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EXAMINATION...

# HEBERT CHITEPO LAW SCHOOL

## BARCHELOR OF LAWS HONOURS DEGREE EXAMINATION QUESTION PAPER

<b>MODULE CODE</b>	<b>LLB 221</b>
<b>MODULE NARRATION</b>	<b>LAW OF EVIDENCE</b>
<b>DURATION</b>	<b>3 HOURS</b>
<b>TOTAL MARKS</b>	<b>70</b>
<b>YEAR</b>	<b>2024</b>

### **INSTRUCTIONS TO CANDIDATES**

- 1. You are advised to read all questions carefully before attempting to answer any.*
- 2. Section A is **COMPULSORY**.*
- 3. Answer any TWO Questions from Section B.*
- 4. Students are allowed to bring into the examination room, the Constitution of Zimbabwe Amendment (No. 20) Act 2013, the Criminal Procedure and Evidence Act [Chapter 9:07] and the Civil Evidence Act [Chapter 8:01].*
- 5. This examination is 4 pages including the cover page.*

## SECTION A

Answer **all** questions in this section.

### QUESTION 1

1.1 Differentiate between the following:

- a) Circumstantial and Direct Evidence. **[2 marks]**
- b) Primary and Secondary Evidence. **[2 marks]**
- c) *Facta probanda* and *facta probantia*. **[2 marks]**
- d) The Parole evidence rule and the Best evidence rule. **[4 marks]**
- e) Prima facie proof and conclusive proof. **[2 marks]**
- f) Competence and Compellability. **[3 marks]**

**[Sub-Total 15 marks]**

1.2 Benjamin is on trial for an offence of Bribery. He tells the court that he is an honest man and he can call witnesses to prove that he is not the sort of person who would steal. What advice would you give the court as to whether, firstly Benjamin may give evidence about his honesty and secondly, in what exceptional instances may Benjamin testify and call other witnesses to testify about his good manners.

**[15 marks]**

**[Sub-Total 30 marks]**

## SECTION B

Answer any 2 questions from this section.

### QUESTION 2

- a. Describe the principle of professional privilege. Are there any circumstances in which communications between lawyers and clients may be disclosed to the court?

**[5 marks]**

- b. John is a witness called by the prosecution in a criminal trial. He has been called to give evidence about a road traffic accident that he saw one evening when he was driving home from work. When he got home from work he discussed the incident with his wife and, because he was shaken by what he saw, she wrote down what he told her. He now wishes to refer to his wife's notes while he gives evidence. What advice would you give the magistrate who is trying the case? Would your answer differ if he had only wanted to look at the notes before coming into court?

**[10 marks]**

- c. In dealing with circumstantial evidence, the court is called upon to draw inferences from the circumstantial evidence. Explain the approach of the courts in dealing with inferences to be drawn from circumstantial evidence in criminal proceedings and civil proceedings.

**[5 marks]**

**[Sub-total 20 marks]**

### QUESTION 3

Peter marries Mary who has a 14-year-old daughter from her first marriage. A few months after the marriage the daughter alleges that Peter raped her and he is prosecuted. The prosecution wishes to call Mary but Peter objects saying that his wife cannot give evidence against him. What advice would you give the magistrate? Will corroboration of the daughter's evidence be required?

**[20 marks]**

#### **QUESTION 4**

In a civil suit before the High Court in Bulawayo, the Plaintiff claimed damages for breach of contract. The contract involved a highly complex financial transaction between the parties. The Defendant disputed the Plaintiff's interpretation of the contract. At the trial of the matter, each party called its own experts to deal with the question of the proper interpretation of the contract. The evidence led in court by the parties dealt in the main with the correct interpretation of the contract between the parties. The judge is confronted with conflicting evidence of the parties' expert witnesses on the correct interpretation of the contract. As the judge's research assistant, you have been asked to assist in dealing with this issue.

- a) With reference to case law and/or statute law explain the admissibility of opinion evidence

**[10 marks]**

- b) Explain and briefly discuss the approach of the courts to hearsay evidence.

**[10 marks]**

**[Sub-total 20 marks]**

**TOTAL MARKS: 70**

**END OF QUESTION PAPER.**