NATIONAL AGENCY FOR EXAMINATIONS (NAE)
NATIONAL EXIT EXAMINATION FOR
STUDENTS OF ETHIOPIAN LAW SCHOOLS
2010/2011 ACADEMIC YEAR

PART III:- PROCEDURAL LAWS AND SKILL ORIENTED COURSES

INSTRUCTIONS:

- ATTEMPT ALL QUESTIONS ON THE BASIS OF SPECIFIC INSTRUCTIONS INDICATED IN EACH SECTION.
- TIME ALLOWED: 3 HOURS.
- LEGISLATION THAT CAN BE BROUGHT TO THE EXAM ROOM:
  CIVIL PROCEDURE CODE, CRIMINAL PROCEDURE CODE
- WHENEVER APPROPRIATE BUTTRESS YOU ARGUMENTS WITH PERTINENT LEGAL PROVISIONS.
- PUT YOUR ANSWERS IN A SEPARATE ANSWER SHEET ATTACHED TO THE EXAM.
- SWITCH OFF YOUR MOBILE PHONE

DO NOT TURN THIS PAGE UNTIL YOU ARE ALLOWED TO DO SO.

SECTION I: CHOOSE THE BEST ANSWER (20 %)

1. The purpose of legal brief is (1 mark)

   A. Education function and persuasion function
   B. Provide income for legal writing
   C. Equip smart writing style
   D. All
   E. None

2. Which of the following is always true? (2 Marks)

   A. pleading not disclosing a cause of action must be rejected.
   B. statement of claim containing legal provisions must be rejected.
   C. Statement of claim which is longer than 10 pages must always be amended.
   D. All are true.
   E. A & B

3. Which one is not an important technique that you should not employ when revising argument for persuasion (1 Mark)

   A. Isolate specific segments of your argument from the ground up.
   B. First do not copy and paste only your heading to a new document
   C. Read your entire brief out loud to yourself
   D. Have your peers or colleagues revise your work.
   E. None

4. Which one of the following is **true** about Ethiopian Bailing system:
   (2 Marks)

   A. Bail is granted unconditionally.

B. Non financial bailing systems though not frequented by our courts are recognized by law.
C. Some serious crimes are non-bailable ipso *facto.*
D. Post conviction bail is not allowed.
E. All

5. Mr X accused of murder quickly confesses immediately after the charge is read out for him, which of the following is the best approach a judge need to take under the circumstance? (2 Marks)

A. The judge needs to give a verdict of guilt automatically as there is no need of hearing the public prosecutors evidences.
B. The judge needs to ignore the confession and proceed with the hearing of the public's prosecutor evidence.
C. The judge needs to try to see if there is any other motive on the part of the accused for the confession other than wanting to tell the truth to determine whether he needs to hear the public prosecutors' evidence or not
D. All
E. A & C

6. Drafting of pleading shall not include (1 Mark)

A. The statement of claim and defense
B. Memo random of appeal
C. Regulations and directive
D. Country claim
E. All

7. Mr. **P**, a prosecutor in Lideta High Court charged Mr. **K** of robbery and successfully established his case to the required degree before the court. Consequently, the court demands the defendant to present his defence. Which one of the following is **true**? (2 Marks)

A. The court of its own motion may still require additional evidence.
B. The defendant, failing to establish his innocence, would be convicted.
C. The defendant, failing to cast reasonable doubt on the prosecution case would be convicted.
D. The defendant failing to refute the prosecution evidence altogether would be convicted.
E. None

8. In a civil action by Mr. X against Mr. Y, the former presents Mr. Z as a witness. Mr Z testifies that it was around mid night and he was standing 50 metres away when he saw Mr Y snatching a laptop from Mr. Y's hands and crashing it to the ground. Mr. Y is given the opportunity to cross examine but he answers to the court's invitation that he has got no questions. The court then render a decree which orders Mr. Y to pay Mr. 300,000birr for the lap top which is actually, according to Mr. Y's arguments, 10 times greater than the actual price of the lap top. An appeal is filed by Mr. Y. Which of the following arguments by Mr. Y needs to be taken into account by the appellate court in deciding the matter? (2 Marks)

