1. OVERVIEW OF THE COURSE AND HISTORY OF THE LEGAL PROFESSION

Comment [C1]:
Who was the first lawyer in Nigeria? 1888
First female lawyer (1935): Stella Mark, she was also the first female magistrate
First Nigerian to become a judge (1931) Olumuyiwajigbo
First indigenous CJN (1958)
First name on the roll of SAN (1975) – Chief Rotimi Williams
First Nigerian Attorney General Federation (1960) – Justice Taslim Elias
First female CJN (2012) Justice Mariam Aluma Muktar (retired)

1. DISCUSS AND EXPLAIN THE SCOPE OF THE PROFESSIONAL ETHICS AND SKILLS COURSE.

2. DISCUSS AND EXPLAIN THE VARIOUS STAGES OF THE DEVELOPMENT OF THE LEGAL PROFESSION IN NIGERIA.

The British first established what was known as the **courts of equity** in **1854**, which was later replaced by **native courts**. English type courts were established between **1862** and **1874** (1. Petty Debt Court, 2. Court of Civil and Criminal Justice and 3. West African Court of Appeal)

The **S.C Ordinance of 1863** established the **S.C of Her Majesty's Settlement of Lagos** and provided that the laws of England should have the same force and be administered in the settlement as in England, so far as such laws and such administration could be rendered applicable to the circumstances of the settlement. The urgent need for qualified legal practitioners necessitated the promulgation of the **S.C Ordinance of 1876**. Thus, the history of legal profession in Nigeria started from 1876 and may be conveniently divided into three stages:

(i) 1876 to 1914 (First Stage—Lasted for 38years)

(ii) 1914 to 1962 (Second stage—Lasted for 48 years)

(iii) 1962 till present day of 2020 (Third stage—58 years now)

(A) First Stage Major Events

The first statute to regularize the whole machinery of administration of justice in parts of Nigeria was the S.C.O of 1876. It was the first ordinance that stated the qualifications of a legal practitioner in Nigeria and fused the legal profession in the colony by providing that every English-trained barrister OR solicitor was upon enrolment in Nigeria, qualified to practice as a barrister AND solicitor in Nigeria.

Categories of legal practitioners that practiced the legal profession in Nigeria then were:--PAL

(i) Professionally qualified lawyers

(ii) Article lawyers and

(iii) Local attorneys

Conditions for being a PQL

(i) Qualification as B or S in England, Ireland (Dublin) or Scotland (Edinburgh)

(ii) Enrolled to practice as B and S in Nigeria upon application to the C.J.N

NB: To qualify as B, the following conditions must be met:

- Called to the English Bar by the Benchers of either of the four inns of courts he belonged to (Middle temple, Inner temple, Lincoln's inn and Gray's inn—MILG)
- 12 dinning terms during the course (no requirement of university degree and physical attendance of lectures—was by correspondence)

Conditions for being an AL

(i) Served for 5 years in the law office of a practicing legal practitioner in Nigeria or Gold Coast

(ii) Passed such examinations as may be from time to time be conducted by persons appointed by the C.J.N

Conditions for being a LA

(i) Fit and proper with basic academic qualifications.

(ii) Sat and passed the examination set by the C.J.N to test their general knowledge of the new laws of England and the colony.

NB: The L.As were given a license to practice for **6 months** (renewable for another 6 months)

NB: Only **30** L.As were licensed to practice in Nigeria

NB: Such license was not granted after **1908** (though already licensed LAs were allowed to run such period out) because the qualified lawyers protested to the CJN that there was no need for them. Thus, in **1913**, the application of **Osho Davies** was refused by the CJN

(B) Second Stage Major Events

Amalgamation happened in 1914. The S.C.O of 1876 was repealed by the S.C.O of 1943. A SC CPRs of 1945 was made pursuant to the 1943 ordinance. These rules set new qualifications for legal practitioners in Nigeria.

Four ways of qualifying as a legal practitioner under the 1945 rules—QP^2R^2

Qualify to practice as B or S in E,I or S and furnish evidence of good character to the C.J.N, in addition to one of the following:

(i) **Practiced** for at least **2 years** in the courts of the country in which he had been called to bar.

(ii) **Practiced** for at least **2 years** as a B or S in the courts of a British colony or protectorate.

(iii) **Read** for **1 year** in the law office of a practicing B or S of not less than **5 years** standing.

(iv) **Read** (in Nigeria) for at least **2 years** in the chambers of a practicing lawyer of more than **10 years** standing.

Shortcomings of an English trained lawyer practicing in Nigeria (Half-Baked Problem)—FAST

(i) Fusion of B and S in Nigeria whereas there were called as B or S

(ii) Academic qualification for call was not mandatory or high enough

(iii) Study focus was on English legal and constitutional systems

(iv) Territorial system of government in England (unitary) and Nigeria (Federal) were different

Unsworth Committee of 1959: This was necessitated by the above shortcomings of the English trained lawyers. The membership of the committee included:---LASSA

(i) Legal secretary of the southern Cameroons

(ii) AsG of the Regions

(iii) SG of the federation

(iv) Six distinguished legal practitioners and

(v) AG of the federation then—E.I.G Unsworth (Chairman)

After sitting for **about six months**, the committee came out with **28 recommendations** in **October 1959**. Some notable ones are: **SF NAEC**

(i) System of legal education in Nigeria should be established

(ii) Faculty of Law at UCI and subsequently at any other university should be established

(iii) NLS for vocational training should be established in Lagos

(iv) Admission to practice qualification should be a university degree in law, the course of which is organized by the CLE and the vocational course in NLS by the CLE

(v) Extra/further examination of persons with university degree in law, the course of which or syllabus was not accepted by the CLE

(vi) CLE establishment etc

The FG accepted most of the recommendations of the committee and this led to the promulgation of the **Legal Education Act** and the **Legal Practitioners Act** in **1962**. Thus, the NLS was established by the **CLE** in 1962. The **proprietor** of the NLS is the **CLE**.

(C) Third Stage Major Events

Categories of persons entitled to practice law in Nigeria today

(i) Those entitled to practice generally

- Those called to the Bar after presenting their qualifying certificate and have been enrolled in the S.C and
- Those that are enrolled by virtue of the regulation made by the AGF

(ii) Those entitled to practice for purposes of a particular office

- Office of the AGF, SGF and DPP
- Legal officers
- Non-qualified legal practitioners (no longer obtainable)

(iii) Those entitled to practice by virtue of warrant of the C.J.N (particular proceedings)

First Category

Qualifying certificate

The qualifying certificate is issued by the CLE. The persons entitled to this are:

(i) Nigerians and non-Nigerians that have successfully completed a course of practical training in the NLS as fixed by the CLE

(ii) Fit and proper persons and

(iii) Persons that have kept three dining terms as stipulated by the BoB.

NB: Total Exemption—CQ SAL

The CLE made the Legal Notice No. 439 of 5th July 1989 which relates to total exemption of persons who meet following the conditions:

(i) Citizen of Nigeria

(ii) Qualified to be admitted to the NLS

(iii) Subjects qualifying him for admission to the NLS include the entire core subjects prescribed by the CLE

(iv) Acquisition of necessary knowledge and experience over a period of at least 5 years and as such it would be unreasonable to require such person to go through the NLS and

(v) Lost the opportunity to attend the NLS (for reasons beyond his control) at the time he qualified to attend or reasonable time thereafter

NB: Partial Exemption (you won't attend Bar I)

The CLE has since set out the conditions for such exemption in Legal Notice No. 446 of 1989 and those exempted are:

(i) Graduates of law from common law jurisdictions who have been teaching law in a faculty of law in Nigerian University for not less than five years

(ii) Graduates of law from non-common law jurisdictions who have taught law in a faculty of law in a Nigerian University for not less than ten years.

Conditions for Call to Bar

(i) QC or CoE (from attending the NLS) production to the BoB

(ii) Good character to the satisfaction of the BoB

(iii) Call fee payment as prescribed by the BoB

(iv) Kept the three dining terms stipulated by the BoB

NB: Condition for enrolment of a person called to the bar is merely the presentation of call to bar certificate to the RSC.

Conditions to be satisfied before persons are enrolled by virtue of A.G regulation (as set by the C.J.N)---PE^{2}G

(i) Production of a certificate signed by the AG fed showing that such person is a citizen or national of AU member state and that such state observes the reciprocal arrangement principle.

(ii) Entitlement to practice as a legal practitioner in his own country.

(iii) Either passed an examination set by the CLE on general knowledge of Nigerian law or showed that he has knowledge of Nigerian law to the **satisfaction of the AGF** and

(iv) Good character to the **satisfaction of the C.J.N**

NB: These conditions are different from the ones that may be set by the A.G of the Fed. and once satisfied, the person is enrolled and automatically becomes entitled to practice generally as B and S in Nigeria.

Second Category (nothing is notable here)

Third Category

Conditions for the grant of the warrant by the C.J.N---ELF

(i) Entitlement of applicant to practice as an advocate in the country where he practices

(ii) Legal system of such country must be similar to that of Nigeria and

(iii) Fee payment, not exceeding 50 naira to the RSC

NB: The warrant, where granted, allows such person to practice as Bs only in relation to such proceeding only, including any subsequent appeal. Thus, one warrant = one case + Appeal. Another case = go back to your country and get another warrant and then come back. **NB**: Warrant is not visa, so there is need to go to the immigration or embassy for your visa.

3. DISCUSS THE VARIOUS METHODS OF ADR (See your civil litigation note 1)

NOTE THIS (BAR II EXAM FOCUS)

KEEPING TERMS AND DINNER ETIQUETTE

Students are expected to keep **3 dining terms**, culminating in their Call to the Nigerian Bar.

During these dinners, students are expected to observe :--**FGP**

1. Formal decorum

2. Good table manners and

3. Protocol demands of the occasion.

Dinners are compulsory and integral part of socialization training for the Bar. The rules are strict and their breach by an aspirant to the Bar attracts sanction. **The essence of Law dinners is to afford students the opportunity of meeting eminent and distinguished members of the profession from the Bar and Bench and to learn from them first hand, those intangible sterling attributes of the profession; its traditions and its demands: i.e. courage, respect, resilience, thoroughness, and comradeship that cannot be learnt from the pages of text books, law reports or lectures.**

Every student is expected to seize the opportunity afforded by this forum to broaden his horizon and to learn and imbibe those fine attributes of decency and honesty expected of them as gentlemen to enable them to go into the world to erase or disprove that old uncharitable opinion held by some members of the Society **as exemplified in the words of Jonathan Swift (1667 - 1745) when he wrote that lawyers were: —A society of men bred up from their youth in the**

art of providing by words multiplied for the purpose that white is black and black is white according as they are paid". They are expected here to learn and keep those traditions of the profession which have evolved over the years and continued for centuries; they have made the profession of law, the learned, honourable and noble profession that it is and its members champions of the enthronement of the Rule of Law and defenders of our civil liberties.

DRESSING

All students dining are expected to be in dark clothing. For male students; dark suits with white breast pocket square, white shirts, black ties (not bow tie), black socks and black shoes, pin Stripe (barristers') trousers may be worn under dark jackets. Female students' regulation dress is dark skirt and dark jacket or dark ladies dress. The dark jacket or dress must be in long or three quarters sleeves. Black shoes are to be worn. For those wearing dark suits, white blouses should be worn under the suits.

However, for the final dinner at call to Bar, a camisole is to be worn over the collaret. There should be no trimmings of any type and only moderate jewellery (earrings, rings and watches) are allowed. There should be no miniskirts or uneven hemlines on the skirt or dress.

Comment [C2]: The current position is that all three dinner terms are kept before call to bar

Students are to adhere strictly to the prescribed dress code. A student who fails to keep these regulations will be disallowed from keeping the dining term and that will result in non eligibility of the student for Call to Bar notwithstanding that such student passed the qualifying examinations.

TABLE MANNERS AND DECORUM

All students are expected to be seated quietly in the Dining Hall **by 4.30 p.m. latest**. Ideally, practicing barristers should sit in amongst students for the purpose of interaction and guidance in social and dinning etiquette.

Dinner is for **one hour commencing at 5 p.m. prompt when the dining Benchers and Barristers process into the dining hall.** Dinner is usually **a three course meal**. The tables are laid by stewards. For each student; there is his fork on the left of his plate, the spoon laterally placed in front of his plate, the knife on the right and his side plate on right side of the plate a little to the top of the plate. One water drinking glass and a wine glass are provided. One bread roll with butter is placed on the student's side plate.

Before commencement of dinner, the presiding Bencher says the grace before meal while everybody stands, dinner commences thereafter. **Students are expected first; to place the napkins provided on their laps to preserve their dresses while eating. The soup is first served and students are expected to use their hands to break the bread rolls** i.e. break a piece that will conveniently go into the mouth; use the knife to butter the bread and drink the soup gently with the spoon provided.

Thereafter, commence eating **the main meal** using a fork and knife. Students are not expected to make any noise at dinner. Students should not stretch their hands across other diners to reach for things such as the butter, water, pepper, salt etc. Rather, he is to whisper to the colleague nearest to such items to pass them on him. When a student finishes eating, he indicates that by putting his cutlery together and placing them together at the side on his plate. Meanwhile, wine will be served in the wine glasses provided.

The desert will be served last and it is expected to be taken by students using tea spoons, forks or the appropriate cutlery provided. During dinner, students are allowed to speak to each other in very low tones only and must observe proper table manners. Students are forbidden from moving about the hall **unless in exceptional cases when the presiding Bencher allows on a representation made to him by the Director General or the Secretary to the Council.** Photograph taking is also strictly forbidden during dinner. Students should conduct themselves with decorum throughout Dinner. All mobile phones must be switched off.

In the course of the dinner, distinguished members of the body of Benchers are usually introduced to students to enable them know the distinguished members of the Bar and the Bench dining with them; **and one of the members usually proposes the loyal toast to the Federal Republic of Nigeria while another gives an after dinner speech to students on diverse topics from his experience in the practice of the profession** and what is expected of them as aspirants to Bar. **NB**: Learn the words of the toast. At the end of dinner, **the Chairman says the closing prayers, the Benchers bow to the Barristers who bow back and the Benchers and Barristers file out in procession while students remain silent and standing**

SUMMARY OF THE DINNER PROCEDURE

- Students check in and remain seated 30 minutes to the scheduled time
- DG/DDG, academic staff and other lawyers present file in
- BoBs file in (all remain standing until the benchers take their seat)
- Opening prayer is said with all standing
- Dinner is served (talk in low tones/observe proper table manners)
- Loyal toast to the FRN by one of the benchers
- After dinner speech by chairman
- Introduction of the BoBs present by the DG/DDG
- Closing prayer
- BoBs file out followed by the DG/DDG, academic staff, other lawyers present and students

Comment [C3]:
PROCEDURE FOR THE PAYMENT OF PRACTISING FEES

- Using a customised teller provided by the bank, pay the appropriate fee into the required account:
  Account Name: Supreme Court of Nigeria (BPF)
  Account Number: 0000976716
  Bank: Access Bank

  Fees: SAN & Benchers=N50,000
  LP above 15 yrs up=N25,000
  LP 10-15 yrs=N17,500
  LP 5-9=10,000
  LP new wig-4=N5,000

- Indicate the branch names and branch codes on the payments tellers (ABUJA BRANCH=004; LAGOS BRANCH=058)
- Online payments can be made, and this will only supplement the old system

POSSIBLE MULTIPLE CHOICE QUESTIONS ON THIS TOPIC

1. The following were English type courts established between 1862 and 1874 except ____

A. Petty Debt Court

B. Court of Civil and Criminal Justice

C. West African Court of Appeal

D. Courts of equity

2. Courts of equity were subsequently replaced by ___

A. Petty Debt Court

B. Native Courts

C. Court of Civil and Criminal Justice

D. West African Court of Appeal

3. The Supreme Court of Her Majesty's settlement of Lagos was established by the Supreme Court Ordinance of ___

A. 1863

B. 1864

C. 1876

D. 1877

4. The first statute to regularize the whole machinery of administration of justice in parts of Nigeria was the Supreme Court Ordinance of __

A. 1862

B. 1863

C. 1876

D. 1878

5. The first ordinance in Nigeria to state the qualification for legal practitioners in Nigeria and also fused the legal profession in the colony by providing that every English trained barrister or solicitor was upon enrolment in Nigeria qualified to practice as a barrister and solicitor in Nigeria was the Supreme Court Ordinance of _____

A. 1876

B. 1943

C. 1863

D. 1945

6. All these are categories of legal practitioners that practiced the legal profession in the first stage/era except_____

A. Professional Qualified Lawyers

B. Articled Lawyer

C. Lawyers entitled to practice generally

D. Local Attorneys

7. The stages of the legal profession in Nigeria are all except _____

A. 1862-1876

B. 1876-1914

C. 1914-1962

D. All of the above

8. During the first stage, to qualify as a barrister in England, Ireland or Scotland, the number of dinning terms to be kept was _____

A. 11

B. 12

C. 4

D. 3

9. The following are parts of the four inns of courts in England during the first era except _____

A. Middle Temple

B. Inner Inn

C. Lincoln's Inn

D. Gray's Inn

10. An Articled Lawyer during the first era is required to have served for ___ years in the law office of a practicing legal practitioner in Nigeria or Gold Coast

A. 2

B. 3

C. 4

D. 5

11. Local Attorneys of the first era were allowed to practice for ___ months

A. 6

B. 12

C. 3

D. 4

12. The number of Local Attorneys that were allowed to practice during the first era was ___

A. 20

B. 30

C. 40

D. 50

13. The well known application of Osho Davies to be allowed to practice as a Local Attorney in Nigeria was refused by the Chief Justice of Nigeria in ___year

A. 1913

B. 1914

C. 1908

D. 1910

14. The qualification for legal practitioners in Nigeria during the second era was set by the ___

A. Supreme Court Ordinance of 1943

B. Supreme Court Civil Procedure Rules of 1945

C. Supreme Court Ordinance of 1876

D. None of the above

15. The Unsworth Committee was set up in ___ year

A. 1959

B. 1960

C. 1961

D. 1962

16. The Unsworth Committee came up with ___ recommendations

A. 27

B. 28

C. 29

D. 30

17. The Nigerian Law School was established in ____ year

A. 1961

B. 1962

C. 1963

D. 1964

18. Those enrolled to practice law in Nigeria by virtue of the regulation made by the AGF fall under _____ category

A. Those entitled to practice generally

B. Those entitled to practice for the purpose of a particular office

C. Those entitled to practice by virtue of warrant of the Chief Justice of Nigeria

D. None of the above

19. As an alternative to writing an examination set by the CLE, one seeking to be enrolled by virtue of AGF's regulation, must show that he has knowledge of Nigerian law to the satisfaction of the _____

A. Attorney General of the Federation

B. Chief Justice of Nigeria

C. A and B above

D. Nigerian Law School

20. In relation to 19 above, good character is to be showed to the satisfaction of the ___

A. AGF

B. CJN

C. A and B

D. CLE

21. "A society of men bred up from their youth in the art of providing by words multiplied for the purpose that white is black and black is white according as they are paid." These are the words of ___

A. John Swift

B. Jonathan Swift

C. Joseph Swift

D. Jeremy Swift

22. The amount paid by the person seeking a grant of the warrant by the CJN shall not exceed

A. N20

B. N30

C. N40

D. N50

23. With what you have observed from your last dinner before going for externship, dinner is ___ hour (s), commencing from ___pm

A. 1/4

B. 2/5

C. 1/5

D. 2/4

24. In line with 23 above, dinner is usually a ___ course meal

A. 3

B. 4

C. 5

D. 2

25. The amount of fees paid by legal practitioners of 10-15 years as practicing fees is ___

A. N25,000

B. N17,500

C. N15,000

D. N10,000

26. As in 25 above, for those above 15 years, it is ___

A. N50,000

B. N25,000

C. N75,000

D. N20,000

27. As in 25 above, for SANs and Benchers, it is ___

A. N200,000

B. N100,000

C. N50,000

D. N25,000

28. As in 25 above, for legal practitioners of 5-9 years, it is ____

A. N17,500

B. N10,000

C. N50,000

D. N5,000

29. As in 25 above, for a new wig and lawyers of up to 4 years, it is ___

A. N2,000

B. N3,000

C. N4,000

D. None of the above

30. The first indigenous CJN was ___

A. Sir Adetokunbo Ademola

B. T. O Elias

C. Aloma Mariam Muktar

D. None of the above

31. The first indigenous Nigerian lawyer was __

A. Chief FRA Williams

B. Christopher S. Williams

C. Adetokunbo Ademola

D. Chief Folake Solanke

32. The first Nigerian Lawyer to be a SAN was ___

A. Chief FRA Williams

B. Christopher S. Williams

C. Adetokunbo Ademola

D. Chief Folake Solanke

33. The first Nigerian Solicitor to the Supreme Court of Nigeria was ____

A. Chief FRA Williams

B. Christopher S. Williams

C. Adetokunbo Ademola

D. None of the above

34. The first indigenous law firm was set up by ____

A. Chief FRA Williams

B. Christopher S. Williams

C. Adetokunbo Ademola

D. Chief Folake Solanke

35. The first female SAN was ____

A. Stella Mark

B. Chief Folake Solanke

C. Modupe Omo-Eboh

D. Victoria Ayodele Uzoamaka

36. The first female lawyer/Magistrate in Nigeria was ___

A. Stella Mark

B. Chief Folake Solanke

C. Aloma Mariam Muktar

D. Dan Ibekwe

37. The first Nigerian Judge was ___

A. Chief Folake Solanke

B. Sir Olumuyiwa Jibowu

C. T. O Elias

D. Sir Adetokunbo Ademola

38. The first Nigerian AGF was ___

A. Justice Taslim Elias

B. G.M Onyinke, SAN

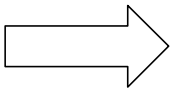
C. N.G Douglas

D. Dan Ibekwe

ANSWERS

1. D
2. B
3. A
4. C
5. A
6. C
7. A
8. B
9. B
10. D
11. A
12. B
13. A
14. B
15. A

16. B
17. B
18. A
19. A
20. B
21. B
22. D
23. C
24. A
25. B
26. B
27. C
28. B
29. D
30. A
31. B
32. A
33. A
34. A
35. B
36. A
37. B
38. A



2. REGULATORY BODIES IN THE LEGAL PROFESSION; EXCLUSIVE RIGHTS OF A LEGAL PRACTITIONER; RESTRICTIONS ON THE EXCLUSIVE RIGHTS; IMPERSONATION OF A LAWYER

1. EXPLAIN AND DISCUSS THE LEGAL FRAMEWORK, POWERS, FUNCTIONS AND COMPOSITION OF THE REGULATORY AND CONTROLLING BODIES AND ORGANS OF THE LEGAL PROFESSION;

The following are the regulatory and controlling bodies of the legal profession

1. The Body of Benchers
2. Legal Practitioner Disciplinary Committee
3. Council of Legal Education
4. Legal Practitioner Privileges Committee
5. Nigerian Bar Association
6. Legal Practitioner Remuneration Committee
7. General Council of the Bar
8. National Judicial Council

1. THE BODY OF BENCHERS: The Body of Benchers is established by section 3 of LPA and it is a body corporate with common seal and perpetual succession. Section 3(2) LPA

Composition (13 Categories of persons) – **Section 3(1) LPA**

- CJN and all JSCs
- President of the CoA
- All JCAs
- President of the NIC
- Chief Judge of the FHC
- Chief Judge of the FCT
- Chief Judge of SHCs
- AGF
- AGS
- President NBA
- Chairman CLE
- LPs (30) nominated by NBA; and

- Such number of persons, **not exceeding 10**, **who appear to the Body of Benchers to be eminent members of the legal profession in Nigeria of not less than 15 years post call standing.**

Note that the Body of Benchers is a body of legal practitioners of the highest distinction in the legal profession in Nigeria. Section 3(1) LPA. **The quorum for the Benchers is 10** except as otherwise provided by Regulation of the Benchers.--**Section 3(8) LPA**. Some Benchers are life benchers while some would come and go. **Only the CJN by virtue of the office becomes a life-bencher. Other Benchers are appointed as life-benchers. T**he chairman of the Body of Benchers must be a life bencher. Note that it is the person occupying the offices listed that are benchers and once they cease from holding such offices they are to vacate the membership of the Body of Benchers.

Comment [C4]: The two ways of becoming a life member are:
- By Statute (CJN)
- By Appointment

Privileges of a Life Bencher

A life bencher has the right to sit in the inner bar and where there is no provision for such, the front row of seats available for legal practitioners in such court room. Also, is the right to mention their motion or cases not fixed for hearing (mention) out of turn. The privilege is limited to the above and not in all cases. However, the rule is not observed strictly in courts other than the Supreme Court.

Functions

- The Body of Benchers is responsible for the formal call to bar of persons seeking to become legal practitioners. Sponsorship forms are given to the aspirant to the bar.
- It exercises disciplinary jurisdiction over legal practitioner and aspirant to the bar.
- It prescribes call fees to be paid by aspirants to the bar.
- It issues certificate of call to bar – to new wigs
- It prescribes the number of dinning terms an aspirant to the bar shall keep before he is qualified for call to bar.
- It ensures that an aspirant to the bar is of good character. In pursuance of this power, the Body has stipulated that every aspirant shall be sponsored by at least two members of the Body of Benchers.
- Appointment of a caretaker committee to run the affairs of the Nigerian Bar Association in any of the following circumstances:----**EDR**

  (i) **Election stalemate**: Where the term of office of officers of the NBA or members of the National Executive Committee of the NBA has expired and the Association is unable to hold fresh elections **for more than 30 days** from the date of such expiration, or

  (ii) **Dispute**: Where the NEC of the NBA is unable to continue to exercise its functions of managing the NBA due to dispute among the members of the NEC, or

(iii) **Resolution**: Where the NEC of the NBA passes a resolution requesting the BoBs to appoint a caretaker committee to run the affairs of the NBA

2. THE LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE: Body of benchers set up the LPDC. The LPDC is established by **section 11(1) LPA**

Composition

- Chairman (who shall not be the CJN or justice of the Supreme Court)
- PCA and JCA
- Two CJs
- Two AGs (AGF and AGS or 2 AGS)
- 4 members of NBA.

Final Appeal from the Legal Practitioners Disciplinary Committee lies **to the Supreme Court--- NWALUTU v. NBA (2019)**

Functions

Broadly the function of the committee is to consider and determine allegation of misconduct brought against legal practitioners.

CJN is empowered to make rules for the procedure of the committee. Thus, the LPDC Rules 2006 was made.

3. COUNCIL OF LEGAL EDUCATION: The Council of Legal Education is established by the Legal Education Consolidation Act pursuant to the Unsworth Committee Recommendation.

Comment [v5]: SECTIONS 2, 3, 4, 5.

Composition

- Chairman to be appointed by the president on recommendation of the AGF
- AGS or SGS (where there are no Attorney-General of states)
- Representative of the Federal Ministry of Justice to be appointed by the Attorney-General of Federation
- Deans of accredited law faculties of Nigerian Universities
- President of the Nigerian Bar Association
- 15 Esteemed representatives of the Nigerian Bar Association, who are legal practitioners of not less than 10 years post call.
- Two authors of published learned books in the fields of law appointed by AGF
- Director-General of the Nigerian Law School.
  NB: The qualification of DG of NLS is either any of the following:
  (i) He is the holder or a former holder of the office of a professor in faculty of law in a Nigerian university; or
  (ii) He is qualified for appointment as a professor in a faculty of law in Nigerian university; or

(iii) He is a legal practitioner who has on or before the date of his application been in active legal practice for not less than 10 years.

Functions

- Formal education of aspirants to the bar
- Continuing legal education of legal practitioners
- Such other powers as it may deem fit for carrying out the powers given to them.

Note that the Council has juristic personality and the NLS is under the council and does not have juristic personality. **SEE OKONJO V. COUNCIL OF LEGAL EDUCATION**.

4. LEGAL PRACTITIONERS PRIVILEGES COMMITTEE: It is not one of the disciplinary organs generally for legal practitioners. The Legal Practitioner Privileges Committee is established by **section 5(1) LPA** and it is responsible for conferring on legal practitioner the rank of SAN. It seems there is no quorum requirement for the LPPC as the body may act notwithstanding any vacancy in its membership---**S. 5(6) LPA**

Composition

- The CJN who shall be chairman
- The Attorney-General of the federation
- One justice of the Supreme Court appointed by CJN
- The president of the Court of Appeal
- Five of the chief judges of the states appointed by CJN
- The chief judge of the Federal High Court; and
- Five legal practitioners who are SAN appointed by the CJN

The CJN appoints in consultation with the Attorney-General of the federation. Those to be appointed by CJN are to hold office for a term of 2 years and a further term of two years only---**Section 5(8) LPA.**

Functions

- Conferring the rank of SAN on legal practitioners
- Make rules as to obligations and privileges to be conferred on SANs.
- They withdraw the rank of SAN from a holder.

Guidelines for conferment of the privilege of SAN (see and study your 2018 guidelines)

Privileges and Restrictions on SAN

a. A SAN has the right (exclusive) to sit in the inner bar/front row where there is no such facility
b. A SAN has the right to mention any motion in which he is appearing or any other cause or matter for mention out of turn.
c. A SAN has the right to wear silk gown.

Comment [v6]: CONDITIONS AN ASPIRANT TO THE BAR MUST MEET TO BE CALLED TO BAR.
✓ Must dine three terms.
✓Successfully completed the bar part two exam
✓Must have passed portfolio assessment
✓Must be fit and proper
(Previously), in 1992 there was a Legal practitioners Amendment Decree that removed the qualification of CITIZEN.

Comment [C7]: Can only discipline a lawyer who is a SAN.

d. A SAN is not to appear before courts in civil processes without a junior or another SAN
e. A SAN cannot settle pleadings or appear before an inferior court-- **REGISTERED TRUSTEES OF ECWA V. IJESHA**
f. To practice only as a barrister unless in partnership with a legal practitioner who is not a SAN.

5. THE NIGERIAN BAR ASSOCIATION: NB: Its disciplinary action is merely investigative in nature. The Nigerian Bar Association is the association of all legal practitioners in Nigeria. Once a person has been called to bar, there is automatic membership for such person. The above is not incompatible with the right to freedom of association, because it is based on the prior agreement to become a legal practitioner. Thus, every legal practitioner is a member of the association. Section 8(2) & 24 LPA did mention the Nigerian Bar Association.

Functions

- Maintaining independence of the bar.
- Defence of the bar in relation with the judiciary and the executive
- Discipline of members of the bar. The NBA is the prosecutorial authority before the Legal Practitioner's Disciplinary Committee of the Body of Benchers.
- Promotion of good relations among members and with the bench.
- Promotion of legal education and law reforms.
- Under the RPC for legal practitioners, continued legal education is a responsibility of NBA. It is submitted that this is in conflict with the provisions of S. 3 Legal Education (Consolidation etc) Act which gives the responsibility of continuing legal education to the CLE and the RPC being a subsidiary legislation is void to the extent of its inconsistency with the substantive provisions of the LECA.

6. GENERAL COUNCIL OF THE BAR: The GCB also known as the Bar Council is established by **section 1 LPA.**

Composition - **Section 1(2) LPA**

- The Attorney-General of the federation, who shall be the president of the council.
- The Attorney-General of the states; and
- Twenty members of the Association, seven of whom must be at least ten years post call.

The quorum of the council is **8.—S. 1(4) LPA**

Functions

- Ensure that the core values of the profession are observed.
- There are things that a legal practitioner cannot do except with the permission of the Bar Council.

- It is charged with the general management of the affairs of the Nigerian Bar Association subject to the provision of the Association's constitution.
- The council is responsible for enacting rules of professional conduct. (The RPC 2007). Also, the enactment of the LPAR.--**Section 20(1) LPA**

7. LEGAL PRACTITIONERS' REMUNERATION COMMITTEE : The Legal Practitioners' Remuneration Committee is established by **section 15(1) LPA**

Composition

- The Attorney-General of the federation, who shall be the chairman of the committee
- The Attorney-General of the state;
- The president of the NBA; and
- Three other members of the NBA

The quorum is **three, one of whom shall be the chairman.---Section 15(2) LPA.**

Functions

The committee has power to make orders regulating generally the charges of legal practitioners; such power may include the following:

- The maximum charges which may be made in respect of any transaction or activity of a description specified by the order.
- The ascertainment of the charges appropriate for any transaction or activity by reference to such consideration as may be so specified.
- The taking by practitioners of security for the payment of their charges and the allowance of interest with respect to the security; and
- Agreements between practitioners and clients with respect to charges.

The committee has made the Legal Practitioners (Remuneration for Legal Documentation and other Land Matters) Order 1991

Order of precedence in court—A^{2}LSO Roll Warrant—S. 8 LPA, FIRST SCHEDULE LPA

There is order of seniority at the bar. This is to maintain order. The order is:

- **ATTORNEY- GENERAL** of the federation.
- **ATTORNEY-GENERAL** of states in order of seniority as SAN and thereafter the order of seniority of enrolment.
- **LIFE-**benchers
- **SAN** in order of seniority as SAN, then in order of seniority of enrolment
- **OFFICE:** Persons authorized to practice as legal practitioner for the purposes of their office----**S. 2(3) (b) of LPA**
- **ROLL:** Persons whose names are on the roll in order of seniority of enrolment.
- **WARRANT:** Persons authorized to practice by warrant.

Comment [C8]:
8. NATIONAL JUDICIAL COUNCIL (See week 5)

2. EXPLAIN THE VARIOUS EXCLUSIVE RIGHTS OF A LEGAL PRACTITIONER IN NIGERIA

Exclusive rights of legal practitioners are rights that cannot be exercised by any other person. The legal practitioner here is the legal practitioner defined according to **S. 24 LPA** and not those whose name has been struck off. These rights are:---**Re DJS PLANS**

1. **Representation** of litigants in any proceedings--**Section 8(1) LPA** provides that a legal practitioner has the right of audience in a court of law sitting in Nigeria. This right can only be exercised while it is available and not when it is in abeyance. For instance, while a legal practitioner is also a litigant before the court, in his role as litigant, he is not appearing in court as a legal practitioner. He therefore cannot exercise the right of audience and the right to represent a co-defendant in an action.--**FAWEHINMI V. NBA**. Importantly, the right extends to all courts (including Customary and Area courts).--**SECTION 36(6)(D) CFRN, UZODIMMA V. COMMISSIONER OF POLICE.** A legal practitioner shall not wear the barrister or senior advocate's robe when conducting his own case as party to a legal proceeding in court--**Rule 45(2)(b) RPC, Rule 36(f) RPC.**

2. Documents: Right to prepare documents relating to proceedings.

3. Judge: Only a legal practitioner can be appointed a judge of some superior courts of record – **section 261, 266 CFRN.**

4. Statutory declaration: Right to prepare and sign statutory declaration of compliance with Companies and Allied Matters Act incorporation under part A of CAMA---**section 35(3) CAMA.** This is a mandatory form in incorporation of company.

5. Probate: Right to prepare documents for probate or letters of administration in expectation of reward (other persons cannot prepare in expectation of a reward)--**Section 22(1)(d) & (4)(e) LPA**

6. Land: The right to prepare document or instrument relating to land for a reward. The legal practitioner must mark such document with his name and signature. Note **section 22(1)(d) LPA** which provides that subject to the provisions of this section, if any person other than a legal practitioner prepares for or in expectation of reward any instrument relating to immovable property or relating to or with a view to the grant of probate or letter of administration or relating to or with a view to proceedings in any court of record in Nigeria, he is guilty of an offence liable to a punishment of a fine of N200 or two years imprisonment or both.

7. AGF/S: A legal practitioner is the only person that can be appointed the Attorney-General of the federation or state---**Sections 150(2) and 195 CFRN** respectively.

8. Notary public: Only a legal practitioner that can be appointed a Notary Public--**Section 4(1) of Notary Public Act.** His name is kept in a register at the Supreme Court. The criteria for fitness are not specified. Typically in practice, two requirements must be complied with:

(1) an applicant is required to pay his practising fees for a period of 7 uninterrupted years within the time specified for payment of practising fees;

(2) the applicant must be attested to by the Chief judge of the State where he practises.

An applicant applies to the Chief Justice of Nigeria with a detailed Curriculum Vitae accompanied with all credentials and the proof of payment of practising fees for 7 consecutive years.

9. SAN: A right to be appointed or conferred on the rank of SAN upon fulfilling all conditions precedents. Section 5(2) LPA.

3. EXPLAIN THE LIMITATIONS/RESTRICTIONS ON THOSE EXCLUSIVE RIGHTS

(a) Restrictions on judicial officers

Comment [v9]: Not allowed to practice as an advocate after being sworn in as a judge.

Judicial officers as defined by **section 318(1) CFRN** includes Justices of the Supreme Court, Court of Appeal, High Courts, Customary Court of Appeal and Sharia Court of Appeal.

1. Acting/Retired/Removed Judicial officer is not to practice as A/S --Rule 6(3) RPC, Rule 6(7) RPC, S. 292(2) CFRN NB: A magistrate is not a judicial officer for the purposes of this restriction for RR and as such not affected. However, a judicial officer can defend himself in court after retiring---**ATAKE V. AFEJUKU, S. 36 CFRN**. A retired judicial officer can practice as a solicitor alone or in partnership with other legal practitioner. He cannot however take up employment in any matter that he has decided on.

