

**THE INDEPENDENT EXAMINATIONS COMMITTEE
GENERAL LEGAL COUNCIL**

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**PROFESSIONAL LAW COURSE PART II
SUPPLEMENTARY, TRANSITIONAL, REFERRED 2023**

DATE: THURSDAY, 13th JULY 2023
SUBJECT: ADVOCACY & LEGAL ETHICS
TIME ALLOWED: THREE (3) HOURS 12:00noon – 3:00pm

INSTRUCTIONS TO CANDIDATES:

1. Read the instructions **very carefully** before beginning your answers.
 2. **ANSWER QUESTION 1 (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.
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QUESTION 1

Valentina had always been fascinated by the legal profession and had always dreamt of becoming a lawyer. Particularly, she loved the way lawyers dressed and how eloquently they spoke in court. She keenly looked forward to the day she would have her day in Court as a lawyer and worked very hard towards achieving this dream. Thus, when she chose to read law at Magdalena University, it came as no surprise to her family, friends and loved ones. She excelled in her studies at the University, graduated with first-class honours and ultimately, emerged as the Valedictorian of her year group.

Shortly afterwards, she sat for the Law School Entrance Exams and gained admission to the Ghana School of Law to pursue the Professional Law Course. After two years of intensive studies, she was called to the Ghana Bar on 27th October 2019 after passing the Ghana School of Law examinations with distinction. She also received the Mensah Sarbah Award for the Overall Best Student at the lavish Call to the Bar Ceremony. Valentina was beyond ecstatic about finally achieving her dream. Her joy knew no bounds!

She started her pupillage at ASAP LAW, a leading law firm located in the heart of the city of Accra. Valentina had excellent communication skills and got on very well with all members of staff. She endeared herself to the matronly office administrator, Madam Agnes and the ageing senior law clerk, Mr. Asebu such that in no time they taught her all she needed to know. During the Firm's monthly in-house moot court competitions, Valentina demonstrated such excellence and exhibited her finest skill of advocacy to the admiration of all lawyers and everyone present. It amazed everyone because she was only but a pupil. Without a shred of doubt, it was evident that she had bright prospects as a lawyer. With time, however, Valentina got frustrated because she was not allowed to exhibit her excellent skills in a real-time Court. She yearned for the day she would address a Court, but it just was not forthcoming.

Mr. Asebu was due to retire in March 2020 after long years of active service with ASAP LAW. The Firm held a grand ceremony to celebrate and appreciate him for his long years of dedicated and loyal service. The ceremony saw many former employees of the Firm, loved ones and well-wishers attending in their numbers. Besides the many farewell gifts he received, the Firm gave him One Hundred Thousand United States Dollars (USD\$100,000), a brand new 2022 Land Cruiser Prado registered in his name and a fully paid trip to Dubai with his family all in appreciation of his 50 years of service.

Upon retirement, Mr. Asebu used the USD\$100,000 the Firm gave him to buy a fully furnished five-bedroom house in a gated community at East Legon Hills. At the time he was about to travel to Dubai with his family, so it was agreed that the seller Mr. Coleman would hand over the property upon Mr. Asebu's return from Dubai. However, upon Mr. Asebu's return, all attempts to recover possession of the property from Mr. Coleman proved futile. Mr. Asebu, therefore, commenced an action in the High Court against Mr. Coleman for recovery of his money.

Mr. Asebu, needing legal representation in court, approached Valentina for assistance. He complained that his former lawyer did not speak forcefully on his behalf and therefore pleaded with Valentina to represent him since he could attest to her excellent oratory and advocacy skills. Valentina relished this opportunity and immediately agreed to represent him without any reservations. She deemed it irrelevant to serve notice on Mr. Asebu's former lawyer because in her view, he was a lazy lawyer who did a lousy job.

On the next hearing date in October 2020, Valentina appeared in Court, fully clad in her legal apparel, and announced herself as appearing for Mr. Asebu. She informed the Judge that she had filed a motion to strike out the Defence in the matter, which was ripe for hearing. The Judge told her that she was a

stranger to the case and that he would not hear her. Valentina got infuriated and rudely insisted that she had filed a Motion and had every right to be heard on it. This did not sit well with the Judge, leading to a heated verbal exchange between the two of them. It took the intervention of one of the senior lawyers at the Bar to get Valentina to back down.

Later, when Valentina calmed down, she panicked that she may be dismissed if the Partners of her law Firm got to know of her behaviour. She therefore tendered her resignation and embarked upon setting up her own law Firm. However, because of the huge amount of capital involved, no Bank was willing to offer her a loan. She, therefore, approached her bosom friends, Alice and Alexandria, and proposed a partnership. Alice and Alexandria were her colleagues from Magdalena University. After obtaining their LLB degree, they pursued careers in Architecture and are currently the lead consultants on the reconstruction of the Accra-Tema motorway. They bought into Valentina's vision and VAA Legal & Associates was born with Valentina as the Managing Partner. Alice and Alexandria were just as exceptionally brilliant as Valentina. During their days at the University, the trio were nicknamed "LeLOT" which translated as "Legal Luminaries of Our Time."

