, Senator Goodwill Fayose of the PDP intends to challenge the result of the election. His grounds are that Dr. Sulu was once convicted of a criminal offence in 2009, that there was mass rigging in about four Local Government Areas with a manifest double voting and that Dr. Sulu has not paid his taxes in the last four years.

Senator Goodwill Fayose brief Chief Baguda (SAN) to represent him. In the negotiations on his bills, Chief Baguda (SAN) demanded for the sum of N100million from which about N40million will be used to “settle” members of the Election Tribunal. Chief Baguda (SAN) assured Senator Goodwill of judgment of the Tribunal in his favour as election matters are his special area of practice having won election matters for about five governors in the past. On 24th July 2023, Chief Baguda (SAN) filed the petition on behalf of Dr. Sulu.

ANSWER

- b) As a junior Counsel in the Law Firm of Chief Baguda and Co, draft (without the supporting documents) the document to challenge the election result.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) In not more than half of a page, write your submission to the Tribunal's request to address it on the allegation of conviction and sentence your client (Dr. Sulu) in 2009.

ANSWER

- d) Chief Baguda (SAN) wishes to call two witnesses (who are not his witnesses); Professor G. Kaka to come and tender a document vital to the proceedings and Mrs. Alice Ajibade (an INEC official) to come and testify on an issue raised during trial, what are the procedure(s) necessary to ensure that they are before the Tribunal?

ANSWER

- e) Within what time should the Appeal Court determine and dispose the appeal?

ANSWER

- f) The respondent has engaged the services of a new Counsel to take up the matter and disengaged the service of his former Counsel; explain the procedure the new Counsel needs to follow.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

You are counsel to Mrs. Jenima Alao in an action she instituted against the Sunview Bottling Company Limited at the Lagos State High Court, Igbosere, Lagos breach of contract of supply. She is claiming the sum of N1.5million as money had and received for a consideration which had failed.

Mrs. Alao seeks to rely on the written contract of supply dated February 23, 2022 and the payment receipt dated June 30, 2022. The original copies of these documents were lost when Mrs. Alao relocated from her former house sometime in December 2017 and she cannot find the photocopies in her possession.

Presently, pleadings have been closed in the case and you now wish to comply with some pre-trial proceedings before setting the matter down for trial.

Answer the following questions

- a) What process will you draft and serve on the defendant for discovery of the documents in this case?

ANSWER

- b) Assuming you are counsel to the defendant in the case, draft the process that you will file in respect to (a) above.

ANSWER

- c) What is the effect of failure to the defendant to take the step in (b) above?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- d) After close of pleadings you intend to agree with the defendants on the issue that will go to trial and the elements to be tendered without objection.

ANSWER

- ii) Set out in numbered paragraphs the procedure you will adopt to set in mention the forum in d (i) above

ANSWER

- e) Assuming either of the parties participated at the forum in (d) above:
- i) Set out in numbered paragraphs the consequence(s) that may follow such failure under the rules of court

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- ii) Set out the likely ethical consequences that may follow from such failure.

ANSWER

- f) Assuming on the date the case comes up in court you are to appear for the claimant, announce your appearance before the court using Smart as your surname in block letters.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4

**IN THE FEDERAL HIGH COURT
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO. FHC/LD/22/22

BETWEEN

DR. JAMES EDEM

-- PLAINTIFF

AND

EBEANO FURNITURE LTD

GOVERNOR BINUTU SMITH

-- DEFENDANTS

STATEMENT OF CLAIM

1. The Plaintiff is a businessman who resides at No.20 Eko Akete Lane, Ikoyi - Lagos.
2. The 1st Defendant is a Limited Liability Company engaged in the business of furniture making and sales with its registered Head Office at 16, Mcwee Street, Lagos.
3. The 2nd Defendant is the Executive Governor of Lagos State of Nigeria.
4. The Plaintiff avers that on January 1, 2022, he signed a supply agreement with the 1st Defendant at the 1st Defendant's Head Office.
5. By the said agreement, the 1st Defendant was to supply sundry furniture to the Plaintiff on or before the 28th of February, 2022, to enable the Plaintiff execute a Fifty Million Naira (N50, 000,000.00) contract granted by the 2nd Defendant to the Plaintiff to furnish the renovated Governor's Lodge in Ikoyi, Lagos.
6. Sequel to the terms of their agreement, the Plaintiff made an advancement payment of Ten Million Naira (N10, 000,000.00) with an outstanding balance of N10, 000,000.00 which was to be paid upon delivery of the furniture by the Defendant on the stipulated date.
7. The Defendant did not supply the furniture until sometime in February, 2022 and consequently, the furnishing contract between the Plaintiff and the 2nd Defendant was revoked and re-awarded to another person.
8. The Plaintiff as a result of the facts pleaded in paragraph 7, rejected the furniture supplied by the 1st Defendant and demanded the refund of the advance payment made to the 1st Defendant which the 1st Defendant has up till now refused to refund.
9. The plaintiff avers that he gave the 2nd Defendant bride of Fifteen Million Naira (N15, 000,000.00) and the 2nd Defendant has refused to refund the money.
10. Wherefore the Claimant claims as follows:
 - a. A declaration that the 1st Defendant is in breach of the supply agreement entered into between the Plaintiff and the 1st Defendant on January 1, 2022.
 - b. Ten Million Naira (N10, 000,000.00) against the 1st Defendant

SAMPLE THEORY QUESTIONS AND ANSWERS

- being the advance payment for supply of the furniture which the 1st Defendant filed supply as agreed.
- c. Fifteen Million Naira (N15, 000,000.00) against the 2nd Defendant being refund of the bride paid to the 2nd Defendant by the Plaintiff.

Dated this 15th day of March 2022

Mr. A.J. Kotoyo.
Bar Part II Students
For: Nsirim & Associates
Plaintiff's Counsel

FOR SERVICE ON:

1. 1st Defendant
16 Mcwee Street, Lagos State.
2. 2nd Defendant
Government House, Lagos State.

Answer the following questions:

- a) Comment on the jurisdiction of the Federal High Court to hear this suit.

ANSWER

- b) Comment on the propriety of joining the 2nd Defendant in this suit and whether the Court is competent to entertain the suit against him.

ANSWER

- c) Assuming during the hearing of this suit, Counsel for the 2nd Defendant urged the Court to strike out paragraph 9 of the statement of claim as well as the claim in paragraph 10(c) against the 2nd Defendant, are there any possible ground or argument in law to support this application?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- d) Comment on the ethical implication of the signing of the statement of claim by Mr. A.J. Kotoyo.

ANSWER

- e) Given the facts of this case and assuming the matter was pending before the Lagos State High Court, what procedure would you advised the Claimant to adopt in order to obtain speedy judgment in this suit and state the originating processes/documents required to be filed under this procedure?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 5

By an agreement dated June 1, 2022 Chief Bowoku leased out his 8 bedroom duplex located at No.2 Gongoni Street, Wuse, Abuja to Mr. Boniface at the rate of N12m per annum. One of the terms of the agreement is that the property must be used for purely commercial purpose. Even though the nature of the tenancy was not stated in the agreement, Mr. Boniface usually paid his rent on June 1 of each year.

Mr. Boniface a pharmacist used the property as a pharmacy outlet and supermarket. He paid his rent regularly for the first three years and thereafter stopped paying rent, complaining that the economic recession had affected his business adversely. Mr. Boniface has also partitioned the 8 bedroom duplex into two flats of 4 bedrooms each. He uses one of the flats for his pharmacy and supermarket and he now occupies the other flat as his residence.

Chief Bowoku is fed up with Mr. Boniface and has engaged your services as counsel to recover possession of the premises from him.

Answer the following questions:

- a) Advice Chief Bowoku on any condition precedent, which would be met, before you can validly carry out his instruction, to recover possession of the property.

ANSWER

- b) Advise Chief Bowoku on how the nature of the tenancy can be deciphered, in the absence of it being defined in the agreement.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) State the first two documents, which are required to be served on Mr. Boniface to execute your instruction.

ANSWER

- d) Assuming that after the expiration of the document(s) served in (c) above, Mr. Boniface still refuses to give up possession, what other step(s) are you required to take in the matter?

ANSWER

- e) You have decided to commence an action in court to recover possession, in which court will you commence the action and by what mode?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 6

MOTION I

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO. LD/001/22

BETWEEN:

DR. ESSIEN ESSIET
AND
MAZI OKONGWU OKONKWO

– CLAIMANT/APPLICANT

-- DEFENDANT/RESPONDENT

MOTION ON NOTICE

**BROUGHT PURSUANT TO ORDER 12 RULES 2 AND 5;
ORDER 43 RULE 1 OF THE HIGH COURT OF LAGOS STATE
(CIVIL PROCEDURE) RULES 2019 AND UNDER THE
INHERENT JURISDICTION OF THIS HONOURABLE COURT**

TAKE NOTICE that this Honourable Court will be moved on 15th day of April, 2022 at the hour of 9 o'clock in the forenoon or so soon thereafter as counsel may be heard on behalf of the Claimant/Applicant for the following order;

1. An order of this Honourable Court entering FINAL JUDGMENT in favour of the Claimant/Applicant against the Defendant/Respondent in default of appearance and statement of defence.

ALTERNATIVELY

2. An order of Court setting down the suit for trial on its merit.
3. And for such further or other orders as the Court may deem fit to make in the circumstances.

GROUNDS FOR THE APPLICATION

TAKE FURTHER NOTICE that the ground of this application is that the Defendant having been served with all relevant originating processes in this suit has failed to enter appearance or file a statement of defence within the time stipulated by the rules of Court.

DATED THIS 17TH DAY OF April 2022

UDO U. UDO ESQ.

UDO & UDO & CO.

CLAIMANT/APPLICANT COUNSEL

FOR SERVICE ON THE RESPONDENT
113, IKOYI STREET
LAGOS

SAMPLE THEORY QUESTIONS AND ANSWERS

AFFIDAVIT I

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO. LD/001/18

DR. ESSIEN ESSIET
AND
MAZI OKONGWU OKONKWO--DEFENDANT/RESPONDENT

-- CLAIMANT/APPLICANT

**AFFIDAVIT IN SUPPORT OF MOTION FOR JUDGMENT IN
DEFAULT OF APPEARANCE AND STATEMENT OF
DEFENCE**

I Damilola Osin, Male, Nigerian citizen of No16 Kalakuta Roadm Oyinbo, Lagos do hereby make oath and state as follows:

1. I am a litigation clerk in the law firm of Udo & Udo & Co., Counsel to the Claimant/Applicant and by virtue of my position; I am conversant with the facts of this case.
2. I have the consent of my employers and of the Claimant/Applicant to depose to this affidavit.
3. I was informed by the Claimant and I verily believe him as follows:
 - a. That this suit was filed on 1st day of March, 2022 and all the originating processes were served by the bailiff on the Defendant/Respondent on 10th of March, 2022.
 - b. That the period of entry of appearance and to file a statement of defence has elapsed.
 - c. That the Defendant has no defence to the suit.
 - d. That it will be in the interest of justice to grant this application
4. I make this affidavit in good faith conscientiously believing same to be true and in accordance with the Oaths Act.

DEPONENT

SWORN AT THE HIGH COURT
Registry this 17th day of April, 2022
BEFORE ME
COMMISSION FOR OATH

MOTION 2

**IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO. LD/0017/22

DR. ESSIEN ESSIET
AND
MAZI OKONGWU OKONKWO -- DEFENDANT/APPLICANT

SAMPLE THEORY QUESTIONS AND ANSWERS

**MOTION ON NOTICE
BROUGHT PURSUANT TO ORDER 43 RULES 1 OF THE
HIGH COURT OF LAGOS STATE (CIVIL PROCEDURE)
RULES 2019 AND UNDER THE INHERENT JURISDICTION
OF THIS HONOURABLE COURT**

TAKE NOTICE that this Honourable Court will be moved on 18th day of April, 2022 at the hour of 9 o'clock in the forenoon or so soon thereafter as counsel may be heard on behalf of the Defendant/Applicant for the following order;

1. An order extending the time within which the defendant may enter appearance and file his statement of defence in this suit.
2. And for such further order or other orders as this Honourable Court may deem fit to make in the circumstances.