(b) Restrictions on lawyers

1. Acted previously in a judicial capacity: A lawyer shall not accept employment as an advocate in any matter upon the merits of which he had previously acted in a judicial capacity--**Rule 6(1) RPC.** Also, a lawyer having once held public office or having been in the public employment shall not after his retirement, accept employment in connection with a matter in respect of which he had previously acted in a judicial capacity or on the merit of which he had advised or dealt with in such office or employment--**Rule 6(2) RPC**

2. Restrictions on Senior Advocate of Nigeria

The Legal Practitioner Privileges Committee is empowered to make rules regulating SAN. The following are some of the rules:

a. A SAN shall not appear in any inferior court. These are the Magistrate Court and below. They cannot also file and sign processes to be used in such courts. A junior in his law firm can represent a person in such courts.
b. A SAN is not to draft any instrument where he will charge N400--**Rule 5 of the SAN Rules.** Pro bono services may be rendered.
c. A SAN is precluded from appearing in any civil case alone. He must appear either with a junior or another SAN.

3. Restrictions on lawyers in salaried employment---Rule 8 RPC.

4. Restriction on legal practitioner who is a public officer

The position of the law as found in **section 2(5) Code of Conduct for Public Officers, Part 5 schedule to the CFRN**, is that a public officer shall not (except where he is not employed on full time basis) engage or participate in the management or running of any private business, profession or trade but nothing in this sub-paragraph shall prevent a public officer from engaging in farming.

Public officers as defined in **Part II of the 8thschedule to CFRN** extends to all staff of university, colleges, and institutions owned and financed by the federal or state government or local government council. Private universities are excluded. Note that the restrictions is the managing and running of a private business. Thus a legal practitioner in such employment **cannot manage and run a law firm.**

5. Payment of Practicing fees: Non-payment of practicing fees means no right of audience in court-**Rule 9 RPC** and **Article 19 of the Constitution of the NBA**.

6. Legal Practitioner as a Litigant: An advocate cannot appear for another party in the same suit where he is a litigant irrespective of the relationship that exists between them. A LP who is a litigant cannot be said to represent himself in CT but only conducts his case in person just like any other litigant – **FAWEHINMI V NBA**

7. Notary public: A notary public is precluded from exercising his duties and functions in any proceedings or matter when he has an interest--**S. 19 NPA**

8. Engaging in business—See and study **Rule 7(2)(a)-(c) RPC**

4. DESCRIBE AND EXPLAIN CONDUCTS THAT AMOUNT TO IMPERSONATION OF A LAWYER, THE EXCEPTIONS AND SANCTIONS

Any person not a legal practitioner that does any or all of the following: (shall be guilty of an offence and liable, in the case of an offence under paragraph (a) of this subsection or a second or subsequent offence under paragraph (d) of this subsection, to a fine of an amount not exceeding N200 or imprisonment for a term not exceeding two years or both, and in any other case to a fine of an amount not exceeding N100)--- **S. 22(1)(a) – (d) LPA**

(a) Practices or holds himself out to practice as a legal practitioner, or

(b) Takes or uses the title of Legal Practitioner, or

(c) Wilfully takes or uses any name, title, addition or description falsely implying or otherwise pretends that he is a Legal Practitioner or is qualified or recognized by law to act as a legal practitioner, or

(d) Prepares for or in expectation of reward any instrument relating to immovable property, or relating to or with a view to the grant of probate or letters of administration or relating to or with a view to proceedings in any court of record in Nigeria is guilty of an offence

NB: Inclusive of this is a legal practitioner whose name has been struck off the roll of legal practitioner for misconduct. Such person if relating to proceeding in court can be charged for contempt. **Note that there is a time bar of three years beginning from the date of the offence.** Section 22(6) LPA. Also note that money received from persons is to be returned and agreement with such person is to be declared void. Section 22(7) LPA.

POSSIBLE MULTIPLE CHOICE QUESTIONS ON THIS TOPIC

1. The Body of Benchers is made up of ___ categories of persons

A. 12

B. 13

C. 14

D. 15

2. The NBA nominates ____ legal practitioners for membership of the Body of Benchers

A. 30

B. 40

C. 25

D. 20

3. The maximum number of persons who appear to the Body of Benchers to be eminent members of the legal profession in Nigeria shall be ____ and they must possess ___years post call experience, at least, before appointment as a member of the Body of Benchers

A. 15/10

B. 10/15

C. 12/10

D. 10/12

4. The quorum of the Benchers is ___

A. 8

B. 9

C. 10

D. 5

5. The Body of Benchers is to appoint a caretaker committee to run the affairs of the NBA where the term of officers of the NBA (members of the National Executive Committee of the NBA) has expired and no fresh elections has been held for more than ____ days from the date of such expiration

A. 20

B. 30

C. 40

D. 50

6. All are members of the LPDC except _____

A. 4 members of the NBA

B. 2 Chief Judges

C. 2 Justices of the Court of Appeal without the President of the Court of Appeal

D. President of the Court of Appeal and another Justice of the Court of Appeal

7. Appeals from the LPDC go to the ____

A. Supreme Court of Nigeria

B. Appeal Committee of the Body of Benchers

C. Court of Appeal

D. None of the above

8. The rules governing proceedings at the LPDC are made by the ____

A. Chief Judge of the FHC

B. Chief Justice of Nigeria

C. Chief Judges of States

D. Body of Benchers

9. The Chairman of the Council of Legal Education is appointed by the ____

A. AGF

B. President of the FRN on recommendation of the AGF

C. AGF on recommendation of the National Judicial Council

D. President of the FRN on the recommendation of the National Judicial Council

10. All these are general disciplinary organs for all legal practitioners except ___

A. Body of Benchers

B. LPDC

C. LPPC

D. A and C

11. The Chairman of the LPPC is the ___

A. CJN

B. AGF

C. Chairman CLE

D. President NBA

12. Members of the LPPC appointed by the CJN are to hold office for a maximum period of ___ years

A. 4 (2 years + further 2 years)

B. 5 (3 years + further 2 years)

C. 6 (3 years + further 3 years)

D. 8 (4 years + further 4 years)

13. The number of SANs appointed by the CJN to compose the LPPC shall be ___

A. 3

B. 4

C. 5

D. 6

14. All these statements are true about the privileges and restrictions on SANs except ___

A. A SAN has the right to sit at the inner bar/front row in court

B. A SAN has the right to mention his matter for hearing out of turn

C. A SAN is not to appear before courts in criminal proceedings without a junior or another SAN

D. B and C

15. The prosecutorial authority before the LPDC is the ___

A. NBA

B. Registered Trustees of the NBA

C. Incorporated Trustees of the NBA

D. All of the above

16. An action against the NLS for marking down students in the just concluded Bar Finals examination is to be brought against the ___

A. NLS

B. Incorporated Trustees of the NLS

C. CLE

D. Incorporated Trustees of the CLE

17. The designation of parties in disciplinary proceedings before the LPDC is ___

A. Complainant/Respondent

B. Complainant/Defendant

C. Claimant/Respondent

D. Applicant/Respondent

18. The body charged with the responsibility of continued legal education by virtue of section 3 of the LPA is the ___

A. NBA

B. CLE

C. NLS

D. All of the above

19. The body responsible for enacting the rules of professional conduct is the ____

A. General Council of the Bar

B. Bar Council

C. Attorney-General of the Federation

D. A and B

20. The LPDC is a committee of the ____

A. CLE

B. NLS

C. BoBs

D. None of the above

21. The President of the General Council of the Bar is the ____

A. AGF

B. President of the NBA

C. Chairman of the BoBs

D. President of the Court of Appeal

22. The person who is a life bencher by virtue of office is the ___

A. CJN

B. AGF

C. AGS

D. Chairman CLE

23. The quorum of the General Council of the Bar is ____ members

A. 7

B. 5

C. 8

D. 10

24. The Chairman of the Legal Practitioners Remuneration Committee is the ___

A. CJN

B. AGF

C. President of the NBA

D. Chief Judge of a state

25. The quorum of the Legal Practitioners Remuneration Committee is ___

A. 2

B. 3

C. 4

D. 5

26. The Chairman of the CLE shall hold office for a period of ___ years and is eligible for re-appointment for another ___ years

A. 2/2

B. 3/4

C. 4/4

D. 4/2

27-28 NO QUESTION

29. An applicant for appointment as a Notary Public is required to have paid his practicing fees for a period of ____

A. 7 years within the time specified for payment of practicing fees

B. 7 uninterrupted years after the time specified for payment of practicing fees

C. 7 uninterrupted years

D. 7 uninterrupted years within the time specified for payment of practicing fees

30. Application for appointment as a notary public is made to the ____

A. CJN

B. Chief Judge of a state

C. BoBs

D. NJC

ANSWERS

1. B
2. A
3. B
4. C
5. B
6. C
7. A
8. B
9. B
10. C
11. A
12. A
13. C
14. D
15. B
16. C
17. A
18. B
19. D
20. C
21. A
22. A
23. C
24. B
25. B
26. C
27. BONUS
28. BONUS
29. D
30. A

3. APPOINTMENT AND DISCIPLINE OF JUDICIAL OFFICERS AND DISCIPLINE OF LEGAL PRACTITIONERS

1. EXPLAIN THE QUALIFICATION AND PROCEDURE FOR THE APPOINTMENT OF JUDICIAL OFFICERS

Who are Judicial Officers?

Judicial officers are the officers presiding over the superior courts of record---**Ss. 292 and 318 CFRN**. Superior courts of record are creation of the constitution--**S. 6(5) (a)-(j) CFRN,** as amended provides for the following as superior courts of record.

- Supreme Court of Nigeria
- Court of Appeal
- Federal High Court
- High Court of FCT
- High Court of a State
- Sharia Court of Appeal of the FCT
- Sharia Court of Appeal of a State
- Customary Court of Appeal of FCT
- Customary Court of Appeal of a State
- National Industrial Court

NOTE (EXAMS)-Magistrates, Judges of Area Courts and Customary Courts are not regarded as judicial officers. They are under the supervision of the High Courts and employed by the state Judicial Service Commission.

Appointment and Qualification for appointment of Judicial Officers

1. SUPREME COURT.
(i) Appointment: For the CJN and other JSCs, it is done by the President on the recommendation of the **National** Judicial **Council (**NJC) and **all** such appointment is subject to confirmation by the **Senate - S. 231(1) & (2) CFRN**
NB: don't use the abbreviation NJC in exam, you must write it in full.

(ii) **Qualification** for appointment as a Justice of the Court: 15 years post call experience - **S. 231(3) CFRN**

2. COURT OF APPEAL

(i) **Appointment**: For the president and other JCAs, it is done by the President on the recommendation of the National Judicial Council (NJC)—**S. 238(2) CFRN** while only the President of the Court's appointment is subject to confirmation by the Senate—**S. 238(1) CFRN**

(ii) **Qualification for Appointment**: Not less than 12 years post-call experience--**S. 238(3) CFRN**

3. FEDERAL HIGH COURT

(i) Appointment: It is done by the President on the recommendation of the National Judicial Council (NJC) while only the Chief Judge's appointment is subject to confirmation by the Senate.--**S. 250(1)&(2) CFRN**

(ii) **Qualification for Appointment**: At least 10 years post-call experience -**S. 250 (3) CFRN**

4. FCT HIGH COURT AND STATE HIGH COURT

(i) Appointment: The Chief Judge and other Judges of the High Courts are appointed by the President/Governor on the recommendation of the National Judicial Council while the Chief Judge's appointment is subject to confirmation of the Senate/House of Assembly.—**S. 256(1) & (2) CFRN, S. 271(1)&(2) CFRN**

(ii) **Qualification for appointment**: At least 10 years post call experience.--**S. 256(3) CFRN, S. 271(3) CFRN**

5. SHARIA COURTS OF APPEAL FCT AND STATES

(i) **Appointment**: The appointment of the Grand Kadi and other Kadis of the Court is done by the President/Governor on the recommendation of the National Judicial Council and the GKs appointment is subject to the confirmation of the Senate/House of Assembly.—**S. 261(1) & (2) CFRN and S. 276(1) & (2) CFRN** respectively

(ii) **Qualification for appointment**: It is either a legal practitioner with 10years post-call experience with a recognized certificate in Islamic Law OR a non-lawyer who is an Islamic scholar from an approved institution with an experience of not less than 12 years.--**S. 261(3) and S.276 (3) CFRN**

6. CUSTOMARY COURT OF APPEAL OF THE FCT AND THE STATES

(i) Appointment: The President and other Judges of the courts are appointed by the President/Governor on the recommendation of the National Judicial Council while the President's appointment is subject to confirmation of the Senate/House of Assembly---**S. 266(1) & (2) CFRN and S. 281 (1) & (2) CFRN**

(ii) **Qualification for Appointment**: 10 years post call and in the opinion of the NJC with considerable knowledge of and experience in the practice of customary law OR in the opinion of the NJC with considerable knowledge of and experience in the practice of customary law.---**S. 266(3) CFRN and S. 281(3) CFRN**

7. NATIONAL INDUSTRIAL COURT

(i) **Appointment**: The appointment of the President and other Judges of the Court is done by the President on the recommendation of the National Judicial Council and the President's appointment is subject to the confirmation of the Senate. **S. 254B(1) &(2) CFRN**

(ii) **Qualification for Appointment**: A Lawyer with at least 10 years post call experience **and** has considerable knowledge in the law and practice of industrial relations/employment conditions in Nigeria. **S. 254B (3) CFRN**

National Judicial Council Guidelines

The guidelines are designed to ensure the following:

1. Transparency in the selection process.

2. The independence of the Federal/State Judicial Service Commissions and the Judicial Service Committee of the Federal Capital Territory.

3. Exclusion of lobbying by applicants.

4. Avoidance of imposition of any candidate on any of the appointing authorities; the National Judicial Council, the Federal Judicial Service Commission, Judicial Service Committee and the State Judicial Service Commission.

5. Only candidates with high integrity, good reputation, track record of intellectual capacity, hard work and industry are submitted to the National Judicial Council.

Procedure (for state)---RC No SC FTC RURAC

1. Request/Notice for appointment sent to the Governor by necessary Chairman of the JSC.

2. Copy G's consent sent to secretary of NJC/NJC.

3. Nomination request sent to superior judicial officers from the head of court in which the judge is to be appointed to.

4. Short listing (double the required number) of nominated candidates.

5. Circulation of names of shortlisted candidates to JO's and NBA branches in the state for comments on the candidates.

Comment [C10]: NB: PAY CLOSE ATTENTION FOR THE PURPOSES OF MCQs

Whenever **THE HEAD OF A FEDERAL COURT** proposes to embark on the process for appointment of a candidate(s) to the office of a judicial officer of a federal court of which he or she is head, notice shall be given to **THE CJN/CHAIRMAN OF THE FJSC**, stating the number of judicial officers intended to be proposed for appointment---**RULE 2(2)(a) NJC GUIDELINES**

Whenever **THE CHAIRMAN OF THE JUDICIAL SERVICE COMMITTEE OF THE FCT** proposes to embark on the process for appointment of a candidate(s) to the office of a judicial officer in the FCT, notice shall be given to **THE CJN/CHAIRMAN OF THE NJC**, stating the number of judicial officers intended to be proposed for appointment---**RULE 2(2)(b) NJC GUIDELINES**

6. Form A (bio data form) forwarded to all shortlisted candidates for completion.

7. Tabling of names of shortlisted candidates with necessary supporting documents

8. Consideration of the shortlisted candidates by JSC

9. Recommendation request sent to NJC

10. Undertaking of compliance with NJC guidelines

11. Recommendation by NJC

12. Appointment by G

13. Confirmation where necessary

NOTE that where the office of the Chief Judge (or other Head of Court) is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has resumed those functions, the Governor shall appoint the most senior judge of the High Court to perform those functions. See for instance section 271(4) CFRN. It must be noted that this kind of appointment does not follow the procedure above as the procedure above is for the appointment of new judicial officers. This kind of appointment is only for the purpose of filling a temporary vacancy and the person so appointed holds the office in an "Acting" capacity only.

Comment [v11]: 2014 question

NOTE ALSO that the procedure for appointing a new chief judge is that the appointment is made by the governor, on recommendation by the NJC and subject to confirmation by the House of Assembly.

Bodies/Organs responsible for appointment of Judicial Officers

The bodies/organs are

- Federal Judicial Service Commission
- National Judicial Council
- State Judicial Service Commission
- Judicial Service Committee of FCT, Abuja
- President of the Federal Republic of Nigeria
- Governor of a State
- Senate of the National Assembly
- State House of Assembly

(a) Federal Judicial Service Commission

The FJSC is established pursuant to **section 153(1)(e) CFRN** and its composition and powers are contained in **Part I of the 3rd schedule to the CFRN**.

Composition

The FJSC shall comprise the following members:

- The Chief Justice of Nigeria, who shall be the chairman
- The President of the Court of Appeal
- The Attorney-General of the Federation.
- The Chief Judge of the Federal High Court.
- The Chief Judge of NIC
- Two persons, each of whom has been qualified to practice as a legal practitioner in Nigeria for a period of not less than 15 years, from a list of not less than 4 persons so qualified **recommended by the Nigerian Bar Association and**
- Two other persons, not being legal practitioners who in the opinion of the president are of unquestionable integrity.

Powers

The commission shall have power to

1. Advise the NJC in nominating persons for appointment, in respect of appointments to the office of

- The Chief Justice of Nigeria
- Justice of the Supreme Court
- The President of the Court of Appeal
- Justice of the Court of Appeal
- The Chief Judge of the Federal High Court
- A Judge of the Federal High Court, and
- Chief Judge of the NIC
- Judges of the NIC
- The Chairman and members of the Code of Conduct Tribunal

2. Recommend to the NJC, the removal from office of the judicial officers specified above and

3. Appoint, dismiss, and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrar of the Supreme Court, the Court of Appeal, the Federal High Court, all other members of the staff of the judicial service of the federation not otherwise specified in the constitution and of the Federal Judicial Service.

(b) National Judicial Council

The NJC is established in **section 153(1)(i) CFRN** and its composition and powers are provided for in **Part I of the 3rd schedule to the CFRN.**

Composition

The NJC shall comprise of the following members

- The Chief Justice of Nigeria who shall be the chairman
- The next most senior Justice of the Supreme Court who shall be the deputy chairman.
- The President of the Court of Appeal
- Five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal
- The Chief Judge of the Federal High Court
- Five Chief Judges of states to be appointed by the Chief Justice of Nigeria from among the Chief Judges of the states and of the High Court of the FCT, Abuja in rotation to serve for two years.
- One Grand Kadi to be appointed by the Chief Justice of Nigeria from among Grand Kadis of the Sharia Courts of Appeal to serve in rotation for two years.
- One President of the Customary Court of Appeal to be appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Court of Appeal to serve in rotation for two years.
- Five members of the NBA who have been qualified to practice for a period of not less than 15 years at least one of whom shall be a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendations of the NEC of the NBA to serve for two years and subject to reappointment. Note that they only sit for the purpose of considering the names of persons for appointment to superior courts of records
- Two persons not being legal practitioners, who in the opinion of the CJN are of unquestionable integrity.

Powers

- The NJC makes recommendations to the President on appointment of all the federal judicial officers.
- Recommends to the State Governor, appointment of state judicial officers.
- Recommends removal of judicial officers to the President.
- Recommends to the state Governor, removal of state judicial officers.
- Collect, control and disburse all moneys, capital and recurrent for the judiciary in Nigeria.
- Advice the President and Governors on any matter pertaining to the judiciary as may be referred to the council by the President or the Governors.
- Appoint, dismiss, and exercise disciplinary control over members and staff of the council inter alia.

Comment [d12]: Pool resources and keep in the consolidated Revenue fund.

(c) State Judicial Service Commission

SJSC is established pursuant to **section 197(1)(4) CFRN,** and its composition and powers are set out in **Part II of the 3rd Schedule to the CFRN 1999**.

Composition

- The Chief Judge of the state who shall be the chairman;
- The Attorney-General of the state
- The Grand Kadi of the Sharia Court of Appeal of the State, if any;
- The President of the Customary Court of Appeal of the State, if any
- Two members, who are legal practitioners, and who have been qualified to practice as legal practitioner in Nigeria for not less than ten years; and
- Two other persons, not being legal practitioners, who in the opinion the Governor are of unquestionable integrity.

Powers

The commission shall have power to -

1. Advise the NJC on suitable persons for nomination of the office of

- The Chief Judge of the state
- The Grand Kadi of the Sharia Court of Appeal of direction the state if any
- The President of the Customary Court of Appeal, if any
- Judge of the High Court of the State
- Kadis of Sharia Court of Appeal of the state if any, and
- Judges of the Customary Court of Appeal of the state if any.

2. Subject to the provisions of the constitution, to recommend to the NJC the removal from office of the judicial officers specified above.

3. To appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrar of the Sharia Court of Appeal and Customary Court of Appeal, Magistrates, Judges, and members of Area Courts and Customary Courts and all other members of the staff of the judicial service of the state not otherwise specified in the constitution.

(d) Judicial Service Committee of FCT, Abuja

Comment [C13]: NOT COMMISSION

The JSC of FCT, Abuja is established pursuant to **section 304 CFRN** and its composition and powers provided for in **Part III of the 3rd schedule to the CFRN** are almost the same with that of the SJSC with necessary alteration.

- Chief Judge of the High Court, FCT
- Attorney-General of the Federation
- Grand Kadi of Sharia Court of Appeal of FCT
- President of Customary Court of Appeal of FCT
- A legal practitioner **with 12 years post call**
- A non-lawyer who is in the opinion of the president, a person of unquestionable integrity.

(e) President FRN

Powers

- Appoints all federal judicial officers and those of the FCT, on the recommendation of the NJC.
- Removes federal judicial officers and those of the FCT, on NJC'S recommendation.

(f) Governor of a State

Powers

- Appoints all state judicial officers, on the recommendation of the NJC.
- Removes state judicial officers, on NJC's recommendation.

(g) Senate of the National Assembly

Powers

The appointment of the following judicial officers is subject to the senate's confirmation

- Chief Justice of Nigeria.
- All Justices of the Supreme Court
- President of the Court of Appeal
- CJ of the Federal High Court.
- CJ of the High Court of the FCT
- President of the National Industrial Court
- Grand Kadi of the Sharia Court of Appeal of the FCT
- The President of the Customary Court of Appeal of the FCT.

(h) State House of Assembly

Powers

The appointment of the following judicial officers is subject to the confirmation by the State House of Assembly:

- Chief Judge of the State High Court
- Grand Kadi of the Sharia Court of Appeal of the State

- The President of the Customary Court of Appeal of the State.

2. DISCUSS AND EXPLAIN THE GROUNDS AND PROCEDURE FOR DISCIPLINING JUDICIAL OFFICERS

The organs responsible for appointment of judicial officers are also responsible for their discipline. A judicial officer can be disciplined in the following manner.

- Suspension of such judicial officer; or
- Removal of such judicial officer from office.

The grounds for removal are:---**IBM**

- **Inability** to discharge the functions of his office or appointment arising from infirmity of the mind or body or
- **Breach**/Contravention of the code of conduct--**S. 292(1) CFRN**
- **Misconduct**: this may include abuse of office or recklessness in the use of his judicial powers etc.

NJC cannot remove a judicial officer from office but can recommend such removal. NJC's disciplinary powers are: Retirement, Warning and Suspension.

Generally, judicial officers are not removed before their age of retirement except on grounds specified above, particularly on grounds of misconduct.

Procedure for discipline of judicial officers---CINA

- **Complaint** is made to the NJC in writing.
- **Investigation** of the complaint by a committee set up by the NJC.
- **Notification in writing** to the JO against whom the complaint is made, for defence purposes.
- **Appropriate sanctioning.**

NB: Options open to any lawyer aggrieved by misconduct of a Judicial Officer

A lawyer who is aggrieved by any judicial misconduct by a judicial officer can take any of the following steps. That is where the lawyer has a proper ground for complain; he has the following four options:

- Application to the judicial officer to disqualify himself from the case on the grounds that you have lost confidence in his ability to impartially dispense justice in the case. Application is by Motion on Notice, supported by affidavit and written address--**R v. UNIVERSITY OF CAMBRIDGE, EX PARTE DR. BENTLEY.**
- Application, by way of a letter (petition), to the Chief Judge for the case to be reassigned to another judge.
- Keep quiet and continue the proceedings till judgment, then make the misconduct of the judge a ground of appeal--**SAMUEL OKODUWA v. STATE**

- Write a petition against the Judge and send it to the NJC.

NB: ELELU – HABEEB V AGF. In the removal of the head of a court, the P/G acting on an address supported by 2/3 majority of the senate/HoA still needs the recommendation of the NJC for the removal of such head of court, from a combined reading of the provisions of S. 292 CFRN and the provisions of the constitution on the powers of the NJC.

3. EXPLAIN AND DISCUSS THE LEGAL FRAMEWORK, RULES AND PROCEDURE FOR THE ENFORCEMENT OF DISCIPLINE AGAINST LEGAL PRACTITIONERS

1. Discipline by the LPDC

One of the numerous functions and responsibilities of the Body of Benchers is the exercise of disciplinary control over legal practitioners and aspirants to the Nigerian Bar. **The BOB effectively discharges this duty through the LPDC, which is established as a committee of the BOB.**

The foundation of the discipline of legal practitioner is **Rule 1 of RPC.**

The LPA as amended, vide **section 12(1),** provides for four (4) professional offences, which are:---**ICFM**

a) Infamous conduct in a professional respect--**S. 12(1)(a) LPA**
b) Conviction by any court in Nigeria for any offence, whether punishable by imprisonment or not, which in the opinion of the LPDC is incompatible with the status of a legal practitioner---**S. 12(1)(b) LPA**
c) Fraudulent enrolment. That is, obtaining enrolment by fraudulent means--**S. 12(1)(c) LPA**
d) Misconduct which, though not amounting to infamous conduct, is incompatible with the status of a legal practitioner.

(a) Infamous conduct in a professional respect.

Infamous conduct is a conduct which will be regarded as reasonably disgraceful and dishonourable by other members of the legal profession or which will bring the legal profession into disrepute--**NDUKWE v. LPDC; OKIKE v. LPDC**

To be liable for infamous conduct, the following conditions must be satisfied:

- The conduct must be of a serious nature
- The conduct must have been committed in the course of his practice of the legal profession.

That is, a legal practitioner can only be held liable for infamous conduct where he was representing or acting for a client or himself in a professional capacity when the misconduct occurred. Thus, where the misconduct complained of took place in any other circumstance other

than in the course of his professional employment, a charge of infamous conduct will fail--**RE IDOWU; NBA v. EDU**

In some instances, the infamous conduct complained of may amount to a crime. In such a case, the LPDC should **stay action until the person has been tried for the offence by a competent court of law**--**MDPDT v. OKONKWO; DENLOYE v. MDPDC.** The reasons for such trial of the crime before a court are:

- To allow the crime to be proved beyond reasonable doubt,
- To prevent a conflict of decisions between the court and the LPDC.

For the rule above to apply, the erring legal practitioner must, first of all, have denied the allegations made against him--**DONGTOE v CSC PLATEAU STATE**. Thus, where he denies the allegations made against him, then the LPDC must wait for the outcome of the criminal trial. However, where the erring legal practitioner admits the allegations made against him, then there would be no need for the LPDC to wait for the outcome of the criminal trial before commencing disciplinary proceedings against him--**DONGTOE v. CIVIL SERVICE COMMISSION PLATEAU STATE**

However, where allegation of misconduct ordinarily amounts to a crime, but the charge before the LPDC is couched in a manner that it does not disclose any criminal element but only discloses breaches of the RPC, then in such a situation, the LPDC may try the misconduct as charged without necessarily waiting for the criminal trial of the erring legal practitioner--**NDUKWE v. LPDC**

In all other instances of infamous conduct in a professional respect which do not amount to crime, the LPDC can commence disciplinary proceedings without waiting for any court or any denial or admission of the allegations.

Examples of infamous conduct may include:

- Misappropriation of client's money is a serious act of infamous conduct for legal practitioner.
- Not opening a client account and depositing client's money into it is an act of infamous conduct--**ONITIRI v. FADIPE**.
- Converting client's property
- Manufacturing non-existing cases in court
- Breach of **some** provisions of the RPC in the legal profession could be held to constitute infamous conduct in a professional respect. This is a qualification of the provisions of **RULE 55(1) RPC**

Note where a person convicted of an offence (which also constitutes infamous conduct in a professional respect) has that conviction **reversed on appeal purely on technical grounds, he could still be proceeded against professionally for infamous conduct in a professiona**l respect.--**RE KING.**

(b) Conviction by any court in Nigeria for an offence which is incompatible with the status of a legal practitioner

This offence is quite different from the others in the sense that it is the only one that requires conviction as a pre-condition before a charge can be brought before LPDC. The conditions are:

- The conviction must have taken place in Nigeria by a Nigerian Court of competent jurisdiction, that can punish
- **The offence for which he was convicted must be one which is incompatible with the status of a legal practitioner--RE ABUAH**
- No appeal must be pending against the conviction and the time within which to appeal against the conviction must have elapsed--**S. 12(5) LPA**

It must be noted that a conviction does not automatically make a legal practitioner liable to LPDC's sanctions under this offence as the LPDC will consider the nature of the offence and whether it is one which is incompatible with the status of a legal practitioner. The offences range from financial dishonesty. Re Abuah's case, political offences, election fraud, treason, sedition, marriage offences. Some offences are however excluded such as traffic offences.

For the purpose of this professional offence, the conviction of a legal practitioner for a criminal offence in this context is not restricted to offences committed while acting in his capacity as a legal practitioner--**Re WEARE; Re ABUAH**. Even where the case in court is struck out on technical grounds, the LPDC can still sanction the erring legal practitioner. See RE KING

QUERY: Does a sanction under this offence amount to double jeopardy against **section 36(9) CFRN**? The answer is in the negative. Subsequent sanctions by LPDC for conviction of an incompatible offence does not amount to double jeopardy. This is because LPDC tries professional misconducts by legal practitioners with the sole aim of maintaining professional discipline in the legal profession. Trials before the LPDC are not trials for criminal offences and do not lead to the imposition of any of the conventional penal sanctions for criminal offences---**Re ABUAH; LAW SOCIETY v. GILBERT**

(c) Obtaining enrolment by fraud: This is where a person obtained enrolment by a misrepresentation of facts which would not have entitled him to enrolment if they had not been misrepresented.

Five take homes

1) Enrolment at the SC is the final act which confers the status of a legal practitioner on a person.

2) An enrolment would be said to have been procured fraudulently where a fraudulent act or misrepresentation of material facts by any person to any authority concerning himself, ultimately enabled him to secure enrolment at the SC.

3) The guiding question here is whether such person would have been enrolled if the truth of the facts misrepresented were known before the enrolment.

4) A person who relied on a fraudulent or misrepresented fact to secure enrolment is guilty of professional misconduct notwithstanding that the misrepresented fact subsequently turned out to be true. The state of that fact as at the date of the misrepresentation is what determines the culpability or otherwise of the person involved.

5) Rule 2 of RPC provides that a lawyer shall not knowingly do any act or make any omission or engage in any conduct designed to lead to the admission into the legal profession of a person who is unsuitable for admission into the legal profession by reason of his moral character or insufficient qualification or for any other reason.

The materiality of the fact misrepresented is what determines whether enrolment was obtained by fraud or not. Thus, where the fact misrepresented is of little value in the sense that it would not have affected the status of the person, had the true facts been stated, an enrolment obtained in such circumstances may not be deemed to have been fraudulent. Accordingly, a mistaken belief on the part of the person making the representation may not ground this offence.

NOTE that where the misrepresentation amounts to a crime like forgery of certificates, the criminal action must be concluded first before the disciplinary action. (see similar rules under infamous conduct).

Examples here could include falsification of personal data or academic qualifications, forgery of certificates (including WAEC to gain admission etc)

(d) Misconduct, which though not amounting to infamous conduct, is in the opinion of the LPDC, incompatible with the status of legal practitioners: This is an omnibus ground and covers all residual cases where the conduct complained of does not qualify as infamous conduct. Examples are: seduction of a client's spouse, domestic violence, habitual drunkenness in the public, use of foul language in public, participating in street brawls, incessant shoplifter, notorious gambler.(Habitual acts)

Comment [v14]: Outside the job as a legal practitioner

The distinguishing feature between this offence and infamous conduct is that infamous conduct must be committed in the course of acting in his professional capacity, while this offence can be committed whether in the course of professional employment or not.

The standard is borne out of statutory need for a legal practitioner to be of good character at all times.

Organs responsible for the discipline of a Legal Practitioner.

1. The Body of Benchers via the LPDC
2. The Supreme Court of Nigeria
3. The Chief Justice of Nigeria

They are BOB, SC and CJN.

The Body of Benchers is responsible for the discipline of lawyers. The Legal Practitioners Disciplinary Committee is set up by the Body of Benchers. The regulatory laws are: the LPDC Act 2004 and the Rules 2006, the Legal Practitioners (Amendment) Act 1994.

Procedure for the discipline of a legal practitioner before LPDC

- The complainant will send a written complaint to anyone of the following: Rule 3(1)(a)-(g) LPDC Rules:
  1. CJN
  2. AGF
  3. PCA, or presiding Justices of the Court of Appeal Divisions
  4. The CJ of FHC, HC of FCT and SHC,
  5. President of the NIC
  6. AG of a State
  7. Chairman, BOB; and
  8. President, NBA or Chairman of a branch of NBA.---**Rule 3(1)(a)-(g) LPDC Rules**

- The complaint when received by any of the above will be forwarded to the NBA for investigation---**Rule 3(2) LPDC Rules**

- The NBA constitutes a committee to investigate the complaint by way of inquiry.

- The committee writes to the legal practitioner informing him of the allegations against him and invites him to make written representations.

- If after such investigation, NBA is of the opinion that a prima facie case has been made, then NBA shall **forward a report of such case to the secretary of the LPDC together with all documents considered by the NBA and a copy of the complaint**--**Rule 4 LPDC Rules.**
  The documents to be forwarded to LPDC are:
  1. Report of the case, which is in the form of a "charge" against the legal practitioner.
  2. Petition or complaint
  3. Evidence relied on to form opinion whether there is a prima facie case.

- The legal practitioner will be tried by the LPDC on the charge brought by the NBA

- The parties to the proceedings at the LPDC are the NBA as the complainant and the legal practitioner as Respondent--**Rule 5 LDPC Rules**

- NBA appoints legal practitioners to prosecute the case at LPDC

- Where charges are formulated, the secretary of LPDC shall:
  1. Fix date for hearing
  2. Serve notice on the legal practitioner concerned and other parties. Notice is to be sent either personally, e-mail, post or publication in National dailies.

Comment [v15]: Where no case is made out after due consideration, it would terminate the compliant.

3. The legal practitioner can defend himself in person or by a legal practitioner of his choice.
4. Every party shall be heard, Provisions of the Evidence Act shall apply. Rules of natural justice is applicable

NB: Thereafter, LPDC would give its directions, dismissing the complaint or punishing the legal practitioner accordingly.

Directions of the LPDC are to be gazetted EXCEPT directions relating to admonition.

Comment [v16]: MCQ.

Within 7 days the secretary should **SEND THE DIRECTION TO THE CHAIRMAN OF BOB**.

The LPDC is established as one of the committees of the Body of Benchers. Proceedings of the committee involve the following:

- The report of the NBA is in the form of a 'charge' against the legal practitioner--**NBA v. ODIRI.** However, it must be noted that t**he charge is NOT a criminal charge**--**OKIKE v. LPDC.**
- The parties are NBA (complainant) and legal practitioner (respondent). **But note that NBA is not a legal person, it is a juridical body. So it should be "The Registered Trustees of NBA"**
- The quorum is **5 members** with **at least two Attorneys-General**.
- By **Rule 10(2) LPDC Rules**, the provisions of the EA, 2011 are applicable to LPDC
- Hearing should be in public with exceptions in few cases--**Rule 13 LPDC Rules**
- **Proceedings before the LPDC is not purely criminal thus the NBA proves its case on balance of probabilities. Standard of proof is balance of probabilities or preponderance of evidence**

Comment [v17]: MCQ

- All exhibits and books **must be kept by the secretary until the expiration of the time allowed for the entry of an appeal (28 days)** or if the appeal was entered within time, then **until the appeal is heard or otherwise disposed of**---**Rule 24 LPDC Rules**
- The notice of decision is to be served on the person to whom it relates.
- A copy of the report is submitted to the Body of Benchers
- The party who was not heard, has **30 days** to apply for re hearing.

2. Discipline by the Supreme Court

By **section 13(1) LPA**, the Supreme Court can also discipline a legal practitioner. The court is conferred with original jurisdiction in this regard.

a. The Supreme Court has the jurisdiction to discipline a legal practitioner where it appears to the court that the legal practitioner has been guilty of **infamous conduct in any professional respect.**
b. The misconduct must be with regard to matter being handled by the lawyer **IN ANY SUPERIOR COURT OF RECORD IN NIGERIA**. **The Magistrate Court and other lower courts are excluded.**
c. The Supreme Court only gives its decision/direction after hearing the legal practitioner and such other persons the court considers appropriate.

d. The direction of the Supreme Court is the same as that of the LPDC that is, striking off, suspension from practice for specified period and admonishing that person.
e. The direction of the Supreme Court **takes effect immediately.**
f. The direction except in the case of an admonition is to be published in the federal gazette.
g. Where the Supreme Court gives punishment, the LPDC CANNOT proceed on the same misconduct.
h. The punishment by the Supreme Court is final and no appeal lies to any other court.

