



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**UNIVERSITY VILLAGE, PLOT 91, NNAMDI AZIKWE EXPRESSWAY,**  
**JABI, ABUJA**  
**FACULTY OF LAW**  
**JULY 2017\_1 SEMESTER EXAMINATION**

**COURSE CODE: LAW 445**

**COURSE TITLE: LAW OF EVIDENCE 1**

**COURSE UNIT: 4 UNITS**

**TIME ALLOWED: 2 ½ HOURS**

**INSTRUCTION: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)**

1. Mr. Omonile is married to Mrs. Temitope. After several years of marriage, Mrs. Temitope left the matrimonial home upon which Mr. Omonile began to look for her. Mr. Omonile went to her maiden home in search of her without success. He went to the home of her friends to look for her which inquiry did not yield any result. Mr. Omonile traveled to Sokoto State where Mrs. Temitope's brother resides but she was not there. After a period of ten years, Mr. Omonile decided to marry and got married to a beauty pageant, former Miss. Mushin. Mr. Omonile is also a business man and has entered into contract with A.K. and Z Building and Construction Company. The building and construction firm is to build a housing estate for Mr. Omonile and one of the conditions for that contract is that the construction company must comply with the National Housing Regulatory Act which regulates building and construction of houses in that country. The construction firm has completed the construction of the housing estate and did not comply with some provisions of the Act regulating housing and building in that country. Mr. Omonile and the company decided that they should settle the matter amicably. Pursuant to that effort at amicable settlement, the construction company wrote a letter to Mr. Omonile in which it pointed out that indeed it did not comply with all the regulatory requirements contained in the Act in constructing the housing estate for Mr. Omonile. After more than a year of negotiation, the effort at amicable settlement broke down and the parties proceeded to court. During trial, Mr. Omonile decided to rely on the letter that the company wrote to him to prove that the company did not comply with the provisions of the Act. The lawyer to A. K. & Z. Building and Construction Company opposed the letter from being tendered in evidence in court. On his part the lawyer to A. K. & Z. Building and Construction Company sought to tender evidence of Mr. Omonile's bankruptcy which piece of evidence was opposed by Mr. Omonile's lawyer. At the end of the trial, the Judge gave judgment in favour of Mr. Omonile because the judge was of the

view that the letter written by the company revealed that the company did not comply with the regulation contained in the Act. The construction company has appealed to the Court of Appeal and one of the Grounds of Appeal of the company was that the National Housing Regulatory Act was not proved before the court and therefore the court ought not to rely on it in finding liability. When Mr. Omonile reached home that evening, he was told that his nine year old son was caught having carnal knowledge of a girl and the very next day the boy was charged to court for rape. Two days later, Mr. Omonile's five year old daughter was arrested and charged to court for stealing vanilla ice cream from Lagbaja Shopping Complex. Discuss all the legal issues. 25 Marks

2. "Res gestae" has no exact definition. According to Phipson: "Acts, declarations and incidents which constitute or accompany and explain the fact or transaction in issue are admissible, for or against either party as forming parts of the res gestae." Discuss. 15 Marks.
3. Better Petroleum Corporation is a world class oil and gas corporation which specializes in the production, refining and design and construction of refineries and petrochemical plants. Better Petroleum Corporation entered into a Joint Venture Contract (JVC) with the National Oil Corporation, a state owned oil Corporation, of Mokados Republic. One of the terms of the JVC is that Better Petroleum Corporation and National Oil Corporation shall operate oil field 503 and that profit from the operation shall be shared in the following terms: 75% for the National Oil Corporation and 25% for Better Petroleum Corporation. Since Better Petroleum Corporation is managing the operation and in charge of marketing of the oil, it decided to retain 40% of the profit. National Oil Corporation has commenced proceedings in Court in order to enforce the terms contained in the JVC. During trial of the case, the Honourable Court allowed Better Petroleum Corporation to give oral evidence in court to the effect that Better Petroleum Corporation is providing technical skills for the operation of the JVC and therefore entitled to 40% of the profit. National Oil Corporation has protested vehemently to the decision of the court. **Discuss the legal issues.** 15 Marks.
4. Decisions of our courts must be based upon facts proved by relevant and admissible evidence. This principle admits of no exceptions. Do you agree? 15 Marks.
5. Admission is any statement, oral or written, expressed or implied which is made by a party to a civil proceeding and which statement is adverse to his case. Discuss. 15 Marks.
6. Evidence is "All legal means, exclusive of mere argument, which tend to prove or disprove any matter of fact; the truth of which is submitted to judicial investigation". Taylor on Evidence. Discuss. 15 Marks.