DATED THIS 18TH DAY OF April, 2022

ABC NWOKO ESQ.
DEFENDANT/APPLICANT'S COUNSEL
1, DIKE LANE, VICTORIA ISLAND
LAGOS

FOR SERVICE ON
THE CLAIMANT/RESPONDENT
C/O HIS SOLICITORS

**AFFIDAVIT 2
INT THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS**

SUIT NO. LD/0017/22

DR. ESSIEN ESSIET -- CLAIMANT/ RESPONDENT
AND
MAZI OKONGWU OKONKW -- DEFENDANT/ APPLICANT

**AFFIDAVIT IN SUPPORT OF MOTION FOR EXTENSION OF
TIME**

I, Okongwu Okonkwo, Male, Nigerian citizen, business man of No.16 Parklane Drive Ikoyi - Lagos, do hereby make oath and state as follows:

1. I am the Defendant/Applicant in this suit and by virtue of which I am conversant with the facts of this case.
2. This action was filed on 1st day of March, 2022 and the originating processes served on me on 10th March, 2022.
3. Upon receipt of this said originating process, I proceeded to my lawyer's chambers to instruct him for my representation.
4. On my way to my lawyer's chambers, I was involved in a ghastly

SAMPLE THEORY QUESTIONS AND ANSWERS

motor accident which claimed several lives.

5. As a result of this accident, I went into coma and was admitted the Ikoyi Specialist Hospital.
6. I was only discharged from the hospital four days ago by which time the period limited for entry of appearance and filing of defence had elapsed.
7. It is the interest of justice to grant this application to enable the Defendant present his defence before the court.
8. I swear to this affidavit in good faith in accordance with the Oaths Act.

DEPONENT

SWORN AT THE HIGH COURT
REGISTRY THIS 15TH DAY OF APRIL, 2022.
BEFORE ME

COMMISSIONER FOR OATH

Answer the following questions:

- a) When is it appropriate to grant prayer 2 in motion 1 in an application for default with judgment?

ANSWER

- b) Which of the two motions is the Court bound to hear first. Support your answer with reasons and authorities, if any.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) Assuming the Court decides to hear the application for extension of time first, state whether there is any material or document required by the rules that is omitted in the affidavit in support of that application that may lead to denial of the application.

ANSWER

- d) Assuming on the other hand, the court decided to hear the motion for judgment first and granted final judgment as sought. Thereafter, the Respondent brought a motion to set aside the judgment relying on the same reasons for default as mentioned in the affidavit in support of motion 2 (extension of time), what are the chances of success of such application to set aside.

ANSWER

- e) Assuming at the conclusion of the proceedings, the Defendant refused to settle his Counsel's fee on the ground that he lost the case. The Defendant also claims that the lawyer has promised him that he would win the case at all cost and that he was the best lawyer in the city. Defendant claims that these representations influenced his giving the lawyer the brief. Comment on the ethical implications of the representation of the Defendant's lawyer.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- f) While in the process of determining the motions, the Court is confronted with conflict in the affidavit evidence, how should the Court resolve such conflict?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

MARKING SCHEME FOR THEORY

QUESTION 1

1A

The processes I need to accompany the writ of summons are:

1. Statement of Claim
2. Copies of documents to be relied on
3. List of witnesses
4. Written statements on oath of the witnesses
5. Pre-action counseling certificate in form 6

1B

**THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO._____

BETWEEN:

CHIEF BOKO MAI
ALHAJI CHIBOK MAI- -- Applicants
(Suing for themselves and on behalf of the entire Mai Family)
AND
GOSHEN PROPERTIES LTD.
ATTORNEY GENERAL OF F
EDERATION -- Respondent

MOTION EX PARTE

**BROUGHT PURSUANT TO ORDER 43 RULE 3 OF THE HIGH
COURT (CIVIL PROCEDURE) RULES OF FEDERAL
CAPITAL TERRITORY 2018 AND UNDER THE INHERENT
POWERS OF THE COURT**

TAKE NOTICE that this Honourable Court will be moved on____ the day of____ 2018 at the hour of 9 o'clock in the forenoon or so soon thereafter, as counsel may be heard on behalf of the Applicants herein, praying this court for;

1. An order of **interim injunction** restraining the 1st defendant, either by itself, agents and privies from carrying on any further construction work on that portion of land
2. AND for such further other order(s) as the court may deem fit to make in the circumstance.

Dated this _____ day of _____ 20____ (**Date of exams**)

SAMPLE THEORY QUESTIONS AND ANSWERS

XYZ Esq
Counsel to the Applicants
XYZ & Co

**THE HIGH COURT OF FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA**

SUIT NO._____

BETWEEN:

CHIEF BOKO MAI

ALHAJI CHIBOK MAI
(Suing for themselves and on
behalf of the entire Mai Family)

AND

GOSHEN PROPERTIES LTD.
ATTORNEY GENERAL OF
FEDERATION

--

APPLICANTS

--

RESPONDENT

AFFIDAVIT IN SUPPORT OF MOTION

I, Chief Boko Mai, Christian, Male, Christian, Nigerian businessman
residing at Plot 3, Aminu Kano Avenue, Wuse II, do hereby make
oath and state as follows:

1. That I am the 1st Plaintiff /Applicant herein, by virtue of which I am quite conversant with the facts of this case.
2. That the 2nd Defendant herein granted a certificate of occupancy in favour of the 1st Defendant in respect of a large piece of land at the Sambas Forest Reserve and erroneously included the Plaintiffs' portion of land, which was specifically excluded from the official gazette that acquired the Forest Reserve.
3. That the 2nd Defendant is now aware of the error but has neglected, failed and or refused to revoke the certificate of occupancy as it affects the Plaintiff /Applicants' portion of land.
4. That the 1st Defendant was offered an alternative piece of land when the error was discovered by the 2nd Defendant but the 1st Defendant bluntly refused to accept the alternative piece of land.
5. That the 1st Defendant is currently engaged in massive construction and erection of homes on the said Plaintiff /Applicants' portion of land.
6. That the Plaintiff /Applicants instead intend using the said portion of land for agricultural purposes.
7. That unless the 1st Defendant is immediately stopped by the order of this court from further erection and construction on the said land, it will be rendered irredeemably unfit for agricultural purposes.
8. That this is a situation of real urgency, hence this application 1

SAMPLE THEORY QUESTIONS AND ANSWERS

9. That I swear to this affidavit bona fide and in accordance with the Oaths Act 2004.

DEPONENT

SWORN to the High Court Registry, Abuja
This _____ day of _____ 201_____

**BEFORE ME
COMMISSIONER FOR OATHS**

1C

In order to be able to serve the writ on the company in Lagos, I would make the following endorsements on the writ:

This writ of summons is to be served outside Federal Capital Territory, Abuja in Lagos. S. 97 Sheriffs and Civil Processes Act.

1D

The processes I will file in order to actualize my defence are:

1. Statement of defence
2. Copies of documents to be relied on
3. List of witnesses
4. Written statements on oath of the witnesses
5. Pre-action counseling certificate in form 6

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2

2A

Two ethical issues are involved in this case and they are:

1. The lawyer collected money to bribe the members of the Selection Tribunal Panel. This is a conduct calculate to corrupt judicial officers and or public officer and in clear violation of R. 15 (3)(a) of the RPC.
2. The layer also gave assurances that he will win the case since election matters are his area of specialization having won several cases for former governors. This amounts to improper advertisement and soliciting for briefs. This is a violation of R. 39(2) (d) of the RPC which prohibits statement from lawyers about the quality, size and success of their practice or their success rate.

2B

**IN THE GOVERNORSHIP ELECTION TRIBUNAL
HOLDEN AT ADO EKITI**

PETITION NO_____

**ELECTION TO THE OFFICE OF THE GOVERNOR OF EKITI
STATE HELD ON TUESDAY THE 4TH JULY, 2023**

BETWEEN

SENATOR GOODWILL FAYOSE -- PETITIONER

AND

1. DR. SULE AJALA

2. INEC

-- RESPONDENTS

PETITION

**THE PETITION OF SENATOR GOODWILL FAYOSE OF EKITI
STATE WHOSE NAME ARE SUBSCRIBED**

1. Your Petitioner, Senator Goodwill Fayose of Ado Ekiti Local Government Area was a candidate in the above election. He was validly nominated by his party, People Demonstration Party (PDP) as a candidate in the election to the office of the Governor of Ekiti State.
2. And your petitioner states that the election was held on 4th July, 2023 and the following votes are scored (despite the fact that there was mass rigging in about 4 Local Government Areas of the State).

NAME	PARTY	VOTES
DR. SULE AJALA	APC	250,002
SEN. GOODWILL FAYOSE	PDP	175,930
DR. YUSUF OLAMIDE	RD	52,783

SAMPLE THEORY QUESTIONS AND ANSWERS

Dr. Sule Ajala was declared winner in spite of the massive rigging in about 4 Local Government Areas of the State.

3. GROUNDS FOR PETITION

Your petitioner states that the grounds upon which he files the petition are as follows:

- a) The 1st respondent was not qualified to contest the election
- b) The election was invalid by reason of corrupt practice or non-compliance with the electoral act.
- c) The 1st respondent was not duly elected by majority of lawful votes cast as there was rigging and over voting in about 4 Local Government Areas of the State.

4. FACTS OF THE PETITION

- a) Your petition states that the 1st Respondent was convicted in October 2007 for obtaining by false pretense and receiving stolen goods
- b) The 1st Respondent has not paid his taxes in the past 4 years preceding the date of this election
- c) That there was over-voting in about 4 Local Government Areas as follows;
- d) That there was massive rigging of the election by the electoral officials.

5. PRAYERS

WHEREOF your petitioner prays the Honourable Election Tribunal for:

- a) A declaration that the 1st respondent, Dr. Sule Ajala was not duly elected and returned as winner in the election for the office of the Governor of Ekiti State held on the 4th July, 2023.
- b) An order declaring the election into the office of the Governor of Ekiti State as null and void
- c) An order for a bye election into the office of the Governor of Ekiti State on a date to be fixed by the 2nd Respondent.

Dated this _____ day of _____ 20____ (**date of exams**)

SEN. GOODWILL FAYOSE
Petitioner

ADDRESS FOR SERVICE

1. PETITIONER
2. 1ST RESPONDENT
3. 2ND RESPONDENT

SIGNED BY
Baba Sallah Esq

SAMPLE THEORY QUESTIONS AND ANSWERS

(Petitioners Counsel)

Signed before me this _____ day of _____ 2023

Tribunal Secretary

2C

Generally, a person convicted and sentenced of a criminal offence involving fraud cannot contest for any political office in Nigeria. However, such conviction must be within the last 10 years of the date of such election to disqualify him.

In the instant case, assuming without conceding that Dr. Sulu Ajala was previously convicted and sentenced of a criminal offence, it is not stated whether the offence was one involving dishonesty or fraud, in the absence of any such proof, the doubt must be resolved in favour of Dr. Sulu Ajala.

Secondly, the alleged offence took place more than ten years before the election. Therefore, Dr. Ajala will not be caught up by this provision. This objection must be thrown into the garbage bin for being misconceived and calculated to deceive and smirch the personality of the 1st Respondent. May it please the Tribunal.

2D

To secure the attendance of Prof. G. Kaka to tender the document on a particular date, Chief Baguda (SAN) will need to apply for subpoena duces tecum. For Mrs. Alice Ajibade to come and testify in the trial, Chief Baguda (SAN) will apply for subpoena ad testificandum.

2E

An appeal involving election matters should be determined and disposed of within a period of 60 days. See S. 295(7) of the 1999 Constitution as amended.

2F

Ordinarily, counsel should not interfere with a matter when a client is already being represented by another lawyer. R. 26(4) RPC.

However, where the client engages the service of a new counsel in a matter being prosecuted or defended by a lawyer, the procedure is that the new counsel must

1. Promptly give notice of his appointment to the former counsel
2. Use all his good endeavours to ensure that all fees owed to the former counsel are paid, and
3. Finally, both counsel should notify the court of the change in counsel. See R. 29 RPC.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

3A

I will draft and serve an application in writing on the defendant requesting him to make a discovering on oath of the documents (inspection of document).