An appeal against the decision of the LPDC goes to SC---**NWALUTU v. NBA (2019)**

The appeal must be filed within the 28days from the date of service on him of the notice of direction (punishment) of the LPDC

What punishment can this court mete out to the offending practitioner?

- Same as LPDC
- The punishment must be GAZETTED.

WHERE THE SC HAS DECIDED A MATTER, THE LPDC CANNOT ENTERTAIN THE MATTER AGAIN.

3. Discipline by CJN

The CJN also exercise disciplinary measure over legal practitioners. The CJN is to afford the legal practitioner opportunity of making representations in the matter. **Note that the fact that an appeal is pending against conviction of legal practitioner does not affect the powers given to the CJN---Section 13(2) LPA.**

The direction of the CJN is limited to suspending the legal practitioner. The CJN can only exercise this power where a charge is pending before the LPDC or where there is a likelihood of a charge being brought before the LPDC for professional misconduct. **The powers of the CJN in this regard is limited to suspending the legal practitioner pending the determination of the charge by the LPDC.**

SUSPENSION by the CJN is only an interim order and does not affect the outcome of the LPDC or the power of the LPDC to punish.

4. EXPLAIN THE PROFESSIONAL SANCTIONS FOR THE PROFESSIONAL OFFENCES

The punishment, decision or direction of the LPDC could be:---S^2AD

- Striking off the name of the legal practitioner from the roll in cases of grievous misconduct. That is, an order to the Chief Registrar of SC to strike off his name
- Suspension from practice as a legal practitioner for a specific period
- Admonition. Admonish or caution the lawyer

- Direction for refund of money or documents which came into the possession of the lawyer in the course of the transaction.

Note that the punishment meted out must be commensurate with the nature of the offence committed. Example, a LP's name cannot be struck off the roll in the case of habitual drunkenness. Except such person had been previously warned--**Section 12(1) LPA and Rule 17 LPDC Rules**

Comment [v18]: Misconduct

5. EXPLAIN THE GROUNDS FOR RE-INSTATING THE NAME OF A LEGAL PRACTITIONER AND THE CANCELLATION OF THE SUSPENSION

A legal practitioner whose name was struck off the roll can be restored back. This is usually upon the application of the legal practitioner to the appropriate body. This application must show **genuine remorse**. Upon receipt of the application by the LPDC, the LPDC OR THE SC is to consider the following conditions before restoring his name, namely:

a. Gravity of the offence for which the person's name was struck off or suspended.
b. Sufficient evidence of genuine remorse between the time of striking off or suspension and time of application.
c. Applicant has become a fit and proper person over time to be re-integrated as a member of the legal profession.---**RE ABUAH;**

Note that the application for restoration must be made to the appropriate body. It depends on who meted out the punishment;

a) Where the punishment was ordered by the SC or CJN, the application should be made to the SC--**S. 14(1)(a) LPA**
b) Where the punishment was ordered by the LPDC, the application should be made to LPDC--**S. 14(1)(b) LPA**

POSSIBLE MULTIPLE CHOICE QUESTIONS ON THIS TOPIC

1. The following are judicial officers pursuant to section 292 and 318 CFRN except ___

A. Magistrates

B. Judges of Area Courts

C. Judges of Customary Courts

D. All of the above

2. The Chairman of the Federal Judicial Service Commission is the ___

A. AGF

B. CJN

C. Chairman CLE

D. President of the NBA

3. As per composition of the Federal Judicial Service Commission, 2 legal practitioners in Nigeria are appointed from a list of not less than ___ persons so qualified. To be so qualified, _____ years post call experience is required before recommendation for appointment can be made by the ____

A. 5/10/NBA

B. 4/12/NJC

C. 4/15/NBA

D. 5/15/NJC

4. All these are members of the NJC except ____

A. CJN

B. AGF

C. Chief Judge of the FHC

D. President of the Court of Appeal

5. The Chairman of the NJC is the ____

A. CJN

B. AGF

C. Chief Judge of the FHC

D. President of the Court of Appeal

6. The Chairman of the Enugu State Judicial Service Commission is ____

A. Chief Judge of a State

B. Chief Judge of Enugu State

C. AGF

D. Chairman NJC

7. The body responsible for recommending to the NJC/advising the NJC on suitable persons for nomination into the judicial offices in the FCT, Abuja is the ____

A. Judicial Service Commission, FCT

B. Judicial Service Committee, FCT

C. Federal Judicial Service Commission

D. None of the above

8. For a legal practitioner to qualify for appointment in the body identified in 7 above, such legal practitioner must have ____ years post call experience

A. 10

B. 12

C. 15

D. None of the above

9. All these are grounds for removal of judicial officers except ___

A. Inability to discharge functions

B. Breach of code of conduct

C. Misconduct

D. Infamous conduct in a professional respect

10. All these are disciplinary powers of the NJC except ___

A. Retirement

B. Removal

C. Warning

D. Suspension

11. Under the LPA, a legal practitioner may be found guilty of ___ professional offence

A. 3

B. 4

C. 5

D. 2

12. All of these are professional offences created under the LPA except ____

A. Infamous conduct in a professional respect

B. Conviction by any court outside Nigeria for any offence

C. Fraudulent enrollment

D. Misconduct incompatible with the status of a legal practitioner

13. The Secretary is required to send directions of the LPDC to the ___ within ___ days

A. CJN/19

B. Chairman BoBs/7

C. AGF/21

D. President of the NBA/28

14. The standard of proof in LPDC disciplinary proceedings is ____

A. Based on balance of probabilities

B. Proof beyond reasonable doubt

C. Proof to the satisfaction of the LPDC

D. A and C

15. The time allowed for appeal against the direction of the LPDC is ___ days from the date of service on the aggrieved party of the direction

A. 28

B. 30

C. 90

D. 14

16. Where a party is not heard by the LPDC, the party has ___days to apply for re-hearing

A. 28

B. 30

C. 90

D. 14

17. The CJN in exercising his disciplinary powers over a legal practitioner cannot do all of the following except ____

A. Direct that the legal practitioners name be struck off the roll

B. Direct retirement of the legal practitioner from the practice of law

C. Direct that the legal practitioner be suspended indefinitely

D. Direct that the legal practitioner be suspended pending the determination of the charge by the LPDC

18. Mr. A is sought to be appointed to the bench as a Judge of the FHC, _____ is responsible for notifying ____ of the proposed appointment

A. Chairman of the FJSC/CJN

B. CJN/Chairman of the FJSC

C. Chief Judge of the FHC/CJN

D. Chairman of the FJSC/President of the FRN

19. Assuming A's appointment is as a Judge of the High Court of Lagos State, ____will notify ___ of the proposed appointment

A. CJ of Lagos State/Governor of Lagos State

B. Chairman of the Lagos State JSC/Governor of Lagos State

C. NJC/Governor of Lagos State

D. Chairman of the Lagos State JSC/CJ of Lagos State

20. Assuming the appointment of A is as a Justice of the Supreme Court of Nigeria, ____ will notify ____of the proposed appointment

A. CJN/CJN

B. Chairman FJSC/President of the FRN

C. AGF/CJN

D. CJN/NJC

21. Assuming the appointment of A is as Judge of the High Court of the FCT, ____ will notify ___ of the proposed appointment

A. Chairman of the FJSC/President of the FRN

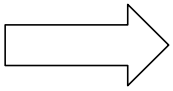
B. Chairman of the Judicial Service Committee/CJN

C. Chairman of the FJSC/Minister of the FCT

D. AGF/Minister of the FCT

ANSWERS

1. **D**
2. **B**
3. **C**
4. **B**
5. **A**
6. **B**
7. **B**
8. **B**
9. **D**
10. **B**
11. **B**
12. **B**
13. **B**
14. **A**
15. **A**
16. **B**
17. **D**
18. **C**
19. **B**
20. **A**
21. **B**



4. DUTIES OF COUNSEL

1. EXPLAIN THE VARIOUS DUTIES OWED A CLIENT BY THE LAWYER

A client could be; a person seeking legal intervention of a lawyer; a person in need of legal services of a lawyer; anybody that enjoys the services of a lawyer. This is so irrespective of the person paying for such services. The duty of a legal practitioner to his client is broadly divided into three:

- Duty of honesty (fiduciary duties)
- Duty of skill and care
- Duty of professional secrecy and privilege (duty of confidentiality)

(a) Duty of Honesty

This is known as a fiduciary duty which implies that one party is superior to the other. In this case, the lawyer is presumed to be superior to his client, hence must be honest in dealing with the client. The duty of honesty includes the following:

- **Duty not to act as a legal practitioner when he had previously acted as a judge over the matter--RULE 6(1) RPC, NBA V. FAWEHINMI.**

- **Duty of dedication and devotion to the cause of his client**. The lawyer's time must be dedicated towards the performance of the client's brief--**RULE 14 RPC**.

- A lawyer shall inform the client that his claim or defence is hopeless if he considers it to be so—**RULE 14(2)(e) RPC.** Where an action is statute-barred and counsel did not advise his client not to take the action, he could be indemnified in costs – **BELLO RAJI V. X**

- **Duty to represent the client within the bounds of law--RULE 15 RPC**.

- **Duty not to file frivolous and malicious suit—RULE 15(3)(b) RPC**

- **Duty to disclose conflict of interest--RULE 17 RPC**.

- **Duty not to act for two or more clients with opposing interest at the same time**. **RULE 17(1) & (4) RPC**. In **ONYEKE V. HARRIDEM NIG LTD**, the Court of Appeal stated the following: **"the court frowns upon the idea of a counsel appearing for one party, say the plaintiff, at the early stage of a transaction and then turning around at a later stage of the same transaction to appear for his opponent. but, where the transactions are different, the court will not restrain a counsel from changing sides".**

- **Duty not to breach agreement with client---RULE 18(2) RPC**

- **Duty to account and report promptly when dealing with client's property--RULE 23(2) RPC, NBA V. AKINTOKUN.** The legal practitioner must duly account for money received on behalf of client. The legal practitioner must not mix such money or property with his. A legal practitioner in this regard is expected to open three separate accounts; **personal account, trust account, and client's account. Money belonging to the client should be paid into client's account.** A Lawyer has the duty to open a separate Bank account for the keeping of money received on behalf of a client and should make no withdrawal from it unless permitted by the Rules. A lawyer who breaches this provision could have his name struck off the roll even though there has been no criminal trial or conviction. A bank cannot have recourse to the Legal Practitioners client's account to recover any indebtedness of the legal practitioner to the bank unless the indebtedness arose in connection with the account – **RE A SOLICITOR**

- **Duty to accept brief---RULE 24(1) RPC (**Cab rank Rule). Exceptions are:**--WRAP CUP**
    a. **Witness:** When he is likely to appear as a witness
    b. **Religion:** On religious grounds
    c. **Area**: Where it is not his area of practice
    d. **Party:** Where he is a party to the case
    e. **Conflict of interest:** On ground of conflict of interest.
    f. **Unwarranted:** Where the case is unwarranted, merely to injure the other party
    g. **Professional fees:** Where the client fails to pay the fees agreed upon

Comment [v19]: Only applies to advocacy/litigation. (criminal or civil)

- **Duty not to accept gift, compensation, commission from opposing parties--RULE 54 RPC**, except with full knowledge of the client and his consent after full disclosure. If not disclosed, it will amount to secret profit and upon revelation, would be forfeited.

- **Duty not to purchase property from client due to the existence of fiduciary relationship.** However purchase can be done upon fulfillment of certain conditions--**WILLIAMS V. FRANKLIN**, they are: The client was fully informed (the lawyer discloses fully his interest to the client); that the client had competent independent legal advice, and that the price paid was a fair one.

- A legal practitioner who prepares a will is not expected to be beneficiary under such will. However if the benefit or gift coming to him is not much, then such gift can stand--**FARELLY V. CONIGAN**.

- **Duty not to act as an executor/administrator/trustee and a solicitor at the same time.** When a legal practitioner is an executor of a property, the law states that he cannot act as solicitor in respect of the same property--**NBA V. KOKU**

(b) Duty of Care and Skill

- A lawyer should not handle a matter he knows he is not competent to handle----**RULE 16 RPC**

- No withdrawal from employment--**RULE 21(1) RPC.** In addition to good cause exceptions---**RULE 21(1)(2) RPC**, when the counsel has satisfied himself that he has no argument to offer in support of his own case, it is duty at once to say so, and to withdraw altogether. The counsel is the master of the argument and of the case in court and should at once retire if he finds it wholly unsustainable, unless indeed he has express instructions to the contrary--**ADEWUNMI V. PLASTEX (NIG) LTD.**

- A lawyer has the duty to take instructions from a client in chambers and not the client's house except for urgent reasons e.g. where the client is ill, where it has to do with family relations, etc—**RULE 22 RPC**

- In the absence of express limitation, an instruction to a lawyer confers upon him the power to do all such things as he considers necessary within the scope of his instructions to obtain the most favourable result for the client. Thus, he can compromise a suit or withdraw an appeal without further reference to his client. He can determine what accommodations to be granted to the opposing lawyer to the exclusion of his client, provided the merits of the case are unaffected and the client is not prejudiced. The basis of the Counsel's right (not duty) to control incidents of trial is the presumption of the client's confidence in the counsel – **EDOZIEN V. EDOZIEN**

- A lawyer has a duty to thoroughly investigate and marshal out facts stated by client including interview of potential witnesses for his client or for the opposing side—**RULE 25 RPC.** It is not inadvisable that counsel should meet his client's witnesses for the first time in court.

- When a legal practitioner breaches his duties, he shall be liable for negligence. There are exceptions: in pro bono services (except there is an agreement to the contrary)--**S. 9(2) LPA;** and in court litigation--**S. 9(3) LPA**

(c) Duty of Professional Secrecy and Confidentiality

- **Privileged communications:** Communications between lawyer and client in the normal cause of professional employment are privileged-- **S. 192(1) EA 2011, RULE 19(1) & (2) RPC**. A legal practitioner is not to reveal secret or confidence of his client, use secret or confidence of his client to his client's disadvantage, use client's secret and confidence to his advantage or that of a third party, **unless with client's consent after full disclosure**. A lawyer will not be permitted to act against his former client when he has obtained confidential information while acting for him, which would be improper and prejudicial to use against him in the service of an adversary. Otherwise, there is no rule that a lawyer cannot act against his former client— **ONIGBONGBO COMMUNITY V. MINISTER OF LAGOS AFFAIRS, RE CHIEF FR.A. WILLIAMS**

  The exceptions to this rule are:

  (a) The communication is made for the furtherance of an illegal purpose.

(b) Any fact observed by any legal practitioner in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, may be disclosed---**S. 192(1) EA 2011**

ALSO

(a) The client consents to disclosure

(b) Permitted to be disclosed by rules, required law or court order

(c) Prevention of client from committing a crime

(d) Establishment or collection of his fee or to defend himself or his employees or associates against an accusation of wrongful conduct—**RULE 19(3) RPC**

2. EXPLAIN LAWYER'S DUTIES TO THE COURT, STATE, COLLEAGUES AND THE LEGAL PROFESSION

Some of the duties of lawyers to the court, the state and the profession are codified while others are not. Note the dictum of Crampton J in **R v O'CONNEL** **"this court, in which we sit is a temple of justice and the advocates of the bar, as well as the judge upon the Bench, are equally ministers in that temple. The object of all equally should be the attainment of justice**." This restated the position that the ultimate duty of lawyers is to foster the administration of justice.

(a) Duties of lawyers to the court

1. Must be punctual to court.

Counsel should aim to get to court about 30 minutes before court sits to enable him to have composed himself and seen and possibly rehearse with his witnesses who should also be advised to come early to court.

The Court may strike out or adjourn a case with costs or proceed with hearing it without counsel where counsel and/or his witnesses are not punctual.

Where counsel for unavoidable reason cannot be punctual, he should write to court and the opposite counsel requesting that the case be stood down or adjourned to a reasonable time when he is sure he would be in court. It is the discretion of court to grant the application.

2. Must attend all sittings of court unless he had obtained leave of court to be absent.

OKONOFUA V. STATE; FRN V. ABIOLA. Same consequences for absences as for lateness. Where counsel informs court of absence or lateness, he must inform the counsel to all the parties in the case--**SHEMFE V. POLICE, AWOLOWO V. SULEMAN TAKUMA**

Persistent absence of counsel from court without leave could be treated as interference with the course of justice and held to be contempt of court--**MCKEOWN V. R**

Absence of counsel on date of judgment is not necessarily contempt of court, however it is disrespectful for counsel to be absent on date of judgment. **IZUORA V. R** where it was held that mere discourtesy to court is not necessarily contempt of court.

3. Must be properly dressed to court.

RULE 36 RPC. Counsel should always be attired in a proper and dignified manner and abstain from any apparel or ornament calculated to attract attention to himself. At the Superior Courts (i.e. High Courts, Court of appeal and Supreme Court), counsel must appear accoutred in dark suits, robed in their wigs and gowns.

MEN: Black or blue-black or charcoal grey two piece or threepiece suit, white collarless shirt, white wing collar (size: should be one size —bigger than shirt neck size, two studs required to hold collar to shirt) white band, black shoes.

ALTERNATIVES

(i) White shirt with wing collar attached in lieu of collarless shirt detachable wing collar.

(ii) Black and grey stripped trousers in lieu of suit trousers.

(iii) Sleeved vest in lieu of coat

WOMEN: Black, blue-black or charcoal grey straight dress, skirt and blouse, or skirt and jacket with white blouse. If the front is open, white camisole, collarets or ladies white band, black shoes. Dress must have long or three quarters sleeves and skirt should at least be knee length.

4. Must know the correct mode of addressing the judge and professional colleagues

Court of Appeal and Supreme Court------My Lords

High Court Judge--------My Lord/Your Lordship

Magistrate--------Your Worship.

Note that Magistrates in Lagos state are addressed as —Your Honour--**S. 352 ACJL**

Customary Court Judge-----Your Honour

Tribunals--------Your lordship

Legal Practitioner------My Learned Friend

5. Must know and maintain the correct decorum in Court.

(a) A Lawyer should rise when addressing or being addressed by the judge--**RULE 36(c) RPC**

(b) He should remain silent and attentive when the Judge is speaking

(c) While the court is in session, he should not assume an undignified posture.

See Discipline of Law pg. 8 where Lord Denning stated thus:

"Whatever the tribunal, you must give good impression. Your appearance means a lot. Dress neatly, not slovenly. Be well-groomed. Your voice must be pleasing, not harsh or discordant. Pitch it so that all can hear without strain. Pronounce your consonants. Do not slur your words. Speak not too fast but yet not too slow..."

(d) He must not engage in any banter, arguments or controversy with the opposing party--**RULE 36(d) RPC**. He is to channel these to the courts.

Note that the patience of the court is not inexhaustible--**ESSO WEST AFRICA INC. V. ALLI**

Listed below are deeds expected of a lawyer when he is appearing before a judge.

(i) Stand up when court orderly bangs the door and remain standing until the judge has sat down.

(ii) Stand up whenever the judge addresses you.

(iii) Seek the judge's permission for almost everything you want to do in court;

(a) To announce yourself,

(b) To call and examine your witnesses

(c) To refer to authorities and read passages from Law Reports

(d) Don't talk when another counsel is addressing the court, unless to enter an objection in the latter case.

(e) Do not read magazines, chew anything or make use of mobile phones in the view of Court.

6. Must maintain a respectful attitude to the court in words and deed---RULE 31(1) RPC

A lawyer shall always treat the court with respect dignity and honour. If he has a proper ground for complaint against a judicial officer, he shall make the complaint to the appropriate authorities--**RULE 31(2) RPC.** See also **RULE 35 RPC** which enjoins lawyers before a judicial tribunal to accord it due respect, courtesy, and dignity.

Comment [C20]: In drawing the attention of the Judge to some authority, you may say —May I refer your Lordship to ...‖ Thank the judge for everything he says in favour of your case or to compliment you. i.e. —Most grateful to your Lordship‖

Counsel owes the duty to show respect for the Court and enhance the smooth administration of justice----**FAWEHINMI V. STATE, NWAFOR ORIZU V. ANYAEGBUNAM**. (For further discussion on this, refer infra to the topic of Contempt of Court.) Also see **R. V. JORDAN** (I888)36 W.R.797 where a legal practitioner interrupted a court during the course of judgment with the words — "This is a most unjust remark," he was held to have committed contempt. See **ATAKE V THE A.G. FEDERATION**

7. Counsel must be fully prepared to go on with the case and not seek unnecessary adjournment thereby wasting the court's time.

Court may refuse application for adjournment and proceed with the case---**AWOLOWO V. TAKUMA**.

8. Must conduct his case in logical sequence thereby assisting the court to follow the case with ease.

In Civil cases, claimant should give evidence first, then witnesses. Defendant should lead defence witnesses. In criminal cases, complainant shall lead the prosecution witnesses while accused, if giving evidence, would lead defence witnesses.

Note: Justice Maule's observations to Counsel: See Oputa: modern Bar Advocacy pg. 15. Also Orojo: Conduct and Etiquette in the Legal Profession at pg. 65.

"Mr. Smith, do you think that by introducing a little order into your narrative you might possibly render yourself a trifle more intelligible? It may be my fault that I cannot follow you, but I should like to stipulate for some sort of order. There are plenty of them. There is the chronological, the botanical, the metaphysical, the geographical, why, even the alphabetical order would be better than no order at all"

9. Must be candid and fair--RULE 32 RPC

Counsel is regarded as an officer of the court and has a duty to uphold and observe the rule of law---**RULES 30 AND 31 RPC**. The court is entitled to rely upon him for assistance in ascertaining the truth, *veritalest justitiae mater*. Counsel must make the fullest disclosure of evidence to the Court whether for or against his case and must not knowingly suppress a material fact. He must also not fail to cite a decided case that is against him although he is entitled to distinguish such case.

He must not knowingly mislead the court. He must also not stand by and allow the court to be misled---**RULE 32 RPC, GLEBE SUGAR REFINING CO. LTD V. GREENOCK PORT & HARBOUR TRUSTEES**.

In the case of **LINWODD V. ANDREW** for instance, a Barrister permitted affidavits which contained matter amounting to chicanery to be used. On a motion to commit him for contempt of

court, it was argued that all he had been guilty of was not having thrown up his brief. It was held that it was his duty to disclose to the Court that the affidavits were untrue and that his fault did not consist of not throwing up his brief but having made himself a party to fraud whose aim was to delude the court.

For other conducts that a lawyer is precluded from engaging in while handling the case of a client, see **RULE 32(a-k) RPC.**

10. Counsel should avoid Trial publicity---RULE 33 RPC.

A lawyer is precluded from making extra-judicial statements that are likely to interfere with or prejudice the fair trial or outcome in a matter which is still before the court. This refers to both criminal and civil trials.

11. Relation with Judges---RULE 34 RPC

A lawyer shall not do anything, or conduct himself in such a way as to give the impression that his act or conduct is calculated to gain or has the appearance of gaining special personal consideration or favour from a judge. A lawyer must display the utmost degree of discretion in his relationship with the judge.

Learning the psychology of the court

1. Know your Court

(i) Climatic condition - some have effective air-condition system in which case warm clothing like a three-piece suit, sleeved vest, or thick material gown may be ideal. Others have no functional air-conditioning with poor ventilation system. In such instances, light material clothing may be more suitable to wear to court.

(ii) Check whether facilities for robing exist in court. Otherwise alternative arrangements should be made.

(iii) Check whether facilities for car parking exist. Note that parking on call-over (or Motion) days in some jurisdictions may be problematic due to the large number of lawyers present on such days.

2. Know your Judge

(i) Note the punctuality of Judge to sit, habit of rising during hearing and time of rising for the day.

(ii) Attempt to study the peculiarities of Judge in the instances listed below.

(a) Preference for large or small font documents

(b) Fast or slow writing judges

(c) Loquacious Judge

(d) Awkward Judge

(e) Judges who prefer to take down all submissions or write down so little

3. Where to sit in Court

Select a seat that reflects your standing at the Bar.

Give up seat for elders. (It has rewards in the form of assistance and co-operation - the one good turn deserves another principle).

Avoid the front row which is reserved.

Avoid the seats meant for the men of the press.

The Judge may refuse you audience.

Do not cross your legs while seated in court.

(b) Duties of lawyers to the state

(i) Duty to uphold the Law (General Responsibility of a Lawyer)---RULE 1 RPC.

A lawyer has a special duty to uphold the law and promote the cause of justice because he occupies a quasi-official position. In the words of Justice Yales in **MAYOR OF NORWICH V. BERRY** "The court must have Ministers; the Attorneys are its Ministers"

In the U.S. case of **RE-SUMMERS**, the decision by the Bar of Illinois to refuse admission to a conscientious objector to National service on the ground that he would be unable to subscribe to the oath to support the constitution of the State of Illinois was upheld by the Supreme Court.

Note the rule that "Any misconduct by a lawyer which would if committed before he was a lawyer have been sufficient to prevent him from being admitted as a lawyer will be sufficient to warrant his being struck off the roll or suspended from practice"--**RE HILL, WAZIRI V. STATE.** See also **OKARO V STATE,** where it was held that a Counsel in court in a capital trial has a very important and sacred duty to perform. He owes that duty to not only his client and the court but also to society at large. It is of the very essence of that duty that he should promptly take objection to every irregularity at the trial, be that an irregularity relating to procedure or to evidence called at the trial.

(ii) Duty to represent clients within the bounds of Law - RULE 15 (1) (2) & (3) RPC

Counsel should not advise or assist in violation of the Law---**GOODENOUGH V. SPENCER**:

No attorney or counsel has right in discharge of his professional duties to involve his client by his advice in a violation of the laws of the State, and when he does so, he becomes implicated in the client's guilt if, when by following the advice, a crime against the laws of the State is committed.

The fact that he acts in the capacity and under the privilege of counsel does not exonerate him from the well-founded legal principles which render all persons who advice and direct the commission of crime guilty of the crime committed by compliance with the advice--**MYERS V. ELMAN,** where a Testator instructed his lawyer to prepare certain conveyance with intent to evade payment of duty which the solicitor carried out. An order to the solicitor to produce the instructions cannot be resisted as privileged communication.

Legal practitioners should not aid and abet corruption specifically by way of laundering money for clients.

- Where, in the opinion of a legal practitioner a client's transaction is suspicious, the legal practitioner shall extract information from the client as to the source of such funds and the beneficiary of such fund--**S. 6 MONEY LAUNDERING (PROHIBITION) ACT 2011.**
- A legal practitioner shall immediately report any suspicious transaction of his client to the EFCC---**S. 6(2) (a) & (c) MONEY LAUNDERING (PROHIBITION) ACT 2011**
- Failure to report to the EFCC is an offence---**S. 6 (9) MONEY LAUNDERING (PROHIBITION) ACT 2011**
- Lawyers are to keep the records of clients' identity **for a period of not less than 5 years after the relationship has ended**---**S. 7 MONEY LAUNDERING (PROHIBITION) ACT 2011**
- A lawyer is bound to transmit the records on demand to the Central Bank of Nigeria or the National Drug Law Enforcement Agency---**S. 8 MONEY LAUNDERING (PROHIBITION) ACT 2011**
- The Federal High Court has held in the case of **NBA V AG FEDERATION & CENTRAL BANK OF NIGERIA** that **S. 25 MONEY LAUNDERING (PROHIBITION) ACT 2011** does not apply to lawyers.

(c) Duties of lawyers to colleagues

(i) Duty to treat with respect, fairness, consideration and dignity- RULE 26(1) RPC

Lawyers are to treat one another with respect, fairness, consideration and dignity and shall not allow any ill-feeling between opposing clients to influence their conduct and demeanour towards one another (and even towards the opposing clients).

In **RE JOHNSON**, it was held to be contempt for a solicitor to abuse and threaten an opposing counsel while on his way along the passages from the judge's chambers after an application therein. He should endeavour as far as possible to accommodate the convenience of fellow counsel when the interests of his client or the cause of justice will not be injured by so doing.

It is particularly improper for counsel to criticize another or impugn his motives for taking a weak case or seeking an adjournment----**ISO V. ENO, MILITARY GOVERNOR OF LAGOS STATE V ADEYIGA.**

(ii) Equality of Members – **RULE 26(2) RPC**

Subject to the rules of precedence all members of the Bar are equal. This principle involves the explanation that no member of the Bar irrespective of his rank or title shall regard himself as superior or inferior to any other member of the Bar. Denigration of the members of the profession may amount to infamous conduct---**ALLINSON V. GENERAL MEDICAL COUNCIL.**

(iii) Duty to maintain good faith and fairness between each other and keep Promises - RULE 27(2)(a) (b)RPC.

A lawyer should adhere strictly to all express promises to and agreements with opposing counsel, whether oral or writing, and should adhere in good faith to all agreements implied by the circumstances or by local customs---**UNITED MINING CO. V. BECHER, RE HULL COUNTRY BANK**

(iv) Duty to Avoid Sharp Practices---RULE 27(2)(c) RPC.

When a lawyer knows the identity of a lawyer representing an opposing party, he should not take advantage of the lawyer by causing any default or dismissal to be entered without first inquiring about the opposing lawyer‘s intention to proceed. In the trial of a cause, it is unethical to allude to the personal colloquies between counsel which cause delay and promote unseemly client wrangling. Ludwig felt that 2 causes contribute to sharp practices:

(1) the desire to please a revengeful client and

(2) the desire to manufacture costs.

DENSA ENGINEERING WORKS LTD V. U.B.N. PLC, KWAPTOE V. ISENYI

(v) Duty not to Covet Clients

RULE 27(4) RPC provides that when a member of the bar is aware that a person is already represented by another member of the Bar in a particular matter, he shall not have any dealing with that person in the same matter without giving prior notice to the other member of the Bar. The member of the Bar accepting instructions in such circumstances shall use his best endeavours to ensure that all the fees due to the other member of the Bar in the matter are paid.

Duty to opponents

(i) Duty to be fair and avoid unjustifiable litigation

The lawyer must decline to conduct a civil cause or to make a defence when convinced that it is intended merely to harass or injure the opposite party or to work oppression or wrong--**RULE 24(3) RPC**

In **RE COOKE**, Lord Esher said: — If a solicitor were instructed by his client to take certain proceedings which could legally be taken but which would, to the knowledge of the solicitor, injure his antagonist unnecessarily, but the client nevertheless instructed him to go on in order to gratify his anger then, if the solicitor knew all this, he would be unfair and wrong if he took those proceedings, although he was acting on instruction in so doing.

A lawyer is not to take, unreasonable or oppressive proceedings in order to gratify a malicious client. Legal Ethics P. 135. - Counsel should refrain from using abusive words even against his opponent. If he does, the court ought to stop him. —*Eloquential Cogniturans male decdendisubile* (it is dog's eloquence to undertake the task of abusing one's opponent).

(d) Duties of lawyers to the legal profession---RULES 1, 2, 3 & 4 RPC

General responsibility of a lawyer– Rule 1

Rule 1 provides that —a lawyer shall uphold and observe the rule of law, promote and foster the course of justice, maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner.

Duty as to the admission into the legal profession – Rule 2

Rule 2 of the new Rules provides that- —A lawyer shall not knowingly do any act or make any omission or engage in any conduct designed to lead to the admission into the legal profession of a person who is unsuitable for admission by reason of his moral character or insufficient qualification or any other reasons.

Aiding unauthorised practice of the law – Rule 3

Rule 3 provides that —a lawyer shall not aid a non-lawyer in the unauthorised practice of the law‖ or share his legal fees with a non-lawyer except as provided in Rule 53. He shall also not write or sign his name on a document prepared by a non-lawyer, for a fee, as though such a document were prepared by him.

Avoidance of intermediary in the practice of law – Rule 4

Rule 4 – He shall not permit his professional services to be controlled or exploited by any lay agency which intervenes between him and the client. Charitable societies or institutions rendering aid to the indigent are not deemed as such intermediaries.

Instigating Litigation or controversy. - Rule 47

(a) It is unprofessional conduct for a lawyer to proffer advice to bring a lawsuit, except in rare cases where ties of blood relationship or trust may render it necessary. Fomenting strife or instigating litigation is unprofessional conduct.

(b) Other objectionable matters to be avoided by lawyers include –

(i) Searching of land titles for defects in title with a view to employment in litigation.

(ii) Seeking claimants or their in respect of personal injuries and other causes of action as possible with a view to being engaged as clients to such persons.

(iii) Engaging agents and others to follow up on accidents with a view to employment in legal capacity by next-of-kin and others.

(iv) Offering reward to persons likely by reason of their own employment to be able to influence legal work in favour of a particular lawyer.

It is in the interest of the profession generally that any such case should be reported to the Bar council for disciplinary action---**RULE 55 (2) RPC**

MISCELLANEOUS DUTIES

Duty to take notes

Counsel should take his own personal notes of the evidence, submissions and rulings in the case in which he is counsel.

(1) He will need to know what one witness said so that he can put his evidence to the witness for opposite party when necessary.

(2) He will need the note of a witness evidence during his examination in chief for purposes of cross-examination of that witness and/or other witness.

(3) He will need to be able to review all the evidence that has been given in his final submission.

(4) He will need the notes of evidence to determine the accuracy of record of proceedings made by the judge for the purpose of appeal.

Duty of court to counsel

Just as a lawyer owes several duties to the Court, so also does the court have its responsibilities towards a lawyer. The court has the Constitutional obligation to grant fair hearing to both parties. Counsel must be allowed to conduct case in the way he thinks best and the court should not interfere.

• Counsel are entitled to be accorded right of audience---**SALIM V. IFENKWU& ORS**

• Court is expected to respect counsel---**EZEOGU V. ONWUCHEKWA**

• Where the court unduly interferes in the conduct of a counsel's case, the judgment may be set aside. On this, see the following cases---**R. V. CLEWERE, JONES V. NATIONAL COAL BOARD, OKORIE V. POLICE, OTEJU & ORS V. OLOGUNNA & ORS, AKINFE V. THE STATE, USO V. POLICE**

In **OKODUWA&ORS V STATE**, a court refused a reasonable request for adjournment and proceeded with the case without counsel. In such an instance, the court may breach the constitutional provision of "fair hearing". So also would be the case where the court does not allow counsel to call his witnesses or to make address.

A Judge should be impartial and observe rules of Natural justice---**STATE V. OYENUBI**. Note that the party that suffers when a judgement is set aside when there has been no fair hearing is the litigant and not the judge---**INNOCENT MADUFOR OZIMS V. EDWARDS ANORUO**

In summary, a judge is to be impartial but he is also not to sit unconcerned where counsel's incompetence is likely to cause injustice---**ALHAJI MUSA OMO ELEJA V. BANGUDU**

2. IDENTIFY AND DISCUSS SPECIFICALLY WHAT ASPECTS OF THE LEGAL SYSTEM ARE AFFECTED BY CORRUPTION AND HOW THESE ENCOURAGE OR INFLUENCE LAWYERS TO BEHAVE IN CORRUPT OR UNETHICAL WAYS;

Note the difference between corruption and money laundering

(a) Corruption between lawyers and their clients

- Helping clients to evade tax(trusts, parent/subsidiary companies)
- Not representing client within the bounds of law—**RULE 15(1)(2) RPC**
- Helping clients siphon money between banks and out of the country through money laundering. This is an unethical conduct pursuant to **RULE 15(3)(a)(i) and (j) RPC**, **Ss. 6, 7 and 8 OF THE MONEY LAUNDERING ACT**.
- Payment of kickbacks (bribe) to clients to get briefs.

- Payment of huge sums of money in cash to lawyers by clients as fees outside the banking system(money laundering)
- No "JANKARA" practice
- Failure of lawyers to report suspicious, unreasonable and unjustifiable money transactions to CBN, EFCC, NDLEA& OTHER REGULATORY BODIES—**Ss. 6,7 AND 8 MONEY LAUNDERING ACT (MLA)** 2011 as amended.(Designated non-financial institution is defined to include LPs and thus an obligation to report). NB: In **NBA v. AGF & CBN**, the court held that there is no need of the provision of going to the EFCC to disclose, as there are extant regimes imposing on LPs the obligation to report to appropriate authorities, and the MLA should not add to the burden already imposed on a lawyer.

(b) Corruption between lawyers and the judiciary

- Lawyers who bribe judges to pervert the course of justice
- Lawyers who encourage clients to bribe judges
- Lawyers who discuss matters with judges outside the court with a view to overreaching the court's decision--**RULE 15(3)(A),(I) AND (J) RPC ; RULE 30 AND 34 RPC**.

