

THE INDEPENDENT EXAMINATION COMMITTEE

GENERAL LEGAL COUNCIL

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PROFESSIONAL LAW COURSE

SUPPLEMENTARY EXAMINATION 2019

DATE: 10 APRIL 2019

SUBJECT: ADVOCACY AND ETHICS

TIME ALLOWED: THREE (3) HOURS 10:00am – 1:00pm

INSTRUCTIONS TO CANDIDATES:

1. Read the instructions **very carefully** before beginning your answers.
2. **ANSWER QUESTION ONE WHICH IS COMPULSORY AND ANY THREE (3) OTHER QUESTIONS.**
3. Credit will be given for legible handwriting, clarity of expression and orderly presentation of answers.
4. **Do not** write or sign your name on the Answer Booklet. **Only write your index number.**
5. Adhere strictly to the instructions on the front cover of your Answer Booklet.

QUESTION ONE

Joseph and Cecilia Nantey had 4 handsome sons whom they loved very much. The eldest was Kojo, a pilot, then came Kwame the architect, Kofi the veterinary surgeon and the last born was Kobby. Kobby was much younger than Kofi and would be what one would describe as the "pension baby" of the Nanteys. As the last child, Kobby had it all from his doting parents to his equally doting brothers. He wore the trendiest clothes, had the latest editions of school textbooks and was never broke. One thing that made him stand tall among his peers was that he never let all the wealth and good things he was blessed with get to his head. On his 18th birthday, his brothers bought him a BMW motor car which became his pride and joy.

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After the completion of his secondary education, his brothers selected and paid for him to attend university at the prestigious London School of Economics in London. They had each secretly hoped that he would choose one of their professions but upon graduation and to their consternation, Kobby told them that he wanted to be a priest. His parents and brothers ranted and raved and at a point, threatened to cut off his monthly allowance but this fell on deaf ears. Kobby was unrelenting in his decision and eventually his family had no option than to accept it.

Kobby joined the Premier Seminary but left after a two year stint because he felt he had not received "the call" as yet. The only thing he felt proud of when leaving the seminary, was his ability to speak flawless Latin. Kobby was passionate about doing something positive for humanity and therefore joined the Amicus Group, an association drawn from various stakeholders in the justice system such as prison officers, police prosecutors and investigators and paramedics. This group assisted in looking for qualified professionals to handle claims for and on behalf of injured workmen and accident victims. Although this was a non-profit making organisation, the Amicus Group received payments on behalf of the workmen and took a percentage from the professionals as well as the victims in order to maintain their overhead expenses. As fate would have it, through the work of this group, Kobby eventually became interested in the law and the legal profession for that matter.

Between 2002 and 2005 Kobby successfully completed his LLB course and in 2006, was admitted into the Nsawam School of Law. His family was ecstatic. Kobby had seen the light at last instead of hobnobbing with what they saw to be the dregs of society. Once again, his brothers lived up to expectation by paying for the relevant fees and purchasing the necessary reading materials for him. In order to make commuting to school easy for him, they rented an apartment at the luxurious Beau Vista Villas and got him a cook and a cleaner. True to form, Kobby did his family proud by emerging as the overall best student in his class. He was eventually called to the Bar in 2008 at a ceremony which his siblings made a lot of noise about in the media.

Coming from an influential family and being a brilliant student at that, he was approached by quite a number of prestigious law firms to undertake his pupillage. He

eventually settled on Apex Chambers where his theoretical knowledge acquired in the classroom was given a practical twist. He had a natural flair for legal drafting and quickly developed his skills practically in that arena during his time of pupillage. Kobby did not abandon the Amicus Group. He continued his association with the Group receiving regular references of cases and honouring his pledge and obligations by paying a minimum of GH¢1,000 per case to assist the Group in meeting its overheads.