3B

IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS

Suit No._____

BETWEEN:
JEMIMA ALAO -- CLAIMANT
AND
SUNRISE BOTTLING CO. LTD -- DEFENDANT

AFFIDAVIT AS TO DOCUMENTS

I, Jack Daniels, Director of the above named defendant, Sunrise Bottling Co. Ltd., make oath and say as follows:-

1. The Defendant has in its possession the documents relating to the matters in question in this suit.
2. The office copies of the two documents namely the contract of supply dated 23rd February, 2022 and the payment receipt dated 30th June, 2022 are attached and marked Exhibit JD1 and JD2 respectively.

Dated at Lagos this _____ day of _____ 20____

DEPONENT

Sworn to at the High Court Registry, Lagos.

This _____ day of _____ 20____

BEFORE ME
COMMISSIONER FOR OATHS

3C

Where the defendant fails to answer on oath as stated in (b) above, he shall be liable to attachment (i.e. committal for contempt) for disobedience of the order.

3D (i)

I will do this at the Case Management Conference and Scheduling Order 27 Lagos 2019

SAMPLE THEORY QUESTIONS AND ANSWERS

3 D (i)

The procedures I will adopt to set the Case Management Conference in motion are:

1. As counsel to the claimant I shall apply for the issuance of a Case Management Conference Notice in Form 17 within 14 days after close of pleadings.
2. Upon application by the claimant above, the Judge shall cause to be issued to the parties and their legal practitioners (if any) a Case Management Information sheet as in Form 18.

If the claimant does not make the application within 14 days after close of pleadings, the defendant may do so or apply for an order to dismiss the action.

3 E (i)

Where the parties fail to participate at the Case Management Conference in (d) above the following consequences may follow such failure under the rules of court namely:

- 1) Where the Claimant fail to participate at the Case Management Conference, his claim will be dismissed.

Where the defendant fails to participate in the Case Management Conference judgment will be entered against him where appropriate.

3 E (ii)

The likely ethical consequences that may follow such failure are:

1. The Counsel may be guilty of lack of diligence in handling the client's case and not representing the client competently.
2. The Counsel may be liable in negligence
3. If the Counsel is reported to the Legal Practitioners Disciplinary Committee, he may face disciplinary measures. **Rule 14(1)** **RPC, S.9 (1) & 10(1) of LPA.**

3 F

May it please the Court, Miss Ronke SMART, appearing for the claimant”

NOTE WHAT TO AVOID:

- i. Ladies must state their status
- ii. Both ladies & men must state their first names or initials before their surnames.
- iii. The use of words like “With due respect”, “With the greatest humility”, “With profound respect and humility” are wrong and will not earn any marks please.

QUESTION 4

4 A

The Federal High Court has no jurisdiction in this matter. This is because none of the parties in the suit is either the federal government or any agency of the federal government as to bring the suit which the contemplation of section 25(1) of the constitution. Secondly, the subject matter of the suit is simple contract which has been held by the Supreme Court in *Onuorah v KRPC* as generally outside the jurisdiction of the Federal High Court under section 251 of the Constitution. The appropriate court in such a case is the State High Court to the exclusion of the Federal High Court. *Onuorha v KRPC Ltd*

4 B

By virtue of section 308(1) (a) of the Constitution, no civil proceeding shall be instituted or continued against any person holding the office of governor while he is in office.

Also, by section 308(1) (c) of the Constitution, the appearance of such a person cannot be compelled by any process of court. Therefore, in the instant case, since the 2nd Defendant is an executive governor of a State, he can neither be sued nor can his presence in such proceeding be compelled by any process of the court.

The action against him is therefore incompetent and the court cannot therefore competently entertain same. *TINUBU v IMB; FAWEHINMI V IGP*

4 C

Yes, paragraph 9 raises allegation of illegality (bribery) against the 2nd Defendant. The law requires not only that an allegation of illegality specifically pleaded but particulars ought also to be furnished. *Adesanya V Otuewu*. Paragraph 9 is vague and does not provide sufficient particulars of the alleged bribery, for example, the place and time of the alleged bribery as well as the purpose of the bribery. Since the particulars are not included, this paragraph is incompetent and liable to be struck out.

Being the only averment in support of the claim against the second defendant, paragraph 10(c), the claim ought to be dismissed against the second defendant on this score.

Secondly, the courts are not to enforce contractual claims that are based on illegality or crime as such would be against public policy.

SAMPLE THEORY QUESTIONS AND ANSWERS

On this ground also, the claim as it relates to the second defendant ought to fail

4 D

It is an offence under the Legal Practitioner Act for a person other than a legal practitioner to generally practice or hold himself out to practice as a legal practitioner. Section 22 LPA. Also by rule 3(1) of the Rules of Professional Conduct for Legal Practitioner (2007), it is prohibited for a lawyer to aid a non-lawyer in the unauthorized practice of law or to permit his professional services or his name to be used in aid of or to make possible the authorized practice of law by any person not qualified to practice.

The provisions of section 22 LPA have been breached by AJ Kotoyo who is only a student of law and does not qualify as a legal practitioner as defined by section 24 of the LPA. He is therefore not qualified to practice law as he has done in this case.

The law firm and the partners may also be held responsible for breach of rule 3(1) in this case.

4 E

From the facts of this case, the procedure that would ensure speedy judgment is Order 13 of the High Court of Lagos State (Civil Procedure) Rules 2019.

All that is required to proceed under this rule is that the claimant believes that there is no defence to his claim.

The originating process required to be filed under Order 13 are as follows:

1. Writ of summons
2. Statement of claim
3. Copies of documents to be relied upon
4. Motion on notice for the application of summary judgment.
5. Affidavit
6. Written brief

QUESTION 5

5 A

The condition precedent that must be met before I can carry out Chief Bowoku's instruction as counsel to recover possession of the property is that I must obtain a written authority from Chief Bowoku before I can validly issue the necessary statutory notices to recover possession. Coker v Adetayo

5 B

Where the nature of the tenancy has not been agreed upon or defined in the tenancy agreement, the nature of the tenancy shall be deciphered or determined by reference to the time when the rent was paid or demanded

5 C

In order to execute my instruction, the first two documents that are required to be served on Mr. Boniface are as follows:

1. First is the 6 months' Notice to Quit which will expire on the eve of the anniversary of the tenancy.
2. At the expiration of the notice to quit, I will serve the second notice which is the Notice to Tenant of Owner's Intention to Apply to recover possession otherwise known as the 7 days' notice. S. 7 RPA, Abuja

5 D

After expiration of the documents served in (c) above, (i.e. notice to quit and 7 days' notice of owner's intention), where Mr. Boniface still refuses to give up possession, the next step that I will take is to institute an action in the appropriate court in order to recover possession of the premises from him. S. 10 RPA, Abuja.

5 E

I will commence the action at the High Court of the Federal Capital Territory, Abuja where the property is situated because the annual rental value of the property is N12m which is more than the jurisdiction of the District court. The limit of the jurisdiction of the District Court in Abuja is N5m. I will commence the action by Writ of Summons because the action is going to be contentious. Doherty v. Doherty, also S.10 of RPA provides that an action for recovery of premises in the High Court can be commenced by issuing a writ of summons.

QUESTION 6

6 A

Prayer 2 motions 1 may be granted in an application for default judgment where the claim is such that default judgment cannot be granted, for example in declaratory relief which the claimant must prove even if there are admissions of facts by the defendant. *Bello v Eweka*

6 B

Generally, the multiple motions before the high court as heard/entertained according to when they were filed. However, as an exception to this rule, the court would normally first hear a constructive motion i.e. one that is intended to save the action before a destructive one i.e. one that is intended to destroy the action or put it to an end. This is so irrespective of which one is filed first. *Nalco & Team Associates v NNPC*. In this case therefore, since the motion for extension of time to enter appearance and file pleading, if successful, will save the action and make the motion for judgment in default of appearance and pleading unnecessary, the proper procedure is for the court to hear the motion for extension of time first.

6 C

In an application for extension of time, the rules require the defendant to show a good defence. This is usually done by exhibiting such defence to the affidavit in support of the application for extension of time. This has not been done in this case and could therefore be a ground for the refusal of the application.

6 D

The Judge empowered to set aside any default judgment obtained under the rules only on grounds of fraud, non-service or lack of jurisdiction

None of these is consistent with the reason adduced in the said affidavit (hospitalization). It is unlikely therefore, that the motion to set aside will succeed.

6 E

By the Rules of Professional Conduct for Legal Practitioners 2007, a lawyer is prohibited from giving assurances to a client as to the successful outcome of his case. Also, he is prohibited from engaging in any advertising or promotion of his practice which includes, among others, any statement about the quality of his work. Rule 39 (2) RPC 2007. Therefore, the representations of the defendant's lawyer constitute a breach of the above provision.

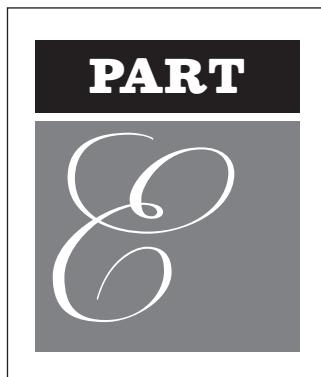
SAMPLE THEORY QUESTIONS AND ANSWERS

6 F

The conflict in such a case will be resolved by calling oral evidence.
Falobi v Falobi

However, where there are enough documentary evidence to enable the court resolves the conflict, the court may make use of such document in resolving the conflict.

SAMPLE THEORY QUESTIONS AND ANSWERS



THEORY
QUESTIONS
AND ANSWERS

ON

**PROFESSIONAL ETHICS
AND SKILLS**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

Give a check list of recommendation(s) by the Unsworth Committee established in 1959

ANSWERS

The recommendation by the Unsworth Committee to Nigeria was that to establish the following;

1. Its own system of Legal Education.
2. Faculty of Law.
3. A Law School.
4. A Council of Legal Education.

QUESTION 2

State the criteria for partial exemption from the Nigerian Law School course.

ANSWERS

The Criteria for Partial Exemption are;

1. Graduates from common law jurisdictions who have been teaching law for 5 years and above in a Faculty of Law in a Nigerian University can be exempted from the Bar Part I course.
2. Graduates from non-common law jurisdictions who have taught law in a Faculty of Law in a Nigerian University for 10 years and above can be exempted from the Bar Part I Course.
3. After such exemption, they will be eligible for admission to the Bar Part II Course.

QUESTION 3

State the criteria for full exemption from the Nigerian Law School course.

ANSWERS

A person may be fully exempted from going through the course the Nigerian Law School if he fulfills the following conditions:

1. He is a citizen of Nigeria
2. He is qualified to be admitted to the Nigerian Law School
3. His qualifying subjects for admission to the Nigerian Law School include all the core subjects prescribed by the Council of Legal Education
4. At the time of the application for exemption, he satisfies the Council that he has acquired knowledge and experience over a period of at least 5 years making him fit for enrolment and that it would be unreasonable, having regard to all the circumstances, to require him to go through the Law School; and
5. That at the time he qualified to attend the Law School for a

SAMPLE THEORY QUESTIONS AND ANSWERS

reasonable time thereafter, he lost the opportunity of doing so for reasons beyond his control.

QUESTION 4

List any principal bodies involved in the management, control and regulation of the legal profession in Nigeria?

ANSWERS

1. The Council of Legal Education.(CLE)
2. The Body of Benchers (BB)
3. Legal Practitioners Privileges Committee. (LPPC)
4. Legal Practitioners Remuneration Committee.(LPRC)
5. Legal Practitioners Disciplinary Committee.(LPDC)
6. General Council of Bar (GCB)
7. Nigerian Bar Association.(NBA)
8. National Judicial Council (NJC)

QUESTION 5

State the Functions of the Council of Legal Education in the control and regulation of the legal profession in Nigeria?

ANSWERS

1. Responsibility for the Legal Education of persons seeking to become Members of the Legal profession.
2. Continuing Legal Education for legal practitioners.
3. Issuance of qualifying certificate to graduates of the Nigerian Law School

QUESTION 6

Give a checklist of the composition of the Council of Legal Education in Nigeria?