(c) Corruption between lawyers and other parties

- Lawyers who bribe witnesses of opposing parties to get judgment
- Bribery of Government officials to get things done for their clients
- Bribery of court registrars, clerks and other court officials
- Rule 47 (2) (d) RPC
- Acceptance of offer of compensation or gift by the other party

(d) Sanctions against corrupt lawyers

- See generally **Ss. 8,9 and 10 of the Corrupt Practices and Other Related Offences Act 2003**. On conviction to be liable to 7 years.
- Sanctions under **Ss 15- 19 MLA**. 5 years or not more than 10 years
- Disciplinary measures and sanctions by LPDC---**S. 12(1)(b) LPA**…his name can be struck off from the rolls, he can be admonished., he can be suspended from practice for a period of time and any such direction may, where appropriate, include provision requiring the refund of money's paid or the handing over of documents or any other thing as the circumstances of the case may require
- Disciplinary measures and sanctions by Supreme Court and CJN--**S. 13 LPA**.

Comment [v21]: Rule 15(3)(a) RPC

Comment [v22]: Rule 31(4) RPC

Comment [v23]: Rule 25(1) RPC

Comment [C24]: RULE 54 RPC

3. SUGGEST SPECIFICALLY WHAT LAWYERS COULD DO TO MAKE THE LEGAL SYSTEM TO BE FREE FROM CORRUPTION (doing the opposite of the corrupt practices above)

4. EXPLAIN AND DISCUSS THE TYPES, PURPOSE, PROCEDURE AND PUNISHMENT FOR CONTEMPT OF COURT.

Contempt of court is any conduct or speech that may bring the authority and administration of the court into disrespect, scorn or disrepute OR any act done or writing published calculated to bring a court or judge into disrepute or lower his authority. Further, any act done or writing published which has the effect of obstructing or interfering with the due course of justice or the lawful process of the court.

Summarily, *Contempt* therefore means *a*ny wilful disobedience to, or disregard of, a court order or any misconduct in the presence of a court; any action that interferes with a judge's ability to administer justice or that insults the dignity of the court---**ATAKE v AG. FED; AGBACHOM v STATE; AWOBOKUN v ADEYEMI.** It must be noted that the rules regulating contempt of court apply both to lawyers, litigants and the public alike, though with much higher strictness to lawyers. **NB: The standard of proof in both civil and criminal contempt is proof beyond reasonable doubt.**

RULE 33 OF THE RPC forbids a lawyer or a law firm involved in a suit, whether civil or criminal, which is still pending or anticipated in court, to make any extra-judicial statement likely to prejudice or interfere with the fair trial of the matter (subjudice). Also, by **RULE 31 (2) RPC,** any lawyer who has a proper ground for complaint against a judicial officer shall make his complaint to the *appropriate authorities.* Such complaints are made to NJC, the Chief Judge of the State or as a ground of appeal to the appellate court; making the complaint to the press constitutes contempt of the court, more so when it comes from lawyers.

However, it is not necessarily every act of discourtesy to the court by counsel or litigant that amounts to contempt--**IZUORA v. QUEEN; OKODUWA V. STATE**. Yet it has been held that to call a judge a liar or to allege he is partial is contemptuous---**VIDYASAGARA V. THE QUEEN**.

Contempt is punishable with fine or imprisonment or both. There are both civil and criminal contempt; the distinction is however often unclear. Direct contempt or contempt ***in facie curiae*** (that is, contempt committed in the face of the court or that took place within the court`s precincts or relates to a case that is currently pending before the court) **may be punished by the presiding judicial officer himself. There is no doubt therefore that in most cases where contempt is committed in the face of the court (*in facie curiae),* the presiding judge or magistrate can summarily try and punish the contemnor**. The difficult question, however, is whether the presiding judicial officer can try and punish the contemnor where the contempt is

committed outside the court room but in relation to a matter still pending in court and against the person of the presiding officer?
In answering this question, it was held in **DIBIA v. EZIGWE** that while a presiding judicial officer can deal summarily with contempt in facie curiae, in cases of contempt committed outside the court (ex facie curiae), the proper procedure of apprehension or arrest, charge and prosecution must be applied and followed. Additionally, and more importantly, in such a situation, the case should and must be tried by another judge otherwise the accused/contemnor cannot be said to have received a fair trial, with the result that the trial and conviction are a nullity. If it is tried by the same court, it would amount to a violation of the hallowed principle of nemo judex in causa sua.---**AGBACHOM v. STATE**

The SC has warned that courts should use its powers to punish for contempt sparingly. --**AGBACHOM v. STATE; BOYO v. AG MID WESTERN STATE**. **It has also been stated by the SC that the power to cite and commit for contempt is not retained for the personal benefit or aggrandizement of a judge**. The powers are created, maintained and retained for the purposes of preserving the honour and dignity of the court and so, the judge hold the power on behalf of the court and by the tradition of his office, he should eschew any type of temperamental outburst as would let him lose his own control of the situation and his own appreciation of the correct method of procedure---**DEDUWA v. STATE**

The relevance of the punishment of contempt of court is based on the fact that if everybody is allowed to do whatever he likes, the society will not stick together and the court maintains the divinity of the society. **Note that the law of contempt is not for the personality of the judges but for the institution they represent, that is for the maintenance of respect for and confidence in the judicial office.**

(a) Types of contempt of court

The type of contempt determines the procedure to be followed in punishing the contemnor. There are two (2) types of contempt of court namely: criminal contempt and civil contempt (could either be in or outside the court)

1. Criminal Contempt

This includes any act or conducts which obstruct or interferes with the administration of justice or bringing the dignity of the judge into disrepute (can be in facie or ex facie). Examples would include the following:

- Prejudicing a fair trial. There is the subjudice rule which is to the effect that when a matter is pending before the court, no one (lawyer, litigant, or public is allowed to comment on it--**R V GRIFFITHS**
- Scandalizing the court
- Parading an accused person after arraignment before the court.

- Calling a judge a liar or incompetent; to allege that he is incompetent.
- Publications in newspaper attacking the judge--**R V GRAY**
- Private communication with the judge intended to influence him in performance of his duties in respect of a matter pending before him.
- Frivolous allegations of partiality against a judge in a judicial proceeding.
- Going to court with the press men.
- Interrupting court proceedings by words or conduct

Note that there is room for fair, civil, and accurate criticism of the judge which will not amount to contempt--**OKODUWA V. STATE.** The criticism should also be made bona fide. **NB:** It is still civil even if it arises from breach of an injunction.

2. Civil Contempt (contempt in procedure)

Civil contempt is generally the disobedience to courts orders, judgments or processes of court, involving a private injury (always ex facie curiae)--**AWOBOKUN v. ADEYEMI**

In facie curiae

When the contempt is committed in the face of the court, example of which include, making noise in the court and attacking the judge in the court as in the case of **R V POWELL, CONNOLLY V DALE**, the judge has two options namely:

- summary trial or
- Full trial of the contemnor if facts are contestable.

In summary trial, before the court can proceed with it, the act/conduct making up the contempt must be so notorious without the need of conflict of evidence. If the act or conduct is not so notorious, another judge should proceed with the trial. **Thus, summary trial for contempt is restricted to only cases where the matters are so notorious and it may be tried by the judge in whose court it is committed**.

In practice, the judges are actually discouraged from trying contempt in facie curiae summarily. Note that all courts in Nigeria have the power to punish contempt in the face of court. This is by virtue of **section 6(6)(a) CFRN.**

In facie curiae contempt, the summary trial involves putting the contemnor in the dock, informing him of the act of contempt; asking him as to why he should not be convicted for contempt; and delivery of judgment. The hearing should be in accordance with cardinal principles of fair hearing and facts are so notorious as to be virtually incontestable--**DIBIA V EZEIGWE, AGBACHOM V STATE**

Ex facie curiae

The procedure for punishing contempt committed outside the court is like that of any criminal matter. Thus, referring the facts constituting the contempt to the police for investigation; the arrest of such person; proffering a charge against him; arraignment/prosecution; trial. This means that all the rights available to an accused person in criminal proceeding will avail the contemnor. Thus the contemnor must be given fair hearing, being put in dock as to guarantee his right to remain silent during the proceeding. **Note that the court to commence contempt trial other than summary trial is the High Court.**

A private individual can bring an application to enforce contempt ex facie if the judge did not take steps – Motion on Notice.

PROCEDURE

A motion on notice is used supported by an affidavit and written address---ORDER 42 RULE 19 LAGOS. For the notice of consequence of disobedience to court order, see **FORMS 48, and 49** under **ORDER 9 RULE 13 JUDGMENT ENFORCEMENT RULES** made pursuant to **THE SHERIFF AND CIVIL PROCESS ACT.**

Also note that the proof of contempt generally whether criminal or civil is beyond reasonable doubt because the outcome of contempt is penal in nature--AGBACHOM v. STATE, AWOBOKUN v. ADEYEMI

The Sheriff and Civil Process Act made provisions for the punishment of civil contempt. Essentially, two forms are used in the first schedule to the Act. Form 48 – Notice of consequences of disobedience to order of court. Form 49 – Notice to show cause why the order of contempt should not be made (SUMMARY TRIAL)

Form 48 is to be served on the contemnor if he was not in court. However, for practical reasons, always serve Form 48. The form is usually filed by the party seeking the punishment of the contempt. The Form 48 notifies the contemnor the consequences likely to be suffered if the order of court is disobeyed.

The order of court has to be endorsed on the Form 48 by the Registrar. Service is then effected by process server either personally or by substituted means with the leave of the court. **48 hours will be given to the contemnor to desist from his act and after 48 hours, there is no compliance, Form 49 which is notice to show cause why order of contempt should not be made will be served on him**. **A day will be fixed for the contemnor to come to court and explain why he should not be committed to prison**. The forms are signed by the Registrar. **If the contemnor did not come to court, warrant of arrest can be issued against him**

FORM 48 – HEADING OF COURT

NOTICE OF CONSEQUENCES OF DISOBEDIENCE TO ORDER OF COURT

Comment [v25]: Attach the enrolled order of the court.

To _____ of_____

Take notice that unless you obey the directions contained in this order, you will be guilty of contempt of court and will be liable to be committed to prison.

Dated this_____day of_____2019

Registrar

FORM 49

NOTICE TO SHOW CAUSE WHY THE ORDER OF CONTEMPT SHOULD NOT BE MADE

TAKE NOTICE that (state the party) will on ____(Monday)____ the _____ day of_____20____, at the hour of _____ in the _____noon, apply to this court for an order for your committal to prison for having disobeyed the order of this court made on the _____day of_____20_____, requiring you to (remove your earth moving equipment).

AND FURTHER TAKE NOTICE that you are hereby required to attend the court on the first mentioned day to show cause why an order for your committal should not be made.

Dated this _____day of_____2019

Registrar

Note that the court can pardon a contemnor whose conduct is unintentional and who has purged his contempt by a sincere apology and credible explanation. Also, when he acts from a mistaken belief or misconception of laws thereby flaunting court's order--**STATE V. HON. JUSTICE A. A. M EKUNDAYO & ANOR. Punishment (inherent in superior courts of record, MC can however punish contempt in facie curiae)**

- Terms of imprisonment
- Fine
- Or both fine and imprisonment
- Committal to prison until contempt is purged
- Apology (where contemnor has purged himself of the contempt

Criminal Contempt

- 3 months imprisonment where the criminal code applies, **S. 133 of the Criminal Code of Lagos**

- 6 months imprisonment in states where the penal code applies

Civil Contempt

- Maximum of 6 months imprisonment

5. IMPROPER ATTRACTION OF BUSINESS

1. Advertisement

Under the RPC 2007, advertisement is allowed to an extent.

Accordingly, **RULE 39(1) RPC** provides that subject to Rules 39(2) & (3) RPC, a lawyer may engage in any advertising or promotion in connection with his practice of the law provided it is fair and proper in all the circumstances and complies with the provisions of the RPC. Thus, the conditions for advertisement are:

a) It must be fair and proper in all the circumstances
b) It must comply with the provisions of RPC---**RULE 39(1)(a) & (b) RPC**

Advertising is the deliberate act of taking steps to promote, market, publicize one's goods or services through media. Where a lawyer advertises, such advertisement must not contravene Rule 39(2) RPC.

A lawyer shall not however engage or be involved in any advertisement or promotion of his practice of the law which:

a. Is inaccurate or likely to mislead
b. Is likely to diminish public confidence in the legal profession or the administration of justice or otherwise bring the legal profession into disrepute.
c. Makes comparison with or criticizes other lawyers or other professionals or professions.
d. Includes any statement about the quality of the lawyer's work, the size or success rate of his practice; or
e. Is as frequent or obstructive as to cause annoyance to those to whom it is directed--- **RULE 39(2) RPC**

In the same vein, pursuant to **RULE 46(2) RPC,** a lawyer shall not

a. Insert in any newspaper, periodical or any other publication, an advertisement offering as a lawyer, to undertake confidential enquiries.
b. Write for publication or otherwise cause or permit to be published **except in a legal periodical after the expiration of time of appeal in a case,** particulars of his practice or earnings in the courts or cases
c. Take steps to procure the publication of his photographs as a lawyer in the press or any periodical.

2. Soliciting

This can be defined as the lobbying, begging, beseeching or prevailing on another to grant the handling of a brief of a lawyer

It is the act or conduct by a lawyer which is calculated to lure a person or group of person to give a brief to the lawyer.

Soliciting involves directly seeking employment from a client. It could be achieved indirectly through suggestive handbills, circulars or even through third parties who tout for briefs for the lawyer with his knowledge.

Contrary to the case of advertising, soliciting is prohibited--**RULE 39(3) RPC**

Even though advertising is allowed to some extent, with respect to soliciting, Rule 39(3) RPC provides that notwithstanding **Rule 39(3) RPC, a lawyer shall not solicit professional employment either directly or indirectly by**

a. Circulars, handbills, advertisement, through touts or by personal communication or interview
b. Furnishing, permitting or inspiring newspaper, radio or television comments in relation to his practice of the law.
c. Procuring his photograph to be published in connection with matters in which he has been or is engaged.
d. Permitting or inspiring sound recording in relation to his practice of law; or
e. Such similar self-aggrandisement

What can a legal practitioner do without inhibition in showcasing himself? Section 39(4) RPC.

PERMITTED FORMS OF ADVERTISEMENT

1) **Law list and law directory:** By **RULE 39(4) RPC**, a lawyer is permitted to publish his particulars in a reputable law list or law directory. It provides that nothing in Rule 39 shall preclude a lawyer from publishing in a reputable law list or law directory, a brief biographical or informative data of himself , including all or any of the following matters:

a) His name or names of his professional association
b) His address, telephone number, telex number, email addresses etc
c) The school, colleges, or other institutions attended with dates of graduation, degree and other educational or academic qualifications or distinctions.
d) Date and place of birth and admission to practice law
e) Any public or quasi-public office, post of honour, legal authority etc
f) Any legal teaching position
g) Any national honours
h) Membership and office in the NBA and duties thereon and
i) Any position held in legal scientific societies

2) **Note-papers, envelopes and visiting cards: By RULE 40 RPC, a** lawyer may cause to be printed on his note-papers, envelopes and visiting cards-
   (a) His name and address;
   (b) His academic and professional qualifications and title including the words "Barrister-at-Law", "Barrister and Solicitor", "Solicitor and Advocate", Legal Practitioner" "Attorney-at-Law", and
   (c) Any National Honours

Please Note: Barrister is not a title it's a qualification.

3) **Signs and Notices: By RULE 41 RPC, a** lawyer or a firm may display at the entrance of or outside any buildings or offices in which he or it carries on practice, a sign or notice, containing his or its name and professional qualifications. The sign or notice shall be of **reasonable size and sober design.**

4) **Books and articles: By RULE 42 RPC,** where a lawyer writes a book or an article for publication in which he gives information on the law, he may add his professional qualification after his name.

5) **Change of address: By RULE 43 RPC,** On a change of address, telephone number or other circumstances relating to his practice, a lawyer may send to his client, a notice of a change and may insert an advertisement of such change in a newspaper or journal.

6) **Associate and Consultant: By RULE 44 RPC, w**here a lawyer is available to act as an associate of other lawyers, either generally or in a particular branch of the law or legal service, he may send to lawyers in his locality only and publish in his local journal, if any, **a brief and dignified announcement of his availability to serve other lawyers in that connection as long as the announcement is not designed to attract business improperly.**

7) **Lawyer's robes: RULE 45 RPC** (1) Except with the permission of the Court, a lawyer appearing before a High court, the Court of Appeal or the Supreme Court shall do so in his robes. A lawyer shall not wear the Barrister's or Senior Advocate's robe –
   (a) **On any occasion other than in Court except as may be directed or permitted by the Bar Council or**
   (b) **When conducting his own case as party to a legal proceeding in Court; or**
   (c) Giving evidence in a legal proceeding in Court.

8) **Press, Radio and Television: RULE 46 RPC** (1) A lawyer may write articles for publications, or participate in radio and television programmes in which he gives information on the law, **but he shall not accept employment from any such publication or programme to advice on inquires in respect of their individual rights.**
   (2) A lawyer **shall not** –
   (a) Insert in any newspaper, periodical or any other publication, an advertisement offering as a lawyer, to undertake confidential enquiries;
   (b) write for publication or otherwise cause or permit to be published except in a

legal periodical, any particulars of his practice or earnings in the Courts or cases where the time for appeal has not expired on any matter in which he has been engaged as a lawyer; and
(c) Take steps to procure the publication of his photograph as a lawyer in the press or any periodical.
(3) Where a lawyer is instructed by a client to publish an advertisement or notice, the lawyer may put his name, address and his academic professional qualifications.

INSTIGATING CONTROVERSY OR LITIGATION – RULE 47 RPC

Every lawyer has an ethical duty not to instigate controversy or litigation. In this regards, **Rule 47(1) RPC provides that a lawyer shall not foment strife or instigate litigation and, except in the case of close relations or of trust, he shall not, without being consulted, proffer advice or bring a law suit.**

Further, by **RULE 47(2) RPC**, a lawyer shall not do the following:

a) A lawyer shall not search the land registry or other registries for defects with a view to employment or litigation
b) A lawyer shall not seek out claimants in respect of personal injuries or any other cause of action with a view to being employed by the prospective client
c) A lawyer shall not engage, aid or encourage an agent or any other person to follow up on accidents with a view to employment as a lawyer in respect of any claims arising therefrom
d) A lawyer shall not offer or agree to offer rewards to any person who by reason of his own employment is likely to be able to influence legal work in favour of the lawyer.

What is champerty? It is a means of soliciting hence it is not allowed in Nigeria.

An act that is permissible in Nigeria is contingent fee arrangement. Champerty is involuntary and at the instance of the solicitor while the latter is the client making an arrangement for the payment of the lawyer and it is used mostly in civil actions. It is at the instance of the client-- **RULE 50 RPC**

6. LEGAL AND LEGISLATIVE DRAFTING

LEGAL DRAFTING

Legal drafting is communication in permanent form which must be clear, unambiguous because it is not spoken. Legal drafting is the art of legal writing, thus a skill that needs to be learned. One of the reasons why every lawyer must learn legal drafting is because of the saying that "lawyers have two failings; first is that they do not write well and the second is that they think they do. A legal draftsman's aim includes the following:

- Conciseness: The fact that drafting should be concise does not mean that material facts should be left out.
- Comprehensibility: This would involve the draftsman putting his thoughts together before drafting.
- Clarity: It involves one point leading to the other. Draft should be logical and chronological.

The basic tool in drafting involves a good command of English language (simple and correct English). If there is a long word and there is a shorter one, choose the shorter one. When receiving instruction from a client at a client interview, the following are important. Have the right attitude at the interview. For instance in receiving instruction for drafting a will and the testator stated that he has 10 wives and 5 concubines, who gave him 10 children; the legal practitioner is not expected to laugh at such rather he is expected to absorb the information like an ordinary information.

- Be courteous
- Be patient but firm
- Be tactful
- Relate legal knowledge to the instruction given.

For instance, where a client being the landlord instructs a lawyer to recover a yearly tenancy within a week or a month, the lawyer should be able to relate that with law before proceeding with drafting a notice to quit – "can a week's notice quit a yearly tenant?". The answer is capital NO.

Fundamental rules of legal drafting

Importantly, every draft should cover the instruction given:

- Accurately
- Completely
- Precisely
- Clearly

- In contemporary English, this does not include the use of slang.
- Short and simple words/sentences

See OGBONNA V. AG IMO STATE

Stages of Legal Drafting

1. Taking and Understanding of instruction
2. Analyzing the instruction given
3. Designing the draft
4. Composing the draft
5. Scrutinizing the draft.

In understanding the instruction, where there are areas which are not clear, questions should be asked to clarify such.

In analyzing the instruction, it must be done in light of the general law and its practicability. The tenancy instance given above is applicable.

In composing the draft, note the use of precedents like Kelly's draftsman, and other books that have been tested and tried. Importantly, adapt precedent wisely and according to the instruction received. This is because no two laws are identical--**OLOFINTUYI V. BARCLAYS BANK DEV. LTD**

In scrutinizing the draft, (editing and proof reading), note that there is assumption that the drafters knows everything. Thus someone else should proof read. The drafter can also wait a few days to proof read which entails proof reading with a fresh mind.

Techniques of Drafting

This is the way in which a good draft can be achieved. The technique of drafting includes the following:

- There should be a sequence in the draft. Thus, always put the first, first and not last.
- Use short sentences with punctuation mark.
- Use active voice and not passive voice. This is the subject-verb-object.

Passive voice – The cheque was authorised and signed by the finance secretary.

Active voice – The finance director authorised and signed the cheque.

We draft in passive voice because English is not our first language and thus there is a translation from native to English language.

- The draft must be intelligible, not the following:

There should be economy of words – language. This involves the non use of superfluous words. For instance "I will use the full weight of the law", "I will deal with you to the full extent".

a. There should be directness and not zig zag. Do not write with "on or before" but "on or about".
b. Be familiar with the language used. Thus, do not swap words like advise for advice.
c. Orderliness in drafting – sequential and chronological

- The use of paragraph where necessary especially where conditions are to be provided for.
  There are two types of paragraphing technique namely:
  1. Two layered text which consist of introductory statement and numbered paragraphs.
  2. Three layered text consisting of introductory statement, independent paragraph, concluding statement.

Examples of two layered text

1. The treasurer shall vacate office if he has completed three years in office, becomes bankrupt or dies.

The treasurer shall vacate office if he

a. has completed three years in office;
b. becomes bankrupt; or
c. dies

2. A person convicted of an offence under this law shall be liable in the case of an individual to imprisonment for a term not exceeding five years and in the case of a hospital or clinic to a fine of ten thousand naira and in addition the hospital or clinic shall be closed down.

A person convicted of an offence under this law shall be liable –

a. in the case of an individual to imprisonment for a term not exceeding five years; and
b. in the case of a hospital or clinic, to a fine of ten thousand naira and in addition the hospital or clinic shall be closed down.

3. The trustee for sale may sell the trust land or any part thereof or make exchange of the trust land or any part thereof

The trustees for sale

a. may sell the trust land or any part thereof; or
b. make exchange of the trust land or any part thereof.

Examples of three layered text

1.If an applicant has attained the age of 21 years, has completed six months services, agrees to be bound by this Trust Deed, he may be accepted as a member.

If an applicant

a. has attained the age of 21 years
b. has completed six months service
c. agrees to be bound by this Trust Deed,

he may be accepted as a member.

2. If in respect of any financial year, it is found that the amount approved by the budget for any purpose is insufficient; a need has arisen for expenditure for a purpose for which no amount has been approved, a supplementary estimate showing the sums required shall be laid before the Board of Directors.

If in respect of any financial year it is found that

a. the amount approved by the budget for any purpose is insufficient; or
b. a need has arisen for expenditure for a purpose for which no amount has been approved

a supplementary estimate showing the sums required shall be laid before the Board of Directors.

3. Any coin, the circulation of which in Nigeria is for the time being prohibited by any such orders as aforesaid found within Nigeria otherwise than in the possession of a banker, after the expiration of sixty days from the publication in the federal gazette of such order, may be forfeited and may be seized without warrant by any police officer.

Any coin –

a. the circulation of which in Nigeria for the time being prohibited by any such orders as aforesaid; or
b. found within Nigeria

otherwise than in the possession of a banker, after the expiration of sixty days from the publication in the federal gazette of such order may be forfeited and may be seized without warrant by any public officer.

4. If the occupier entitled to compensation is a community, the Board may direct that any compensation payable to it shall be paid to the community to the chief or leader to be disposed of by him for the benefit of the community in accordance with the applicable customary law into some fund specified by the Board for the purpose of being utilised or applied for the benefit of the community.

If the occupier entitled to compensation is a community, the Board may direct that any compensation payable to it shall be paid

a. to the community to the chief; or
b. leader

to be disposed of by him for the benefit of the community in accordance with the applicable customary law into some fund specified by the Board for the purpose of being utilized or applied for the benefit of the community.

Numbering of paragraph

A paragraph is numbered (a) - small alphabet. A sub-paragraph is numbered (i) - Roman numeral. A sub sub-paragraph is numbered (A) – capital letter. Thus, it is section 120 sub-section (4) paragraph (a) and sub-paragraph (ii), sub sub-paragraph (A).

Elements of a legal sentence

The elements of a legal sentence are:----**CaCoSA**

- The **CASE**
- The **CONDITIONS**
- Legal **SUBJECT**
- Legal **ACTION**

Where a right is conferred, the legal subject must be a person. The legal subject is the person conferred with a power, privilege, and right.

Legal action is the right, privilege, power required of the legal subject. Legal subject and action are linked by using a connective like shall, shall not, may or may not.

Cases are the circumstances in which the legal action will be invoked. The words like when, where, in case are used.

Conditions involve the conditions to be satisfied before the legal action can be taken by the legal subject. It uses the words, unless, until. Note that it is not in all cases that the conditions are clear.

The order of arrangement is: case-condition-legal subjects-legal action—GEORGE COODE

Note the example: Where any person has obtained a degree in law (case), if he applies to the law school (condition) the Council of Legal Education (legal subject) may admit him to the law school (legal action).

Note that the subject – verb – object is a simpler order.

Draftsmen's habit to avoid

- Long and uncommon words
- Intricate expression – other than
- Verbose style – This can be when it is said that a property is lying, situate, being at No. 7

- Archaic words: Note that some archaic words are used like "whereas...in recital of a deed". The following to be avoided are said/aforesaid, same, hereinbefore/hereof/ hereafter , witnesseth, subject to.
- Note that a draftsman should never change his words if he does not want to change the meaning. Thus, if there is a change in word, then there is a change in meaning. For example, in drafting a tenancy agreement, if landlord/tenant is used, do not change to lessor/lessee. This is because they connote different things. Thus, maintain consistency in drafting.

Use of "will", "shall", "may"

The word WILL and MAY, suggest what is not mandatory, thus discretionary. The word SHALL and MUST suggest obligation and mandatory--**MAIWADE V. FBN PLC**, **BAMAIYI V. AG FED & 5 ORS**

Use of "and" & "or"

The word 'AND' suggest a conjunctive interpretation and thus can never be a disjunctive interpretation. The words EITHER, OR suggest a disjunctive interpretation. Importantly, never use AND/OR---**FEDERAL STEAM NAVIGATION CO LTD V. DEPT OF TRADE & INDUSTRY**, **NDOMA-EGBA V. CHUKWUOGOR**

Punctuation

- Full stop (.): ends a statement or sentence(I am a qualified legal practitioner.) except where it is in the form of exclamation or question, in which case exclamation mark or question mark will be used. It can be used at the end of an abbreviated work or acronyms e.g. Dr., A.C.J.A
- Column (:) - used to introduce a list
- Semi-column (;): used to separate related sentences. It is inserted instead of use of a conjunctive word like 'and'
- Comma (,): to separate one group of words from another. The proper use of comma gives the sentence clarity
- Question mark (?): used immediately after a direct question and not an indirect question.
- Quotation marks ("..."): used to enclose exact words spoken by a person or enclose words when drafting the definition section
- Exclamation mark (!): used to convey an exclamation
- Bracket: to enclose after thoughts and used after figures in documents. There are (parenthesis) and square brackets [bracket]. No much difference between the two and

more of convention to use the square bracket in the commencement in legislative drafting.

- The apostrophe (a'): it is placed before the s. It is used to show possession e.g Ijeoma's house

Ambiguities in drafting

Ambiguities involve where a word have too many meaning. Note that there is ambiguity of participle. Note also that ambiguity is not the same thing as vague. See **OLADIMEJI V. TRANS NIG ASSURANCE CO LTD; NUBU V. OGELE**

A calendar day having 24 hours beginning at 12 midnight and expires the next 12 midnight. A week is 7 clear days beginning 12 midnight Saturday to 12 midnight the next Saturday.

The following aids clarity and accuracy in drafting:

a. Definitions or descriptive words. Example "Mr. Emeka Danladi Adisa (called the lessor).
b. Punctuation mark in sentences.
c. Interpretation clause, an interpretation clause can
- Delimit – nothing should be added
- Extend – beyond the ordinary meaning
- Narrow – narrow beyond its ordinary word

d. Means – only those stated
e. Includes – not limited to those stated. Use either of them but never use means and includes together.
f. The use of brackets
g. The use of marginal notes – by the side
h. The use of schedules
i. Repetition of preposition
j. Enumerating particulars and the ejusdem generis rule (should be used when you cannot foresee all the foreseeable).

LEGISLATIVE DRAFTING

1. EXPLAIN AND DRAFT THE PARTS/SEGMENTS OF LEGISLATION

- **Preliminary matters:** This consists of:----**LoCE PESI (this is the proper order for the purposes of Bar Part II)**
    1. Long title
    2. Commencement
    3. Enacting formula or clause
    4. Preamble
    5. Establishment section
    6. Short title/citation
    7. Interpretation/definition section
- **Principal provisions:** This consists of:

1. Powers and duties of bodies established
2. Offences, penalties, parties

- **Miscellaneous provisions:** This consists of:
  1. Repeals
  2. Duration
  3. Savings, etc
- **Final provisions:** This consists of:
  1. Schedule

(a) Preliminary matters

1. LONG TITLE: This is the **purpose** of the statute. There are three rules that must be observed in drafting the long title.

- All words must be in block letters
- It must come first
- It must start with **"A BILL FOR AN/A ACT/LAW/BYE-LAW"**
- Must end with any of these phrases: **"AND ALLIED MATTERS AND FOR MATTERS RELATED THERETO" or "AND FOR CONNECTED MATTERS" or "AND FOR MATTERS INCIDENTAL THERETO" "AND FOR RELATED MATTERS"**

Draft

"A BILL FOR AN ACT TO ESTABLISH THE NATIONAL YOUTH SKILLS DEVELOPMENT COMMISSION AND FOR RELATED MATTERS"

Comment [C26]: Long title (marginal note must be added in all your drafts)

2. COMMENCEMENT: Depends on the scenario

- Where a particular date is given then **"Commencement [22 May 2019 or May 22, 2019]"**
- Where no date is given but a particular office is given the responsibility of determining when the law will take effect, then it must come in as a section **"Section 3: The Honourable for Labour and Productivity shall determine the commencement by a notice in the official Gazette of the Federation"**
- No date and responsibility on an any office, then **"Section 3: This Act/Law/Bye-law shall come into effect on the date it receives the assent of the President of the Federal Republic of Nigeria/Governor/Chairman"**

3. ENACTING FORMULA/CLAUSE: Discloses the institution that made the law

Draft

IN A FEDERAL LAW

"ENACTED BY THE NATIONAL ASSEMBLY OF THE FEDERAL REPUBLIC OF NIGERIA as follows:"

OR

"THE NATIONAL ASSEMBLY OF THE FEDERAL REPUBLIC OF NIGERIA ENACTS as follows:"

IN A STATE LAW

"ENACTED BY THE HOUSE OF ASSEMBLY OF LAGOS STATE as follows:"

OR

"THE HOUSE OF ASSEMBLY OF LAGOS STATE ENACTS as follows:"

IN A DECREE

"THE FEDERAL MILITARY GOVERNMENT HEREBY DECREES as follows:"

IN AN EDICT

THE MILITARY GOVERNOR OF LAGOS STATE MAKES THE EDICT as follows:

4. PREAMBLE: Discloses the reasons for the Act/Law/Bye-law. No longer in use generally.

Draft

"WHEREAS

- ….
- **….**"

5. ESTABLISHMENT SECTION: Depends on the scenario

- Where the law itself is establishing the institution, then **"Section 4: There is hereby established under this Act, a body to be known as the Cundy Smith Commission (in this Act referred to as "the Commission")**
- Where the institution had been established before but the law permits its existence/re-establishes it then **"Section 4: There shall continue in existence, <u>the</u> <u>body known as</u> the Cundy Smith Commission (in this Act referred to as "the Commission")**

- Where the law is not establishing it and is not permitting its existence but gives the responsibility of establishment to an office. when the law will take effect, then **"Section 3: The Honourable for Labour and Productivity may/shall establish a body to be known as the Cundy Smith Commission)"**

6. SHORT TITLE/CITATION: Nickname. Once there is a body to be established, use that body. The purpose of the law also determines the citation as it must be reflected.

Draft

"Section 5: This Act may be cited as the Cundy Smith Commission Act, No. 3 2019"

Comment [C27]: Means the third law passed by that legislative house in that year

OR

"Section 5: This Act may be cited as the Cundy Smith Commission (Amendment) Act, No. 3 2019"

OR

"Section 5: This Act may be cited as the Constitution (Fourth Alteration) Act, 2019"

7. INTERPRETATION SECTION: Use at least two words from the scenario given (don't define in exam, use "….")

Draft

"In this Act, unless the context otherwise requires:

"Youth" means……..

"Skills" means……."

2. EXPLAIN AND DISCUSS THE PRINCIPLES, STAGES, AND FORMALITIES OF LEGISLATIVE DRAFTING

(a) Qualities of a good legislative draftsman

- A draftsman should have intellectual stamina and capacity
- A quick and retentive mind
- Ability to analyze a problem in details
- Dedication and patience

(b) 5 Stages of Drafting---TADeCoS

- **Taking and understanding draft instruction as to:**
  1. Sufficient background information about the proposed law.
  2. The principal objects of the legislation. This is what the law set out to achieve.

3. The means of achieving the principal object. That is the machinery that has been put in place

Comment [C28]: Any problems or difficulties to be envisaged by the draftsman should be stated. This could be in the enforcement of the law or difficulties to be encountered in the legislative process. In this stage every necessary ethical issues should be dealt with and advise accordingly. Advise against laws that will not meet the morality of the community

- **Analysing draft instruction as to:**
  1. Consistency with Existing laws: If there are existing laws on the subject matter, avoid unnecessary duplication, conflict and inconsistency with any existing law
  2. Potential danger areas
  3. The practicability of the proposed law
  4. Ascertaining the categories of persons to be affected by the proposed legislation
  5. The mischief the legislation has set out to cure
  6. Penalty for breach
  7. Ascertaining the enacting authority

- **Designing the draft:** Producing a sketch. It is at this stage that the draftsman decides on which matters to banish to the schedule from the body of the draft. There is need for arrangement into Parts. This is for ease of reference and clarity purposes.

- **Composing the draft:** Composing with the aid of Precedent books but not slavishly, compare existing legislation on the subject matter. Check whether the precedents are still in existence and any judicial decisions on the pronouncements of the statute

- **Scrutinising the draft:** Comparing the draft with instructions received by the draftsman at the earlier stage of drafting process**.** Spelling, punctuations and appropriate paragraphing are also cross-checked at this stage.

(c) Formalities of legislative drafting

1. Parts: This is segmenting a statute. There are two criteria in determining whether a statute should be divided into parts.

- The **length of the statute; and**
- **Whether there are sub-themes. For** instance, prior to enacting CAMA in 1990, there were three independent statutes – Companies Act 1968, Land (Perpetual Succession) Act, and registration of Business Name Act. These statutes were merged into one. NB: Once a statute having the above features is divided into parts, there will be clarity of presentation and ease of reference.

2. Schedules: In a statute, it helps banish details. For instance, section 4 of CFRN confers legislative powers on National Assembly and States House of Assembly, the specific areas are found in the second schedule to the CFRN, 1999. If they were all contained in the section, the section will look clumsy and bulky. Thus, every piece of information in the schedule must have a reference to a particular section of the law. The section must also refer to the schedule and the SCHEDULE AND SECTION must be read together. This is called INCORPORATION BY REFERENCE----**AFOLAYAN V BAMIDELE**. Forms part of a law. It is used for graphic representation

3. Preambles: This is the spirit and background to the law – why the law is being made. It starts with "WHEREAS". The preamble being the spirit and intendment of a particular legislation is to bills what recitals are to Deed. However the use of preamble is now very uncommon. It is only used in certain legislation like:

- The Constitution – See the Constitution of the Federal Republic of Nigeria, 1999 as amended.
- Local enactments: These are laws for particular section of persons – specific persons. **LAKANMI V. AG WESTERN REGION.**
- Treaties – International treaties
- Ceremonial statutes: These are statutes to mark a particular occasion or to honour someone. Thus, not really enforced by the courts.

4. Marginal Notes: This is an aid to interpretation. It helps identify information on particular segment of the statute. It is not part of the statute but a summary of what is contained in the section.