A. The trial court's judgment is erred as it inflates the price of the lap top
B. The trial courts should have not given credibility to Mr. Z's testimony as it is impossible to recognize a person from 50 meters in the mid –night with neither moon light nor street lights.
C. The trial courts should have not given credibility to Mr. Z's testimony as Mr. Z has a visual problem.
D. All
E. A & B

9. The preliminary consideration for oral argument is (1 Mark)

A. Looking at the audience
B. The purpose of oral argument
C. Legal knowledge
D. Identifying relevant laws
E. All

10. One is not the predictive technique in drafting a client letter (1 Mark)

A. Ignoring the introductory paragraph
B. The opinion
C. The statements of facts
D. The explanation
E. All

11. Assuming that police officer H obtains search warrant to search the premise of Ms X in want of some material evidence related to a crime of forgery. One is **necessarily true**: (2 Marks)

A. H may not search X `s premise before securing X`s consent.
B. H may search the premise only in day time.
C. H may in no way seize materials not listed in the search warrant.
D. H may seize a material so long as it is not self - incriminatory.
E. None

12. The memo to the file of the client interview summery shall not include
(1 Mark)

A. The identity of the client
B. The clients goal
C. Probable outcome of the case
D. The task of the client and the attorney
E. All

13 If you are an appellate advocate, and the client request you to file an appeal, which of the following will automatically make you file the appeal?
(2 Marks)

A. The existence of any kind of error that can be observed from the records of the trial court
B. The absence of any remedy in the trial court.
C. The fact that the case is finalized in the trial court
D. All
E. None

SECTION II: SAY TRUE IF THE STATEMENT IS CORRECT AND FALSE IF THE STATEMENT IS INCORRECT (5 %)

1. Ethiopia does not have evidence law. (1/2 Mark)

2. Where ever sufficient evidence exists, Ethiopian prosecutors may not decline to institute criminal charge justifying it on public interest. (1 Mark)

3. Juxtaposition is a technique that points out two conflicting or inconsistent statements or theories. (1 Mark)

4. The law does not allow pleadings to state both legal and factual arguments. (1/2 Mark)

5. The current Ethiopian criminal procedure gives efficiency precedence over procedural safeguards. (1 Mark)

6. A police officer always needs a search warrant to search one's premises. (1/2 Mark)

7. A new purely legal argument can be raised at the appellate court. (1/2 Mark)

SECTION III: FILL IN THE BLANK SPACES (10 %)

1. Assuming that in one corruption case the burden of proof is validly shifted from the prosecutor to the accused; the standard of proof required of the accused would be _____. (2 Marks)

2. The court does not need evidence when there is either _____ or_____, to name a few. (1 Mark)

3. Police may use proportionate force to effect arrest .Proportionality of force is measured, among others, against _____and _____. (2 Marks)

4. _____ and _____ are, among others, the grounds a public prosecutor can use not to bring a charge against a suspect. (1 Mark)

5. _____evidence is admissible in _____system but not in common law legal system except in certain circumstances. (1 Mark)

6. A suspect cannot be punished or held in contempt of court for failing to answer questions or provide documents to a prosecuting authority. This kind of protection is referred to as_____. (2 Marks)

7. In a civil proceeding, the court, in a first hearing, among other things, needs to do _____ and _____. (1 Mark)

SECTION IV: MATCHING (5 % /1 MARK EACH/)

A	B
1. Trial	A. Serious Crimes
2. Trial in absentia	B. Victim impact assessment
3. Technique of Subtlety	C. Victim oriented
4. RTD (Real Time Dispatch)	D. Flagrant crimes
5. Review of Judgments	E. A procedure by which a higher court corrects the errors made by the lower correct.
	F. Appeal, cassation, Arts207- 212 0f CV.P.C, New trial upon a discovery of New Evidences, Opposition.
	G. Knowing your audience
	H. Petty offences
	I. A stage where arguments and evidences are heard. It may not always be necessary
	J. Basic principle of settlement utter
	K. Art of order masking your strategy to a certain extent
	L. A stage where a ruling on preliminary objections is rendered