ANSWERS

1. The Chairman is appointed by the President on the Attorney General of the Federation's recommendation.
2. Attorneys-General of the States and in the absence of a State Attorney General, the Solicitor General of the State.
3. A representative of the Federal Ministry of Justice appointed by the Federal Attorney General.
4. Heads of Faculty (Dean) of Law of recognised universities in Nigeria, whose course of legal studies is approved by Council as sufficient qualification for admission to the Law School.
5. The President of the NBA.
6. 15 persons entitled to Practise as legal practitioners in Nigeria of not less than 10 YEARS POST CALL selected by NBA.

SAMPLE THEORY QUESTIONS AND ANSWERS

7. The Director General of the Law School.
8. Two authors of published learned works in the field of law appointed by the Federal Attorney General.

QUESTION 7

Give a checklist of the composition of the Legal Practitioners Privileges Committee in Nigeria?

ANSWERS

1. The Chief Justice of Nigeria. (Chairman)
2. The Federal Attorney General.
3. One Justice of the Supreme Court.
4. President of the Court of Appeal.
5. 5(Five) Chief Judges of State High Courts.
6. The Chief Judge of the Federal High Court.
7. Five Legal Practitioners who are SANs.

QUESTION 8

Give a checklist of the composition of the Legal Practitioners Disciplinary Committee in Nigeria?

ANSWERS

1. A Chairman who SHALL NOT be either the CJN or a Justice of the Supreme Court (no Justice of the Supreme Court is included in this committee)
2. 2 (Two) Justices of the Court of Appeal, one of whom shall be the President of the Court of Appeal.
3. 2 (Two) Chief Judges.
4. 2 (Two) Attorneys-General who shall be either the Attorney General of the Federation and an Attorney General of a State or two State Attorney General and
5. 4 (Four) Members of NBA appointed by the Body of Benchers.

QUESTION 9

State the rights and privileges accorded to Life Benchers?

ANSWERS

1. Exclusive right to sit at the first row.
2. The right to mention any cause or matter which is on the cause list for mention and not otherwise listed for hearing out of turn.

QUESTION 10

State the regulatory body saddled with the responsibility of call to bar ceremony?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

Body of Benchers

QUESTION 11

In getting the facts of a case, state 5 guidelines that will help a legal practitioner in framing his questions during client interview.

ANSWERS

1. Frame simple short questions
2. Avoid the use of legal and technical jargon
3. Avoid negative questions
4. Avoid ambiguous questions
5. Avoid multiple questions

QUESTION 12

State instances when a counsel may take instructions from his client outside his law office.

ANSWERS

1. Where the client is ill or in a hospital
2. Where the client is advanced in age
3. Where it has to do with family relations
4. Where the client is detained.

QUESTION 13

"A retired judicial officer cannot practice at all under the Nigerian legal system" Comment on the validity or otherwise of this statement.

ANSWERS

The statement is false. By virtue of Section 292(2) of the 1999 Constitution as (amended) provides that Judicial officer after retirement is prohibited from practicing as an advocate. He is entitled to practice as a legal consultant or solicitor.

QUESTION 14

Discuss the Avrom Sherr's three-stage-model of interviewing.

ANSWERS

Avrom Sherr's Three-Stage Model of Interviewing

1. Listening: The purpose of this stage is to gather information from the client about the facts on the matter. It involves hearing and listening to the problems and instructions of the client.
2. Questioning: The purpose of this stage is to use questions to fill in any gaps, clarify ambiguities and inadequacies in the client's narrated facts.
3. Advising: The purpose of this stage is to advise the client on the

SAMPLE THEORY QUESTIONS AND ANSWERS

practical and legal effects of the matter. The client is advised of the solutions or alternative solutions and their consequences.

QUESTION 15

What are the legal skills you will require in order to excel as a legal practitioner?

ANSWERS

1. Legal Research
2. Verbal Communication
3. Drafting
4. Advocacy
5. Management

QUESTION 16

What is your first professional responsibility to your client before commencing an action?

ANSWERS

My first professional responsibility to my client before commencing an action is to advise him on the alternatives available to him before litigation and the relative strength and weakness of his case in the circumstance.

QUESTION 17

Advise a Client on the validity of the deposit of the title deeds of her property by her Solicitor contrary to her instruction and what remedy she has?

ANSWERS

My advice to a client who the title deed of her property was deposited contrary to her instruction is that she can lay a complaint against her solicitor for breach of rule 23 RPC 2007 at the Legal Practitioners Disciplinary Committee, and the remedy available to her is right to recover the title deed from the solicitor.

QUESTION 18

What recourse is available to a client who claims to have paid a Lawyer fully for services not rendered as the time of the termination of the relationship?

ANSWERS

The client has the right to recover the money paid for services not rendered.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 19

State the instances you may be allowed to disclose privileged communication between you and your client?

ANSWERS

1. If the information is for the purpose of suppressing crime or fraud;
2. If the information is not of a confidential nature;
3. If it is meant to be communicated to a 3rd party;
4. If a legal practitioner is accused by his client and if the communication is of an illegal purpose.

QUESTION 20

What advice would you give a legal practitioner who paid client money into his own account?

ANSWERS

My advice for him/her is that he ought not to pay client money into his own account as it violates Rule 23 RPC 2007, as he ought to open client account into which he pays client money.

QUESTION 21

Comment on the propriety or otherwise of a Counsel appearing as a witness for a Client in the same case he is conducting as a Counsel in Court?

ANSWERS

A counsel who appears as a witness for a client in the same case he is conducting as a Counsel in Court is in breach of the provision of Rule 20 RPC 2007 which implies that; a lawyer shall not accept to act in any contemplated or pending litigation if he knows or ought reasonably to know that he or a lawyer in his firm may be called or ought to be called as a witness. However he can only be allowed to be a witness for a Client in the same case he is conducting as a Counsel in Court;

1. where his testimonies relate to solely the nature and value of legal services rendered in case by the lawyer or his firm to the client;
2. Or as to any matter if refusal would work a substantial hardship on the client because of the distinctive value of the lawyer or his firm as lawyer in the particular case.

QUESTION 22

Comment on the propriety or otherwise of a legal practitioner addressing the Judge of a state High Court as “Your Honour”?

ANSWERS

A legal practitioner is wrong to have addressed a Judge of a High court as “your Honour” as it was to be addressing the High court as “My lord”,

SAMPLE THEORY QUESTIONS AND ANSWERS

as “Your honour” is applicable in customary court and the Magistrate court of Lagos state.

QUESTION 23

Enter an appearance for the prosecution in the High court of Lagos state as your surname is SMART?

ANSWERS

May it please this court; I am SMART C. O director of public prosecution appearing for the prosecution.

QUESTION 24

Comment on the conduct of a lawyer who was talking when a Judge was addressing the court?

ANSWERS

A lawyer ought not to be talking at same time when a Judge is addressing the court as this act is in breach of Rule 35& 36 of RPC 2007. Hence the act of the lawyer is wrong and I do advice he desist from such act whenever he is in court.

QUESTION 25

Assuming a client informs you that he had earlier contacted another law firm in relation to the matter for which he seeks to conduct you, what is your next line of action?

ANSWERS

1. Give notice to the former lawyer and
2. Use his best Endeavour's to ensure that the former lawyer is paid his earned his fee.
3. Ensure that both old and new lawyer gives notice of the change to the court.

QUESTION 26

Comment on a lawyer who allows his professional services to be controlled by an agency which intervenes between him and his client?

ANSWERS

A lawyer should not allow his service be controlled by an agency or person or corporation except charitable societies. Hence the act of a lawyer to allow an agency control professional services between him and his client is in breach of Rule 4 RPC 2007.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 27

Comment on legal practitioner signing a document made other than him?

ANSWERS

Generally, a lawyer shall not aid a non-lawyer in the unauthorized practice of the law; hence a lawyer shall not in return for a fee write or sign his name or permit his name to be written or signed on a document prepared by a non-lawyer as if prepared by him. Rule 3 RPC 2007.

QUESTION 28

Comment on the action of a Legal Practitioner who presented a defence of mistaken identity after his client had confessed to his guilt to the lawyer?

ANSWERS

The action of the lawyer who knows the truth of a matter and tends to suppress same is in breach of his duty to the state as well as the court. Hence, the lawyer ought to inform the court of the proper information rather than presenting a defence of mistaken identity as he is under no circumstances as a counsel to mislead the Court by suppressing material facts. Rule 32(2) RPC 2007.

QUESTION 29

What option is open to a Counsel when his client insists on an illegal course?

ANSWERS

Where a client insists on an illegal course been that the primary duty of a counsel is uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, he should debrief himself or reject such a proposal.

QUESTION 30

Comment on the act of a prosecution counsel who is bent on seeing the accused person is convicted at all cost regardless of the insufficient evidence to prove same?

ANSWERS

The basic duty of a prosecution counsel is not to convict but to see that justice is done. Hence the act of the lawyer is wrong, knowing fully well that he has no sufficient evidence against the accused person. Rule 32 RPC 2007.

QUESTION 31

Describe how to commence disciplinary procedure against a Lawyer for breach of the RPC?

ANSWERS

An Applicant brings an originating application supported by statement of allegation, affidavit and documents to be relied upon against a lawyer to the following persons;

1. Chief Justice of Nigeria
2. Attorney General of Federation
3. President of the Court of Appeal or any presiding justices of the court of appeal
4. Chairman, Body of Benchers
5. President of NBA
6. Local Branch Chairman, NBA
7. Legal Practitioners' Disciplinary Committee

QUESTION 32

What are the types of punishment that can be meted out to a legal practitioner for breach of his duties to his Client?

ANSWERS

1. Striking off the name of the person from the roll
2. Suspension
3. Admonition
4. Ask the legal practitioner to return document or refund moneys or any other thing which came into possession of the lawyer in the course of the transaction.

QUESTION 33

Comment on the power of a Chief Justice of Nigeria to suspend an erring Legal Practitioner?

ANSWERS

The power of the Chief Justice is very limited; it can only exercise this jurisdiction where there is a pending charge before the committee or the likelihood a charge would be brought. The power of punishment is restricted to suspension only pending the determination of such charge by the committee. Section 13 (2) LPA.

QUESTION 34

State the circumstances when a legal practitioner may be justified in withdrawing from a client's employment.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Conflict of interests between the lawyer and the client
2. Where the client insists on an unjust or immoral course in the conduct of his case
3. If the client persists against the lawyer's advice and remonstrance in pressing frivolous defences; or
4. If the client deliberately disregards an agreement or obligation as to payment of fees or expenses. Rule 21 (2) RPC 2007

QUESTION 35

Outline the Chay and Smith's Seven-Stage Model of Interviewing

ANSWERS

1. Preparation
2. Commencement of the interview
3. Appreciation of the client's problem from the facts
4. Identification and evaluation of available remedies
5. Taking instructions from the client
6. Closing the interview
7. Reflecting on the conduct of the interview

QUESTION 36

Outline the Mike Wolfe Model of Interviewing

ANSWERS

1. Listening to the client
2. Analysis of the facts
3. Investigation of facts
4. Taking decisions on the course of action
5. Implementation of the decision taken

QUESTION 37

Outline the Brayrie and Grurie's Model of Interviewing

ANSWERS

1. Preparation for the interview
2. Connecting or introductory matters
3. Establishing legal framework relating to the solicitor's charges
4. Listening to the client's story
5. Identification of legal issues from the facts
6. Questioning the client on the facts that have been narrated
7. Analysis of the facts
8. Summary of the facts
9. Handing over to the client to take decisions

SAMPLE THEORY QUESTIONS AND ANSWERS

10. Closing the interview
11. House keeping

ANSWERS

The act constitutes Language or behaviour which is outrageous or scandalous or which is deliberately insulting to the Court, for example, calling the Judge a liar.

The following steps are:

1. By putting the contemnor in the dock,
2. He should be informed of the act of the contempt and asked why he should not be convicted for the contempt.

QUESTION 39

Can a person in a summary trial for contempt *in facie curiae*, plead *nemo judex in causa sua*, Give reasons for your answer.

ANSWERS

A person charge for contempt in facie curie, who pleads *nemo judex in causa sua* would not succeed reason that the trial commence summarily before the Judge in whose presence the contempt was committed can adjudicate on that matter and it is not a breach to the principles of *Nemo judex in causa sua*.

QUESTION 40

Comment on the act of a Judge trying a matter of Contempt *ex facie curie* made against him.

