

BOWEN UNIVERSITY, IWO, OSUN STATE
COLLEGE OF LAW
2023/2024 SECOND SEMESTER EXAMINATION
COURSE CODE: PCL 304: COURSE TITLE: LAW OF TORTS II

ATTEMPT AT LEAST ONE QUESTION FROM EACH SECTION
ATTEMPT FOUR QUESTIONS IN ALL EACH QUESTION CARRIES 17^{1/2} MARKS
TIME ALLOWED: THREE (3) HOURS

Section A

1. Tabitha, a business owner, filed a complaint against her former employee, Boma, alleging theft of a company property. The Police initiated the prosecution of Boma despite lack of evidence, and Boma was eventually acquitted. Boma claims that Tabitha acted with malice in filing the complaint to ruin her reputation.
Boma has come to you for legal advice, advise her.
2. a. Marion, a 35-year old woman, filed a wrongful death action against XYZ Medical Centre, alleging that the Medical Centre caused the death of her mother. The mother had been diagnosed with a terminal disease, and had a life expectancy of six months at the time of the Medical Center's alleged negligence. Could Marion recover damages for her mother's pain and suffering before death?

b. Dapo, a 36-year-old husband and father of two, was killed in a car accident caused by the negligence of Paul. Dapo's wife, Tola, and her two children, aged 6 and 10, survived him. What elements must Tola prove to succeed in causing a wrongful death action against Paul?

SECTION B

3. Minnie owns and operates a prestigious canteen known as "THE INSIGNIA" where roasted pigeons are sold, and the *crème de la crème* of the society patronize her. Christie opened recently a "special roasted pigeons" restaurant near Minnie's. However, Christie does not get as much patronage as she had envisaged. One day, Christie issued an advert promising to give "free deliciously roasted pigeons" to anyone who came to eat in her restaurant that very day. She also told anyone who cared to listen that Minnie's restaurant prepares food with monkey virus infested pigeons and gave out some printed pictures to buttress her points. As a result, Minnie's canteen is being avoided like a plague, and this caused a drastic fall in its sales. Minnie later heard of the accusation made by Christie, and is very aggrieved. With the aid of judicial authorities, identify the tort involved and advise Minnie accordingly.
4. "Defamation is the publication of a statement which tends to lower a person in the estimation of right-thinking members of society generally; or which tends to make them shun or avoid that person". Examine this statement critically.

SECTION C

5. Mr. Tunde Martin is a cobra snake farmer in the Owode Farm Settlement of Ogun State. Mr. Martin sells his snakes in Nigeria and other African countries where they are in high demand. Mr. Femi Akinola owns an adjoining land where he keeps and feeds cows. Mr. Michael Oke, the President of the Owode Farm Settlement Association, had on several occasions and during the Association's monthly meeting advised that the snake farm in the Settlement should be properly secured since snakes, especially the species reared in Martins' farm, are highly poisonous and capable of causing the death of mankind and other animals if they escape into other farms. In response to the advice and concern expressed by the Association's President, Mr. Martin assured the members of the Association that his farm is properly secured since he operates by international best standards. However, Mr Martin got to his farm on the 1st of June, 2024 and discovered that a windstorm, which swept through the Settlement the previous night had destroyed some of the cages housing the snakes, and about 35 snakes had escaped into adjoining lands in the Settlement, including Mr. Akinola's land. On the 5th of June 2024, Mr. Akinola got to his land and found 55 cows dead. A veterinary doctor's expert autopsy report revealed that the cause of death was the poisonous venom of the cobra snakes that escapes from Martin's farm. Mr. Akinola intends to seek legal redress in court. **Advise Mr. Akinola's chances of success with the aid of judicial authorities.**
6. The contending issue in the tort of nuisance is striking a balance between the defendant's right to conduct himself and use his property as he pleases and the right of the plaintiff to be protected from interference in the use and enjoyment of his land, or in the exercise of rights that belong to him as a private individual or as a member of the public. Thus, in determining whether a nuisance, especially, whether a private nuisance, has been committed, a court considers one or a combination of factors. **Discuss, with the aid of judicial authorities.**