(d) Phrases used in statute and their meaning

- Without prejudice – What is in the present section should not affect the previous section. Thus it does not negate the section. Both are valid.
- Notwithstanding – It serves as a proviso and overrides any other provision. It exhumes superiority. Example is section 251(1) CFRN, 1999 on the civil jurisdiction of the Federal High Court.
- Subject to – This is the opposite of notwithstanding. Thus it is inferior or subordinate to a section.
- Provided that – It qualifies the provision of the section. It could qualify the consequences of the section.

(e) Research materials a legislative draftsman should consult during the process of legislative drafting---1 P^2R^2EJudicial LEG

- 1999 CFRN as amended
- Precedent materials
- Party manifesto
- Resolution of legislature
- Report of civil societies and organisation
- Electoral promises
- Judicial decisions
- Law dictionary
- English dictionary
- Government policies.

(f) Features of a good legislation

- The legislation must not command the doing of the impossible (lex non cogit ad impossibilia)
- The legislation must not have a retrospective application
- The legislation should be of equal application and not targeted to an individual or certain individuals---**LAKANMI V. AG WESTERN REGION**
- The legislation must not be ambiguous
- The legislation should not oust the jurisdiction of the court.

(g) Differences between legislative drafting and legislative process

- Legislative process involves passing a bill into law while legislative drafting involves producing a bill
- The result of legislative process is an Act or Law, while the result of legislative drafting is a Bill.
- The legislature is involved in legislative process, while the draftsmen are involved in legislative drafting.
- The stages involved in both of them are different.
- The legislative drafting must be by a lawyer, while the legislator need not be a lawyer.

Comment [C29]:
Legislative process has six stages namely: first reading, second reading, committee stage, report stage, third reading, and executive assent. Legislative drafting has 5 stages: receiving and understanding draft instruction, analysing draft instruction, designing the draft, composing the draft, scrutinising the draft

(h) Ethical duties a draftsman owes the sponsor of the bill during the process of legislative drafting

a. Advising on the potential problems or difficulty the Bill may face, and the morality or the immorality of the Bill in relation to the Nigerian community. A Bill on allowing Abortion of pregnancy was defeated in the first reading. A good legislative draftsman being a legal practitioner could have foreseen the danger and advise against it.
b. Devoting his attention, energy and skill to drafting of the Bill - Rule 14 RPC.
c. Duty to keep the client informed of the progress and any important development in the course or matter as may be reasonably necessary: (R14 (2)(b)RPC)
d. Duty to respond promptly as reasonably possible to request for information by the client: (R. 14(2)(d)RPC)
e. Duty to consult with his client in all questions of doubt which do not fall within his discretion (R.14 (2)(a)):
f. Being competent in drafting the Bill – Rule 16.

7. LETTERS, MINUTES, CV AND MEMORANDUM

(a) Letter Writing

Functions of letters

- To give or receive/clarify instructions
- To give opinion/advice on legal issues
- As a pre- action requirement, to seek out of court settlement
- To give an update/report in respect of a search report/ legal action undertaken
- Preferable means of communication when there is an overwhelming need for record keeping.
- Used to communicate/correspond with lawyers for the opposite party during the continuance of a case. To convey information (including advice or opinion)
- To persuade
- To obtain information
- To create a particular impression
- To make an offer of settlement
- To confirm or record
- To make a demand

Comment [C30]: However, where it is a matter of urgency, the lawyer will communicate orally to the client through a telephone conversation.

Classification of letters

- Formal/Official letter
- Semi-formal/semi-official letter
- Informal/unofficial letter

Comment [C31]: Official letter can be drafted for the purpose of informing, making a report, advising or giving an instruction. The foregoing would determine the tone and style. Importantly, an official letter must be planned for.

Types of letters

- STATUS LETTERS: This refers to letters which lawyers are requested to write in order to give an overview on the current position of a transaction, a court case, or any matter which may be of interest to the recipient. Status letter gives a status report of such matter as may be requested by the client.
- CONFIRMING LETTERS: This type of letter is written to re-affirm an oral discussion which took place previously between the lawyer and client. Confirming letter is written to a client to confirm a previous discussion had with a lawyer. The PURPOSE is to help in clearing any uncertainty as to what is demanded from the lawyer by the client and what the client is expected to do.
- DEMAND LETTERS: This type of letter requests the recipient to perform an obligation it owes to the writer. Such obligation may be statutory, contractual, or it may arise under the custom or trade of the parties. Demand letter mainly relate to payment of debt. E.g letter written by a lawyer to a client demanding his professional fees or a lawyer writing on behalf of a client to a third party demanding payment of debt.

- OPINION LETTERS: This type of letter offers legal opinion and advice to a client about the rule of law that applies to a given legal problem.
- NOTICES: Pre-action Notice See: LASEPA v MOBIL
- ADJOURNMENT LETTERS
- LETTERS OF OFFER/ACCEPTANCE IN CONTRACT
- LETTERS FOR NEGOTIATION/SETTLEMENT OF A COURT DISPUTE
- LETTERS CLOSING CLIENT'S FILE

Rules of letter writing

- Informative-- a letter must pass information
- Succinct and direct—avoid verbosity
- Consideration of audience--you must know the addressee and know the right words to use so as to ensure effective communication.
- Avoid legal argument-- avoid citing legal authorities.
- Avoid legal jargons
- Avoid repetition
- Avoid lengthy letters.
- Be polite/But Firm
- Avoid duplicity and abbreviation.
- First prepare for drafting – what is the message you want to pass across.
- Master the punctuation rules.
- Short, simple and direct sentences should be used.
- Learn to paragraph adequately.
- Avoid the use of pronoun – I, We, He, She…it does not matter if you have to use a proper noun several times in the letter.
- Be consistent in using names and descriptions. For instance, if you had stated LESSOR, do not replace it with LANDLORD
- There should be clarity in language used and precision.
- British English should be used, also their style. E.g 11 January 2013 is for British, while January 11, 2013 is for America.
- Do away with archaic language. E.g whereof
- Avoid repetition. E.g NULL AND VOID means the same thing, thus do not use them together.
- There should be simplicity in writing. The addressee should be able to understand what was written.
- Understand who you are dealing with. This would determine the TONE of the letter. There is clients, opponents, witnesses (expert, lay witness), court officials, other lawyers, miscellaneous others (titled search officials, government officials, insurance personnel e.t.c)
- Avoid the use of threat in letter; this is because writing is a very strong evidence in court.

Letters can be sent to:

- Clients
- The Court
- The opposing side

Parts of a letter

- WORDS OF NEGOTIATION - Such words should be on top of the letters e.g subject to, without prejudice, attention. These are words that modify legal consequences of a contract.
    1. SUBJECT TO CONTRACT: This means that the parties are not bound by the terms in the letter as the parties are still trying to get the terms of the contract. This is used where the intention is not to create a binding contract--**UBA V TEJUMOLA & SONS, INT. TEXTILE IND V ADEREMI**
    2. ATTENTION: it is used for Sole Proprietorship, Limited Liability Company, Partnership, where there are more than one person in the employment of a person and the letter is directed to a particular person.
    3. WITHOUT PREJUDICE: **SECTION 26 AND 196 EVIDENCE ACT 2011, NBA V FAWEHINMI, ASHIBOGU V A.G BENDEL STATE & ANOR.** Where a statement in any document marked 'without prejudice' made during **NEGOTIATIONS FOR A SETTLEMENT OF A DISPUTE OUT OF COURT,** shall not be given in evidence in any proceedings. Conditions precedent:
        a. NEGOTIATIONS AND
        b. SETTLEMENT OF DISPUTE

        Thus, in contracts, guarantee of a loan, guarantee of an employee whether or not the letter is marked Without Prejudice, it is not of any effect as there were no negotiations in place. A guarantee marked without prejudice is admissible in court irrespective of section 196 as a guarantee was not made in the course of negotiations and there was no dispute at the time it was written. This was the position in the case of **S.C.A.O V OLUSOGA**
- LETTER HEAD - A letter head is to be created.
- REFERENCE - Always use a reference, as it helps in administration for purpose of identifying files.
- DATE - An undated document is not worth the paper upon which it is written.
- ADDRESS of the RECIPIENT/ATTENTION
- SALUTATION - It is Dear Sir, Madam. Use of name is usually for semi-formal letter and for the first address to a person. It should not be used.
- BODY - The body contains the introductory part, body and conclusion (these three parts must be there).
- COMPLEMENTARY CLOSE - Your's faithfully - 'f' is in small letters.
- SIGNATURE - Unsigned document is not admissible in court.
- NAME
- DESIGNATION
- NAME OF THE LETTER HEAD MUST BE ON THE COMPLEMENTARY CLOSE.

- ENCLOSURES: This is necessary where there is an attachment to the letter. This is indicated by 'Encl'
- COPY: This is necessary where the letter is to be sent to a third party. The aim is to bring to the notice of the recipient the other person or persons you are sending the letter to. It is indicated by Cc. EXAMPLE: IN A LETTER OF COMPLAINT TO A TENANT FOR NUISANCE CAUSED BY CONSTANT EMISSION OF GAS FROM HIS FLAT, AN INDICATION THAT THE LANDLORD IS BEING COPIED MIGHT BE MADE.

Note: In your writing, use direct language - SVO- subject, verb, object. Draft letter according to instructions given. That is, you are bound by the particulars given, however, if no particulars are given, you are at liberty to produce same. There are mainly three paragraphs in a letter; introduction, main body and conclusion.

Ethical issues

- No insults
- No abuse
- No backdating

(b) Minutes of a meeting

- A meeting is an assembly of two or more persons in a specified place at a specified time, with the aim of achieving a goal.
- One of the different ways of communication for the purpose of obtaining or carrying out clients instructions
- It is useful in instances when other means of communication-such as telephone or written correspondence may not be appropriate.
- When is a meeting necessary?
    1. Urgency is required in taking decisions
    2. Personal interaction is required to carry out a legal business/lubricate negotiation
    3. The matter at hand is complicated or complex and other means may not suffice
- Choice of meeting
    1. Choice of venue
    2. Time
    3. Exchange of pleasantries
    4. Meeting proper

SUMMARY OF THE MINUTES MEETINGS----**HeL^{2}OR^{2}DA CDS**

MINUTES OF THE QUARTERLY FIRM MEETING OF OKEKE AND CO (LEGAL PRACTITIONERS) HELD ON THE 14TH DAY OF FEBRUARY, 2017 AT THE CONFERENCE ROOM OF THE FIRM AT 51 OZUMBA MBADIWE STREET, VICTORIA ISLAND

Comment [C32]: HEADING

LIST OF MEMBERS PRESENT
The members present at the meeting were:
1
2
3
4
5

LIST OF MEMBERS ABSENT
The members absent in the meeting were
1
2
3

Mr Bakare sent in his apologies for being absent from the meeting

OPENING REMARKS
The meeting commenced at about 3:00pm in the afternoon. The opening prayer was taken by Mr Ibekwe Sandra.

READING OUT AND ADOPTION OF THE AGENDA
The agenda for the meeting as contained in the notice of the meeting was read out to include

READING AND ADOPTION OF MINUTES OF THE LAST MEETING

MATTERS ARISING FROM THE MINUTES

DISCUSSION OF THE MATTERS LISTED IN THE AGENDA WITH RESOLUTIONS THEREOF

ANY OTHER BUSINESS

CLOSING OF THE MEETING/PRAYERS

DATE:

…… ……..
CHAIRMAN SECRETARY

(c) Curriculum Vitae

- CV Stands for Curriculum Vitae, which is Latin for 'course of life'
- It is a summary of your experience, skills and education
- In the USA and Canada it is known as a resume- this is a French word for Summary.

Uses

- In some countries, it is the first item that a potential employer encounters regarding the job seeker and it is typically used to screen applicants, often followed by an interview
- CV's may also be requested for applicants to post-graduate programs, scholarships, grants and bursaries.

Types

- **Traditional CV**: The traditional CV sometimes known as a chronological CV is used to match your qualifications and work experience with requirements for a job role. **It is in the reverse chronological order (from latest to former)**
- **Academic CV:** Academic CV's are focused achievements and are used when applying for lecturing job. Your academic achievements, research interest and specialist skills should be put on the first page. **It is stated in the reverse chronological order**
- **Teaching CV:** To make your teaching CV stand out, you should target it to the post presently held. Include any teaching experience eg. Sports activities, summer camps or youth groups
- **Skills Based CV:** The skill based CV, also known as a **functional CV**, can be used if you have gaps in your employment history. This type of CV template is also useful if you have limited experience or are applying for a job which is not related to your degree.

Length of CV

At least average of **2 pages.** In some commonwealth countries such as the UK, a standard CV would ideally not be longer that two sides of A4. However, some Academic CV may be longer depending on your experience. In other jurisdictions such as US, Canada, Australia and India, a CV is treated quite differently.

A CV is made distinct from a resume which is strictly a summary usually used for job applications it is used in academic circles and medical careers that elaborate on education, publications and other achievements. However, it is often expected that professionals use a short CV that highlights the focus of the CV

What may be left out of CV?

- The term curriculum vitae or resume; CV will suffice in the UK(BAR PART II, WRITE IN FULL)
- A photo; unless you're applying for an acting or modeling job;
- A date of birth or place of birth-this is unnecessary and can lead to identity theft.
- Religion and marital status

What are profiles?

This is a concise statement that highlights the reason for the job. It highlights relevant achievements and skills while clearly articulating your career aims. It must focus on the sector you are applying to, as your cover letter will be job-specific. You don't have to add a personal profile but it will help your CV stand out. You should keep it short and simple-**200 words is perfect length for a profile**

Are hobbies necessary in CV?

It is not necessary to include hobbies in your CV, but you may want to mention any that are relevant to the job you are applying for. Generic examples such as reading, going to cinema or listening to music are not good examples of hobbies

Tips for writing a good CV

- Grammar: there should be no mistake in your CV. Use a spell checker and ensure a second pair of eyes to check over the text. Try to include as many active works as possible to increase your impact of your CV. Use 'created, analyzed' etc.
- Layout: place your most attractive skills and talents towards the top of your CV
- Presentation: Keep you CV neat and make sure it is easy on the eye. Bullet points should be used to tidy up any lists. Your choice or font can have more impact than you might think.
- Style:

Can I lie on my CV?

- Never lie on your CV or job application. Not only will you demonstrate your dishonesty to a potential employer, but there can be serious consequences.

Gaps in CV

You must always inform a potential employer of a gap in your CV to avoid it being misinterpreted. In your cover letter, you can provide an explanation for this career gap (ailment, married, lack of funds)

Do you need to write a cover letter?

You should always include a cover letter unless the employer states otherwise. It will enable you to personalize your application for the job**.** You can draw attention to a particular part of your CV, disclose a disability or clarify gaps in your work history.

STRUCTURE OF CV FOR BAR II EXAM---**PE WARD**

CURRICULUM VITAE

A. PERSONAL DATA

- Name:
- Surname:
- Date of Birth:
- Nationality:
- State of Origin:
- Gender:

B. EDUCATIONAL BACKGROUND/PROFESSIONAL QUALIFICATIONS

- School Attended Certificate Obtained Year

C. WORK EXPERIENCE

- Company/Establishment Position Held Period

D. ASSOCIATIONS

E. REFEREES

……..

(Signature)

DATE:

(d) Memorandum

Memorandum is an official communication used internally. Apart from letters, memorandum can be sent out but only internally. The plural of memorandum is memoranda

- The literal meaning of the word memorandum is **a note to assist the memory**
- Memo's are the written internal communication means for exchanging information relating to day to day functions within organizations
- It is different from a business letter and it is more formal

Uses of memo

- To issue instructions to the staff
- To communicate regarding policy

- It can be filed for future references. Therefore, it serves as evidence in conflicting issues. NOTE: IT MAY NOT BE APPROPRIATE IF THE MATTER is of a complex or serious nature.

Advantages

- Time saving: we can see that many organizations use printed memo.
- Less formality: no formality is necessary in drafting a memo. Usually address, salutation and complimentary closing are omitted in it
- Maintenance of good relationship: it can help to maintain good relationship
- Low cost: the cost of communication is low as opposed to a letter.
- Future References: memo is a written document, so it can be used for future references.
- Informs decisions and actions: the main objective of memo is to inform decisions and actions. For this purpose, it should be written by the higher authority.

Disadvantages

- Lack of Formality: it provides for informal communication.
- Lack of explanation
- It is of less importance to the reader
- Not suitable for illiterate people.

Tips for writing a good memo

- Be concise
- Know the audience
- Avoid Jargon
- Stay objective
- Use active verbs

STRUCTURE OF A MEMORANDUM

FROM - where it is coming from e.g Deputy- Registrar

TO - where it is going to e.g to all academic staff

DATE - 11 September 2013

SUBJECT - e.g NOTICE OF MEETING (it has to be in capital letters).

BODY - There is NO need for salutation.

"THANK YOU"

SIGNATURE

DESIGNATION

Comment [C33]: When coming from a higher authority " FROM" is the first but when coming from a lower authority "TO" is the first, directing it to the higher authority.

Comment [C34]: Use "I have been directed" if writing on behalf of a higher authority

Comment [C35]: NO COMPLEMENTARY CLOSE

8. CLIENT INTERVIEW AND COUNSELLING

The work of a lawyer involves communication. Even when drafting, communication is involved. This communication is a means or process of sending and receiving information or carrying out instructions in the course of interview.

TYPES OF COMMUNICATION

This communication can either be **oral or in writing**.

The oral is **subdivided into three (3)**:

1. Verbal,
2. Vocal, and
3. Visual.

1. Verbal

Applicable Rules in Verbal-Utterances:

- Use proper and positive words
- Avoid legal jargons or legalese as the use of simple common words are appreciable
- Avoid the use of "BUT" and "WELL" as they are unnecessary qualifications, etc.
- Make use of "OPEN" and "CLOSED" questions where appropriate

2. Vocal- They are tone in speech, dealing with Speed, Pitch, Volume, Resonance, etc.

3. Visual- This is the body language in the process of communication, such as:

- Facial expression
- Eye Contact
- Gestures
- Touch, etc.

Hence the legal practitioner must make sure that the foregoing is taken into account when conducting client interview else relevant information might not be obtained from the client.

Also part of communication skill is listening skill. Listening skill appears to be the most difficult skill. There is **active listening and passive listening.** A lawyer in client interview should employ the passive and the active listening skill. This could be done by looking at your client while he is talking and nodding your head while the client is talking. It is pertinent to note that client

interview is a skill that depends on other skills like communication skill. A legal practitioner in client interview could be faced with the challenge of a client restricting relevant facts and difficulty in understanding client narration of events/facts.

REASONS FOR AN INTERVIEW

The **purpose or reason of client interview** is as follows:

1. To establish a relationship with the client i.e emergence of client and legal practitioner relationship.
2. To elicit relevant information from the client about the subject matter.
3. Enables client to identify what remedies or solutions he seeks to legal challenges or problems.
4. It is an opportunity for the client to make an informed choice or demand.
5. To know what the client wants to do as he learns the goals or intention of the client.
6. To help the lawyers analyze the facts and legal problems presented by the client and advise him on various options at resolving legal challenge or problem.
7. To reduce the anxiety of the client, his fears or concerns over his matter.
8. It is an avenue to fix the legal and professional fees.

VENUE

The general rule pursuant to Rule 22 of RPC provides that a lawyer should not take instructions from his client in the client's house or place of business for the purpose of giving advice to, or taking instructions from the client.

However, there are exceptions to this rule as provided in Rule 22 of Rules of Professional Conduct to the effect that **in special circumstances or for some other urgent reason preventing his client from coming to his law office**. Such as:

1. Sick person on a sick bed
2. An aged person,
3. A person holding an office for security reasons or expediency,
4. Where the client is restricted (prisoner)

STAGES OF INTERVIEWING A CLIENT

As earlier said, the initial interview with a client is important. It goes a long way in determining whether the client would stay for good. Useful information must be obtained from the client for

the purpose of giving useful advice to the client. This is so as defective information would produce a defective advice. Writers over the years have preferred different method of client interview. **There are different views on the number of stages of an interview which are---ABCD M**

1. **AVROM SHERR** has three (3) stages:---**LiQuA**

- Listening
- Questioning
- Advising

2. **BRAYNE AND GRIME- 11 STAGES**

- Preparation
- Introduction
- Legal professional fees
- Allowing the client to tell the story
- Identification of legal issues
- Questioning
- Analysis
- Summary
- Handing over to the client to take decisions
- Closing the interview
- House-keeping (going through the notes taken during the interview and filling in the gaps where necessary. It also helps to determine whether further clarifications or instructions would be necessary)

3. **CHAY AND SMITH** has seven (7) stage model:

- Preparation
- Commencement of the interview
- Appreciation of the client's problem from the facts
- Identification and evaluation of available remedies
- Taking instructions from the client

Comment [C36]: Talking mainly done by the client here-
1. Welcoming: This is an important stage in client interview because first impression matters. Should your reception be neat and your receptionist warm, your client will be comfortable upon entrance. A reception need not be an expensive set up but should be more of acceptation. Welcoming would thus involve warm reception, offering him or her a seat, offering of drinks (coffee or tea), and waiting.

2. Questioning in relation to reason for coming: In this stage, note that we have two types of questioning method. Open question (no restriction) and close question (restriction). Open question do not limit the scope of the answer and should be used at the beginning e.g how can I help? What brought you here? This is used in order to elucidate his narration of the story.
3. Paying attention to what client is saying and what he is not saying without interrupting the flow of information from him, fixing the clients information into a particular sphere of law to get the defence or claim.

Comment [C37]:
1.Lawyer fill in the gaps, omission, ambiguous statements by information obtained from the client through asking close, narrow, leading question (to suggest a particular answer in the question you are asking the person and mirror questions (confirmatory question: to confirm what the client has said).

2.The lawyer seizes the opportunity to summarize his impression of the information divulged by the client.

3.The lawyer through the means of summary seeks to have the client's agreement or disagreement with the account of the story as understood by him (the lawyer).

4.The lawyer takes note of the interview especially at achieving the solutions sought for.

Comment [C38]:
1. The lawyer plays a dominant role as he:
a) proffers advice and plan of action on the facts supplied by the client
b) discuses the issue of fund needed for the proposed plan of action including professional fees of the lawyer.
2. Summarise all the options again if necessary and don't tell a client what to do, assist the client in knowing the implication of each option and ask for his approval or disapproval to the plan.
3. State the follow up actions on the part of the client.
4. Enumerate the follow up action on his own part
5. Fixing of the next contact between the lawyer and the client.
6. Ask the client if there's "any other business."

- Closing the interview
- Reflecting on the conduct of the interview

4. DOHERTY suggested thirteen (13) stages.

5. MIKE WOLFE -5 STAGES

- Listening
- Analysis of facts
- Investigation of facts
- Decision making on the appropriate way to go
- Implementation

6. MODEL INTERVIEW IN SUMMARY (Law School Version)

In looking at all the models, the following six stages would be adopted: ---**PSLDCC**

1. Preparation for the interview
2. Starting the interview
3. Let the client tell the story
4. Develop a chronology or analysis
5. Counselling
6. Closing the interview

Comment [C39]: COUNSELING
1.Counseling takes place after the interview when the lawyer has digested the facts and evaluated same from the point of the applicable laws.
2.The counsel should focus on the client's best interest.
3.Counseling is the lawyer's own legal professional advice based on the facts stated by the client.
4.State the alternative remedies or ways of resolving the issues. For example, writing a letter to the other party, exploration of ADR. If for instance, the contract provides for arbitration then advice on the process of getting of such. If need for litigation, state the cost implication.
5.Recognize the client's autonomy in the final decision making.
6.There must be proper communication.
7.There must be use of simple language.

Preparation: the following issues are involved during the preparation stage:

1. **Making an appointment:** It enables adequate time for preparation.
2. **Research work:** Once an appointment is made, an idea about the interview is known, and then research work can be done
3. **Venue:** The venue for the interview should be made known. The general rule in accordance with Rule 22 of the Rules of Professional Conduct, every interview is to be conducted in office of a legal practitioner subject to exceptional circumstances. "Special circumstance" is not defined, thus it depends on the circumstances of each case. However, this is not an avenue for lawyers to go to their client's office and residence at will. These special circumstances include the following:

a. Inability or disability of a client e.g An aged man on his sick bed wanting to make a will

b. Where the client is restricted e.g An accused person who is in the police custody or prison custody
c. Instruction taken in the court (where an accused is charged before the court)
d. Due to information technology development, client interview via internet, telecommunication
e. Where for security reasons or expediency e.g Interview with the Governor or President:
f. Sitting arrangement: Whether the interview would be in the lawyer's office or conference room. In sitting arrangement, there is the intimate zone, personal zone, social zone, public zone. Client interview should be between the personal and social zones. The number of legal practitioner to be present depends on the circumstances of the case. The client should be asked whether he or she would mind the presence of another legal practitioner.

4. **Writing materials:** It is better to let the client know that you will be writing down. Thus always ask for client's permission. Note taking should be of important points and not verbatim, as verbatim is useless because human being cannot do two things at the same time.
5. **Checklist:** This is a document that contains issues that would be needed in conducting interview relating to an area of law. For instance, in Matrimonial Causes, there would be need for date of marriage, date of birth, number of issues, place of cohabitation e.t.c. Checklist is just a reminder of the area of which the interview is to focus. In using checklist, care should be taken as client may not follow it chronologically.
6. **Advising:** A legal practitioner ought to be modest when giving legal advice to his client. A lawyer is not expected to make boastful assurances. A lawyer should inform his client that his claim or defence is hopeless, if he considers it so. Rule 14(2) RPC. The advice on ADR is a professional duty which every lawyer is expected to perform. Rule 15(3)(d) RPC. Failure to advice on ADR amount to professional misconduct. The issue of fee to be charged by a legal practitioner can be raised at the appropriate or most convenient time. There is no rule that says that it should be raised at a particular stage.
7. **Confidentiality:** R. 19 of RPC & S. 192 of E.A 2011.The issue of confidentiality is to be raised at the most convenient and appropriate stage and could be raised as many times. It should be made known to the client at the beginning of the interview, and as the

interview progresses, the legal practitioner needs to emphasize the issue of confidentiality to assure the client of trust. Exception to confidentiality is anticipated crime.

8. **Give a summary of the client's story;** give a summary of your own impression of the story as he told you; follow up; documents needed to be given. After the client's interview, draw up a short letter to the client, stating what was agreed on during the client's interview, the option available and the one that he had chosen and asked for confirmation.

ETHICAL ISSUES ARISING IN COUNSELLING

1. **Conflict of interest or declaration of your interest- Rule 17 RPC:** A lawyer while representing his client should not allow his personal, proprietary, financial or business interest to conflict with the interest of his client.
2. **Avoid undue self-aggrandisement- Rule 39(2)(c) and (d) RPC: 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 other professions or professionals; or**
    - **includes any statement about the quality of the lawyer's work, size or success of his practice or his success rate.**
3. **Communication between a lawyer or client is privileged as a general rule under Rule 19(1) RPC:** A lawyer must preserve his client's confidence in the performance of his duty and must not disclose any information without his client's consent. All oral or written communication made by a client in the normal course of engagement are privileged and cannot be communicated or revealed to a 3rd party by the legal practitioner. **The exception however is provided in Rule 19(3) RPC.**

9. ADVOCACY PRACTICE

MEANING: "Advocacy" is a Latin word gotten from "**advocare"** which means "**to speak out**" Advocacy refers to the process of pleading the cause of others or handling a client's case. It is the art of persuading others (court) to believe in your client's version of events.

Who is an advocate?

There are different forms of advocacy among which is trial advocacy. Trial advocacy deals with the vocal skills which a lawyer uses in proceedings before the court or other bodies in the cause of handling matters for his client.

Note that trial advocacy does not start at the court room but from a legal practitioner's law firm. The trial advocacy requires a legal practitioner who does not have any special disqualification unlike other forms of advocacy where no special qualification is required. Good communication is essential for good advocacy. Oratory skill even though important is not mandatory for good advocacy. In communication, strive to **be eloquent and communicate fluently (Oratory), interrogation, have the strategy and the tactics**. Note that some are meant for the court room.

In trial advocacy, the most important thing is having adequate knowledge of the law. A legal practitioner without adequate knowledge of the law is not different from persons who are not lawyers. In addition, it is the skill which basically is the application of the knowledge so obtained. Thus, knowledge of the law and skill goes together especially in the era of frontloading.

Comment [C40]: In **IWEKA V. SCOA (NIG) LTD**, **Ogundare JSC** noted the following:
"it may be that the plaintiff is an intelligent and able medical practitioner. One thing is clear to me, he is not wise in the nuances of the legal profession. It is not enough to read up cases in the law reports and to cram up rules and legal principles read in the books, the correct application of these cases, rules and principles to given situation is what makes the difference between the legal practitioner and the able medical practitioner"

QUALITIES NEEDED BY AN ADVOCATE

- ✓ A good voice
- ✓ Command of English Language
- ✓ Confidence
- ✓ Persistence
- ✓ Practical judgment
- ✓ Knowledge of mankind and of affairs
- ✓ Honesty

- ✓ Industry or Hard work,
- ✓ Eloquence,
- ✓ Quick wit, and
- ✓ Spirit of fellowship.

SKILLS AN ADVOCATE MUST POSSESS

1. **Mastery of the facts and ethics of advocacy:** When the client has narrated the fact, a legal practitioner should master these facts. A legal practitioner's mastery of facts would show in the pleadings filed by him. Note that if your client interview is defective, you cannot master the facts. Mastery of facts will also assist in cross examination in that irrelevant questions will not be asked. The legal practitioner will be interested in asking questions that would further his case.
2. **Mastery of the law and practice:** This skill cannot be over emphasized. Arguments are based on law. The whole essence is to know the applicable law to the facts (especially in the core area concerned).
3. **Adequate preparation:** A legal practitioner who is involved in trial advocacy without preparation has prepared to fail as an advocate.
4. Address the Court properly- e.g. my Lord, Honour and Worship (NB: note magistrate in North is Your Worship and in Lagos it is Your Honour)
5. **Good Communication:** Strive to be heard and be eloquent in your speech, be eloquent to be clearly understood.
6. **Ability to efficiently conduct** examination-in-chief, cross-examination and re-examination in court.
7. Mastery of the proper approach to present final or closing address, including the ability to effectively canvass an *allocutus* or plea in mitigation.
8. Develop Drafting Skills; Research Skills; Analytical Skills.

HABITS TO AVOID AS AN ADVOCATE

An advocate should avoid the following –

1. Rude language.
2. Hiding under the cover of immunity to ridicule the character of opponents.
3. Being dishonest.

4. Being Hot-tempered.
5. Being timid.
6. Being over sensitive.

It should be noted that a persuasive (convincing) story can prove an affirmative case if it has the following characteristics –

1. It is told about people who have reasons for the way they act;
2. It accounts for or explains all of the known or undeniable facts;
3. It is told by credible witness;
4. It is supported by details;
5. It accords with common sense and contains no implausible elements; and
6. It is organised in a way that makes each succeeding fact increasingly more likely.

In preparing a persuasive story, the lawyer is under a duty to be bound by the truth under the rules of ethics and the Rules of Professional Conduct.

STAGES FOR PREPARING A PERSUASIVE STORY

Comment [C41]: Whether in a civil or criminal matter, a story must be persuasive for a party to get judgment. To establish a persuasive story, do the following:
- It should be told by people involved, e.g. eye witnesses and avoid hearsay evidence
- The witnesses are to explain all the relevant facts/details
- The witnesses should be credible witnesses
- The story accords with common sense
- There is proper organisation or sequence.

To prepare a persuasive story, it consists of the following stages:–

- Prepare a story that has a theory and theme;
- Plan your final argument;
- Plan your case in chief considering your potential witnesses and exhibits; evaluating each witness individually in terms of factual weaknesses, evidentiary problems and credibility problems; decide which witness to call;
- Plan your cross-examination; and
- Outline your opening statement.

The main effect of advocacy is for communication, that is, to communicate clearly and persuasively. By this, **one could infer three (3) things**, which are –

1. Ability to speak with clear voice;
2. Listen carefully and adequately noting the language indicators (that is, speech, intonation, speed, hesitation, attitude, body posture, facial expression, etc.); and
3. Ability to question effectively.

MODES OF ADVOCACY

1. **Oral advocacy**
2. **Written advocacy**

EFFECTIVE ADVOCACY

This involves the following:

1. Conduct clients and witnesses interview
2. Gather and master the facts of your case
3. Study and analyse the evidence needed to prove your case
4. Know the relevant law and authority to be relied upon

PRE-TRIAL BRIEFING OF WITNESSES

1. Meet your prospective witness. Let him know you before he meets you in court.
2. Determine the relevance of his evidence and determine whether he is a credible witness. Both will determine your decision to call him as a witness.
3. Discuss with your witness how to dress to court to make a favourable impression.
4. Discuss with him how to give evidence in court. Advise him to avoid being insolent, insulting or truculent (cruel or savage). Should answer questions politely and courteously. Should not be unbalanced or exhibit temperament in the face of fiery cross-examination.
5. Rehearse his evidence with him a day or two before the court hearing to refresh his memory about an event, which might have occurred years before.
6. Explain the proceedings in court to the witness e.g.
   i. that he would be sworn before he gives evidence (enquire how he would like to be sworn); and
   ii. that he would be required to leave the court i.e. out of court and out of hearing. Agree with him where he would be during the period and how to fetch him when he is wanted in court.
7. Ensure that witness spend minimum time in court, particularly busy witnesses. Where court has to adjourn before a witness testifies, counsel should inform him of adjourned

date. Most witnesses sitting in the well of the court do not hear what goes on between the bench, bar and court clerk.

8. Arrange payment of reasonable allowance to your witness to compensate for his travelling expenses and the loss suffered by leaving his business to come to court. Remember your case will be determined on the strength of evidence given by your witness.

ESSENTIAL TECHNIQUES OF TRIAL ADVOCACY

- ✓ Speak slowly and be heard
- ✓ Maintain eye contact with the judge
- ✓ Be attentive to personal appearance and behaviour
- ✓ Avoid raising manifold issues in making submissions
- ✓ Clearly identify the theory of the case
- ✓ Lead the judge
- ✓ Use transitional devices like topic transition and topic label. Example is: My Lord, I will like to proceed to my next point on ambiguity of the charge.
- ✓ Keep your focus on facts
- ✓ Use the provisions of the Law appropriately by not citing a decision that has been overruled or not binding on the jurisdiction.

ESTABLISH A POSITIVE RELATIONSHIP WITH THE JUDGE BY DOING ANY OR ALL OF THE FOLLOWING:

- Handling the Judge's intervention effectively
- Avoiding contentiousness, and
- Preparing for the worst from any Judge.

CASE THEORY

The theory of the case is the starting point of preparation before going to Court. It is the story a party wants to tell the Court convincingly to be able to get judgment in his favour.

DEVELOPING A CASE THEORY

There are two methods of developing a case theory which are:

1. Linear approach or the traditional approach
2. The circles method

THE CASE/TRIAL PLAN

The case plan is a graphical chart on how a Lawyer intends to handle a matter from its institution to conclusion. It may be a composite case plan containing a game plan of the Lawyer and an anticipation of the possible approach of the adverse Counsel (the devil's advocate).

What are the obvious tasks in preparing a case plan?

They include the following:

1. Identify the witnesses to be called in proof of the case
2. Identify the relevant documents to be tendered in Court in proof of the case and the necessary foundation to make for their admissibility in evidence.
3. Take their stories and investigate them in order to prevent new facts coming up that may likely affect the theory of your case
4. Know the relevant provisions and exceptions if possible of the Law on that matter.
5. Ask them relevant questions in Court to confirm or corroborate the story you want the Court to believe.
6. Make submissions in the above light.
7. If it is in a composite case plan, identify the possible things the opposing Counsel would do from 1-6 above. Find the appropriate ways or Laws to counter them so that one will not be taken by surprise.

Without a case plan or a game plan, there would be no ability to respond to changes or to measure the progress arising from witnesses testimonies or the documents tendered.

Comment [C42]:
THE TRADITIONAL APPROACH
This is a situation where the Lawyer sticks to the facts, which he was briefed of by the client without more.
Disadvantages
- It stifles one's ability to imagine:
- The other possibilities that might arise--Other information and other approaches to case preparation and delivery.

Comment [C43]:
THE CIRCLES METHOD
This method develops a story by relying on both mental and visual flexibility. The concepts are linked together in a visual rather than linear way.

Advantages of the circles method
It frees your mind to associate information.

How to use the circles method is by the following:
1. Painting the picture to the Judge through the combination of witnesses' testimonies, exhibits tendered etc.
2. Control the witnesses by putting him at ease.

TRIAL PROCEDURE

Why Trial?

Note that the whole essence of trial is for the court to resolve the dispute or disagreement between parties and answer certain questions. Only disputed issues go to court and not academic issues. Academic issues are not a life issue and it does not involve dispute between two or more persons. In other words, they are pronouncements which are not for the benefit of any party before the court.