ANSWERS

When contempt *ex facie curie* is committed against a judge, the judge cannot try the contemnor for contempt because it is against the principle of *nemo judex in causa sua* as it is not desirable that a judge who is the subject of the attack should try the case. Hence; it should be tried by another court. **Awobukun V Adeyemi.**

QUESTION 41

Comment on postings made on the websites of two Law Firms portraying themselves as the leading law firms in Nigeria.

ANSWERS

The posting made by the two law firm on the website constitute advertisement though the provision of RPC 2007 does not make provision for advertisement on the internet but due to trend of globalisation, it a means in which advert could be made, hence it must conform to the provision of the rule. However, by the provision of Rule

SAMPLE THEORY QUESTIONS AND ANSWERS

39(2) (c) & (d) RPC 2007; provides that a lawyer shall not engage or be involved in any advertising or promotion of his practice of the law which makes comparison with or criticizes other lawyers or includes any statement about the quality of the lawyer's work, the size or success of his practice or his success rate. Therefore the statement made on the website portraying themselves as the leading law firm in Nigeria is a violation of the provision of the RPC.

QUESTION 42

A Lawyer wants to set up a website for his law practice where he would display his professional qualifications, the nature of cases he handles, the cases he has handled and won and his range of professional charges etc. Advise him on the ethical issues involved.

ANSWERS

A lawyer is not totally prohibited from advertising but soliciting by the provision of RPC, so in whatever form of advert it must conform to the provision of RPC. Hence a lawyer who wants to set up a website for his law Practise is not a breach but where he would display his professional qualifications; the nature of cases he handles, the cases he has handled and won and his range of professional charges etc. is a breach of Rule 39(2) (d) RPC 2007.

QUESTION 43

Comment on "In reality there is no difference between advertisement and solicitation by the Lawyer under the RPC"?

ANSWERS

Under the provision of RPC there is no clear distinction between advert and soliciting other than the former is permitted but the latter is prohibited; hence it is best to say that the RPC did not define the terms but it is best viewed that while advertisement is like invitation to treat, soliciting is an offer.

QUESTION 44

List the essentials of a good advocacy.

ANSWERS

1. Ability to speak with clear voice;
2. Listen carefully and accurately noting the language indicators, and
3. Ability to question effectively.
4. Ability to master the facts;

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 45

Explain briefly the procedure for the removal of the Chief Judge of a State?

ANSWERS

The procedure for the removal of the Chief Judge of a state is by the Governor acting on an address supported by two-thirds majority of the House of Assembly of the State.

QUESTION 46

What are the grounds for the removal of a Judicial Officer?

ANSWERS

1. Where he/she is incapable of performing duties or
2. Misconduct (e.g. collecting bribe).

QUESTION 47

State the procedure for restoration of name of a legal practitioner to the Roll.

ANSWERS

A legal practitioner whose name has been struck off may appeal for his name to be restored to the roll after complying with the following conditions;

1. The gravity of the offence or offences necessitating the striking off of the applicant's name in the first place.
2. Whether there is sufficient evidence of genuine remorse shown by the applicant in the period between the striking off of his name and the submission of the application
3. Whether in all the circumstances of the case the court is satisfied that the applicant has in the intervening years become a fit and proper person to be reincorporated as a member of the legal profession. Re A.C Abuah

QUESTION 48

State the organs or authorities responsible for the discipline of legal practitioners.

ANSWERS

1. The Legal Practitioners Disciplinary Committee
2. The Supreme Court
3. The Chief Justice of Nigeria

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 49

State the types of law office, their advantages and disadvantages.

ANSWERS

1. **Sole Practitionership:** This is the unit of practice involving a legal practitioner practicing alone, but employing supporting staff to assist him or her in the firm.

Advantages of Sole Practitionership

1. He has unfettered power to manage the firm
2. He takes all the profits
3. He takes full credit for the success of the firm
4. He is not subject to control

Disadvantages of Sole Practitionership

1. He bears all the risks and losses alone
2. He is professionally isolated since there are no other legal practitioners in the law office.
3. He is more vulnerable to failure than other units of practice.
2. **Sole Proprietorship:** This is a unit of practice in which a legal practitioner establishes a firm and employs other legal practitioners to work in the firm.

Advantages of Sole Proprietorship

1. The sole proprietor has unfettered power in managing the firm and takes all the profits.
2. The firm can specialize in certain areas of the law and do in-depth coverage of work since there are other legal practitioners.

Disadvantages of Sole Proprietorship

1. The sole proprietor bears all the risks and losses alone
2. The firm does not survive beyond the lifetime of the sole proprietor
3. **Associateship:** This type of law office is set up by two or more legal practitioners who contribute the capital to provide the facilities required for a law firm but each practitioner owns and maintains an independent practice within the Associateship.

Advantages of Associateship

1. There is a measure of independence for each associate since each associate manages and controls his or practice within the Associateship.

SAMPLE THEORY QUESTIONS AND ANSWERS

2. It gives room for specialisation in certain areas of the law.

Disadvantages of Associateship

1. There could be disagreement among the associates and this could affect the Associateship
2. Each associate bears any loss arising from his practice
4. **Partnership:** A partnership is the relation which subsists between persons carrying on business in common with a view of profit. In this case the legal practitioner practice jointly

Advantages of Partnership

1. Sharing of financial responsibility between the partners
2. Sharing of risks and losses
3. It could lead to specialization

Disadvantages of Partnership

1. Each partner is liable for the act of another partner which is done within the partnership business since they are agents of one another
2. It could lead to disagreement
3. The decision making process is slow

QUESTION 50

A Lawyer just recently set up his law firm, and has need to employ other lawyers to work with him in view of his robust practice, advise him on the type of office ?

ANSWERS

My advice for him on the type of law office is run is a sole proprietorship as he can employ other lawyers and places them on salary scale. Hence; the relationship between the practitioner/owner and other practitioner is that of employer/employee.

QUESTION 51

List at least 5 equipment and machines needed in a law office.

ANSWERS

1. Computer
2. Photocopy machine
3. Shredding machine
4. Dictating machine
5. Generator

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 52

List at least 4 para-legal needed in a law office.

ANSWERS

1. Practice manager
2. Secretary
3. Librarian
4. Receptionist
5. Cleaners

QUESTION 53

What are the factors that an intending private legal practitioner must take into account before establishing a law firm?

ANSWERS

1. Skill
2. Knowledge
3. Funds
4. Determination
5. Commitment
6. Hard-work
7. Honesty & integrity

QUESTION 54

Outline four (4) restrictions placed on formation of partnership by legal practitioners in Nigeria.

ANSWERS

1. The name of a legal practitioner who is elevated to the bench must be deleted from the partnership
2. Partnership with non-lawyers prohibited
3. A sole practitioner should not use a name that suggests partnership
4. Partnership should not be formed between lawyers and submitted to practice

QUESTION 55

Distinguish between start-up and working capital.

ANSWERS

Start-up capital is required to provide facilities needed by the firm. The facilities include premises, furniture, vehicles, office machinery and equipment while working capital is required to pay for recurrent expenditure of the firm and include utilities bills, staff salaries and

SAMPLE THEORY QUESTIONS AND ANSWERS

wages and the cost of stationery.

QUESTION 56

State the sources of capital or funds for the establishment of a law firm

ANSWERS

1. Personal or owner's funds: A legal practitioner may have savings which can be used as capital for establishing the law firm.
2. Loans and overdrafts: A legal practitioner without own funds may raise the capital required to finance the firm from banks and other financial institutions by applying to such lenders for a loan or an overdraft or both.
3. Contribution from family: Capital may also be obtained from family or relatives to establish the firm.

QUESTION 57

State the criteria used for the classification of law firms in Nigeria.

ANSWERS

1. Location
2. Client base
3. Facilities
4. Status of lawyers
5. Number of lawyers

QUESTION 58

Discuss the 3 types of premises than can be used for office accommodation by a legal practitioner.

ANSWERS

1. Purpose built office: These buildings are exclusive office use. They are often open space so that occupiers can layout their office as they wish.
2. Existing buildings/ office in rented apartment: Firms can convert suitable existing buildings into a law office. They may need considerable modification to meet the requirement of a firm, because most of them are designed for residential use.
3. Office at home: A law office may be located in the home. There is no practice, convention or rule which prohibits setting up a law office in the home. The main disadvantage, however, is the inconvenience of using the same premise for domestic and business purposes.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 59

What is a business plan and state the content.

ANSWERS

A business plan is a document containing information about the proposed firm, its goals and the financial projections for it.

The content of a business plan include the following:

1. Name(s) of the legal practitioner(s)
2. Name of the firm
3. Business address
4. Business start date
5. Type of firm
6. Goals of the firm
7. Services to be offered
8. Segmentation of the market
9. Market competitors
10. Capital requirement
11. Borrowing requirement
12. Security to be provided
13. Use of funds
14. Employment of staff
15. Management system, and
16. Appendices, if any.

QUESTION 60

State how availability of premises or law office can be obtained.

ANSWERS

A legal practitioner must decide whether to let an office or buy land to build an office. Information about availability of office can be obtained orally from friends or from newspapers or from Estate Agents.

QUESTION 61

State the types of staff in a law office.

ANSWERS

1. Fee earners: These are the legal practitioners in a law firm who do legal work and earn fees for the firm.
2. Supporting staff: These are the staff that does non-legal work in the law office. They are also called para-legal.

QUESTION 62

State the methods of attracting and selection of staff.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

The methods of attracting staff are;

1. Advertising in the newspaper,
2. Introduction by existing and former staff,
3. Recommendation by existing and former staff,
4. Inviting applicants from previous advert,
5. Recommendation by agencies and consultancies.

The methods of selecting staff are;

1. Test,
2. Interview and
3. Qualifications

QUESTION 63

State the methods of acquiring equipment and machines in a law office

ANSWERS

There are essentially 2 methods of acquiring equipment and machines. These are either by leasing or purchasing.

QUESTION 64

Mention the records required to be kept by a law office.

ANSWERS

The records that will be required in a law office include:

1. Office manual
2. Staff register
3. Equipment and machines register
4. Title documents register
5. Books and periodicals register
6. Master file register
7. Closed file register

QUESTION 65

What are the options available to a Solicitor in recovering his professional fees?

ANSWERS

1. Right of Lien
2. Issuance of bill of charges
3. Court action

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. The Principal items to be charged.
2. Particulars of the principal items.
3. The date on which the principal items were incurred.
4. The signature of the legal practitioner issuing the bill on behalf of the firm.
5. The date on which the bill of charges was issued.
6. The matters to which the bill of charges relate; and
7. The name of the client to whom the bill of charges is being issued.

QUESTION 67

Itemize the process for recovery of professional charges?

ANSWERS

1. The legal practitioner prepares the bill of charges
2. The legal practitioner signs the bill of charges and if it's a firm one of the legal practitioners in the firm signs
3. It must be served on the client personally or left for him at his last known address, or by post
4. The legal practitioner is to wait for one month
5. If the client is in default after one month, then the Legal Practitioner takes out a writ at the High Court where his firm operates. Bakare v. Okenla

QUESTION 68

List the books used by Legal Practitioners for recording transactions?

ANSWERS

1. Ledger
2. Cash book
3. Journal

QUESTION 69

List the source of client money?

ANSWERS

1. Conveyancing
2. Executorships and Trusts
3. Investment Management
4. Agency Work
5. Fees on Account

QUESTION 70

State the procedure for inspection of books of account.

ANSWERS

1. The Bar Council, acting either
 - a. On their own motion; or
 - b. On a written statement on request transmitted to them by or on behalf of any Branch of the Nigerian Bar Association; or
 - c. On a written complaint lodged with the Bar Council by a third party.
2. The Bar Council can investigate by appointing an accountant or requiring the legal practitioner to deliver to it certificate by an accountant in the prescribed form.
3. The following documents are to be submitted to the accountant appointed by the Bar Council:
 - a. Bank pass book
 - b. Statement of account
 - c. Books of account (cash book, journal, ledger)
 - d. Loose-leaf bank statements, vouchers.

QUESTION 71

Comment on the circumstance(s) where a solicitor can retain client money?