Valentina was unstoppable and within the space of three years, she had carved a niche for herself. VAA Legal & Associates was competing head-on with other well-established firms in the country. Because of the increase in the volume of work at the Firm, Valentina decided to take on some pupils to train them to assist the Firm. Thus, after the enrolment ceremony in October 2022, Valentina admitted Edwin, Jude, Thelma, and Anita to start their pupillage at VAA Legal & Associates on 10th November 2022. With time, Valentina also employed Smith, Samantha, and Azalia as office clerks to assist the Firm in its work.

Due to the reputation the Firm had gained, Mr. Apenteng, who had heard of the fame of the Firm, engaged Valentina to represent him in a commercial dispute against APPLE INC. The case had gained so much publicity and the media were keenly monitoring proceedings.

Upon taking on the case, Valentina made an application for joinder as there was one other necessary party that ought to be made a party for the efficient resolution of the matter. However, the judge refused the application and further awarded costs against her client, Mr. Apenteng. After court proceedings that day, Valentina addressed the media who were camped outside the Court building saying,

"The critical issues before the Court today were very clear. I made very compelling and sound arguments before the Honourable Court and I'm very surprised at the conclusion the learned Judge reached. I believe this is an affront to justice and I intend to exercise my right of appeal."

Despite the many setbacks encountered during the conduct of the case, Valentina successfully won the matter and in May 2023, the court delivered judgment in favour of Mr. Apenteng. This win made VAA Legal & Associates even more popular with the firm gaining much more prominence. A week after the judgment had been delivered, Mr. Apenteng had still not settled his outstanding legal fees. This infuriated Valentina and she sent an email to Mr. Apenteng saying,

“You are the most ungrateful and disgusting character I have ever dealt with as a client. But for me, you would still have been living within a static equilibrium of abject poverty. Your sudden rise to social prominence resulted from my hard work and profound knowledge of the legal principles governing your case. I will deal with you! I will fight you to the very end, you sorry excuse of a man.”

Valentina also encouraged her clerk, Smith, who happened to attend the same church as Mr. Apenteng to use every opportunity to harass Mr. Apenteng whenever he met him at church. Thus, on one occasion, while Mr. Apenteng was leading Bible Studies before the whole congregation, Smith openly called him out as a dishonest man who could not honour his obligations. Mr. Apenteng was embarrassed because he occupied the high office of Senior Elder at the church, a position he greatly treasured. This affected his reputation among members and caused him to subsequently resign from the position.

Mr. Apenteng is incensed by the conduct of Valentina and has filed a petition at the General Legal Council to direct the Judicial Secretary to strike off Valentina’s name from the Roll of Lawyers without holding a disciplinary hearing. In his words, Valentina is not “a fit and proper person to hold herself out as a lawyer.”

Identify and discuss all the ethical issues raised in this problem with reference to the Code of Ethics of the Ghana Bar Association, the relevant legislation affecting the legal profession in Ghana and decided case law.

[28 Marks]

QUESTION 2

“A closing address is totally irrelevant because a judge or juror may have already formed his opinion of the entire case at this stage. A lawyer thus, ought not to put in any effort when delivering his closing address.” **Discuss**

[14 Marks]

QUESTION 3

What is the importance or role of the following in Advocacy?

- a) Limiting the Testimony
- b) The Dogmatic Client
- c) Dangers of Non-Verbal Communication
- d) Language

[14 Marks]

QUESTION 4

Isaac has just hired Asare, a highly reputed Marketing Consultant, to advise him on how to increase his clientele. Asare has revamped the website of Isaac's firm, Isaac & Associates, to make it look more professional and attractive. Asare posted articles written by Isaac and information about cases that Isaac had successfully handled in the superior courts, along with details of the clients including pictures. Asare also put a tag line on the website as follows: "Isaac & Associates, your one stop shop for expert legal advice in commercial disputes."

With reference to the relevant legislation affecting the legal profession, identify and discuss the ethical issues arising from the above scenario.

[14 Marks]

QUESTION 5

The ability to listen effectively is central in clients' interviews. Discuss the role of the various kinds of listening skills in Advocacy.

[14 Marks]

QUESTION 6

"At the end of every cross-examination, a good lawyer must always embrace the opportunity for re-examination and must fully take advantage of this technique. Failing to re-examine your witness after cross examination is a recipe for disaster." Discuss.

[14 Marks]