Establishing a Story

In establishing a story through witnesses, the following are important

- Direct evidence: Person directly involved in the case should be called. Not hearsay evidence except those falling under the exceptions.
- Explain all relevant facts and details. These persons are expected to explain all the relevant facts and details
- The persons should be credible witnesses
- The story of the witness must accord with common sense (not incredible story)
- Sequence of the story. When a witness is to speak, there must be sequence – open question would help

Opening Address/Statement in Trials

- This is mostly done in criminal trials and rarely in civil trials. Rarely done in Nigeria in general
- Generally, it is an outline of a party's story.
- The opening speech must be short, direct, and moderate, excluding reference to inadmissible evidence, avoiding personal opinion adverse to the facts or the likely credibility of a witness.
- The speech must have a structure because it is the means of getting the Judge to understand the case a party is about to present.
- In criminal trials, it is made **after the plea has been taken**. See **S. 240 -241 of the CPL; S. 192 of the CPCL; S. 268 of the ACJL.**

STAGES IN A TRIAL

1. EXAMINATION-IN-CHIEF: The purpose is to elicit information/facts from the witness (you called yourself) in support of a party's case and to give an opportunity to deny any evidence to be given by the other party. It is also sometimes used to shield and insulate the witness from potential weaknesses in his evidence. **S. 214 (1) of Evidence Act 2011 provides that** the examination of a witness by the party who calls him shall be called examination in-chief. **It is only in Criminal trial that witnesses must be led in examination-in chief since there is no frontloading to that effect.**

Procedure

1. The witness enters the witness box and takes the oath or affirms to tell the truth.
2. The witness is guided by counsel to tell the court his name, address, and occupation.
3. Thereafter, he begins to tell the court the whole story by identifying the parties involved in the case and how he came to know them, specifically, in regard to the events, which led to the proceedings in court.
4. The witness is also guided to tell the court the story that is relevant, and in an orderly and easy manner to follow
5. The witness may thereafter be cross-examined and re-examined before leaving the witness box.

Techniques in Examination-In-Chief

- Use open questions like **why, how, when, where, whom, and what** to enable the witness tell his story not leaving out important points.
- Leading questions that tend to suggest the answers to a witness are not allowed but this is permitted on introductory matters or facts that are not in issue or with the permission of the Court: **S. 221(1)-(3) Evidence Act 2011**
- Closed questions may be used when desirable especially if the witness is not been specific in his story telling.
- The witness should establish a base point, which is the physical description of things and direction.

- Repeat important points, repeat them, restate them, repeat them again and think of ways to re-state them again.
- Conversely, less important points should not be repeated.

The Skills in Examination-In-Chief

1. **Simple questions**
   a. Be logical: (i) identify the evidence and sequence; **(**ii) start at the beginning and consider whether to elicit background information.
   b. Break down the evidence: Break down the subject areas of the witness evidence into smaller pieces
   c. Use transitional questions
   d. Focus on short and simple questions: (i) Ask a single fact; (ii) Ask non-leading questions; (iii) You may ask leading questions of non-disputed facts. The non-leading question usually start by asking who, what, where, when, why, how
2. **Piggy Backing Questions** are questions that you need to carry your witness along to get the answer/facts you are wishing to elicit e.g. what did John do when he saw you? He attacked me with a hammer. When he attacked you with the hammer, what did you do?
3. **Insulating the witness** when there are weaknesses in the case the advocate has to insulate the witness. This may be where:
   i. There is evident weakness in your case;
   ii. Weakness is subtle;
   iii. There is a weakness and the witness is absolutely dreadful and incomprehensible.
4. **Inflection, volume and rate of speech:**
   i. Try to avoid sounding like a lawyer;
   ii. Be interested in the witness's answer
5. **Listening:**
   i. Never assume you know the answer of a question you asked;
   ii. Never focus on your next question until the witness has given a complete answer to the question that has just been asked
6. **Body language:**
   i. Eye contact and confidence can reassure a hesitant witness;
   ii. Avoid moving around the courtroom too much

However before all these above, you should:

- Know the witness you are calling i.e. their personality (shy, hot temper, nervous, respectful, defensive, temperamental)
- Make him understand your case (i.e. this is what the lawyer needs to prove and the witnesses' evidence is required to move such and such fact)
- Drop him if you think he/she is a bad witness

2. CROSS-EXAMINATION

- It is the interrogation of a witness called by ones opponent in a Court trial.
- Leading questions and closed questions can be asked which are even more effective. **S. 221(4) of the Evidence Act 2011** provides that Leading questions may be asked in cross-examination.
- In some jurisdictions, advocates are not permitted to ask questions that do not pertain to the testimony offered during direct examination
- But in most jurisdictions, advocates are allowed to cross-examine to exceed the scope of direct examination.
- In Nigeria, can cross-examine on all relevant facts (Evidence Act on relevancy)
- It is a right of fair hearing to cross-examine opposing witnesses--**S. 36(6) (d) CFRN; ONWUKA V OWOLEWO**
- Any testimony from evidence-in-chief not put to the witness as being false, is taken to be conceded. Thus, cross examination is important.

NB: COUNSEL MUST 1. LISTEN, 2. ANALYSE, 3. EVALUATE AND 4. RES POND--**LAER**

Objectives of cross-examination:

- Impeach the credibility of the witness (es) called by the adverse party.
- Discredit the opponents testimony
- Contradict the evidence already given by a party
- Get evidence or materials favourable to ones case and for use in the final address.
- To systematically build the argument of your case to be used in address--**S. 223 and 233 EA 2011**

The scope of Cross-Examination is that:

- It has wide latitude as the questions cannot be restricted to only the facts in issue or the evidence given under examination-in-chief.
- Leading questions are allowed**--S. 221(4) EA 2011**
- Do not try to extract new information in cross-examination
- Effective cross-examination always succeeds by asking questions by implication
- There is no restriction on facts sought to be questioned on
- It is an avenue for the test of accuracy, veracity and credibility of witnesses
- Can show previous inconsistent statements made by a witness.

Ingredients of Cross-Examination

- Control: keep the witness tight and control his direction. Ask questions with speed
- Speed: If a witness is not telling the truth, he needs time to think. Do not allow him that time.
- Memory: You must know facts and information with minimal reference to paper if you must
- Precision: question must be formulated swiftly and with care. It must be clear, simple and not objectionable to get a precise answer
- Logic: questions asked should be logical with the aim at the end to show that the witness is not logical
- Timing: once a witness is put into a corner, then finish him
- Manner: your manner and behaviour should be appropriate to the circumstances and the witness (e.g. an elderly woman who is ill, arrogant, high tempered)
- Termination: you must know when to quit

Three (3) Rules for Cross-Examination

- **Rule one**: Do not cross-examine (e.g. when the witness has done no damage to your case) when no facts can be elicited to help your case
- **Rule two**: Do not ask questions that you don't know the answer. For example:
  Question: is it not true that you were furious at the victim for being unfaithful because he was your lover?

Answer: No, he was not my lover, he was my father

- **Rule three**: Do not ask questions that are open--those that begin with: what, when, who, where, how

PHASES OF CROSS-EXAMINATION

f. Phase one: Extraction: get some useful information from the witness which is favourable to your case

g. Phase two: Closing: close all doors and windows and make the witness to make commitment on some facts before attacking him or else he will escape e.g. dates

h. Phase three: Impeachment: before you proceed to do this, you must have asked yourself: whether the witness has really hurt your case……

TEN COMMANDMENTS OF CROSS-EXAMINATION

1. Be Brief, succinct, short: never more than 3 points on cross examination
2. Ask short questions and use plain words
3. Ask leading questions
4. Do not ask questions you do not know the answers
5. Listen to the witness answers
6. Don't quarrel with the witness (i.e. when the witness gives an absurd or irrational answer)
7. Don't give the witness the opportunity to repeat his story in examination in chief (makes it more believable to the judge);
8. Do not let the witness explain
9. Avoid one question too many
10. Save the argument for the Closing Address.

By Professor Irving Younger: National Institute of Trial Advocacy (NITA)

RESTRICTIONS IN CROSS-EXAMINATION OF WITNESSES

1. Argumentative questions
2. Intimidating behaviour
3. Unfair characterizations of the witness
4. Assuming facts not in evidence
5. Asking compound and defective questions. See **S. 224, 227 and 228 EA 2011**

Comment [C44]: **Section. 224(1)**provides**:** If any question permitted to be asked under section 223 of this Act relates to a matter not relevant to the proceeding, except in so far as it affects the credit of the witness by injuring his character, the court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it.
Section 227 provides: The court may forbid any question or inquiry which it regards as indecent or scandalous although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.
Section 228 provides**:** The court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court needlessly offensive in form.

TECHNIQUES OF CROSS-EXAMINATION

1. Control the witness
2. Ask questions that will tell your client's story
3. Determine the flow of information
4. Save the best for the last
5. Use of sequenced questions which are logical

DELIVERY TECHNIQUES OF CROSS-EXAMINATION

1. Do not read or memorize the proposed questions to aid your flexibility in doing so
2. Use body and hand movement
3. Verbal pacing so that the Court will record while the witness understands the questions
4. Use of visuals
5. Use of headlines
6. Use of simple, active language.

Munkman's Techniques of Cross-Examination are as follows: (AVROM SHERR'S TECHNIQUE ARE—CPI)

1. **Confrontational Technique-** This involves using the previous inconsistent statement of a witness to discredit him.
2. **Probing Technique-** Questioning on the evidence given under examination-in-chief.
3. **Insinuation-** It involves presenting your case or facts to the witness, which tend to add, alter or modify the evidence already given and which are favourable to your case.

   Examples of such are questions asked like these: 'It is true that…..', 'Will I be correct to say….?', 'I put it to you that…..' etc.

4. **Undermining-** Here you use questions that will reduce the qualification or experience of the witness and is directed to the person and not the testimony of the witness. Example: where it is a vital tool is when cross-examining an expert witness.

3. RE-EXAMINATION: The aim is to clear any ambiguity arising from a witness' cross-examination but it is not to supply omitted or new facts to a party's case. See **S. 214 (3) EA**

ETHICAL CONSIDERATION

Comment [C45]:
See Rules 1, 14,16, 30, 31, 32,35, 37 RPC
- Duty to do justice
- Duty not to mislead the court
- Duty in criminal cases.
- Duty in murder trials---**UDOHA V. STATE**
- Duty to maintain decorum and language in the court.

POSSIBLE MULTIPLE CHOICE QUESTIONS ON LETTERS, INTERVIEW AND ADVOCACY PRACTICE

1. All these are not classes of letters except ____

A. Formal letter

B. Status letters

C. Confirming letters

D. Demand letters

2. ____ is also known as a functional CV

A. Traditional CV

B. Academic CV

C. Teaching CV

D. Skilled based CV

3. The ideal average number of page (s) for a CV is ____

A. 1

B. 2

C. 3

D. 4

4. A concise statement that highlights the reason for the job is known as ____

A. Profile

B. Resume

C. Curriculum Vitae

D. All of the above

5. The ideal number of words for the answer in 4 above is __ words

A. 200

B. 400

C. 500

D. 800

6. Oral communication is sub-divided into ___

A. 2

B. 3

C. 4

D. 5

7. Avrom Sherr has ___ stages of an interview

A. 3

B. 7

C. 11

D. 5

8. Chay and Smith has ___ stages of an interview

A. 3

B. 7

C. 11

D. 5

9. Brayne and Grime has ___ stages of an interview

A. 3

B. 7

C. 11

D. 5

10. Mike Wolfe has ___ stages of an interview

A. 3

B. 7

C. 11

D. 5

11. Doherty suggested ___ stages of an interview

A. 7

B. 13

C. 8

D. 10

12. The ideal number of stages of an interview by the NLS is ___

A. 5

B. 6

C. 8

D. 9

13. The following are not modes of advocacy except ___

A. Oral advocacy

B. Written advocacy

C. Effective advocacy

D. A and B

14. The story a party wants to tell the court to be able to get judgment in his favour is ____

A. Case theory

B. Case plan

C. Trial plan

D. Game plan

15. The graphical chart on how a lawyer intends to handle a matter from its institution to conclusion is ____

A. Case plan

B. Trial plan

C. Game plan

D. All of the above

16. NO QUESTION

17. For an effective cross-examination, counsel is expected to ___

A. Respond, Evaluate, Analyze and Listen

B. Listen, Analyze, Evaluate and Respond

C. Listen, Analyze, Respond and Evaluate

D. Analyze, Listen, Evaluate and Respond

18. The phases of cross-examination are all of the following except ____

A. Extraction stage

B. Closing stage

C. Impeachment stage

D. Violence/attack stage

19. NO QUESTION

20. All of the following are the techniques of cross-examination according to Avrom Sherr except ____

A. Confrontational technique

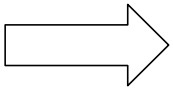
B. Probing technique

C. Insinuation technique

D. Undermining technique

ANSWERS

1. **A**
2. **D**
3. **B**
4. **A**
5. **A**
6. **B**
7. **A**
8. **B**
9. **C**
10. **D**
11. **B**
12. **B**
13. **D**
14. **A**
15. **D**
16. **BONUS**
17. **B**
18. **D**
19. **BONUS**
20. **D**



10. RULES OF INTERPRETATION OF STATUTES

The main reason for interpretation is to know the intention of the law maker. Under the CFRN 1999, there are three arms of government; legislature – law making; executive – enforcement of law; and the judiciary, section 4, 5 & 6 CFRN. The judiciary interprets the constitution and the statutes. The function of judiciary is exercised by the courts in Nigeria. The judiciary should interpret the law and in so doing the judiciary can only lawfully expound the law; it has no power to expand the law. Section 6(5) CFRN. The interpretation of statutes and documents is one of the most important functions of the courts. In interpreting statutes and documents, the courts usually use the TOOLS OF INTERPRETATION, namely:

- Decision of superior courts
- Punctuations
- Interpretation Act
- Rules of interpretation of statutes
- Law dictionaries
- Text books (legal text)
- Definition clauses
- Marginal notes---**UWAIFO V AG BENDEL STATE**
- Schedules
- Preambles and long title
- Interpretation sections
- Recitals
- Thesaurus
- Case law.

WHY INTERPRETATION?

1. Draftsman uses few/minimal words- every factual situation within the purview of the statute can hardly be represented
2. There are always ambiguities in the provisions of statutes
3. Usage and meanings ascribed to words are not static
4. Instances of unforeseeable new factual situations may arise.

In addition, the courts have laid down certain rules as guiding principles in interpreting statutes and documents. They are:

1. LITERAL RULE OF INTERPRETATION

This is the first rule of interpretation developed and it involves the interpretation of a particular provision as it is literally speaking. Thus when the words of the statute are plain, unambiguous,

its ordinary meaning should be adhered to. This rule of construction was adopted in the following cases:

- **OJUKWU V. OBASANJO**, while interpreting section 137(1)(b) CFRN
- **AWOLOWO V. SHAGARI**, while interpreting section 34(a)ii &(c)ii of the Electoral Decree
- **AKINTOLA V. ADEGBENRO**, while interpreting section 38(10) Constitution of the Mid-Western State.
- **EKEOGU V. ATIRI**, while interpreting section 3 of Public Officers Act
- **IDEHEN V. IDEHEN**, while interpreting section 3 of the Wills Law of Bendel State.

It came to a point where the strict adherence to the literal rule occassioned injustice. The case of **R V. BANGANZA**, brought about the golden rule of interpretation or the purposive rule of interpretation. thus the need to develop another rule.

2. GOLDEN RULE OF INTERPRETATION

In **BECKE V SMITH** it was held that it is a very useful rule in the construction of a statute to adhere to the ordinary meaning of the words used and the grammatical construction unless that it is at variance with the intention of the legislature. In **AWOLOWO V THE FEDERAL MINISTER OF INTERNAL AFFAIRS** (constitutional provisions allowing an accused person to have his defence conducted by any counsel of his choice was interpreted to mean such counsel who is not under any disability to enter Nigeria as of right)

Comment [d46]: AMBIGUITY ABSURDITY

It is an offshoot of the literal rule in that if after interpretation of a statute using the literal rule and it leads to absurdity, then the words of the legislation will be modified to give effect to the position of the statute. Thus, the Golden rule will be used when the ordinary meaning of the statute would lead to absurdity.

The rule allows for modification of the words used in the statute in order to know the intention of the law makers. The rule says the literal rule should first be used and when absurdity arises, then modify it. Hence, it provides the opportunity to the courts of filling in the gaps in legislation. It is in the above regard that the Golden rule was criticized, because the function of the court is to interpret the law and not to expand. This very gap is to be filled by the legislature.

The rule was applied in the following cases. Beck v. Smith, the court held that the best approach is to adhere to the literal rule, but where there are gaps then the court can use other methods.-- **LEE V. KNAPP, BRONIK MOTORS V. WEMA BANK PLC, ONYEWU V. K.S.M, ADEMOLAKUN V. COUNCIL OF UNIVERSITY OF IBADAN.**

3. MISCHIEF RULE

The criticism surrounding the Golden rule gave rise to the Mischief rule. The rule says that in construction of the provisions of a statute, the history of the legislation, that is the circumstances surrounding the making of the law should be considered. The rule was developed in **HEYDON' S CASE** and the court laid down four principles as a guide.

- What was the position of the law before the statute was enacted?
- What was the defect or mischief which the old law did not provide for?
- What was the remedy proposed by the new statute?
- What was the true reason for the remedy?

After the above consideration, it then becomes the duty of the court to accord interpretation that will suppress the mischief at the same time advance the remedy.

The rule was applied in the following cases: **SMITH V. HUGHES; SAVANNAH BANK V. AJILO; PRESIDENT V. NATIONAL ASSEMBLY; ABIOYE V. YAKUBU; MAYOR AND ST. MELLONS RDC V NEWPORT CORP.**

This however should not give any judge the platform to do judicial legislation.

4. EJUSDEM GENERIS RULE

This rule states that where particular words of the same kind or class are followed by a general word (a generis), the meaning of the general word will be limited to the things similar to the class of things earlier enumerated. E.g All students should not eat cornflakes, golden morn and other cereal- cereals will be interpreted in the class of cornflakes, golden morn. In order to exclude the ejusdem generis rule, the following devices can be adopted:

- **Including but not limited to**
- **Without prejudice to the generality of the foregoing or following.**

The rule was applied in the following cases: **OJUKWU V. OBASANJO**, to limit the word such offices to office of the president by election. SEE also **JAMMAL STEEL STRUCTURE V. ACB; FRN V. ILEGWU**

5. OTHER RULES INCLUDE

1. Constitutions are construed broadly and wholly. This is because the constitution is the fountain law upon which other laws derive their authority and validity. Section 1(1) & (3) CFRN. **RABIU V. THE STATE, AG BENDEL V. AG FED, KALU V. ODILI**.
2. Beneficial construction Rule - where the courts are faced with two possible interpretation, one having a wider meaning and the other, a narrow meaning, the court should adopt the wider meaning---**SAVANNAH BANK V. AJILO.**

Comment [C47]: **GENERALIBUS SPECIALIA DEROGANT/GENERALIA SPECIALIBUS NON DEROGANT**
This is one of the exceptions to the *ejusdem generis* rule. It means a word that has a general meaning cannot derogate from a specific provision meaning i.e. the special provision prevails over the general provision--**Shroeder v. Major (1989) 2 NWLR (Pt. 101) 1**; **Attorney-General, Ondo State v. Attorney-General (Federation) (2002) 9 NWLR (Pt. 772) 222**;**M.V. Panormous Bay v.Olam (Nig) Ltd (2004) 5 NWLR (Pt 865)**

3. Specific provisions override general provisions----**AG OGUN V. AG FED.** The essence is for the court to do Substantial justice over technicalities. It is always used in human right cases. It is an extension of ut res magis rule.
4. A law cannot the demand the doing of the impossible--**OHUKA V. STATE** (Lex non cogit ad impossibilia)
5. Statute ousting the jurisdiction of the court or derogating from individual rights are strictly construed--**AG FED V. SHODE**
6. The express mention of one thing is to the exclusion of others. Where an enactment enumerates the thing upon which to operate, everything else (not enumerated) must necessarily and by implication be excluded from its operation and effect---**AG BENDEL STATE V. AFOLAYAN (1989) 11 NWLR 187.**
7. Contra proferentem rule; documents and instruments are construed against the maker where the document is capable of more than one interpretation. Such laws are interpreted in favour of the citizen whose proprietary right is at stake---**NDOMA EGBA V CHUKWUOGOR**. In Nigeria, this is an offshoot of the provisions of section 43 and 44 of the CFRN, 1999 as amended.
8. Blue Pencil rule: In interpreting the contents of a document, the courts separate the provisions that are beneficial to the parties from the provisions that would work hardship on the parties.
9. Purposive rule of interpretation---**AG ONDO STATE V. AG FED**. This gives effect to the general purpose of the law. Takes into account the words, context in which the words are used.
10. Ut res magis valeat quam pereat. Let the thing be valid rather than for it to perish. It means that if any statute is capable of two different interpretation, one is constructive and the other destructive, the court must tilt towards the constructive interpretation. PRESERVATION MAXIM

11. LAW OFFICE MANAGEMENT

WHAT IS LAW OFFICE MANAGEMENT?

Law Office Management is the study of the organization and methods employed in the law office and the relationship between members of staff of that office on one hand and their relationship with members of the public with whom they are in contact. It is also concerned with the development of human and other resources in a law office.

SIGNIFICANCE: The study of Law office management is important because the success of a legal practitioner to a large extent depends on his ability to successfully manage his law office rather than on his academic achievements or advocacy or drafting skills.

WHEN IS A LAWYER QUALIFIED TO OPEN A LAW OFFICE?

Old Position- Legal Practitioners must undergo pupilage before they can open a law office. Thus a lawyer of less than 5 years post call was prohibited from engaging in private practice on his own. See **Section 6(2) of Regulated and Other Professions (Private Practice Prohibition) Act, Cap. 390 LFN, 1990 (The Law has been repealed).**

New Position- Every legal practitioner can engage in private practice immediately after being called to the bar.

ESTABLISHING A LAW FIRM

Why establish a law firm?

The reason is enshrined in **Rule 22 RPC** which provides that except in special circumstances or some other urgent reason, a member of the Bar shall not call at a client's house or place of business for the purpose of giving advice or taking instruction from the client. In effect, a legal practitioner who wishes to practice must do so from a law firm either an already existing one or he will have to establish one.

Reasons for Establishment of a Law Firm

1) **Sheer necessity**: This is due to the **inability to secure paid employment** which makes them opt for establishing a law firm in order to create employment for themselves.
2) **Self-esteem/pride:** Some legal practitioners establish law firms because it is perceived as prestigious to own a law firm. This is due to the fact that putting up their name on notice and printing their names on complimentary cards or letterhead papers is their desire.
3) **Independence:** Most legal practitioners establish law firms because of a desire to be their own boss rather than working under someone else.
4) **Desire to earn higher professional fees or Profit–**Some legal practitioners believe that the profit they will make by establishing their own law firm will exceed that earned when being employed.
5) **Compliance with the rules-RULE 22**

LEGAL SERVICES A LAWYER/LAW FIRM RENDERS TO HIS/ITS CLIENTS

1. Representation in Courts or other tribunal for purposes of litigation
2. Drafting, editing or analyzing legal documents
3. Offering Legal Opinions and Advice
4. Representing clients in ADR Processes
5. Conducting Investigation & Searches (at Land Registries, Probate, CAC, etc.)
6. Representation in (contract) negotiations
7. Management of law firms
8. Settlement of disputes (i.e., acting as Arbitrators/Mediators, etc.)
9. Perfection of titles of clients

SKILLS A LAWYER/LAW FIRM MUST POSSESS IN ORDER TO BE ABLE TO RENDER NECESSARY LEGAL SERVICES TO CLIENT

1. Drafting skills

2. Advocacy Skills

3. Negotiation skills

4. Management skills

5. Communication skills

6. Research skills

7. Interviewing Skills

8. Adjudication skills (when they act as arbitrators, mediators, or Panel/Committee chairmen/members for settlement of disputes, etc.)

QUALITIES A LEGAL PRACTITIONER MUST POSSESS

1. **Honesty and Integrity:** are the foundations of the rules of professional conduct. The legal practitioner is an officer of the court and has a primary duty to aid in the administration of justice. The practitioner-client relationship is subject to the overriding duty of the practitioner to his profession as an officer of the law. The Rules of the RPC all relate to honesty and integrity among which are:
   - **Rule 15 RPC** enjoins the legal practitioner to perform his duty within the law and to obey his conscience and not that of his client.
   - **Rule 54 RPC:** A lawyer shall not accept any compensation, rebate, commission, gift or other advantage from or on behalf of the opposing party except with the full knowledge and consent of his client after full disclosure.
   - **Rule 23(2) RPC:** Where a lawyer collects money for his client, or is in a position to deliver property on behalf of his client, he shall promptly report, and account for it, and shall not mix such money or property with, or use it as, his own. See **SAGOE v. R; ONAGORUWA v STATE**
2. **Hard-work and Organization**
3. **Determination and commitment**

IN ORDER TO SUCCEED IN THE PROFESSION A LAWYER NEEDS:---D KEGS

a. **Dynamism and innovation; Wits and intelligence; Finance**
b. **Knowledge:** Knowledge entails both legal and non-legal knowledge and every Practitioner is presumed to have both knowledge

c. **Experience:** The best way to acquire experience is by working for an experienced person for some time that is, working in another well-established law firm or in the Ministry of Justice.
d. **Good Luck:** The success of a law firm is also determined by good luck, which may provide an abundance of opportunities for the legal practitioner
e. **Skills**: Skill includes advocacy, communication, negotiation, research, drafting etc. This is the ability to apply legal knowledge to solve a legal problem. A combination of the two (knowledge and skill) will be required to render good legal services otherwise a practitioner may be liable for damages. See **BELLO RAJI v X. A LEGAL PRACTITIONER**

TYPES OF LAW FIRMS /GROUP OF LEGAL PRACTICE

1. **SOLE PRACTITIONERSHIP-** It is the unit of practice involving a practitioner practicing alone, but employing supporting staff to assist him in the office. Therefore, it is:
   - **ONE LEGAL practitioner** as the owner of the business
   - Only support staff.

Features of Sole Practitionership

He provides the capital of the firm and manages it.

Advantages

1. It is relatively easy to set up as there is less financial implication and less administrative procedure to be followed.
2. Enhances quick decision making
3. The sole practitioner takes all the credit for success or failure of the practice.
4. He takes all the profits realized from the business alone

Disadvantages

1. Professional isolation as he has no other lawyer to discuss issues with
2. Relatively low quality work
3. Energy sapping as he does the work alone
4. Lack of full attention to all the matters he is handling
5. Difficulty in getting clients

6. No time for holidays and relaxation
7. Full credit for failure is borne by him
8. No division of labour
9. Death may terminate the practice
10. Undue delay in service delivery

2. **SOLE PROPRIETORSHIP-** this is a unit of practice involving a legal practitioner who establishes law firm and employed other legal practitioners to work under him on basis of employer and employee relationship which may be on ground of contract employment with terms and conditions or otherwise. Therefore, it is:
   - One Legal Practitioner as the owner
   - Employing other Legal practitioners (salary earners)
   - Support staff

Advantages

- It enhances quick decision making
- He is entitled to all his profits but has to pay salaries
- Takes credit for success of the firm
- Can specialise in any area of his choice
- Enjoyment from home as he has no boss.
- There is division of labour between him and the other legal practitioners
- It creates employment
- Ease of succession as succession by the children and family can be achieved without stress.

Disadvantages

1. Bears the cost of setting up and running the firm alone
2. Bears risk of failure and loss alone
3. As a beginner he would have problem of attracting client as he is alone in the Business.
4. He may not have time for holiday and relaxation
5. Low quality decisions as he unilaterally decides
6. Death of sole proprietor may lead to collapse of the firm

3. **ASSOCIATESHIP:** this is where two or more legal practitioners come together to establish the firm contributing to its establishment and running. Here, there is:
   - Joint hiring of staff, furnishing , payment of rents
   - All associates occupy the premises and share the office facilities.
   - Each maintain separate or independent legal office and legal practice
   - They do not share profits

Advantages

1. Easier to set up as they pool resources together
2. Not professionally isolated
3. They do not share profits
4. Take credit of success/failure of independent practice
5. Enhances a large well-furnished office
6. He is always committed to his work as he knows that his failure is the failure of the entire law firm
7. An associate enjoys freedom since there is no boss to control him
8. An associate consider issues together and can seek the advice of the other.

Disadvantages

1. Hinders growth as each associate bears loss alone
2. One associate may have problem of attracting clients as he is in business alone.
3. He may not have time for holiday and relaxation
4. Due to unequal success, an associate may not keep up to terms of the associateship.
5. The practice may die with the death of an associate.
6. Rivalry among associates
7. Lack of trust among associates
8. Conflicts may arise

4. **PARTNERSHIP:** this is where two or more legal practitioners contribute capital to provide facilities and run the firm as partners. In this:
   - The partners are all owners of the firm; the relationship between them is that of joint owners.

- The profits of the firm will be divided according to their capital contribution or any other agreed formula.
- They owe a fiduciary duty to one another and are prohibited from making secret profits.
- They are also liable jointly and severally for any loss sustained by the firm. See **YESUFU & ANOR v KUPPER INTERNATIONAL NV**

ADVANTAGES

1. Sharing of financial responsibility
2. No professional isolation
3. High quality decisions
4. Sharing of profits and losses
5. Room for specialisation
6. Easier to get clients because of professional competence of more people involved
7. More time for relaxation
8. Easier to raise capital to set up.
9. Division of labour
10. Possibility of having a well-equipped law firm

DISADVANTAGES

1. In law, each partner is an agent of the other partners. Each partner is liable for the act of another done within the partnership business- **UNITED BANK OF KUWAIT v HAMMOND**
2. Fraudulent act of one partner may taint the reputation of other partners
3. There may be mistrust among the partners which may hamper the success of the firm
4. Slow decision making
5. Double loyalty
6. Disagreement among partners may affect the stability of the partnership

RESTRICTIONS ON FORMATION OF LAW FIRMS AND LAW PARTNERSHIPS IN NIGERIA

a. All partners must be called to bar and admitted to practice in Nigeria
b. A lawyer must not aid a non-lawyer in an unauthorized practice of the law: **Rule 3 (1) (a) RPC, 2007**.

c. Lawyer must not form a partnership for the purpose of law practice with a non-lawyer or with a person who is not called to bar or admitted to practice law in Nigeria: **Rule 5 (1) RPC, 2007**
d. Name of deceased partner will continue to be used by the firm EXCEPT where it will lead to deception. **Rule 5 (2) RPC, 2007**
e. The name of a serving judicial officer must not appear in the name of any Law Firm in Nigeria: **Rule 5 (3) RPC, 2007**.
f. A lawyer practicing alone must not hold himself out to the public as if he is in partnership; accordingly, sole practitioners are prohibited from using the name, "A, B & Co or such other Name as may suggest that he is in partnership with others: **Rule 5 (4) RPC, 2007**
g. It is unlawful to carry out law practice as a corporation: **Rule 5 (5) RPC, 2007**
h. Except with the approval of the Bar Council, a lawyer shall not practice at the bar (own a law firm) and simultaneous practice any other profession or engage in any trade or business, except in permitted areas: **Rule 7(1) RPC, 2007.**
i. A lawyer who is a public officer must not engage or participate in the management of any private business, profession or trade except farming and is therefore barred from setting up or operating a law firm: **Section 2 (b) of Part 1 of the 5th Schedule to the 1999 Constitution (Code of Conduct for public officers).**

FORMATION OF A PARTNERSHIP

A partnership can be formed orally or in writing. However, it is advisable to have a partnership agreement in writing in order to prevent disagreements and problems. The issues, which a partnership agreement should deal with, include the following:

1) Nature and object of the partnership business;
2) Firm name;
3) Location of firm;
4) Capital contributions;
5) Decision of profits and losses;
6) Maintenance of individual income accounts;
7) Management;
8) Devotion of full time to the firm;

9) Expulsion from the firm;
10) Admission of new partners;
11) Retirement, expulsion or death of a partner;
12) Withdrawal of partner due to incapacitation;
13) Annual and maternity leave;
14) Ownership of assets;
15) Restraint of trade;
16) Resolution of disputes; and
17) Termination.

BUSINESS PLAN

A business plan is a document containing information about a proposed firm, its goals and the financial projections for it. It is normally prepared by an Accountant for the owner. Note that it is **desirable** for a legal practitioner who chooses to establish a law firm to have a business plan.

THE CONTENTS OF A BUSINESS PLAN ARE:

1. Name(s) of the practitioner
2. Name of the firm
3. Business Address
4. Business Start date
5. Type of firm
6. Goals of the firm
7. Segmentation of the market
8. Market competitors
9. Capital requirement
10. Borrowing requirement
11. Security to be provided
12. Use of funds
13. Employment of staff, and
14. Management system

CLIENTELE

A legal practitioner must ensure that markets exist for his service otherwise the purpose of establishing a law firm will be defeated.

POTENTIAL CLIENTS -

(a) Banks and other financial institutions.

(b) Companies

(c) Large statutory bodies

(d) Legal Aid Council

(e) Individuals

(f) Government

Therefore, a practitioner should map out strategies of winning clients subject however to Rules of Professional Conduct.

STRATEGIES FOR WINNING CLIENTS-THE BENEFITS THAT A CLIENT SEEKS FROM A FIRM

e) ***Expertise****:* This involves clients who require firms with expert knowledge and skill to handle what they consider as complex and unusual matters.

f) ***Experience****:* This involves clients choosing one firm instead of another because such firms are experienced in an area of law due to the reputation of the firm.

g) ***Efficiency****:* This involves clients with matters that can be handled by several firms but require a prompt delivery of service at a competitive rate.

LEGAL SKILLS AND WORK DONE BY LEGAL PRACTITIONERS ARE:

SKILLS	**PRACTITIONERS WORK**
Legal research and verbal communication skills	Rendering legal service

Advocacy skills	Representing client in courts and tribunals
Drafting skills	Drafting documents and pleadings
Negotiating skills	Negotiate transactions and settlement of disputes
Management skills	Managing a law firm

CLASSIFICATION OF A LAW FIRM

What are the classifications of Law office?

Law offices are classified into the following:

- Small law office: it occupies a room or two with 1-4 Lawyers
- Medium size law office having between 5-9 lawyers
- Large law office with 10members and above fee earners

There are **five (5) criteria** of classifying law firms in Nigeria. They are:----**CLANS**

- **Client base:** This has to do with the types of clients a legal practitioner chooses to serve.
    - firms that serve organisations (that is, corporate and governmental bodies);
    - Private clients (that is, whether fee paying or legally aided).
- **Location –**
    - firms in large metropolitan cities,
    - firms in state capitals,
    - firms in semi-urban or rural towns.
- **Available facilities –**
    - Modern law firm (with technologically advanced and sophisticated equipment)
    - Traditional law firm (with only basic and simple equipment).
- **Number of lawyers:** The number of legal practitioners in a law firm makes up the size of a law firm. It is the size of law firms in a particular location that determines the criteria (small, medium or large) to be used in a classification.
- **Status of lawyers:** This deals with classes of legal practitioners. Thus, a firm may be classified as SAN or non-SAN firm.

ORGANISATION OF LAW FIRMS

A legal practitioner who wishes to establish a law firm must decide on a type of law firm. In Nigeria, there are four (4) types of law firms, and any one of these may be chosen to carry out legal practice. They can be registered under PART B.

NOTIFICATION OF LAW OFFICE

- Legal Practitioners must notify the branch NBA of their law office location
- Such notification must be made WITHIN 30 DAYS of its establishment. **RULE 13(1) RPC**
- The **notice should contain**:
    a. Name of the lawyer or lawyers
    b. Date of call to bar and enrolment
    c. Address of the law office. **RULE 13(2) RPC**
- The information is entered into the Register of the NBA. **RULE 13(3) RPC**
- **R.13 (4) - similar notice is required in event of CHANGE OF NAME OR ADDRESS**

LETTER FOR NOTIFICATION OF LAW OFFICE

A.B ARIYIBI & CO

BARRISTERS-AT-LAW

NO 40 OGUNSANYA DRIVE, SURULERE, LAGOS, NIGERIA

+2348099186668; ahmodalao@ymail.com

Our Ref: **Your Ref:** **Date: 10 March 2019**

The Chairman,

Nigerian Bar Association,

Lagos Branch,

Adebola Complex, Surulere,

Lagos.

Dear Sir,

NOTIFICATION OF ESTABLISHMENT OF LAW OFFICE

I, Ariyibi Ahmod Babatunde, a Legal practitioner called to the Nigerian Bar on 15th November, 2018 and enrolled as a Barrister and Solicitor of the Supreme Court of Nigeria, hereby give you notice of the establishment of my law office situated at No 40 Ogunsanya Drive, Surulere, Lagos-Nigeriain compliance with Rule 13 of the RPC 2007.

Please find attached copies of my qualifying certificates and other relevant documents

Thank you.

Yours faithfully,

(signature)

Ariyibi Ahmod Babatunde

(Principal Partner)

A.B ARIYIBI & CO

ENCLS:

1) Call to Bar Certificate

2) Receipt of payment of practicing fee

FINANCING A LAW FIRM

TYPES OF CAPITAL

1) **Start-up capital:** This is for provision of facilities needed by the firm such as premises, furniture, vehicle, office machinery and equipment. It should be noted that they may be bought or hired, but they must be provided before a law firm can operate. However please note that machines and equipment may be hired, rather than out rightly purchased
2) **Working capital:** This includes funds for recurrent expenditure such as utilities bills, staff salaries and wages and cost of stationery. The cost of establishing a law firm will depend on the type of firm to be established, where the firm will be established, if it is a modern firm, etc.