ANSWERS

A solicitor can retain client money in any of the circumstances where the money is received during public holidays, at the close of work or at weekend when the bank is not opened or Where money is to be spent immediately or Where money is received for a debt owed by the client.

QUESTION 72

Akinjo Victor has been a junior partner in the firm of YC Maikyau & CO. He has put in some five (5) years in the firm and has now decided to venture out of his own. He has decided to set up his own law office in Abuja. As a measure of appreciation of his contribution to the firm, the firm gave him the sum of N5,000,000 on the 3rd day of March, 2022 during the send forth ceremony. On the 5th day of March, 2022, Akinjo Victor Esq rented one wing of a duplex at Apo District, Abuja and paid the sum of N1,000,000 as rent. On the same day he made the following purchases:

- i. Laws of the Federation of Nigeria - N20,000
- ii. Office furniture - N200,000

SAMPLE THEORY QUESTIONS AND ANSWERS

iii. Computer accessories and hardware - N180,000

iv. A brand new Kia Rio - N1,500,000

Draw up Akinjo's cash book and ledger

AKINJO VICTOR CASH BOOK 3/3/2022-5/3/2022

DATE	PARTICULARS	DR (N)	CR (N)
3.3.20 22	Capital	5,000,000	
5.3.20 22	Rent		1,000,000.00
5.3.20 22	Law books		20,000.00
5.3.20 22	Office furniture		200,000.00
5.3.20 22	Computer accessories and hardware		180,000
5.3.20 22	Vehicle or car		1,500,000.00
5.3.20 22	Balance C/D		2,100,000
5.3.20 22	Balance B/D	5,000,000.00	5,000,000.00

LEDGER
CAPITAL ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
3.3.20 22	Cash		5,000,000.00

RENT ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
3.3.20 22	Cash	1,000,000.00	

LAW BOOKS ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.20 22	Cash	20,000.00	

SAMPLE THEORY QUESTIONS AND ANSWERS

OFFICE FURNITURE ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.20 22	Cash	200,000.00	

OFFICE FURNITURE ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.20 22	Cash	1,500,000.00	

QUESTION 73

State four research hints that may be adopted by a legal practitioner when researching into a matter.

ANSWERS

1. A legal practitioner should possess an array of dictionaries, including English dictionaries, dictionaries of Latin words and law dictionaries.
2. A legal practitioner must makes notes while doing research.
3. Documents should be photocopied where the exact words of documents are required.
4. Colleagues with vast experience in an area of law should be consulted for guidance on matters within their knowledge.

QUESTION 74

A Lawyer is worried on what should be the contents of good Curriculum vitae, advise him?

ANSWERS

My advice on what to be the content of a good Curriculum Vitae are as follows:

1. The name of the owner of the curriculum vitae
2. Personal data
3. The institution attended with the date
4. Academics qualifications
5. Working experience
6. Hobbies
7. References

QUESTION 75

Outline the essentials of good minutes of a meeting?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. Know the purpose
2. Keep it concise
3. Get the right info and follow the right format
4. Simple language
5. It should be clear
6. It should be precise
7. It must be Proof-read

QUESTION 76

What is the evidential import of a letter marked "Without Prejudice"?

ANSWERS

A letter marked "without prejudice" cannot be tendered in evidence in the event of litigation as admission of any particular fact. *Ashibuogu v Attorney -General of Bendel State & Anors.*

QUESTION 77

Outline the guidelines for the preparation of minutes of meeting.

ANSWERS

The following are guidelines for the preparation of minutes of meeting

1. Heading (Minutes of _____ state name of, place, date and time)
2. Present (List of members present)
3. In attendance (List of those in attendance)
4. List of those absent (if practicable)
5. Opening remark/prayers
6. Adoption of agenda
7. Adoption of minutes of the last meeting
8. Matters arising
9. Issues discussed following the agenda
10. Reports
11. Resolution
12. General issues
13. Conclusion
14. Adjournment and closing remark/prayer (if any)
15. Signature

QUESTION 78

Draft curriculum vitae

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. PERSONAL DETAILS

Surname: Smart
Other Names: Abuh Bakko
Date of Birth: 29th January, 1989
Place of Birth: Bwari
Home Town: Bwari
State of Origin/L.G.A: Federal Capital Territory/Bwari Area Council
Nationality: Nigerian
Sex: Male
Marital Status: Single
Tel No./E-Mail Address 08033322998/smarky@yahoo.com

2. EDUCATIONAL INSTITUTIONS QUALIFICATIONS ATTENDED (with Dates)

Nigerian Law School, Abuja	2016
University of Abuja, Abuja	2015
Comprehensive High School, Bwari, Abuja	2006
Unity Junior School, Bwari, Abuja	2000

3. EDUCATIONAL QUALIFICATIONS (with Dates)

Call to Bar Certificate/Qualifying Certificate/BL	2016
Bachelor of Law, LL.B (Hons.)	2015
Senior School Certificate Examination (SSCE)	2014
First School Leaving Certificate	2000

4. WORKING EXPERIENCES (With Dates)

Legal Adviser, Jos Local Government Area, Jos (NYSC) 2016-2017

5. Hobbies

Table Tennis & Reading

6. REFEREES

1. MR. JACKSON ORUWOLE

Medical Lab Scientist
Department of Public Health
General Hospital
Bwari
Federal Capital Territory, Abuja

2. MR. JACOB MALCOLM

Partner
Igwe & Partners

SAMPLE THEORY QUESTIONS AND ANSWERS

Destiny Chambers
Barrister & Solicitors
No. 60 Aguda Road
Kubwa,
Federal Capital Territory, Abuja

SIGNATURE AND DATE: _____

QUESTION 79

Draft a letter for adjournment

ANSWERS

[LETTER HEAD]

23rd August 2022

The Registrar

High court 5,

Ikeja, Lagos State

APPLICATION FOR ADJOURNMENT

I, humbly apply for adjournment in the case between Mr Lucky Agor and 2ors v Thank God Onyemaechi suit no. IKJ/10/ 2017 which its next date is 2nd September 2022 before your Lordship.

I will not be around on that day due to the accident I was involved in; I am currently receiving treatment at the university teaching Hospital Lagos state and would not be discharge until the next three weeks.

All inconveniences to my Lord, to this honourable court, to the respondent and my client greatly regret.

I humbly suggest the 4th day of October 2022 or any other day to the convenience of the Honourable court.

Yours Faithfully

Oboagwina Caleb Esq
Applicant counsel

QUESTION 80

Draft a letter of demand

ANSWERS

[LETTER HEAD]

The Managing Director,
JIMMY Nigeria Plc.,

SAMPLE THEORY QUESTIONS AND ANSWERS

No 1 Akowe Street, Maitama,
Abuja.

Sir,

DEMAND FOR PAYMENT OF DEBT

We are Solicitors to UBA plc. of No 1 Bwari Street, Garki-Abuja hereby give you notice to pay us the sum of N5, 000,000,000 (five billion) being the principal sum you are owing UBA plc., under a Debenture dated 1st of August 2021 and all the interest due amounting to the sum of N5million.

TAKE NOTICE that if the said sum of N5billion and N5million comprising the principal sum and the interest due is not paid before the expiration of the month from the date of receipt of this demand letter, we shall proceed on behalf of UBA Plc. to enforce all or any of the remedies available under the terms of the said debenture.

Yours faithfully,

Onyemaechi ThankGod Esq
Principal Partner

QUESTION 81

How would you number sections, sub-sections, paragraphs, sub-paragraphs and sub-sub-paragraphs in a bill?

ANSWERS

S.1 (1) (a) (I) (A)

QUESTION 82

Draft the commencement (where the date is 17th July, 2022), enacting clause, short title and long title.

ANSWERS

Commencement

“COMMENCEMENT

17TH JULY, 2022”

Enacting Clause

“ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:”

Short Title

“This Act may be cited as Administration of Criminal justice Act, 2022”

Long Title

“An Act to foster the administration of justice in criminal matters and any other matter related thereto”.

QUESTION 83

Distinguish between legislative process and legislative drafting.

ANSWERS

Legislative process relates to the stages or procedures a bill passes through to become an Act or Law while legislative drafting is the stages through which the end result is a bill or a proposed law or act.

QUESTION 84

Outline the stages of legislative drafting.

ANSWERS

1. Understanding and taking drafting instructions
2. Analyzing the drafting instructions
3. Designing the outline of the draft
4. Composition of the draft
5. Scrutiny and Editing

QUESTION 85

How can a draftsman analyze his drafting instruction?

ANSWERS

In analyzing the drafting instructions, the draftsman should consider the following factors:

1. Existing laws
2. Potential danger areas
3. Practicability
4. Location

QUESTION 86

Draft the commencement clause of a Bill to be determined by the ministry of finance?

ANSWERS

This Act shall come into effect on such date as may be determined by the Minister of Finance by notice in the official gazette”.

QUESTION 87

Comment on the importance of information technology for the use of library in a law?

ANSWERS

Information technology is good for the use of library has it help to save books on devices and have back up for them, it also aid research skill of a legal practitioner, as well as serve as help to a legal practitioner to search

SAMPLE THEORY QUESTIONS AND ANSWERS

for a book or article faster online without going through stress.

QUESTION 88

List three advantages and disadvantages of information technology in Nigeria?

ANSWERS

Advantages;

1. It is easier to use if trained.
2. It is faster.
3. It is stress free.

Disadvantages;

1. In Nigeria, it is disadvantageous to those that are not computer literate.
2. Data lost cannot be retrieved most times, especially when stored in a flash.
3. In confidentiality / Insecurity of documents. It's being hacked by another lawyer.

QUESTION 89

Comment on the use of a note taker and automated sound recording system and its importance to the judicial system in Nigeria?

ANSWERS

A note taker aids judges in writing their judgments in a way that it will convert their hand written notes to a typed text on the note taker on the other hand an automated sound recording system aids a court to record all proceedings. Its importance to the judicial system is effectiveness and speed in the judicial proceedings.

QUESTION 90

List the tools needed to solve the problem of interpretation?

ANSWERS

1. The use of Interpretation Act
2. The Definition Clauses
3. Law Dictionaries
4. Decisions of superior courts defining certain words and clauses.
5. Canons of interpretation

QUESTION 91

List the factors to be considered when using the mischief rule of interpretation?

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWERS

1. What was the Common law before the statute was enacted?
2. What is the defect of mischief, which the Common Law did not provide?
3. What is the remedy proposed by the legislature?
4. What is the true reason for the remedy?

QUESTION 92

State the advantages of arbitration over litigation.

ANSWERS

1. Mediation, arbitration, negotiation and conciliation dispose of cases faster than litigation.
2. Alternative Dispute Resolution processes are less expensive than litigation.
3. There is flexibility in the ADR processes but unlike litigation which is rigid.
4. Parties have more control over the process in ADR and so should be satisfied with the outcome but this is not the case in litigation.
5. ADR helps the parties to improve their future relationship unlike litigation which impairs the relationship of the parties.
6. The Alternative Dispute Resolution processes are private and thus promote confidentiality where necessary unlike litigation which is usually held in public.

QUESTION 93

What alternatives to litigation are available?

ANSWERS

1. Arbitration
2. Mediation
3. Conciliation
4. Negotiation

QUESTION 94

State the ways by which matters may be brought to the Lagos Multi-Door Court House.

ANSWERS

Matters can be brought to the multi-door court house in any of the following ways:

1. By court referral
2. By the parties walking into the multi-door court house themselves

QUESTION 95

Write a short essay on how to challenge and enforce arbitration.

ANSWERS

A person who wishes to object or challenge the enforcement of the award can apply to the court at any time after the award is made, such application can be made ex parte. S. 32 of the Arbitration and Conciliation Act. However, in Lagos; the application to challenge the award should be made within 3 months the award was made. See S. 29(1) (a) Lagos State Arbitration Laws 2009.

On the other hand enforcement of an arbitral process is usually made by the successful party, and upon application in writing to the court can be enforced by the court. The party applying for its enforcement shall supply;

- a) The duly authenticated original award or duly certified copy thereof; and
- b) The original arbitration agreement or a duly certified copy thereof.
- c) If it is an international award and it made in another language other than English then the translation thereof. (Foreign Arbitral Award).

