

**COLLEGE OF LAW
BOWEN UNIVERSITY, IWO, OSUN STATE
SECOND SEMESTER EXAMINATION
2022/2023 SESSION
COURSE CODE: PCL 304
COURSE TITLE: LAW OF TORTS II**

**INSTRUCTION: ANSWER FOUR QUESTIONS IN ALL. ANSWER AT LEAST ONE
QUESTION FROM EACH SECTION**

TIME ALLOWED: 3 HOURS

SECTION A

1. Mr. Muyiwa, an ex-police prosecutor runs for Local Government Chairman and loses the election. He believes that Mr. Smart, a wealthy Tokunbo Car Dealer who is active in politics played a large role in sabotaging his campaign. Mr. Muyiwa became obsessed with the idea that Mr. Smart caused him to lose the election. When some questions came up about Mr. Smart bribing public officials in the advancement of his business, Mr. Muyiwa takes the lead role to provide information that led to his prosecution. Eventually, the lawyers for Mr. Smart were able to expose the fact that the case was nothing but a hate crusade. The charges were dismissed but only after two years of hearings and numerous sittings, Mr. Smart engaged the services of a Senior Advocate and paid millions of naira for his defence. This case seriously affected his business negatively.
Advise Mr. Smart on the legal issue that arises from his situation with the support of case law.

2. A couple has just lost their twelve (12) year old daughter. Her death was caused as a result of the reckless driving of Mr. Felix, a taxi cab driver within the neighbourhood. They are aware of the Fatal Accident Act and intend to bring an action under the Act. They intend to ask for a compensation for the death of their daughter.
Advise them on the attitude of the court when issues like this arise.
Would your answer be different if the victim of the reckless driving was a breadwinner of the family?

SECTION B

3. Upon entering into *En Vogue Couture* Olamide, who has an uncanny resemblance to the popular musician Badoo introduced himself as the celebrity "Olamide Badoo." He was warmly welcomed and attended to by the shop owner, Ada who was excited at meeting such a celebrity for the first time. Olamide later left the shop with bags of clothing worth N700, 000.00k with a promise to credit Ada's account later that day with the entire sum. He then autographed his complimentary card and gave it to Ada who went into a state of frenzied happiness. A week later, Ada is yet to receive the credit alert promised by Olamide. **Discuss the legal issues.**

4. Write short notes on the following:

- (i) Joint Torts.
- (ii) Passing Off.
- (iii) Defences to Defamation.

SECTION C

5. Mr. Banji Ayiola, a farmer of special specie of mango, owns a field which he cultivates from year to year. Mrs. Becky Ogunde owns adjoining land where she keeps and feeds her goats. Mrs. Becky Ogunde had on several occasions, complained and demanded that Mr. Banji Ayiola stop its mango along the boundary from protruding their branches into her land. She further contended that the leaves of such strange specie of mango may not be healthy for her goats should they mistakenly feed on it. Mr. Banji Ayiola had always paid deaf ears to the concerns of Mrs. Becky Ogunde on the ground that he (Banji) has the right to grow his mangoes the way he likes on his land. Five months after their last altercation (quarrel) on the issue. Mrs. Becky Ogunde came to his land to discover ten of his goats dead. The veterinary expert autopsy report revealed that the cause of death was the poisonous leaves of the protruded mango trees which the goats ate. Mrs. Becky Ogunde has threatened to seek legal redress in court. **What are Mrs. Becky Ogunde's chances of success if she carries out his threat? Advise her with the aid of decided cases.**
6. The Annual Osun State Judiciary Judges Continuous Legal Education Conference for the year 2021 is scheduled to hold on the 30th of August at the State High Court Conference Hall, Osogbo. You have been invited by the Osun State Chief Judge as one of the resource persons at the conference to discuss the topic titled, "*The Role of Judges in the Administration of Justice in Cases of Nuisance in Nigeria*". While assigning the topic to you, the Chief Judge made the following observations, "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. In determining whether a nuisance, especially, whether a private nuisance has been committed, what is expected of a judge? **With the aid of legal authorities/decided cases, discuss the topic in the light of the observations made by the Chief Judge of Osun State.**