

BOWEN UNIVERSITY, IWO, OSUN STATE

COLLEGE OF LAW

FIRST SEMESTER EXAMINATIONS

LAW OF EVIDENCE 1: PIL 405; 2023/2024 SESSION

TIME ALLOWED: 3 HOURS

INSTRUCTIONS: Answer four (4) questions in all. Specifically, answer any two questions from SECTION A and any two questions from SECTION B. Each question attracts 17½ marks.

SECTION A

- 1a. With the aid of judicial and statutory authorities, write short notes on the following:
- Facts in issue
 - Relevant facts
 - Relationship between relevancy and admissibility of evidence
- 1b. With the aid of judicial and statutory authorities, discuss exhaustively when evidence of a witness in former proceedings will be admissible as an exception to the hearsay rule.
2. High Chief Babalola Oborobo is a popular politician in Dawada Republic. In the forthcoming 2024 General Election scheduled for March, 2024, he is vying for the office of the Governor of Amang State which is one of the 37 States in Dawada Republic. On the 14th day of December, 2023, Daily News, an online newspaper in its front page carried a news item in which High Chief Babalola Oborobo was alleged to have belonged to the dreaded Green Mamba Cult while on campus at University of Dawada and participated in several bloodsheds and also, that he is a woman beater. Infuriated by this news item, High Chief Babalola Oborobo caused his lawyer, Alagidi Omonuwa *Esq.* to write a letter demanding the retraction of the publication and public apology. However, Daily News refused to meet any of his demands wherefore, he has filed a suit against them for defamation of his character. He sought the sum of ₦ 200, 000, 000 (Two Hundred Million Naira only) as damages. Daily News in its defence, pleaded justification and during the trial, the lawyer to the Daily News, sought to tender evidence of his character but his lawyer, Alagidi Omonuwa *Esq.* promptly and vehemently objected to its admissibility. On the 15th day of April, 2022, Bosco Pamlag was arrested by the Operation Kafang Hala Dantiti in Kafachang having declared himself the Chairman of Mobi Local Government Area after he had successfully led a group of ethnic militia to overrun the Local Government. During his trial for treason, he called Ogbonogbono who testified that he is a good man who does not steal. The prosecution, urged the court to discountenance the evidence arguing that same is inadmissible as it relates to his good character. Meanwhile, Johnson Okema met Valerie Asumta at a wedding party and made love overture to her. Three months later, to the hearing of Grace, Valerie's friend, Johnson Okema promised to marry Valerie. Five months later, news broke out that Johnson Okema was getting married to one Esther Jesugbemi. Devastated, Valerie has sued Johnson Okema for breach of promise to marry wherein she claimed punitive damages for the emotional, psychological, mental trauma and public opprobrium she has been exposed to by his action. In the course of the trial, Johnson Okema sought to tender evidence of the fact of laziness, garrulousness, moral depravity and hot temper of Valerie Asumta which warranted him to renege from his promise. Apori Akpan was charged before the Chief Magistrate Court, Iwo, Osun State for conduct likely to cause disturbance of the peace. During his trial, he gave evidence to the fact that

he is a peaceful person and a lover of peace. Ajike Ajekigbe, the prosecution witness gave evidence of previous riots which Apori and his "boys" had successfully executed around Olupona Town and its environs. Apori is disturbed whether the prosecution witness evidence will be admitted against him.
Identify and discuss all the legal issues, with the aid of statutory and judicial authorities.

- 3a. Akamu Akani was charged for the murder of Edwin Paul. During the trial at the High Court of Osun State, Iwo Judicial Division presided over by Hon. Mary-Knoll Agidigba, the Prosecution called three witnesses. PW 1, Harrison Atundu testified that he was told by the IPO that the gun that was used to shoot the deceased which was recovered from the crime scene belongs to Akamu Akani. Meanwhile, when this trial was ongoing, a dispute arose between Iwo and Olupona on the ownership of a large expanse of land lying between the two autonomous communities. High Chief Ajanlekoko was called by the Iwo community to testify before the court. His evidence was that about fifty years ago, he was informed by the then Oluwo of Iwo land that the land in dispute was given to the Iwo community by the British Colonial Government but the then Paramount Ruler of Olupona, sought and obtained the permission of the Oluwo-in-Council for usage of the land for farming purposes free of payment of royalty. High Chief Amusa Atenubiaje who testified for Olupona, gave evidence to the fact that the land belongs to Olupona by virtue of a colonial document titled: Colonial Land Vesting Order, 1950 and produced the certified true copy.

With your knowledge of Law of Evidence, particularly admissibility of evidence, identify and address ALL the legal issues involved.

- 3b. With the aid of judicial and statutory authorities, write short notes on *Res Gestae*

SECTION B

4. (a) The Arigbabuwo family of Eleekara Area, Oke-Odo, Osogbo, was involved in a land matter with the Kolakosagbe family of Eletu Area, Oke-Afefe, Osogbo. The land is located at Ojaowo Area of Osogbo. The feud ended in a law suit filed by the Arigbabuwo family before the Ojaowo Grade C Customary Court. The President of the Court, being a law graduate of the National Open University of Nigeria, Osogbo Study Centre, relied heavily on Section 35 of the Evidence Act, 2011 in granting title in the disputed land to the Arigbabuwo family. The Kolakosagbe family was dissatisfied with the Grade C Customary Court's judgement and accordingly appealed to the Customary Court of Appeal sitting at Osogbo, on the ground that the reliance placed on the provisions of the Evidence Act 2011 prejudiced the mind of the trial court due to the technical nature of the Act. In a cross-appeal filed by the Arigbabuwo family, it contended that the reliance by the trial customary court on the applicable scope of the provisions of the Evidence Act, 2011, deprived it of the award of general damages as an ancillary relief, which occasioned a miscarriage of justice. Advise the appellant and the cross-appellant on the ensuing legal issues, if any.

- (b). Assuming the Evidence Act 2011 does not at all apply to the proceedings of some customary and area courts in Nigeria, does it mean that justice cannot be done in those courts?

5. Alakori Odaran, a notorious land speculator in the Ajegunle Area of Lagos State, engaged Mr. Faleye Emeka as his lawyer in a suit filed against him by Chief Ajao Omo-Onile. In paragraph 18

of his statement of defence, the defendant admitted the sum of two hundred thousand naira (₦200,000.00) claimed as general damages by Chief Ajao Omo-Onile. In its judgment, the trial court refused to enter judgment for the plaintiff in respect of the general damages on the ground that Chief Ajao Omo-Onile failed to prove his claim by credible evidence. Meanwhile, Alakori Odaran had angrily gone to Mr. Faleye Emeka's office, beaten up the lawyer's secretary for erroneously typing the said paragraph 18 into his statement of defence. During investigation, he owned up to the assault in his statement which was recorded by Corporal Suraj Michael but interpreted by Sgt. John Ojulari. The trial court convicted him for the assault based on his statement. He appealed to the Court of Appeal sitting in Lagos on the grounds that the statement on which the trial court relied was not voluntary as he made same two days after a serious torture and a threat of juju from the lawyer's gateman. He further complained that the statement was hearsay as Sgt. John Ojulari was not called to testify at trial. In the same breath, he denied making the statement. Chief Ajao Omo-Onile also appealed against the judgment on the trial court's refusal to award the general damages. Advise the parties.

6. (a) Write exhaustive notes on any Two (2) of the following:

- (i) Collateral facts
- (ii) Real Evidence
- (iii) Circumstantial Evidence
- (iv) Direct Evidence

(b) Enumerate five (5) factors that a court of law in Nigeria must consider before admitting or rejecting improperly obtained evidence.