SOURCES OF FUNDS FOR A LAW FIRM

1. **Personal funds like savings or financial support from friends and family:** Where a legal practitioner has been in gainful employment (prior to establishing his own firm), it is quite likely that he may have some personal savings with which to establish a law firm. A legal practitioner may also raise funds from family, relatives and friends and this is also classified as personal savings.

2. **Loan or overdraft from banks or other financial institutions:** this can be source for in order to establish a law office. The difference between a loan and an overdraft is that:
    - While interest is payable on the entire amount of the loan whether utilised or not, interest is payable only on the amount of the overdraft that is utilised.
    - Secondly, overdraft is repayable on demand at any time, whereas the repayment period of a loan is fixed.
    - An ascertainable amount is required to buy fixed assets and a loan is expected to be repaid over a fixed period unlike an overdraft.
    - Money required as working capital is unascertainable and will vary over a period of time and an overdraft can be drawn when required.

In the light of the foregoing, it is advisable to apply for a loan if the fund required is start-up capital and an overdraft if the fund required is working capital.

Note that a lender may require security to be provided. It is now a criminal act to grant a loan without security or adequate security. See SS. 19 and 20 Failed Bank (Recovery of Debts) and Financial Malpractices in Banks Decree No. 18 1994. Security may be in form of real property, shares and stocks or personal guarantee.

It is advisable to consider the interest rate, bank charges, commissions, arrangement fees and other charges on a loan or overdraft from various banks before making a decision and going for the best offer. Indeed if a practitioner can otherwise provide funds, borrowing from the banks and financial institutions is not to be encouraged.

TYPES OF PREMISES

There are 3 types of premises that can be used for office accommodation. They are:

1) **PURPOSE BUILT OFFICE ACCOMMODATION-**This is a form of building purposely built for office accommodation. It is often open space but partitioned by the practitioner as he wishes.
2) **EXISTING BUILDING-** This is an existing building that is converted into a law office with considerable modifications. This is because such building is initially designed for residential use.
3) **OFFICE IN THE HOME-** A law office could be located at home whereby a legal practitioner operates from his home.

Advantage of Office from the Home

Saves overhead cost

Disadvantages of Office from the Home

- Inconvenience
- Does not convey business like image

DESCRIPTION OF PREMISES

The premises where a law firm operates is popularly called "**Chambers**" in Nigeria. This is **not appropriate** because of the **fused** nature of legal practice. The proper name should be **"Law Office"** as is called in **United States of America** where there is also a **fused** profession.

FACTORS TO BE CONSIDERED IN FINDING A LAW OFFICE PREMISES

- The location and proximity to the court
- Serene and neat environment
- Accessibility to clients

HOW TO SEARCH FOR LAW OFFICE

- Personal scouting
- Use of estate Agents
- Contact friends and colleagues
- Place and look for advertisement in a newspaper

TYPES OF STAFF IN A LAW OFFICE

Legal work in the Law Office is carried out by 2 classes of staff namely fee earners and supporting staff.

1. **Fee Earners:** These are the practitioners who do legal work and earn fees for the firm.
2. **Supporting Staff:** These are the staff that do non-legal service in the office.

Practitioners require the assistance of supporting staff to carry out non-legal work in the office. The number and type of supporting staff depends on the environment and available infrastructure. The basic supporting staff are:

i. Receptionist,
ii. Typist,
iii. Librarian,
iv. Driver,
v. Security guards, and
vi. Litigation clerk.

METHODS OF EMPLOYING STAFF

These methods include:----**AI^{2}R**

- Advertising in the Newspaper, job websites and other electronic media
- Introduction by existing and former staff
- Inviting applicants from previous interview
- Recommendation by the existing and former staff, other Lawyers or judicial officers, consultants, agencies or institutions

METHODS OF SELECTING STAFF AND SELECTION PROCEDURE

After the advertisement or recommendation as the case may be, the law firm establishes procedures for selection of staff for the job. These are:

1. Performance tests for typists, clerks etc.
2. Aptitude tests for messengers
3. Personality tests for receptionists and secretaries
4. By Interview of persons with credible recognised qualifications such as university or professional qualification
5. Job experience and area of specialisation

OFFER LETTER OF EMPLOYMENT AND ITS CONTENTS

- Job title,
- Job Description,
- Date of Employment,
- Location of Staff,
- Working Hours,

- Remuneration,
- Gratuity,
- Pension and other entitlement,
- Annual Leave,
- Sickness and Incapacity,
- Termination of Employment,
- Restraint of trade,
- Summary Dismissal

INDUCTION OF STAFF

The purpose is to inform the new staff about the culture of the office. The new staff should know the following at an induction programme-

(a) History of the firm;

(b) Administrative procedures;

(c) The existing staff

DISCIPLINARY AND GRIEVANCE PROCEDURE

A law office establishes disciplinary procedure for breach of rules governing the conduct of staff at work. These procedures and rules are stated in the **OFFICE MANUAL.** The disciplinary procedures include:

- Verbal warning,
- Formal written warning,
- Final written warning, and
- Dismissal from employment for gross misconduct.

LAW OFFICE LAYOUT

The layout of the Law Office should be properly and carefully designed. In the planning stage, several factors should be taken into account. Such factors include number of staff, future expansion, equipment and furniture etc. A good law office must have the following:

(a) Reception Room

(b) Practitioners' Room

(c) Supporting Staff Room

(d) Library

(e) Toilet, etc.

Please note however, that the most basic room requirements in the law office include (a)

(b), (c) and (e) above.

METHODS OF ACQUIRING EQUIPMENT AND MACHINES

There are essentially 2 realistic methods of acquiring equipment and machines. There are either by leasing or purchasing.

1) Leasing- There are companies that engage in leasing equipment and machines. A lease of equipment or machines may be granted to a law office. Where such a lease is granted, the law office pays a monthly rent for a term of years. It is to be noted that it is **UNCOMMON** in Nigeria for law offices to acquire equipment and machines by leasing.

2) Purchasing- On the other hand, machines and equipment can be acquired by outright purchase. Where they are purchased, the law office becomes the owner out rightly.

Law Office Machines

Machines are technologies which enable the equipment to function and also facilitate efficient performance of other functions. These technologies are:

(a) **Generator:** Due to unreliable and inadequate supply of electricity, many law offices in Nigeria resort to the use of generators. There are petrol-fuelled generators and diesel-fuelled generators. There are also low capacity and high capacity generators. The type and size to be used depends on the capability of each law office.

(b) **Vehicles:** Vehicles are also essential in a law office. This will facilitate the free movement of both fee earners and supporting staff in their outside assignments.

Law Office Equipment

The equipment needed by a law office includes the following:

1. Typewriter
2. Answering Machine
3. Photocopying machine
4. Telex Machine
5. Duplicating Machine
6. Facsimile Machine
7. Dictating Machine
8. Dedicated Word Processor
9. Rubber Stamp
10. Computer
11. Calculator/Adding machine
12. Devices using computers e.g. e-mail & internet
13. Telephone

NOTE THAT

- Proper record of these should be kept by the law office.
- This equipment should be maintained and serviced by the law office to prevent sudden breakdown.

LAW OFFICE SUPPLIES

A law office requires the following supplies as well to function effectively. The minimum and maximum level of supplies required must be ascertained and controlled. This can be accomplished by using **STOCK BOOK** to monitor supplies. They are:

1. Letterhead
2. Continuation Sheet
3. Compliment Slips

4. Business Card
5. File Jackets
6. Office Forms
7. Legal Forms
8. Other stationery e.g. ribbons, envelopes, staple pins, paper clips, cellotape etc.

LAW OFFICE ADMINISTRATION

A law office needs proper administration and management if it is to function well.To achieve proper administration and management, it must establish systems and procedure to regulate work and performance of task. These should be contained in the office manual to be displayed for all staff. The systems and procedures should not be static but prone to changes from time to time, which may be occasioned by changes in size of office or working methods in the office. The **CONTENTS OF AN OFFICE MANUAL** include:

- Working hours
- Attendance Register
- Confidentiality of Work
- Salary advancement
- Bonus provision
- Assignment of staff
- Absence and lateness
- Overtime work
- Holidays
- Salary Increment
- Annual Leave
- Reporting Structure
- File Management
- Provision of Office supplies
- Method of answering the telephone
- Procedure on receiving facsimile message
- Procedure for dealing with correspondence
- Procedure for borrowing office books

- Disciplinary Procedure
- Grievance procedure

NOTE- The differences between business plan and office manual

Ensure law office has LAW OFFICE SECURITY AND INSURANCE and FITTINGS AND FURNITURE

MANAGEMENT OF A LAW OFFICE

Type of management structure selected depends on the type of office

MANAGEMENT STRUCTURES

a) Management by a committee of partners
b) Management by all partners (mostly in small partnerships)
c) Management by a sole partner
d) Management by a sole owner (sole practitionership and proprietorship)
e) Management by associates (in an associateship)
f) Management by experts (in an associateship)
g) Management by experts who may or may not be lawyers but are appointed by the owner.

MANAGEMENT FUNCTIONS

1. Planning
2. Organising
3. Coordinating
    - Identify strategies for implementing the plans
    - Explain the main resources of a law firm
    - Explain how to co-ordinate the work flow of a law firm
    - How to implement the well planned areas
    - How to organise resources of the firm
    - Assignment/delegation/harmonisation of work
4. Controlling
5. Evaluating

The management functions should be tailored to meet the vision and mission expectations of the firms**.**

DRAFTING VISION/MISSION STATEMENTS

The **VISION of the firm** should inform everyone in the firm about the **short term goals** of the firm and thus creates commitment to it.

MARKER- immediate achievable goals of the firm

The MISSION statement must be drafted by the owners of the firm. It must state concisely the **firm's long-term goals** and should not be written in more than fifty (50) words.

MARKER- core ideals around which the firm is set up

CRITERIA FOR SETTING GOALS FOR A LAW FIRM----CRAMS

1. **Complementary:** The goals must be complementary in order for them to be achievable because if they are conflicting, achievement will be difficult. They are said to be complementary because the achievement of one brings to the achievement of others. For example, a good service rendered to a customer will make the customer to tell others about it.
2. **Related to time:** They must not be open-ended goals. As such, a realistic deadline should be set for the achievement of such goals. For example, a firm should fix a period within which it is to achieve its goals.
3. **Attainable:** The goals should be one that is realistic and attainable with the firm's resources.
4. **Measurable:** They must be formulated in such a way that it is possible to present evidence of their achievement or otherwise. For example, from evidence available, a firm should be able to tell if what it intends to achieve has actually been met or not.
5. **Specific:** It must state precisely what it is expected to achieve so that plans can be formulated for their achievement. For example, a firm should state the actual percentage it intends to achieve annually.

An example of a mission/vision statement is:

"To be a quality firm providing a range of legal services to commercial and property clients profitably and to the highest standard with partners and staff, happy and committed to this ideal and inspiring to continual development in the firm's quality standards".

An example of a goal of a firm is:

To meet clients needs with full satisfaction

ITEMS REQUIRING PLANNING

c) Finance;
d) Services;
e) Clients;
f) Facilities;
g) Staff

TYPES OF PLANNING

f. Strategic/long term planning
g. Tactical/medium term planning
h. Operational /short term planning

EXTERNAL ENVIRONMENT

Social political and economic environments

Time Management

Time is -a valuable resource to legal practitioner; hence it must be well managed.

METHODS OF TIME MANAGEMENT

This can be done

- By making a list of "things to do" and prioritising the work according to criteria of urgency and importance.
- Having a reminder system

PRIORITISING OF WORK

Types- Legal and Non Legal Work

Classification of Legal Work

- Office work
- Court related work

Order in which Legal Work may be prioritised

- Urgent legal work should take priority over others
- Court matters requiring presentation of witness on the next adjourned date

REMINDER SYSTEM

Forms- diary; notebook; phone; computer

Types of Reminder System

1. Personal Reminder System-

Types

- Office and firm diary;
- Personal diary and computer

Relevance of the office diary-

- Open for consultation by every lawyer in the law firm
- Helps lawyers in deciding dates and times to fix future activities

2. Firm Wide Reminder System-

Types

- Card index systems
- Pre-printed forms (INFORMATION IN PRE PRINTED FORM: NAME OF CLIENT; LEGAL WORK; NAME OF LAWYER; TYPE OF ACTIVITY; DATE IT WAS TAKEN; NEXT DATE IT MAY COME UP)
- Tickler slip system

- Office computers

The **MOST EFFECTIVE** reminder system is the use of diaries both for personal use and office use and PRE PRINTED FORMS/COMPUTERS.

FILING SYSTEM

- Documents should be filed either in paper form or electronically.

HOW TO CONTROL MOVEMENT OF FILE

They can be controlled by-:

- Registering incoming and outgoing files
- Devising methods of requesting and returning files
- Determining time and whether or not to dispose files

TYPES OF FILING SYSTEMS

- Alphabetical
- Non-Alphabetical System
- An Indexing System is useful and cross-references must be compiled for easy retrieval of documents.

The movement of files must be controlled and procedure devised for requesting delivering and returning of files. At the conclusion of a matter, the file should be closed and the office must decide whether to hand over the file to the client or retain it. If the file is retained, the firm will incur costs of storing it; therefore, it must be moved to low - cost storage.

The office must also devise a **RETENTION SCHEDULE** stating the length of time the file will be retained before it is considered for destruction.

LAW OFFICE RECORDS

Information required for administering the office in the short and long run should be collated, and a record of them provided for use in the office. The purpose of such records is to enhance the efficient administration of the office by providing records from which information can be readily obtained. The record that will be required in a law office includes**:**

1. Office Manual

2. Staff Register

3. Equipment and Machine Register

4. Book & Periodicals Register

6. Master File Register

7. Closed File Register

8. Referral Register

9. Internal Telephone Directory

10. Income and Outgoing Correspondence Register

11. Incoming & Outgoing Telephone Call Book

12. Visitors' Book, etc.

REQUIREMENT OF THE RULES FOR APPOINTING OF SENIOR ADVOCATE OF NIGERIA REGARDING LAW OFFICES-

Law Firm for Senior Advocate of Nigeria: Must have a standard Law office or be a partner with at least five (5) juniors and the Partnership agreement will be of at least 5 years.

To be conferred with SAN, the office must meet certain criteria. These are:

- Good and spacious size
- Good and quality library
- Sufficient facilities
- Sufficient partners or junior counsel
- Fee earners
- Sufficient and efficient numbers of trained support staff.

INFORMATION AND COMMUNICATION TECHNOLOGY (ICT) IN LAW OFFICE ADMINISTRATION

Previously, the practice of law was manual. With the passage of time, ICT became trending. It is useful to have computers and possibly virtual libraries and database (e.g. Law Pavilion)

ITEMS MAKING UP ICT

1. Modem
2. Optical disk
3. Spread sheet; etc

USAGE OF ICT----File SOC

1. **FILE MANAGEMENT:** Using ICT for effective law office administration: to keep records, files and automated diary, clients file management and automated reminder system
2. **SAFE KEEPING OF DATA:** Use of ICT in solicitor's accounting system and law office financial transactions; proper records and safeguards; back-up; fees calculation and income and expenditure analysis, using spreadsheets, excel packages and peach tree soft ware
3. **ONLINE LIBRARY:** Use of ICT in law library: catalogue management, electronic catalogue to replace paper catalogues, virtual library (online or e-library); electronic access to a physical library; search engine tools to make use of virtual library easy.
4. **CASE MANAGEMENT:** Use of ICT in case management: recording of cases in court, client interview platform with e-template form; scheduling of cases; assignment of cases to counsel on specialty basis; automated update of pending matters and status

ADVANTAGES/BENEFITS OF ICT IN LAW OFFICE---Convenient ROME^2

- **CONVENIENT** and trendy
- **REDUCTION**/elimination of errors
- Provides more **OFFICE SPACE** as there are less files
- Easy **MULTITASKING**
- **EFFECTIVE** planning and organization of office. Quick and effective delivery of tasks
- **ENHANCE** proper accounting and eliminates or reduces the falsification of accounting records

DISADVANTAGES/CHALLENGES OF ICT IN LAW OFFICE MANAGEMENT

- Lack of requisite IT skills and personnel
- System damage by virus and inferior software packages
- Easy manipulation by dishonest administrator
- Possibility of hackers breaking into the system
- Erratic and epileptic power supply
- Constant network failure
- High incidence of piracy and infringement of intellectual property rights
- Cost of acquisition
- Weather
- Information may be interfered with
- Adherence to the conditions for admissibility under the Evidence Act

SOLUTIONS TO THESE CHALLENGES

- Proper legal framework for the use of ICT products
- Proper training on IT
- Use of system back-up
- Use of effective anti-virus
- Use of genuine IT equipment and software
- Regular power supply

POSSIBLE MULTIPLE CHOICE QUESTIONS ON THIS TOPIC

1. A unit of practice involving a legal practitioner who establishes a law firm and employs other legal practitioners to work under him on the basis of employer and employee relationship is ___

A. Sole Practitionership

B. Sole Proprietorship

C. Associateship

D. Partnership

2. A unit of practice involving a legal practitioner practicing alone but employing support staff, who are not legal practitioners, to help him in the office, is ____

A. Sole Practitionership

B. Sole Proprietorship

C. Associateship

D. Partnership

3. Where two or more legal practitioners contribute capital to provide facilities to run a firm of legal practitioners, with profit and loss to be divided according to their capital contribution, this type of arrangement is known as ____

A. Sole Practitionership

B. Sole Proprietorship

C. Associateship

D. Partnership

4. ____ is where two or more legal practitioners come together to establish a firm by contributing and running the firm jointly but profit and losses are to be enjoyed/borne by each without sharing with others

A. Sole Practitionership

B. Sole Proprietorship

C. Associateship

D. Partnership

5. A document containing information about a proposed firm, its goals and the financial projections is known as ___

A. Financial report

B. Business plan

C. Financial statement

D. Stock book

6. The following are strategies for winning clients except ___

A. Expertise

B. Experience

C. Enthusiasm

D. Efficiency

7. Law offices are classified into the following except ___

A. Mini law office

B. Small law office

C. Medium size law office

D. Large law office

8. In Nigeria, there are ___ types of law firms/groups of legal practice

A. 3

B. 4

C. 5

D. 6

9. There are ____ classes of firms

A. 3

B. 4

C. 5

D. 6

10. A law office with 1-4 lawyers is classified as ____

A. Small law office

B. Sole proprietorship

C. Medium size law office

D. Sole practitionership

11. A law office with 10 lawyers and above is classified as ___

A. Medium size law office

B. Associateship

C. Large law office

D. Partnership

12. A law office with 5-9 lawyers is classified as ___

A. Small law office

B. Medium size law office

C. Associateship

D. Partnership

13. The funds for recurrent expenditure is referred to as ____

A. Start-up capital

B. Working capital

C. Expenses

D. None of the above

14. Where the fund required is start-up capital, it is advisable to go for ___

A. Loan

B. Overdraft

C. Personal savings

D. None of the above

15. Where the fund required is working capital, it is advisable to go for ___

A. Loan

B. Overdraft

C. Family funding

D. Personal savings

16. All these are types of premises for office accommodation except ___

A. Purpose built office

B. Existing building

C. Office in the home

D. Office in the building

17. The appropriate name for premises where a lawyer has his office is ___

A. Chambers

B. Law office

C. Office

D. All of the above

18. The disciplinary procedure and rules governing the conduct of staff at a law office are stated in the ___

A. Office gazette

B. Office manual

C. Office hand booklet

D. Office guide

19. ___ is used to monitor office supplies

A. Financial book

B. Stock book

C. Ledger book

D. Cash book

20. The short term goals of a law firm are as seen in the firm's ____

A. Vision statement

B. Missionary statement

C. Visionary statement

D. Mission statement

21. The firm's long term goals are as in its ___

A. Vision statement

B. Missionary statement

C. Visionary statement

D. Mission statement

22. The statement in 21 above should not be written in more than ___ words

A. 20

B. 30

C. 40

D. 50

23. The following are types of planning except ___ planning

A. Strategic

B. Tactical

C. Operational

D. Professional

24. The type of planning that is also referred to as long term planning is ___planning

A. Strategic

B. Tactical

C. Operational

D. Professional

25. The type of planning that is also referred to as medium term planning is ___ planning

A. Strategic

B. Tactical

C. Operational

D. Professional

26. The type of planning that is also referred to as short term planning is ___ planning

A. Strategic

B. Tactical

C. Operational

D. Professional

27. A law office is expected to devise a ___ stating the length of time a file will be retained before it is considered for destruction

A. Retention schedule

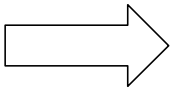
B. Retention memorandum

C. Retention agendum

D. Retention book

ANSWERS

1. **B**
2. **A**
3. **D**
4. **C**
5. **B**
6. **C**
7. **A**
8. **B**
9. **A**
10. **A**
11. **C**
12. **B**
13. **B**
14. **A**
15. **B**
16. **D**
17. **B**
18. **B**
19. **B**
20. **A**
21. **D**
22. **D**
23. **D**
24. **A**
25. **B**
26. **C**
27. **A**



12. LEGAL RESEARCH AND CLOSING OF FILES

1. EXPLAIN THE IMPORTANCE OF LEGAL RESEARCH

A legal practitioner can only exhibit knowledge and skill in a legal matter if he or she possesses research skills and this is necessary in order to carry out effective legal practice. It is the fact of the matter that will form the basis of legal research. After establishing the facts of the matter, the legal practitioner must classify the matter into a legal category. The legal practitioner must sift the facts to compress them into specifics to aid the research process.

- Law governs conduct of individuals, firms and organization's activities. The law is dynamic and it keeps on changing. Hence, legal practitioners must find the current law. The only way to find the appropriate current law is to have good research skill.
- Legal research before a client interview helps legal practitioners acquaint themselves with the position of the law on the subject matter.
- It determines if a client has a legal case.
- It helps in preparation for ADR or preparation for trial.
- It gives a lawyer an overview of applicable law and it charts out the course of action to take.
- It helps the lawyer to think on his feet
- Before a legal research, a lawyer must analyse the legal problem to ascertain the type of law applicable to a given problem e.g. Statutory, Customary, Islamic Law, etc.

Hints on legal research

- Legal research should be planned and meticulously carried out.
- A legal practitioner should possess good dictionaries that must include: English dictionaries, dictionaries of Latin words and phrases, Law dictionaries particularly the latest edition of Black's Law dictionary
- A legal practitioner must take notes while doing research. The notes must include the date, place and time of the research.
- He must also remember to keep citable records of the sources of his information; authors of books, writers of and sources of articles.
- The sources of documents photocopied where information or the exact words of documents are required must be noted on such copies.
- Colleagues with vast knowledge in specific area of law should be consulted for guidance on research.
- Also administrative and court officials may be consulted on subject matters they are very conversant with for guidance on matters within their knowledge.
- Legal research may also be viewed as a way of seeking information concerning legal matters.

Comment [H48]: For a lawyer to remain relevant he needs to be able to do legal research. A lawyer must know where to find the law. Finding relevant law reports and statutes is a necessary prerequisite to preparing any legal advice. To achieve success in practice you must be able to know your way around a law library and be able to navigate legal databases on the internet. You must know how to use physical law library and electronic sources.
Legal research could be manual or electronic research. - Indexes are useful tools in legal research.

Comment [H49]:
As the law changes daily it is important that you know how to keep abreast of the changes. You must change with the law else you will become out-dated. You start to loose clients if you fail to improve.

Comment [H50]: ➢Array of dictionaries
➢Note taking or jotting of key points
➢Photocopies of vital documents
➢Consultation of colleagues and court officials
➢Make it a habit to read case law and pay more emphasis on ratio instead of obiter
➢You cannot rely on obiter as ratio
➢Learn to distinguish cases
➢You just learn to set aside time each week to look at current legal development

Comment [H51]: Legal classification of a matter
-The analytical skills acquired during the course of legal education will be used to classify the matter into a legal category
-Thus matters can be categorized as either international or domestic law
-It may further be categorized as either criminal or civil
-It may be classified under specific area of law
-It could be substantive or procedure, and
-It could be specific area like pre-trial, trial or post trial matter

- There is need to identify applicable Laws, relevant case law, etc applicable to specific cases
- Every lawyer should always research, especially in novel areas of law or knowledge generally.

2. EXPLAIN THE SOURCES OF MATERIALS IN LEGAL RESEARCH

(a) Sources of materials in legal research

- Primary sources
- Secondary sources; and
- Tertiary sources

NB: There is a fourth source called the 'Hybrid source'. The legal practitioner must learn how to use legal literature. This entails understanding their form, especially those of primary sources. Where the applicable law on a matter is unwritten Customary Law, it may be necessary to ascertain the rule of Customary law. This can be done by calling witnesses to testify on the point of Customary Law.

(b) Sources of Nigerian law

- Received English Law;
- Nigerian Legislation;
- Nigerian Case Law;
- Customary law; and
- Islamic Law.

3. EXPLAIN WHEN AND HOW CLIENTS FILES ARE CLOSED IN A LAW OFFICE

Once a case or transaction is concluded, the legal practitioner should close the file in respect of that case or transaction. Note that the file meant to be closed here is the file opened for a particular case or transaction i.e. brief handled for a client by the lawyer and not the client's own file with the firm or the lawyer.

The client's own file is a file usually opened by the lawyer or firm in the name of individual or corporate client particularly where client is a retainer client and it generally remains open until the retainer is terminated. This client's personal file generally remains open even when the file in respect of a particular case, transaction or brief handled for that client has been closed.

A file is usually closed only when the case or other brief in respect of which the file was opened has been concluded, or brief is otherwise brought to an end. When a file is closed, two parallel lines will be drawn across the face of the file and the word —CLOSED‖ in upper case letters written in between the parallel lines. The file is then tied up with ribbons and placed in file case.

Comment [H52]: Primary sources are: (i) books of law such as statute books (Laws of the Federation of Nigeria 2004. Laws of various States of the Federation /gazettes, etc). (ii) Law reports such as the Nigerian Weekly Law Reports, Nigerian Supreme Court cases etc. The Quran is also a primary source of law.

Comment [H53]: Nigerian law can also be found in secondary sources of Law. These are books about law rather than books of law. These books explain the law and they are the author's understanding and interpretation of the law. Unlike primary sources of law, they are not binding on courts, but provide a guidance to practitioner on the area of law.

Comment [H54]: Nigerian Law can be found in tertiary sources of Law. These are books about law, but unlike secondary sources; they do not explain the law. Instead they direct the practitioner on where to find the law. Therefore, they are sometimes referred to as finding tools. e.g. indexes.

Comment [H55]: To find the law applicable to a matter, a legal practitioner must know the sources of the law. If Nigerian Law, it is one or more of these sources of law that will govern a matter.

Comment [H56]: Preliminaries……
- There must be an end to litigation
- Files must be opened at the commencement of a matter. Once a lawyer takes a brief a file must be opened. This is necessary so the lawyer doesn't lose certain important information or material that relates to that matter
- Files must be closed at the end of a matter
- Closed files are stored at a location

Case file would usually have the suit number and name of parties to the suit or the subject matter of the file written on its spine for easy future identification and retrieval. **Such a file is then filed on the shelve or is kept in the cabinet or a separate room (if any) meant for closed files otherwise called archive,** and in that case the file would be said to have been archived. **It is usual for the lawyer or law firm to keep an index or register of closed files.**

4. EXPLAIN THE NECESSARY MATTERS TO BE DEALT WITH AT THE TIME OF CLOSING A FILE

- Fees
- Custody of documents
- Right of client to original documents given to lawyer and documents created for use in his case
- Photocopies
- Length of period for keeping files
- Self assessment/audit

Modes of destroying a file

- Burning
- Shredding
- Any manner adopted by the law firm

5. DRAFT A LETTER TO A CLIENT CLOSING A FILE

At the conclusion of a matter, the solicitor normally writes a letter to the client informing him of the closing of his file and demand for the firm's outstanding fees, if any. **Such letters are usually accompanied with a bill of charges for any outstanding fees, or a receipt for payments already made as the case may be.**

(SEE YOUR SAMPLE LETTER AND FOLLOW THE RULES)

Comment [H57]:
Whose property is it?
- ❖It remains the clients property
- ❖It should be returned to him
- ❖If client fails to collect the file after a reasonable notice has been given, it may be destroyed
- ❖Before destruction, the firm may elect to store the content electronically

Merits of returning the file to the client
- -It gives the client opportunity to appraise the work you have done
- -Opportunity to appreciate cost of the work done
- -Law firm is saved the responsibility and cost of preserving the file

Factors that may lead to retention or destruction
- ❖The nature of the materials in the file
- ❖Whether there is the need to return such materials to the client
- ❖Whether the file contains special papers which ought to be retained indefinitely

When to destroy…
1. After a period of two or three years
2. Relevant date may be from the date of close of the case or notification
3. Closed files may however be retained for **a maximum period of seven years.**
4. The time the matter becomes statute barred may be used as a model to determine when to destroy a case file. NO OF YEARS IN STATUTE OF LIMITATION + 1 YEAR, IF ABOVE 17 YEARS= GET RID OF THE FILE
5. The file may be retained indefinitely

13. REMUNERATION OF LEGAL PRACTITIONERS AND LEGAL PRACTITIONERS' ACCOUNT

REMUNERATION OF LEGAL PRACTITIONERS REMUNERATION 1

1. EXPLAIN AND DISCUSS THE RULES AND PRINCIPLES APPLICABLE TO LEGAL PRACTITIONERS' REMUNERATION INCLUDING THE PROCESS OF RECOVERY OF CHARGES

(a) Rules and principles applicable to legal practitioners' remuneration

The general rule is that a legal practitioner must be paid for work done. It is unprofessional to over/under charge. The client should be informed about the fees of the legal practitioner **BEFORE INTERVIEW.**

From the above, a legal practitioner is to be paid for the services rendered; this does not mean that a legal practitioner must be paid every time he renders any legal services. Thus, in pro bono cases, a legal practitioner is not paid.

Types of fees

1. Contingent fee (Success based fee – only applicable in civil matters): Contingent fee is covered by Rule 50 RPC. Rule 50(5) RPC defines contingent fee as a fee paid or agreed to be paid for the lawyer's legal services under an arrangement whereby compensation is contingent, in whole or in part, upon the successful accomplishment or deposition of the subject matter of the agreement; it may be an amount which is either fixed or is to be determined under a formula. That is, compensation is dependent in whole or in part upon the successful accomplishment of the subject matter. This is why it a called a success based fee. With regards to the taxation of the fees of legal practitioner, a contingent fee is taxable under **Ss. 17 & 18 of LPA.** Therefore, if upon an application for taxation, it is found not to be commensurate to the work done, it will be reduced or increased accordingly.

2. Hourly fee: In this regard, fees are charged hourly. It is predominantly in use in UK and USA. There is no provision for it under the Nigerian law, thus it is not applicable in Nigeria. It is determined by the number of hours the lawyer has put into the transaction. **The hourly rate is best for solicitor's work (this is better used for solicitor work).** This is mostly for consultation. The client must be notified before charging him hourly.

Comment [C58]: Rule 48(1) RPC provides that a lawyer is entitled to be paid adequate remuneration for his services. Also a legal practitioner must not charge an apparently excessive fee or a fee which is tainted with illegality. This is because Rule 48(2) RPC provides that a lawyer shall not enter into an agreement for, charge or collect an illegal or clearly excessive fee.

Retainer: This is an agreement by a lawyer to give his services to a client. **Under retainer, there is general and special retainer.** General retainer is a retainer which covers the client's work generally (cannot act against the client in any matter). Special retainer is a retainer which covers a particular matter of the client (can act against the client in matter not contained in the special retainer). Without a retainer, a legal practitioner cannot act for a client. When a lawyer accepts a retainer in respect of litigation, he shall be separately instructed and separately remunerated by fees for each piece of work.

Comment [C59]:
PRO BONO SERVICES OFFERED TO:
- Indigent persons
- Clients with long standing relationship
- Friends
- Family members---SEE **S. 9(2) LPA, RULE 52(1) RPC**

3. Appearance fee: This is fee charged by a lawyer upon any appearance he made in court. Usually, an appearance fee covers transportation, feeding, lodging, and other incidental expenses. Appearance fee is usually charged in addition to other professional fees of the legal practitioner. However, it may be built into the professional fees charged by the lawyer depending on the relationship between himself and the client---SEE **OKONEDO V JULIUS BERGER**

4. Percentage fee: This is the fee charged depending on the value of the subject matter of the services rendered by legal practitioner. It is usually used in conveyancing e.g lease, assignment, mortgage, **which is usually 10%**. It is subject to taxation pursuant to **Ss. 17&18 LPA, FBN PLC NDOMA EGBA**

5. Fixed fee: This type of fee is usually charged for non-contentious matter. For instance, conducting search in Land registry or at the Corporate Affairs Commission.

Comment [d60]: SANS USE THIS MOST OF THE TIME.

6. Quantum Meruit fee: Rule 18(1) RPC provides that a client shall be free to choose his lawyer and to dispense with his services as he deems fit provided that nothing in this rule shall absolve the client from fulfilling any agreed or implied obligations to the lawyer including the payment of fees. Thus, once a lawyer has been debriefed, he must be paid according to the services he has performed.

7. Scale fee: This stipulate the amount a legal practitioner can charge based on a particular transaction. It is usually fixed.

- Scale I- Purchase and sale of land, mortgages
- Scale II- Leases
- Scale III- Matters not in scale I & II

8. Commission fees

9. Gearing

10. Task based billing: Nature of work carried out by the solicitor.

Guidelines for fixing the amount of the fee: The fees charged by a legal practitioner will depend on whether it was a contentious work (litigation) or a non-contentious work (legal documentation and land matters). Where work done is **contentious work (litigation)**, the fees will be determined by the following criteria provided for in Rule 52(2)(a)–(g) RPC.

They are:---**TEN C^3ABS**

Comment [C61]: See Rule 52(2)(a)-(g) RPC. Note that in determining the amount of the fee, the lawyer may take into account any or all of the aforementioned considerations in ascertaining the value of the service rendered.

- **Time and labour** required
- **Employment loss:** Loss of other employment while employed in the particular case
- **Novelty and difficulty** of the questions involved
- **Contingency or certainty** of the compensation; and

- **Client involved:** The character of the employment, whether casual or for an established or constant client.
- **Customary charges** of the bar for similar services. He is not bound to follow this.
- **Amount involved** in the controversy and the benefits relating to the client from the service.
- **Brief preclusion:** Precluding the legal practitioner accepting briefs that are likely to arise from the transaction.
- **Skill required** to defend the cause properly.

Where the work is **a non-contentious work** (legal documentation and land matters), the fees shall be determined in accordance with the Scales provided in the Legal Practitioners (Remuneration for Legal Documentation and other Land Matters) Order, 1991. These scales are fixed and they stipulate the amount a legal practitioner can charge based on the transaction done. The scales are:

a) Scale I for sale and purchase of land and Mortgages
b) Scale II for Leases
c) Scale III any other matter not provided for in Scales I& II

Comment [d62]:
- When the parties agree to charge under scale III
- Any Matters not covered under scale I and II.
- When the legal practitioner elects to charge under scale III

(b) Process of recovery of fees

There are instances where a client refuses to pay a legal practitioner for the services rendered to such client. The procedure for recovery of charges is adequately spelt out in **S. 16 LPA.** The procedure was affirmed and explained by the Supreme Court in **OYEKANMI v. NEPA**

S. 16(1) LPA provides that subject to that section, a legal practitioner shall be entitled to recover his fees and charges in any court of competent jurisdiction. Accordingly, **S. 16(2) LPA** provides **the conditions precedent before** commencing such action to recover fees by providing that a lawyer shall **not** be entitled to bring an action to recover his charges unless he satisfies the following three conditions namely:---**BiSEC**

- **Bill of charges preparation:** he must prepare a bill of charges which must duly particularize the principal items of his claim and it must be duly signed
- **Service of BOCs:** he must serve his client with the bill of charges either by personal service on him or at his last known address or by post to the last known address.
- **Expiration of one month:** he **must allow a period of one month to elapse** from the date the bill was served before commencing the action
- **Commencement of action:** Where after the expiration of the one (1) month period, the client is still in default of payment, then the lawyer can commence an action for recovery of the fees at the **State High Court---SEE Ss. 16(2) & 19(1) LPA; BAKARE v. OKENLA; OYEKANMI v. NEPA; BAKASSI LOCAL GOV'T COUNCIL v. BASSEY**

NB: These are mandatory conditions and must always be complied with. However, where after the service of the Bill of charges on the client, it appears to the legal practitioner that the client

intends to abscond without payment or do any act which would unreasonably delay payment, then the lawyer may do away with the condition of waiting for one month by proceeding in accordance with **S. 16(3) LPA.** In such a situation, the lawyer shall apply to the Court by way of a MEP+A which must show the following:

- That he has delivered a Bill of charges to the client. He may attach same to the affidavit.
- That, on the face of it, the bill of charges appears to be proper in the circumstances.
- That there are circumstances indicating that the client is about to do some act which would probably prevent or delay the payment to the legal practitioner of the charges.