An award may, by leave of the court or a judge, be enforced in the same manner as a judgement or order to the same effect. See section 31 Arbitration and Conciliation Act

QUESTION 96

List any three grounds in which the Court may consider to refuse the grant of an enforcement of an award.

ANSWERS

1. The award exceeded the scope of the submission to arbitration;
2. Where the arbitration agreement is not valid under our Nigerian Law
3. Where the arbitral proceeding or award was improperly procured

QUESTION 97

Comment on the act of the parties to settle a criminal matter by an arbitral panel.

ANSWERS

Criminal matters cannot be settled by arbitral panel; hence the act of the party to settled criminal matter by arbitral panel is wrong.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 98

List the processes of negotiation and state any negotiation style you may consider during negotiation.

ANSWERS

The processes are;

1. opening;
2. bargaining;
3. closing; and
4. execution

The negotiation styles are;

1. Soft
2. Hard
3. Firm

QUESTION 99

Can a matter already brought before the Court, be settled out of Court, and what happens to such settlement?

ANSWERS

A matter brought before the court can be settled out of court where both parties agrees to settle their dispute out of court and such settlement when met would be consider as a judgment on their behalf. Hence such judgment is termed consent Judgment.

QUESTION 100

State the conditions for call to the Nigerian Bar

ANSWERS

1. He produces a qualifying certificate to the Benchers
2. He satisfies the benchers that he is of good character
3. He pays the call fee as may be prescribed by the Body of Benchers
4. He also kept the three dining terms as prescribed by the Body of Benchers.

QUESTION 101

State the professional offense for which a legal practitioner may be disciplined

ANSWERS

1. Infamous conduct in a professional respect
2. Conviction by any court in Nigerian having power to award imprisonment of an offence which is incompatible with the status of a legal practitioner

SAMPLE THEORY QUESTIONS AND ANSWERS

3. Obtaining enrolment by fraud
4. Conduct incompatible with the status of legal practitioners

QUESTION 102

State the order of procedure in the court room.

ANSWERS

1. The Attorney-General of the Federation
2. The Attorneys-General of the States in order of seniority as SAN or enrolment
3. Senior Advocates of Nigeria in order of seniority
4. Public officers who practice for the purposes of their office
5. Names of legal practitioners on the Roll in order of seniority
6. Persons authorized to practice by warrant

QUESTION 103

Draft an arbitration clause

ANSWERS

“Any dispute or claim arising out of this contract or the breach thereof shall be settled by arbitration according to the provisions of the Arbitration and Conciliation Act, CAP A18, Laws of the Federation of Nigeria, 2004”.

QUESTION 104

State at least 5 negotiating tactics

ANSWERS

1. Control of the agenda
2. Contextual manipulation
3. Overwhelming numerical strength
4. Puffs
5. Limited authority

SAMPLE THEORY QUESTIONS AND ANSWERS

**SELF- ASSESSMENT
EXERCISE
ON
PROFESSIONAL ETHICS
AND SKILLS**

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 1

You are a partner in the law firm of Oyoyo & Co. A client visited your office in your absence. Your junior counsel interviewed the client and made the following notes for you:

"The client is a female foreigner who has been in Nigeria for the past two (2) weeks. She is staying at Top Hill Hotel. She was referred to us by a kind police man she ran into. The client grandfather died about five years ago and left over 1 million pounds for her in his will. She planned to invest the money and use the yield to invest in charity work in the Sudan. When she was contemplating an investment plan, she received an email from one Chief Udele from Nigeria asking her to provide her bank account details to receive about 5 million pounds left by the late military President which Chief Udele kept for the late President under the Ministry name in the Central Bank but which he cannot use because of new financial rules for public servants in Nigeria. The money was purportedly meant for the payment of a contract for supply of generators to the Ministry and that had earlier been certified done, but before money could be withdrawn the President died.

Chief Udele had introduced himself to our client as the Senior Special Assistant to the Governor of Central Bank of Nigeria. After some exchange of emails, Chief Udele agreed that our client will keep half of the money if our client took custody of the 5 million pounds. Chief Udele had invited our client to visit Nigeria on his account and our client visited last year. Chief Udele took care of all our client's travel expenses then including her hotel bills. Chief Udele even took our client to a building with Central Bank inscription and our client was introduced to somebody said to be the Central Bank Governor and other officials. Our client was convinced that the transaction was genuine and she thought of all she could withdraw 2.5 million pounds for the poor Sudan and provided Chief Udele with her account details. Instead of transferring the money, Chief Udele began to ask our client to pay one tax or other payments to enable him retrieve the fund from the Ministry's account. On the whole our client transferred 300,000 pounds to an occupant in Nigeria provided by Chief Udele. Chief Udele then suddenly stopped communicating with our client.

Our client lodged a report with the police in the United Kingdom and after some series of letters, she was advised that the police in Abuja had taken over the matter and she was advised to visit Nigeria and meet with the police. Our client had seen the Commissioner of Police who handed her over to some officers. The officers told our client that they had arrested Chief Udele but released him on bail because they found no evidence to prosecute him.

SAMPLE THEORY QUESTIONS AND ANSWERS

Our client sounds worried and mentioned that her money for her stay in Nigeria is running out. Our client works full and part time and is on this trip on some sort of leave without pay and she said that if she does not return to work soon, she may lose her job. She also has two children she supports. Our client mentioned that she had earlier consulted another law firm in Nigeria but the law firm advised her to pay 5,000 pounds in addition to their fees to enable them pay the Commissioner of Police to torture Chief Udele to get him to co-operate and say where he kept our client's money. Our client believes that the police in Nigeria do not seem to be doing anything further on the matter. Our client seems helpless and doesn't know what to do or what to suggest to the police. Our client says she wants her money back and that she needs to return to her country soonest".

After you have read these notes, please do the following:

- a) State the problem in this case in not more than one sentence. Also state in not more than a sentence your client's goal.

ANSWER

- b) Assuming you need more facts in this case to be able to fully advise your client, list the matters you need the facts or clarification for from your client.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

- c) Assuming you have agreed to act for this client, what kind of action would you take in view of the information received from the client that she had contracted another law firm in Nigeria earlier? Support your position with authorities if any.

ANSWER

- d) With the aid of authorities, write an opinion regarding the role of the earlier law firm in demanding 5,000 pounds to give to the Commissioner of Police.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2 A

Barrister Uya Abang was briefed by a client, Mr. Idem Akpan to represent him in a matter before Hon. Justice Peter Nkoyo of the High Court of Cross River State, Calabar Judicial Division. In the course of the trial, the matter was struck out because Barrister Abang was absent from court sittings five (5) times.

At the end of the trial, Barrister Abang's client, Mr. Akpan lost the matter. Mr. Akpan refused to pay Barrister Akpan his professional fees on the ground that Barrister Abang was not diligent in prosecuting the matter. After making several demands in writing for payment of his professional fees, Barrister Abang instituted an action for the recovery of his professional fees.

While the matter was pending in court, his client approached him for settlement out of court, which he granted and an agreement was reached.

- i. Which options are available to Barrister Uya Abang in recovering his professional fees?

ANSWER

- ii. List the content of a bill of charges

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2B

Oyebode Susu has been a junior partner in the firm of GLORIA DAVIS & CO. he has put in some twelve years in the firm and has now decided to venture out of his own. He has decided to set up his own law office in Abuja. As a measure of appreciation of his contribution to the firm, the firm gave him the sum of N5,000,000 on the 3rd day of March, 2022 during the send forth ceremony. On the 5th day of March, 2022, Oyebode Susu, Esq. rented one wing of a duplex at Apo District, Abuja and paid the sum of N500,000 as rent. On the same day he made the following purchases:

- a) Laws of the Federation of Nigeria - N20,000
 - b) Office furniture - N200,000
 - c) Computer accessories and hardware - N180,000
 - d) A brand new Kia Rio - N1,500,000
 - e) Yearly subscription of Nigerian Weekly Law Reports - N500,000
- i. Draw up Oyebode Susu's cash book and the opening balance in his ledger account.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2 C

Recently the Chief Judge of Cross River State notified the State Governor of the need to appoint five new High Court Judges for the State.

- i. In summary, outline five (5) steps in the procedure for appointment of judges as contained in the Revised National Judicial Council Guidelines and Procedural Rules for the appointment of Judges and Kadi.

ANSWER

QUESTION 2 D

Hon. Chumba Joba of the Federal House of Representatives is worried by the alarming rate of unemployment and youth delinquency in Nigeria. As part of measures to tune down the level of delinquency among youths in Nigeria Hon. Joba plans to sponsor a Bill for an Act to provide compulsory monthly monetary allowance for all unemployed youths in Nigeria and for matters connected thereto. He has engaged the services of Pinio Abdullahi who was called to the Nigerian Bar in

SAMPLE THEORY QUESTIONS AND ANSWERS

November 2017 to draft the proposed bill. Afraid that he may not be able to handle the brief competently, Abdullahi has approached you for advice and assistance.

Advise him on the following:

- i. Set out briefly the stages Barrister Abdullahi will have to take in drafting the proposed Bill.

ANSWER

- ii. Draft the long title of the Bill.

ANSWER

- iii. Assuming the Minister for Labour and Productivity is charged with the responsibility of deciding when the Bill is to come into force, draft the commencement clause.

ANSWER

- iv. Mention five sources of materials used in drafting legislation.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

QUESTION 2 E

Barrister Buggy Boogy wants to get rid of the irrelevant files in his office and has asked his secretary to destroy all files in which he has obtained judgments and the file he opened for a client in respect of a land matter on which the client never completed his instructions even though the client left his title documents with Barrister Buggy Boggy. He asked his secretary to burn them and as an after-thought, asked her to give the files to the Akara seller across the road in order to be in her good will.

- i. How would you deal with files which matters have been concluded in your law office?

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

The law firm of JKD & Co wants to begin practice as Arbitrators and mediators and is seeking to employ more lawyers. The law firm's notice to potential employees put up in the 5th Edition of the Nigerian Bar Journal requests applicants to go to their website. Ongoing to the website you found the requirements for the application, namely, an application in the applicant's handwriting, the applicant's curriculum vitae and an essay explaining how to challenge and enforce an arbitration. During your search on the internet, you also saw two other Nigerian Law Firm's website with the following on their home pages:

Frontline Leading Law Firm in Nigeria with international focus and experience.

Our Vision

KLEM & Partners envisions itself as a frontline leading Law Firm in Nigeria with international focus and experience. Its service delivery model empowers the client by keen focus on clients' needs and concerns. Our firm- client relationship management strategy emphasizes client satisfaction in a timely and efficient manner.

The Firm

The firm of KLEM & Partners is one of the leading law firms in Nigeria. Established in 1989 by Chief KLEM, MFR, SAN, the firm has in 18 years developed an enviable portfolio of clients and a wide range of experience in national and international legal services and transactions. The Firm's experience spans through the areas of commercial and financial transactions, Capital Market Operations, Maritime Law and Oil and Gas Litigation.

In its 18 years of operation, the firm has handled over 1,000 brief and novel cases that have contributed to legal development and reforms in Nigeria.

“CHIEF BABAJE SAN & CO

“The Firm has produced several judges and fourteen (14) Senior Advocates of Nigeria (Nigerian equivalent of Queens Counsel in England) which is the largest number produced by any law firm in the country.

The Chambers of Chief Babaje & Co is one of the leading firms of Barristers and Solicitors in Nigeria and its principal Chief Babaje, SAN has been noted in reported cases as industrious and masterful in conduct of his client's cases by the Supreme Court of Nigeria. Chief

SAMPLE THEORY QUESTIONS AND ANSWERS

Babaje's Chambers is a composite firm of legal practitioners engaged in providing a wide range of legal services to persons and corporate bodies that may require them. The firm's legal practice areas and services are extensive and all-encompassing".

Answer the following questions:

- a) Write the essay (a short note) explaining how to challenge and enforce an arbitration.

ANSWER

- b) Comment on the two postings on the websites of KLEM & Partners and Chief Babaje, SAN & Co.

ANSWER

- c) Write a reflective opinion on "In reality, there is no difference between advertisement and solicitation by the lawyer under the Rules of Professional Conduct for Legal Practitioners".