After five years work at Apex Chambers, his brothers encouraged him to set up his own law firm. They rented a prime piece of property for him and furnished same with tasteful office furniture for him. Kojo provided the name for the firm - Primanus Law Consult and Kofi had the name engraved on a handsome piece of bone china for the name plate. Kwame had one of his friends design a marketing profile for Primanus Law Consult stating the core business of the firm, cases handled, clients base and pictures of Kobby and his academic achievements for publication in the Euro-Asia Law Journal of Excellence and its website. However, a dispute arose between Kojo and Kobby over the propriety of the firm's name which had nothing to do with the law and did not give Kobby any visibility in the firm. The two also clashed on the obsolete advertisement of the firm.

With such well-connected brothers, Kobby had no problems getting a client base, corporate as well as individual clients. The workload became onerous coupled with his active involvement with the Amicus Group. Kobby was being stretched to the limit. After the 2015 crop of lawyers were called to the bar in October, he admitted two beautiful ladies, Maggie and Kukua as pupils on 1st December 2015 in order to ease off some of the pressure.

The aviation industry was booming and in order to take advantage, Kojo decided to incorporate a travel and tour company. By the rules of his engagement with his employers, this would amount to a conflict of interest situation and therefore he asked Kobby to be a front for him as regards the relevant documentation to be filed with the Registrar General's Department. Although Kojo was actually the controlling mind behind the company Excusive Travels, Kobby was its Managing Director and Chief Executive Officer whose signature was appended to every document that went out of

the company. Immediately Kobby took over the affairs of the company, he went through the company assets and detected that the company had acquired several landed properties within its short two years of existence. He congratulated the company for that feat. However, one anomaly he detected was that the lands were not registered. He called for all the land documentation kept in the safe of the company, inspected them after which he signed the back of each one. He then engaged the services of a consultant to process the registration for the company.

Mprekuo, was a childhood friend of the Nantey brothers. He was presently involved in a protracted custody battle with his ex-wife former super-model Kafui, over their 6 year old daughter Neah. When Kojo heard of this, he advised Mprekuo to seek proper legal counsel from Kobby who had so far not lost any brief for any of his clients in court. Mprekuo consulted Kobby and briefed him about a DNA test conducted on Neah which revealed that she was not his daughter. He was therefore willing to concede the issue of custody to his ex-wife on the basis that there would be no maintenance. Over some few beers on Friday at their usual pub where the brothers met regularly to catch up, Kobby told them in confidence that their fears had been confirmed – Neah was not Mprekuo's daughter. Kojo relayed the information to his wife Mansa in confidence that night when he got home. The next day, the "The Spotlight" one of the tabloids ran the story on its front page. Mprekuo is in a fix as Kafui is threatening to sue him over the reportage.

Mprekuo is upset at this development and has sent a petition to the General Legal Council to disbar Kobby because Mprekuo feels short-changed by Kobby's conduct.

Identify and discuss the eight issues raised in this problem with particular reference to the Code of Ethics of the Ghana Bar Association and the relevant legislation affecting the legal profession in Ghana.

[28 Marks]

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QUESTION TWO

"Successful cross-examination is founded on the three-fold techniques of confrontation, probing and insinuation.

Discuss the role of these techniques in advocacy.

[14 Marks]

QUESTION THREE

- (a) What are the general principles governing the interview of a client?
- (b) What preliminary steps should a lawyer take in order to ensure a successful interview with clients?

[14 Marks]

QUESTION FOUR

Discuss the role of the following in Advocacy:

- a. The dogmatic client
- b. Confrontation
- c. Client's friend
- d. Storytelling

[14 Marks]

QUESTION FIVE

As counsel, you have been instructed by a client to argue two appeals in the Court of Appeal. One is a civil appeal and the other an indictable criminal appeal.

Outline how you will go about the two appeals.

[14 Marks]

QUESTION SIX

The Supervising High Court judge in your region has assigned a criminal brief from the Legal Aid Office to you. You agreed to represent the accused, Mr Kwatson in the criminal matter due to be heard in Tema on April 28th. In the meantime, another case comes in for you, a civil matter, which if argued very well is likely to be a fairly substantial brief. It is listed for the same day in Ashiaman. The potential client in the civil case insists that you be present at the first hearing.

What do you do? Give reasons for your answer.

[14 Marks]

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