If the court is satisfied of the above, then it may, notwithstanding that the one (1) month period has not elapsed, direct and authorize the lawyer to commence and prosecute an action to recover the charges unless before judgment in the action, **the client gives such security for the payment of the charges as may be specified in the direction.**

Content of bill of charges: The LPA seems to be silent on the content of bill of charges, however, the Supreme Court in **OYEKANMI v. NEPA** made adequate provision on its content. The court stated that section 16(2) (a) LPA requires that a bill of charges shall contain particulars of the principal items. A general guide as to the form, content, and purpose of a bill of charges would be:

- It should be on a letter headed paper
- The bill should be headed to reflect the subject matter of the legal work performed by the legal practitioner. If it is in respect of litigation, the court, the suit number, and the parties should be stated.
- The bill should contain particulars of all the charges, fees and professional disbursements for which the legal practitioner claims. Professional disbursement include payment which are necessarily made by the legal practitioner in pursuance of his professional duty such as court fees, witness fees, cost of production of record e.t.c if paid by him
- The bill should contain all the charges, fees and disbursements which the legal practitioner did on behalf of the client
- It is required to give sufficient information in the bill such as the particular scale used in calculating the Bill if it was legal documentation. This is to enable the client to obtain advice as to its taxation and for the taxing officer to tax it.
- It should also contain a summarized statement of the legal work undertaken by the lawyer and where they are of particular novelty or there are peculiarities which may justify the fees charged, they should be clearly stated
- The standing and rank of the legal practitioner may also be stated where necessary.
- The bill of charges must be dated
- It must contain the signature, name and address of the lawyer that prepared it; or in the case of a firm, it should be signed by one of the partners on behalf of the firm.
- It should contain the client's address for service.

Rationale for the itemization or particularization of a bill of charges: The reasons why it is proper and better to itemize or particularize the bill of charges are as follows:

- Where the bill of charges is itemized or particularized, it affords the client a clear picture of the grounds for the charges, fees and disbursements claimed by the lawyer in the bill
- It makes it easier for the client to choose which item of work to acknowledge and consequently admit the bill attached to it
- An itemized or particularized bill of charges facilitates the taxation of the bill by the taxing officer in accordance with the LPA

It is necessary to indicate against each of the particulars given in the bill of charges, a specific amount taking into account, the status and experience of the legal practitioner and the time and efforts involved.

Status of a bill of charges with insufficient particulars: Where a bill of charges has insufficient particulars, it may still be able to ground an action for recovery of fees provided it is not so defective as to be incurably bad.

2. DRAFT BILL OF CHARGES AND STATEMENT OF CLAIM FOR THE RECOVERY OF CHARGES

(a) Bill of charges

K. C ANEKE & CO
LEGAL PRACTITIONERS AND SOLICITORS
NO 2. LAW SCHOOL DRIVE, VICTORIA ISLAND, LAGOS
Email: Kundycmith@gmail.com
Phone: 07053531239

OUR REF: _____ YOUR REF:_____ DATE: 13 April 2019

Mallam Sani Idi
No. 5 Balarabe Crescent,
Sabon Gari,
Kano.

Dear Sir,

BILL OF CHARGES

This is to notify you of the charges for the representations made on your behalf in the case of Mallam Sani Idi v. First Bank of Nigeria Plc LD/33133/19. The charges are as follows:

1. Nature of professional service: litigation
2. Name of case: Mallam Sani Idi v. First Bank of Nigeria Plc LD/33133/19.
3. Particulars of charges:

S/NO	DATE	PARTICULARS OF WORK DONE	AMOUNT (₦)
1	13/04/2014	Drafting and filing of Writ of Summons	20, 000
2	******	Drafting and filing of Statement of Claims and Witness statements on oath	20, 000

Comment [C63]: Note, Rule 21 of RPC, on duty of a legal practitioner not to withdraw from an employment once assumed, except for good cause such as
- Conflict of interest between the lawyer and the client
- Where the client insists on an unjust or immoral cause, in conduct of his case.
- If the client persist against the lawyer's advice and remonstrance in pressing frivolous defenses; or
- If the client deliberately disregards an agreement or obligation as to payments of fees and expenses.
- When a lawyer is justify to withdraw, he is to notify the client and give him reasonable time to get another lawyer. Rule 21(3) RPC.
- Also, a lawyer who withdraws and has been paid in full is to refund such part of the fees as has not been clearly earned. Rule 21(4) RPC.

Comment [C64]: See OYEKANMI v. NEPA (2000) 12 SCNJ 75, where the SC held that where a bill of charges did not contain sufficient particulars of the items of work done, but there were surrounding circumstances which made the bill litigable despite the defect, the Bill of Charges may still ground an action for recovery of fees unless it is so defective as to be incurably bad. See also RE A SOLICITOR; FBN v. NDOMA EGBA (2006) ALL FWLR (PT. 307) 1012

Comment [C65]: TWO FORMATS OF DRATING A BOCs
- DRAFT IT INSIDE A LETTER
- DRAFT IT ON ITS OWN WITH A DATE CLAUSE AND AN ADDRESS FOR SERVICE ON THE CLIENT AT THE END AND SEND IT TOGETHER WITH A COVERING LETTER

3	******	Drafting and filing of motion ex parte for interim injunction	3, 000
4	*******	Arguments for the motion ex parte for interim injunction	5, 000
5	*******	Drafting and filing of motion on notice for interlocutory injunction	6, 000
6	******	Arguments for the motion on notice for interlocutory injunction	8, 000
7	*******	Interviewing of six plaintiff/claimant witnesses in chambers at #4000 per witness	24, 000
8	*******	Conducting the hearing of the case till judgment	500, 000
9	*******	Transport costs for 25 appearances at #1,000 per appearance	25, 000
10	*******	Accommodation at Parkview Hotel for 25 nights at #10, 000 per night	250, 000
		TOTAL	861, 000. 00 (Eight hundred and Sixty One thousand naira only)

Kindly take note that you are expected to make the payment into the firms Account number: 0126651574 with Guarantee Trust Bank Ltd, on or before _____ day of _____, _____

Thank you in anticipation of your usual co-operation.

Yours faithfully,

_____
K. C Aneke, Esq.
For: K. C & Co.

K. C ANEKE & CO
LEGAL PRACTITIONERS AND SOLICITORS
NO 2. LAW SCHOOL DRIVE, VICTORIA ISLAND, LAGOS
Email: Kundycmith@gmail.com
Phone: 07053531239

OUR REF: _____ **YOUR REF:_____** **DATE: 13 April 2019**

Mallam Sani Idi
No. 5 Balarabe Crescent,
Sabon Gari,
Kano.
Dear Sir,

BILL OF CHARGES

This is to notify you of the charges for the purchase, made on your behalf, of the property at 5 XYZ Zone, Victoria Island, Lagos, covered by Certificate of occupancy*****, registered as**** and dated****. The charges are as follows:

1. Nature of professional service: Purchase of property
2. Particulars of charges:

S/NO	DATE	PARTICULARS OF ITEMS	AMOUNT (₦)
1	13/01/2015	Expenses incurred in conducting search on property	15, 000
2	24/01/2015	Fee for negotiating purchase of property	5, 000
3	27/01/2015	Preparation of Contract for sale of land	20, 000
4	3/02/2015	Investigation of title	5, 000
5	4/02/2015	Preparation of deed of assignment	5, 000
6	7/02/2015	Perfection of transfer	10, 000
		Total	60, 000 (Sixty thousand naira only)

Note that this Bill of Charges was prepared in accordance with Scale I of the Legal Practitioners (Remuneration for Legal Documentation and other Land Matters) Order, 1991.

Yours faithfully,

_____

K. C Aneke,Esq.
For: K. C & Co.

(b) Statement of claim for recovery of charges

IN THE HIGH COURT OF LAGOS STATE
IN THE LAGOS JUDICIAL DIVISION
HOLDEN AT LAGOS

SUIT NO:

BETWEEN

1. ABC }

2. XYZ}----------CLAIMANTS

(carrying on Legal practice under the name and style of K. C Aneke & Co.)

AND

MRS KAYUBA ADA…….. DEFENDANT

STATEMENT OF CLAIM

Comment [C66]: APPLY YOUR CIVIL LITIGATION KNOWLEDGE HERE

3. EXPLAIN THE PROCESS OF TAXATION OF BILL OF CHARGES

When a client perceives that the bill of charges presented to him by a legal practitioner is too high or excessive, the client has the option of applying to court for the bill of charges to be taxed. Also the legal practitioner can apply for taxation where he feels that the fee is low. Taxation of bill of charges is a process of assessing the bill of charges by an officer appointed by the court or the court itself. Taxation of bill of charges is covered by **Ss. 17, 18, 19 LPA.** Under the provisions of the LPA, there are three stages in which the bill of charges can be taxed, namely:

- After the service of the bill of charges on the client but before instituting an action to recover the charges by the lawyer. That is, before the expiration of the one (1) month period---**S. 17(1) LPA**
- After expiration of one month and during pendency of action---**S. 17(2) LPA**
- After judgment has been delivered—**S. 17(3) LPA**

Of importance is that taxation can only be carried out upon issuance of a bill of charges and can still be done even after client has paid the charges. Also, taxation only comes up when there is dispute as to payment of legal practitioner's fee and a bill of charges has been served on the client.

1. First stage: Under the first stage of taxation of charges, when upon the delivery of the bill of charges to the client and **the client within the period of one month apply for the taxation of the bill of charges**, then the court shall order that the bill be taxed and no action to recover the charges shall begin until the taxation is completed.

Application for taxation within this period can only be done by the client and the court is under a duty to grant an order for taxation---NOT DISCRETIONARY. However, an order for taxation shall not be made under section 17(1) LPA where a direction has been made by the court under section 16(3) LPA directing the client to give security and the client has failed to comply with that direction.

2. Second stage: Under the second stage of taxation of charges, when upon expiration of the one month, **either the client or the legal practitioner can apply for taxation of the bill of charges.** This could be done prior to institution of an action by legal practitioner, in which case, no action will be commenced until the completion of the taxation. Also, it could be during an action instituted by a legal practitioner and upon application for taxation, such action shall be stayed. Here, the power of the court to order for taxation is DISCRETIONARY.

3. Third stage: Under the third stage of taxation of charges, **no order for taxation will be made by the court after the expiration of 12 months from the date on which the bill in question was paid.** However on special reasons, the court may make an order of taxation if 12 months have expired since the date of the delivery of the bill of charges or if judgment has been given in an action to recover the charges in question. The last limb seems to reveal that there can still be

taxation of bill of charges after a judgment has been delivered with respect to recovery of charges by a lawyer.

The bill of charges is taxed with regard to the skill, labour, and responsibility involved and the circumstances of each case---**S. 18(1) LPA**. Taxation is usually done in presence of both the legal practitioner and client. If either is absent, it can be done or an adjournment be made under special reasons. Under **S. 18(2) LPA**, taxation is done by the taxing officer as appointed. **S. 18(3) LPA** is to the effect that in appropriate circumstances, the taxing officer can refer taxation to the court. The court in this like can proceed to tax the bill of charges itself or refer it back to the taxing officer with direction. If any of the parties is not satisfied with taxation of a bill by the taxing officer, **such party can within 21 days appeal to the court---S. 18(5) LPA.**

Subject to any order made by the court, the legal practitioner will bear the cost of taxing the bill if the amount given by the court or taxing officer is less than that in the bill **provided the difference is not less than one sixth of the bill before taxation**. If otherwise, the costs is payable by the client---**S. 18(7) LPA.**

After taxation, certificate of the amount is usually issued, signed by taxing officer---**S. 18(4) LPA. Application for taxation is made to the High Court of a State---S. 19(1) LPA**

Summary of the process of taxation of bill of charges

- Draft the bill of charges
- Deliver same to the client
- Apply that the bill of charges so delivered be taxed.
- The bill of charges should be subject to taxation within one month of its being received. At this stage, such application is as of right pursuant to Section 17(1) LPA.
- After the expiration of a period of one month, an application for taxation of a bill of charges can still be made by the client but such application must be supported by
    a. Motion on notice
    b. Affidavit in support stating reasons for the delay.
- By virtue of section 18(5) LPA, after taxation by the taxing officer, an application for review may be made to the High court within 21 days after completion of taxation. It has however been held that the High court may not have the jurisdiction to vary amount declared by the taxing officer after completion of taxation---**OKENEDO EGHAREGBEMI V JULIUS BERGER**

LEGAL PRACTITIONERS' ACCOUNT 2

1. EXPLAIN AND DISCUSS THE PROVISIONS OF LEGAL PRACTITIONERS ACCOUNTS RULES, TYPES OF ACCOUNTS, TYPES AND OBJECTIVES FOR BOOKS OF ACCOUNTS, SOURCES OF CLIENT'S MONEY AND HOW TO DEAL WITH CLIENTS AND TRUST MONEY

Comment [C67]: CONDUCT OF TAXATION OF BILL OF CHARGES
✓Free and fair hearing of each parties claim is a norm when a bill of charges is to be taxed.
✓The amount declared by the taxing officer as the correct amount must be stated in the certificate and filed in the court
✓Parties are entitled to copies of such certificate

Comment [d68]: Recovery of fees by a legal practitioner can only be done after ONE MONTH of service of the bill of charges.

Comment [C69]: Query: what happens where the client waits for a period of two months after the bill of charges was served on him before applying for the bill of charges to be taxed?
Yes, the client can bring an application for extension of time to apply for taxation. The application will however not be granted where there is a suit pending.

Comment [d70]: An application for review may be made, but the court will not have jurisdiction

Comment [C71]: READ THE RULES

(a) Provisions of the LPAR

Legal Practitioners' Accounts Rules 1964 – a subsidiary legislation of the Legal Practitioners Act. Meant to regulate the way legal practitioners handle money (client money, trust money)

LPAR is divided into 5 parts:

Part I – Rules 1 and 2 deal with definition of major terms used in the LPAR

Part II - Rules 3-12 deal with clients' accounts (how they should be handled and dealt with by legal practitioner

Part II - Rules 13-20 dealing with trust accounts

Part IV - Rules 21-22 dealing with the inspection of the legal practitioners' account books. Legal practitioners are expected to keep certain type of accounts and these books can be inspected

Part V – Rule 23 dealing with exemption clauses (persons exempted from complying with the provisions of the rules) – persons in the Federal or State employment or in full time employment with statutory or local authorities

Part I – definition of terms in LPAR
Rule 2 defines:

- Client as persons on whose account the Legal Practitioner holds or receives client's money
- Client's money includes money held or received by a Legal Practitioner on account of a person for whom he is acting. Client's money shall not include trust money
- Client account means a current or deposit account at a bank in the name of the Legal Practitioner, the title of which the word 'client' appears
- Trust money means money held or received by Legal Practitioner which is not client money and which is subject to a trust of which the Legal Practitioner is a trustee whether or not he is solicitor trustee of the trust
- Trust bank account: a current or deposit account the title of which the word 'trustee' or 'executor' appears kept at a bank in the name of the trustees of the trust and kept solely for money subject to a particular trust of which the Legal Practitioner is a solicitor trustee (i.e. LP is one of the trustees)
- Solicitor trustee means a LP who is a sole trustee or who is a co-trustee with his partner, clerk or servant or with more than one of such persons
- Controlled trust means a trust in which the LP is a sole trustee or co-trustee with one or more of his partners or his clerk or servant

(b) Types of accounts

The LPAR provides for three types of accounts a legal practitioner is expected to keep, namely:

Comment [C72]: **LPAR 1964** provides that all legal practitioners should keep proper books of account in relation to their practice.

Comment [C73]: **REASON FOR KEEPING THESE SEPARATE ACCOUNTS:**
1.The necessity of keeping clients' money separate from that of the LP both in the bank and in the books kept by him
2.It enables the LP to assess the value of his practice at any given time
3.It enables the LP to know debtors and creditors at a glance
4.In case of partnership, partners know what the partnership is worth and the amount due to them individually
5.It helps the LP to know the amount belonging to a particular client at any given time (keeping proper cash books and ledger relating to dealing with each client since client account will have various clients' money in it)
6.Helps to differentiate btw one client's money from another
7.Helps for assessment of individual or partnership tax at the end of the financial year

- Personal, individual or partnership account,
- Client account; and
- Trust bank account

1. Personal, individual or partnership account: A Legal Practitioner must keep his **personal money** in an account so designated. Such should not be deposited into a Clients account or a trust bank account.

2. Client account: The general rule as found in **RULE 3 LPAR** states that all **client's money** must without delay, be paid into a client account and must not be mixed with the legal practitioner's own money or paid into his account. Thus, the client account is expressly different from the personal or office account of the legal practitioner. Note that a legal practitioner can have a minimum of one account as client account, however if occasion demands, he can have as many client accounts as possible and such should be designated.

Comment [d74]: Client account means a current or deposit account at a bank in the name of the Legal Practitioner, the title of which the word 'client' appears MUST BE OPENED IN THE LEGAL PRACTITIONERS NAME. THIS IS BECAUSE THE LEGAL PRACTITIONER WILL BE THE SIGNATORY TO THE ACCOUNT.

Comment [C75]: Client's money includes money held or received by a Legal Practitioner on account of a person for whom he is acting. Client's money shall not include trust money

Client's money is defined in Rule 2, to exclude trust money and legal practitioner or a member of his firm's money. The monies payable into client account are provided for under **RULE 4 LPAR** as follows:

- Trust money
- Money belonging to the legal practitioner as may be necessary for the purpose of opening and maintaining the client account
- Money to replace any money which the legal practitioner mistakenly or accidentally withdrew from the client account
- Monies collected by the legal practitioner on behalf of the client
- Any cheque or draft containing both client money and trust money which the client did not split, the lawyer can pay the lump sum into the client account pending when he splits it.

Comment [d76]: Where client and trust monies are lumped together.

Comment [C77]: NOTE LEGAL PRACTITIONERS MONIES SHOULD NOT BE IN THE CLIENT ACCOUNT UNLESS IT IS SAME THAT WAS USED TO OPEN IT.

However, there are exceptions under which the above mentioned monies would not be paid into client account. They are provided for under **RULE 9 LPAR** as follows:

- Where the money is received by the legal practitioner in the form of cash, which, in the ordinary course of business, is immediately paid out in cash to the client or a third party.
- Where the money is received by the legal practitioner in the form of a cheque or draft which, in the ordinary course of business, is endorsed either to the client or to a third party and is not passed to the legal practitioner through a bank account
- Money which the legal practitioner pays into a separate banking account opened or to be opened in the name of the client or of some other person nominated by the client.
- Where the client expressly states, in writing, that it should not be paid into client account
- Where the money is received by the legal practitioner for the payment of a debt due to him from the client or for re-imbursement, which debt or re-imbursement the client has acknowledged in writing.
- Money paid to defray cost incurred by the lawyer while acting for the client
- Fee paid to the legal practitioner by client for work done.

Withdrawal from client account

By **RULE 7 LPAR**, the following money can be withdrawn

- Money properly required for a payment to the client or on his behalf
- Money properly required for the payment of a debt due to the legal practitioner from the client or for re-imbursement, which debt or re-imbursement the client has acknowledged in writing.
- Money withdrawn on client's authority; that is, when the client instructs in writing
- Money properly required for the payment of the legal practitioner's costs where a bill of charges has been delivered to the client and the client has been notified in writing that money held for him will be applied towards the satisfaction of such costs.
- Trust money paid into client account can be withdrawn and paid into trust account
- Money belonging to the legal practitioner which were used to open or maintain the client account can be withdrawn
- Money paid into the client account accidentally or by mistake can be withdrawn

RULE 8 LPAR provides the procedure for withdrawing from clients account:

- By cheque in the name of the legal practitioner
- By transfer to a bank account in the name of the legal practitioner.

3. Trust account: RULE 13 LPAR provides that all money be held by a legal practitioner as a solicitor-trustee other than money paid into a client account must be paid without delay into the trust bank account of the particular trust. Thus, trust money is paid into this account.

By **RULE 14 LPAR**, money to be paid into trust account are:

- Money held by him as solicitor-trustee
- Money subject to the particular trust
- Money belonging to the solicitor-trustee or co-trustee that may be necessary for the purpose of opening or maintaining the account.
- Money to replace any sum which may have been withdrawn from the account by mistake or accident.

Generally, money held for a particular purpose, the deposit paid by purchaser to a vendor's solicitor as a stakeholder may be paid into the trust account. Aside from the money indicated, a legal practitioner is not to pay any other money into the trust account---**RULE 15 LPAR**

Withdrawal from trust account

By **RULE 16 LPAR**, The following may be withdrawn from a trust bank account

- Money properly required for a payment in the execution of a trust
- Money paid by the solicitor-trustee into a trust bank account for the purpose of opening or maintaining the account; or

Comment [C78]: Trust bank account: a current or deposit account the title of which the word 'trustee' or 'executor' appears kept at a bank in the name of the trustees of the trust and kept solely for money subject to a particular trust of which the Legal Practitioner is a solicitor trustee (i.e. LP is one of the trustees)

Comment [C79]: Solicitor trustee means a LP who is a sole trustee or who is a co-trustee with his partner, clerk or servant or with more than one of such persons

Comment [C80]: Trust money means money held or received by Legal Practitioner which is not client money and which is subject to a trust of which the Legal Practitioner is a trustee whether or not he is solicitor trustee of the trust

- Money which may have been paid into the account by mistake or accident, thus it is to be transferred to client account.
- Any other money authorised by the General Council of Bar (in writing).

Mode of withdrawal from a client or trust account

- Issuance of cheque.
- Written instrument of declaration
- Electronic transfer

2. DRAFT A CASH BOOK AND LEDGER FOR PERSONAL/FIRM ACCOUNT AND CLIENT ACCOUNT

A Legal Practitioner is therefore expected to keep the following books of account:

- Journal
- Cash Book
- Ledger
- Records of bill of costs and notices sent to client

1. Journal: This is not a mandatory book to be kept by a Lawyer. It is a form of temporary book keeping method. Daily entries are recorded into the journal before they are permanently transferred into the Ledger.

2. Cash Book: This deals with the record of the entries relating to the income and expenditure in a law firm. Legal practitioners are expected to have their income and expenditure recorded in a Cash book. The Legal Practitioner is expected to keep **three types of cash book.**

- Personal cash book.
- Clients cash book
- Trust cash book

Structure of the cashbook

d. A cash book must be headed (will show the type of account) e.g. Fatima's cash book

e. Must have 4 columns in preparing cash book:

   a. The first column of the cash book is the date column: DATE

   b. The second column consist of the particulars: PARTICULARS

   c. The third column is the debit column: DEBIT

Comment [C81]: There is a difference between books of account and types of account. Book of account goes to the office and types of account go to the bank.

Books of account should be preserved for a minimum of **six (6) years** from the date of last entry.

Comment [C82]:
REASONS FOR KEEPING BOOKS OF ACCOUNTS
The necessity and desirability of keeping client's money separated from the legal practitioner's own money both in bank and books kept by him.

- It enables the legal practitioner to assess the value of his practice at any given time
- It enables him to know his debtors and creditors at a glance
- In the case of a partnership, it enables each partner to know the exact financial position of the partnership.
- It makes for easy assessment of the firm's tax liability at the end of the financial year.
- It enables the legal practitioner to effectively plan for the upcoming year
- It enhances business efficacy
- It helps the legal practitioner to be able to distinguish between his personal money and clients money.

d. The fourth column is the credit column: CREDIT

- Always include the date at the top of the page.

Rules guiding entries into the cash book =NO COMMON SENSE

f. Debit the Receiver: All monies received must be debited i.e. all incomes
g. Credit the Giver: All expenses are credited i.e. all the money spent or designated to be spent are posted in the credit column
h. The balance carried down will be entered under PARTICULARS but its value will be posted under the side with the lesser value
i. The balance carried down is the difference btw the total sum on the debit side and the total sum on the credit side
j. The balance brought down is the last entry in the cash book and it is also written under PARTICULARS but the value is written down under both the debit and credit side
k. The figure must be the same. If the figures are different that means the account is not balanced.

3. Ledger: The Ledger is the opposite of the cashbook as far as the rules guiding the posting of entries into it is concerned. Permanent form of record keeping. Contains entries of individual items on the cash book. **A.KA OPENING BALANCES.** THE ONLY PERMANENT BOOK OF RECORD KEEPING IS LEGDER.

Comment [C83]: Note that the corresponding book to cash book is the ledger account. In accounting, always start with cash book before ledger.

The structure of the ledger

- Each account has an appropriate heading and it is adequately categorized:
    a. The first column of the ledger is the date
    b. The second column is PARTICULARS
    c. The third column is Debit
    d. The fourth column Credit

Rules guiding entries into the ledger= COMMON SENSE

- Make sure each entry is in a different ledger: Each transaction has a separate ledger account unlike cashbooks
- Credit the Receiver: All incoming funds are to be credited i.e. money received
- Debit the Giver: All outgoing funds are be debited i.e. money spent

Example 1

Miss FATIMA was enrolled as a Solicitor of the Supreme Court of Nigeria on the 31st of August, 1984. On the 1st day of September, 1984 her parents gave her N28,000 cash to enable her set up her private legal practice in Lagos.

On the 2nd of September 1984, Fatima paid N2,400 being a year's rent for office accommodation to one Mr. John, the landlord of the premises.

On the 3rd of September, 1984 she bought office furniture worth N1,500.00. She also bought a second hand electric typewriter machine for N5,000.00.

She bought stationeries worth N800 and practice books to the tune of N5,000.00 all items were paid for in cash.

On the 4th of September, 1984 she opened a current account with the New Nigeria Bank Ltd with the sum of N1,000.00.

On the 5th September, 1984 she bought a brand new Peugeot 505 SR at the rate of N12,000.00 to facilitate her movement during the course of her practice, and paid Insurance premium of N1,500 for comprehensive insurance to the Great Nigeria Insurance Co. Ltd; she kept the sum of N3,000.00 in her office safe for petty Cash disbursements.

Draw up Fatima's Cash Book.

FATIMA'S CASH BOOK 30/9/1984

DATE	PARTICULARS	DR N	CR N
1-9-84	Capital	N 28,000	
2-9-84	Rent		N 2,400
3-9-84	Office Furniture		N 1,500
3-9-84	Electric Typewriter		N 5,000
3-9-84	Stationeries		N 800
3-9-84	Practice Books		N 5,000
4-9-84	Current Account		N 1,000
5-9-84	Peugeot 505 Car		N 12,000
5-9-84	Insurance Premium		N 1,500
5-9-84	Impress Account		N 3,000
30-9-84	Balance c/d	N 4,200	
			.
30-9-84	Balance b/d	N32,200	N32,200

FATIMA'S LEDGER 30/9/1984

CAPITAL ACCOUNT

DATE	PARTICULARS	DEBIT	CREDIT
	CASH		28,000

RENT ACCOUNT

DATE	PARTICULARS	DEBIT	CREDIT
	CASH	2,400	

FURNITURE ACCOUNT

DATE	PARTICULARS	DEBIT	CREDIT
	CASH	1,500	

Example 2: Mr. John Dada was called to the Nigerian Bar after three attempts in 1999. On the 9th day of January 2000, Mr. Dada's villagers contributed the sum of N100,000.00 and gave him for the establishment of his Law Firm ,his Fiancé Susan gave him N500,000.00 to seal her love for him and Mr. Dada withdrew N500,000.00 from his Zenith Bank Account all on the same day.

On the 10th of February 2000, Mr. John rented a One Room apartment for his Law office at the rate of N30,000 per annum. He paid for two years. On the 13th of March 2000, Mr. John bought a Pair of Italian Suit, Table and chair, Refrigerator and Law Reports at N100,000.00, N100,000.00, N40,000.00 and 300,000.00 respectively. On the 16th of May 2000, Mr. John bought an office printer and a laptop at N50,000.00 and N150,000.00 respectively. He also gave his Secretary Chinaza the sum of N20,000.00 as out of pocket expenses for the office.

Draw up Mr. John's Cash book. (PRACTICE WITH THIS)

Comment [C84]:
CAPITAL ACCOUNT
RENT ACCOUNT
BOOKS ACCOUNTS
STATIONERIES ACCOUNT
FURNITURE ACCOUNT
PERSONAL ACCOUNT
BANK ACCOUNT
MOTOR VEHICLE ACCOUNT
ELECTRONICS ACCOUNT
LIBRARY ACCOUNT
ACCOMODATION /RENT ACCOUNT
IMPRESS ACCOUNT (out of pocket expenses)
OFFICE EQUIPMENT ACCOUNT
BANK DETAILS ACCOUNT
WARDROBE ACCOUNT
VEHICLE ACCOUNT

3. EXPLAIN AND DISCUSS CLASSIFICATION OF TRANSACTIONS INTO PERSONAL AND IMPERSONAL ACCOUNTS

Types/Class of transactions

- **Personal account/transactions:** account, which stands in the name of individuals, partnerships and companies. It shows the LP dealings with other persons and it is drawn up in the other person's name. Head it in the name of this person e.g. Adamu & Enterprises' cash book for the month of July
- **Impersonal account:** These are accounts, which record the LP dealings with properties and items of expenditure and it may be headed with these properties and expenditures. Impersonal account is further divided into real and nominal accounts. Real account are accounts of tangible transactions e.g. purchase of land, building, machinery etc. Nominal accounts are intangible expenditures like rent, wages, insurance premiums, discounts

Comment [C85]:
Classification of entries of a particular nature in proper account:
- If it is personal, head it in the name of the particular client.
- If impersonal e.g. property, head it in the name of the property

Comment [C86]:
Reasons for classification
- It makes the LP accounts to be tidy – separate books for accounts that are personal and impersonal in nature
- It makes for easy reference
- It is easier to inspect

4. EXPLAIN THE RULES AND PROCEDURE FOR INSPECTION AND ENFORCEMENT OF LAWYER'S ACCOUNTS

In order to ensure compliance with the Account Rules, the Bar Council is empowered to order an inspection of the accounts of a legal practitioner. This, it may do either

- On its own motion; or
- On a written statement or request by any branch of NBA; or
- On a written complaint lodged with the Bar Council by a third party, provided that there is a prima facie ground for complaint. Cost for inspection can be paid by the third party.

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. When the legal practitioner is asked to submit his accounts for inspection, the following are to be submitted to the accountant appointed by the Bar Council.

- Bank pass boo
- Statement of account
- Books of account (cash book, journal, ledger)
- Loose-leaf bank statements, vouchers.

The Bar Council which has the responsibility of enforcing a legal practitioner account is constituted as follows:

- Attorney-General of the Federation, president of the Council.
- Attorney-General of the state; and
- Twenty members of the Nigerian Bar Association.

POSSIBLE MULTIPLE CHOICE QUESTIONS ON THIS TOPIC

1. When should a client be informed about the fees of the legal practitioner?

A. Before interview

B. During interview

C. After interview

D. At any time

2. ___ is also known as success based fee

A. Retainer

B. Contingent fee

C. Fixed fee

D. Scale fee

3. Where the work carried out by a legal practitioner is a non-contentious work, the fees ought to be determined using ___ fees

A. Scale

B. Quantum meruit

C. Percentage

D. Hourly

4. Where a legal practitioner has served a bill of charges on a client, he ought to wait for ___ before commencing action for recovery of his fees

A. 30 days

B. 31 days

C. 1 month

D. All of the above

5. The action in relation to 4 above is to be commenced at the ____

A. Federal High Court

B. State High Court

C. National Industrial Court

D. All of the above

6. There are ____ stages of taxation of bill of charges

A. 2

B. 3

C. 4

D. 5

7. During the 1st stage of taxation, the person that can make the application for taxation is ____

A. Client

B. Legal Practitioner

C. General Council of the bar

D. A and B

8. All these statements are true about the stage in 7 above except ____

A. Only the client can make the application for taxation

B. Order of taxation by the court is not discretionary

C. No action to recover the charges shall commence until the taxation is completed

D. Both the client and the legal practitioner can make the application for taxation

9. The stage of taxation of bill of charges where either the client or the legal practitioner can apply for taxation and the power of the court to order for taxation is discretionary is the ____ stage

A. 1st

B. 2nd

C. 8th

D. 4th

10. No order for taxation will be made after the expiration of ___ months from the date of delivery of the bill of charges

A. 10

B. 12

C. 14

D. 16

11. If a party is not satisfied with taxation of a bill by the taxing officer, such a party can appeal within ____after the completion of taxation

A. 14 days

B. 21 days

C. 28 days

D. 3 weeks

12. NO QUESTION

13. A client account should be opened with _____

A. The name of the legal practitioner

B. The name of the legal practitioner with the word "Client"

C. The name of the client

D. The name of the client with the words "Client Account"

14. All these are types of account of a legal practitioner except ____

A. Journal

B. Cash book

C. Ledger

D. All of the above

15. NO QUESTION

16. A trust bank account should be opened with ___

A. Name of trustees

B. Name of trustees with the word "Trustees"

C. Name of trustees with the word "Executors"

D. B or C

17. The body authorized to state in writing the manner any other money may be withdrawn from a trust account is the _____

A. General Council of the bar

B. NBA

C. State High Court

D. Legal Practitioners Remuneration Committee

18. ____ is not a mandatory book to be kept by a lawyer

A. Journal

B. Cash book

C. Ledger

D. All of the above

19. A cash book has ____ columns

A. 2

B. 3

C. 4

D. 5

20. There are ___ types of cash book

A. 2

B. 3

C. 4

D. 5

21. The book otherwise known as "opening balances" is ____

A. Journal

B. Cash book

C. Ledger

D. Records of bill of costs and notices sent to client

22. The body charged with the responsibility of ensuring compliance with the account rules and empowered to order an inspection of the account of a legal practitioner is _____

A. General Council of the bar

B. NBA

C. State High Court

D. Legal Practitioners Remuneration Committee

ANSWERS

1. **A**
2. **B**
3. **A**
4. **C**
5. **B**
6. **B**
7. **A**
8. **D**
9. **B**
10. **B**
11. **B**
12. **BONUS**
13. **B**
14. **D**
15. **BONUS**
16. **D**
17. **A**
18. **A**
19. **C**
20. **B**
21. **C**
22. **A**

MASTERING THE RULES OF PROFESSIONAL CONDUCT FOR LEGAL PRACTITIONERS

ARRANGEMENT OF RULES

RULE

A---- PRACTICE AS A LEGAL PRACTITIONER----RAUIL RELPS MAN

1. **RESPONSIBILITY** of a Lawyer.
2. **ADMISSION** into the Legal Profession.
3. **UNAUTHORIZED** Practice of the Law.
4. **INTERMEDIARY** in the Practice of the Law.
5. **LEGAL** Practice.
6. **RETIREMENT** from Judicial Position or Public Employment.
7. **ENGAGEMENT** in Business.
8. **LAWYERS IN SALARIED** Employment.
9. **PRACTICING** Fees.
10. **SEAL** and Stamp.
11. **MANDATORY** Continuing Professional Development (CPD).
12. **ANNUAL** Practicing Certificate.
13. **NOTIFICATION** of Legal Practice.

B-----RELATION WITH CLIENTS—DB CIAP WWC DRI

14. **DEDICATION AND DEVOTION** to the Cause of the Client.
15. **BOUNDS** of Law.
16. **COMPETENCY**
17. **INTEREST**.
18. **AGREEMENT** with Client.
19. **PRIVILEGE** and Confidence of a Client.
20. **WITNESS** for Client.
21. **WITHDRAWAL** from Employment.
22. **CALLING** at Client's House or Place of Business.
23. **DEALING** with Client's Property.
24. **RESPONSIBILITY** for Litigation.
25. **INVESTIGATION** of Facts and Production of Witness, Etc.

C----RELATION WITH OTHER LAWYERS---TGAC

26. **TREATMENT** and Precedence.
27. **GOOD FAITH** and Fairness among Lawyers.
28. **ADDITIONAL** Counsel in a matter.
29. **CHANGE** of Lawyer.

D-----RELATION WITH THE COURT----O CoCa TIT DEI

30. **OFFICER** of the Court.
31. **COURT DUTIES** and Conduct in Court.
32. **CANDID** and Fair Dealing.
33. **TRIAL** Publicity.
34. **IMPRESSION** of relation with Judges.
35. **TRIBUNAL.**
36. **DECORUM**.
37. **EMPLOYMENT** in Criminal Cases.
38. **INDIGENT** Accused.

E-----IMPROPER ATTRACTION OF BUSINESS----ANS B CARPI

39. **ADVERTISING** and Soliciting.
40. **NOTEPAPER**, Envelopes and Visiting Cards.
41. **SIGN** and Notices.
42. **BOOKS** and Articles.
43. **CHANGE** of Address.
44. **ASSOCIATE** and Consultant.
45. **ROBES**.
46. **PRESS**, Radio and Television.
47. **INSTIGATING** Controversy and Litigation.

F-----REMUNERATION AND FEES----FRANK DO

48. **FEES** for Legal Service.
49. **RETAINER**.
50. **ARRANGEMENT** for contingent fee.
51. **NO AGREEMENT** for payment of the Expenses of Litigation.
52. **KNOWING** the right amount of fee.
53. **DIVISION** of Fees.
54. **OFFER** of Compensation or Gift by the Other Party.

G----MISCELLANEOUS---EIC

55. Enforcement of Rules.
56. Interpretation.
57. Citation.