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 4 A

Consider the following facts and answer the questions that follow:
Your client Joe has been charged with murder of his wife. During your fourth interview with him, he broke down in tears and admitted killing his wife while trying to shoot his mother in-law, when he calmed down, he told you to explore the possibility of a case of mistaken identity. Your own advice when he turned down was that he should plead not guilty. For obvious reasons, Joe will not testify at his trial. Your theory of the case is mistaken identity. In opening statement, you told a story of Joe's actions on the night of the killing that was consistent with his statement at the Police Station. You knew with certainty that what you told the Court was false.

- I. Explain if what you did violates your professional responsibilities and why.

ANSWER

- ii. Explain if there is any support for your going ahead with the case in spite of the position of Joe on the matter.

ANSWER

QUESTION 4 B

At the trial of Charles Taylor before the war crimes Tribunal for Sierra Leone, Miss Campbell stated during cross examination that after a dinner hosted by President Mandela, in South Africa, some men she did not know woke her up in the midnight and gave her some stories that she later knew were unprocessed diamonds and that she did not know they came from Charles Taylor, the prosecution lawyer then re-examined Miss Campbell as follows:

SAMPLE THEORY QUESTIONS AND ANSWERS

“Miss Campbell you know that what you have stated before this Court is not the truth and you have so testified because you are afraid of the defendant”.

The Defendant Counsel objected to this question.

- i. Write your grounds or reasons supporting the objection.

ANSWER

QUESTION 4 C

In a civil litigation Chief John sued the state for a declaration that between 1999 and 2007, he was a member of the State Law Reform Commission. To support this claim, John's lawyer through John in evidence in Chief rendered a speech marked Exhibit A of the immediate past Attorney-General of the State during the Law Reform Commission Laws of the State Presentation of 2008. The former Attorney-General's speech read in part as follows:

“Your excellency before this Commission was set up, a Committee headed by Dr. Eke together with Chief Uba and Prof. Oko was set up to review the Pre-1900 imperial Legislation that were still applicable in the State. That Committee worked tirelessly and produced new laws that were enacted into Edicts by Col. Ike Nwosu, the then Military Administrator of the State in May 1999. The present Commission which was then set up after that Committee's work worked from 1999 to 2007 to produce the laws we are presenting today. The Commission Chairman and members are as follows: Dr. Ume as Chairman, Chief John (Member) and Prof. Dike (Member)”.

As counsel for the State, the only fact at your disposal is that in May 1999, the Military Administrator of Abia State was Col. Obi and not Col. Ike Nwosu.

- i. State the question or questions you would ask in cross examination.

SAMPLE THEORY QUESTIONS AND ANSWERS

ANSWER

- ii. Write a short explanation of the principles and scope of cross-examination.

ANSWER

SAMPLE THEORY QUESTIONS AND ANSWERS

MARKING SCHEME FOR THEORY

QUESTION 1

1A

The main problem is obtaining money by false pretenses, but others include a legal practitioner violating the law in the course of his duty, that is, demanding £5,000.00 with which to bribe the Commissioner of Police and the modalities to be complied with in taking up a brief when another counsel has already been briefed. The client's goal is to recover her money and return to her country soonest.

1B

1. Name of the client
2. Address of the client
3. Client's bank account details
4. Details of Chief Udele or the Nigerian Account provided by Chief Udele
5. Bank documents as evidence of the transfer of funds
6. The exact amount of money transferred by the client
7. Copy of the report lodged with the police in the UK
8. The letters received by client from the UK police on the matter
9. At which command of the police did the client see the Commissioner?
10. Any names of the policemen seen by client
11. Did the client give any written statement to the Police?
12. The name of the other law firm or lawyers consulted by the client in Nigeria
13. The address of the other law firm
14. Any outstanding fees with the other law firm
15. Any information on the name and address of the hotel where the client lodged during the last time she visited Nigeria on Chief Udele's invitation and sponsorship?
16. Did the client identify Chief Udele for the police or the person the police released on bail as chief Udele?

1C

1. Give notice to the former legal practitioner
2. Use best endeavour to ensure that the fees of the former legal practitioner is settled
3. To collect on behalf of the client all documents with the former legal practitioner. Rules 29 Rules of Professional Conduct.

1D

A lawyer should not advise or assist in the violation of the law. He should also not give advice involving corruption of holders of public office. Rule

SAMPLE THEORY QUESTIONS AND ANSWERS

15(3)(a) RPC; GOODENOUGH V. SPENCER; MYERS V. ELMERS

QUESTION 2 A

I

1. to go to court to recover his professional fees
2. To exercise a lien on the property in his possession, i.e. the client's money or documents
3. To obtain a charging order in response of property recovered or procured by the lawyer
4. Prepare and serve a bill of charges

II

The Contents of a bill of charges are;

1. Date on which it was issued
2. Name and address of the client
3. Matters of items to be charged
4. Particulars of the principal items
5. Date on which the principal items were incurred
6. Signature of the legal practitioner

QUESTION 2 B

OYEBODE SUSU'S CASH BOOK 3/3/2022-5/3/2022

DATE	PARTICULARS	DR (N)	CR (N)
3.3.22	Capital	5,000,000	
5.3.22	Rent		500,000.00
5.3.22	Law books		20,000.00
5.3.22	Office furniture		200,000.00
5.3.22	Computer accessories and hardware		180,000
5.3.22	Vehicle or car		1,500,000.00
5.3.22	Law reports		500,000.00
5.3.22	Balance C/D		2,100,000
5.3.22	Balance B/D	5,000,000.00	5,000,000.00

SAMPLE THEORY QUESTIONS AND ANSWERS

**LEDGER
CAPITAL ACCOUNT**

DATE	PARTICULARS	DR (N)	CR (N)
3.3.22	Capital		5,000,000

RENT ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
3.3.22	Capital	500,000	

LAW BOOKS ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.22	Capital	20,000	

COMPUTER ACCESSORIES AND HARDWARE ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.22	Capital	180,000	

OFFICE FURNITURE ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.22	Capital	200,000	

VEHICLE ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.22	Capital	1,500,000	

LAW REPORTS ACCOUNT

DATE	PARTICULARS	DR (N)	CR (N)
5.3.22	Capital	500,000	

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2 C

1. The Chairman of the Judicial Service Commission will seek the approval of the Governor stating the number of Judges required and send a copy to the Secretary of the National Judicial Council;
2. Nominations shall be called from Judicial Officers;
3. Candidates shall be short listed;
4. Name of short listed candidate are circulated to serving judicial officers and NBA branches;
5. Short listed candidates will then fill the NJC Form “A”;
6. The Judicial Service Commission will deliberate, screen and select candidates;
7. The Judicial Service Commission will send the names of selected candidates to the National Judicial Council for recommendation;
8. The Governor will appoint the judges on the recommendation of NJC subject to the confirmation of the appointment by the State House of Assembly.

QUESTION 2 D

i)

1. Taking and understanding instructions
2. Analyzing instructions
3. Designing the draft
4. Composing the draft
5. Scrutinize the draft

ii)

Long Title: “A BILL FOR AN ACT to provide for compulsory monetary allowance for all unemployed youths in Nigeria and for matters connected thereto”.

(iii)

Commencement clause: “This Act shall come into effect on such a date to be determined by the Federal Ministry of Labour and Productivity”.

(iv)

Sources of materials used in legislative drafting -

1. Party manifesto
2. Electoral promises
3. Government policies
4. Newspaper editorials and publications
5. Judicial decisions
6. Legislative resolutions
7. International obligations

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 2 E

1. The legal practitioner is required to keep for at least six (6) years from the date of the last entry in the books, all books and accounts kept by him.
2. You could move the files to low cost storage where you keep them for a reasonable time.
3. The statute of limitation should be considered in determining how long to retain a file.
4. Important documents in the file should be removed and returned to the client before destruction.

SAMPLE THEORY QUESTIONS AND ANSWERS

QUESTION 3

3A

Enforcement of arbitration, See S.31, Arbitration and Conciliation Act

- a) By application to the High Court with the following attached:
 1. A duly authenticated original award or a duly certified copy
 2. Original arbitration agreement or duly certified copy
 3. Enforced in the same manner as a judgment of court

Challenge of Arbitration, Section 29 Arbitration and Conciliation Act.

- i) The challenge must be made within 3 months of the date of the award
- ii) By way of application to set aside the award, supported with an affidavit

3B

The two of them are adverts.

Klem and Partners, See Rule 39(1) (a); 39(2) (a) (d)

Chief Babaje SAN & Co., Rule 39(1) (a); 39(2) (a) & (b)

3C

Advertisement involves furnishing, permitting or inspiring newspaper, radio or television comment in relation to the lawyer's practice, making statements about the quality of the lawyer's work, the size of success of his practice or his success rate, comparison with or criticism of the lawyers, or professional or statements likely to diminish in public confidence in the legal profession, administration of justice or bring the legal profession into disrepute.

Soliciting involves soliciting employment directly or indirectly by circulars, handbills or through touts or by personal communication or interview.

While advert is partially allowed, soliciting is prohibited.

QUESTION 4 A

(I)

It violates the Rules of Professional Conduct. Rule 15(3) (f), (g), (h) RPC. Counsel should not knowingly use perjured or false evidence. He should not knowingly make a statement of law or fact. He should not participate in creation of evidence he known is false. Counsel knows the case is not one of mistaken identity, but he knowingly told the court in his opening statement that is he should not take part in putting forward a case he known is false. Rule 15 (2) RPC.

Counsel should keep within the bounds of the law in defence of his client, notwithstanding contrary instructions by the client. Counsel should not have been persuaded by his client to put up a defence of mistaken identify which is falsehood.

(II)

A confidential disclosure of guilt alone does not require a withdrawal from the case. The plea of not guilty is a formal plea, a challenge to the prosecution to prove his case. The accused is presumed innocent until proved guilty and there is no impropriety in fighting to show that the prosecution's case has fallen short of proof. This is different from putting before the court a positive defence known to be false. Where the prosecuting counsel fails to discharge his duty to prove the accuse guilty beyond reasonable doubt, the defence counsel should not hesitate in pointing out the lapse.

Ahmed v. COP

QUESTION 4 B

(I)

The question asked is in cross examination question and not in re-examination. Prosecution is not allowed to cross examine during re-examination and also the prosecution cannot cross examine its own witness unless the witness has been declared a hostile witness by the court.

QUESTION 4 C

(I)

1. "Is it correct to say that the Military Administrator of _____ State in May 1999 was Colonel Obi"
2. "What were you doing between 1999 and 2007?"
3. "Were you given any letter of appointment indicating that you were appointed to that committee?"
4. "Is the name John particularly referable to you alone or could it be

SAMPLE THEORY QUESTIONS AND ANSWERS

- applicable to some other person?"
5. "Who was the Governor Abia State that swore you into the committee?"

(II)

Principles of Cross Examination

1. Testing accuracy, veracity or credibility of the witness
2. Shake his credit, by injuring his character

Scopes of Cross Examination

1. The sky is not the limit in cross examination
2. The questions asked must be relevant. S.203 EA.
3. Incident or scandalous questions are prohibited unless they relate to facts in issue.

MAKING A MARK THAT CANNOT BE ERASED

Many years ago, one of the teachers at my Secondary School told me, that I would not be able to study Law due to my poor performance back then in school, but i thank God today, I have been called to the Nigerian Bar.

My main focus was not just to be called, rather to make a mark in the Legal Profession. Then I made inquiries of how I would make a mark, i came across a book titled "**ATTITUDE IS EVERYTHING**" by **KEITH HARRELL (1998)**, this made me realise that in making a mark I should make a difference in someone else's life. The book further stated that the smallest gesture could have a major and lasting impact on one's life.

As a Devoted Lawyer, it was not more of 'what is in this life for me' rather I took up an attitude of 'what can I do for God and for you (others)'.

For this cause I decided to write the Easy Read Series (2014- till date) which aims to make a difference in your life. I believe you have greatness within you. Therefore, if you have not taken the step of faith by submitting your life to **JESUS**, you could do that by confessing this:

"Lord Jesus, I want to thank you for what I heard and believed you did for me while I was yet unborn knowing fully well I would one day come into this world full of sin, and you decided to die for me to save me, as a gratitude on my part I want you to be the lord and personal savior of my life, career and goal. Jesus I thank you for your Love. Grant I the grace to make a mark in life. Amen."

I wish you the best in the Legal Profession.