SECTION V: GIVE SHORT ANSWERS TO THE FOLLOWING QUESTIONS (10 %)

1. What does the harmless error doctrine hold? Why do we need to uphold this doctrine? (2 Marks)

2. The most suitable and common paradigm of predictive writing is referred as the IRAC rule. What does IRAC stand for? (1 Mark)

3. In both the Civil and Criminal procedure code, there is a prohibition of leading questions in direct examination unless there are exceptional circumstances. Can you mention those exceptional circumstances? Why are they made exceptions? (2 Marks)

4. What are the things that can be included in the statement of claim while you are writing it? (1 Mark)

GIVE BRIEF ANSWERS TO THE FOLLOWING SHORT QUESTIONS BASED ON THE FACTS GIVEN BELOW. YOUR ANSWER SHOULD BE GROUNDED ON ETHIOPIAN LAW.

Lidetu , a police officer in the administration of Dire Dawa, lives in a small village situated partly in the state of Harare and partly in the Administration of Dire Dawa. W/ro Yimegnushal who is married to Ato Debella and neighbours Police officer Lidetu, is often rumoured to have sexual affair with Ato Hagos, a moneyed man in the area. Quite oddly, as opposed to Ato Debella, police officer Lidetu was following the rumour closely. One day, disguising to visiting his neighbour (Yimegnushal) Lidetu finds the suspects (Ato Hagos and W/ ro Yimegnushal) in bed and vowed to bring them to justice.

5. Can Lidetu validly arrest the suspects? Why? Why not? (3 Marks)

6. Identify possible victim participation in the above hypothetical case. (1 Mark)

SECTION VI: WRITE SHORT ESSAYS FOR THE FOLLOWING QUESTIONS (15 %)

1. Explain the different sections of a legal brief. (3 Marks)

2. If a court gives a judgment which does not contain any reasoning, a brief account of facts or issues, but simply goes:
   The court, after thorough examination of the arguments and evidences presented by parties hereby decides that a defendant is liable to pay 50,000 birr to the plaintiff.
   Can the defendant resort to those provision given under Arts 207-212 of the Civil Procedure to challenge this judgment in the very court it is rendered? (4 Marks)

3. Discuss the prescribed format of oral argument. (3 Marks)

4. Can we say that memorandum of appeal and appellate brief are one and the same thing? (5 Marks)

SECTION VII: HYPOTHETICAL CASE QUESTIONS (35 %)

1. Assume you are the court clerk or assistance of a judge in high court. If you are ordered by a high court president to prepare a draft form for securing bond. Hence please would you prepare securing bond form and show it us. (5 Marks)
2. In a suit in a federal first instance court between Mr. Sami, a victim, and Mr. Dani, a car owner, your boss, Mr. Aleka, is the lawyer of the defendant, the car owner. After the first hearing is conducted, your boss comes to learn that there is a compromise concluded between the victim and the defendant regarding the dispute before the suit is initiated in the court and that the claim of the victim is more than 600,000 Birr. Now Mr. Aleka wants you, his assistant, to present him with a legal memorandum as to whether he can raise the facts he has just learnt as a defence in any way. Can you do that? (15 marks)

On Oct 10th 2000, night officer X who works at the Federal Anticorruption commission received anonymous tip that A and Z, employees of Addis Ababa City Administration, are involved in skewing a land auction in favour of *Bibas construction* in return of which they received half a million each as a `commission`- people engaged in the practice preferred to call it. The Anticorruption Commission established a task force comprising two police officers and one public prosecutor to investigate the matter. Fearing the suspects` flee, however, police applied for an arrest warrant and obtained it to immediately take A and Z in to custody. Accordingly, the arrest was safely carried out on the 12th of October 2000. Following their arrest, A and Z filed Bail application but it was objected by the prosecutor on ground that the crime of corruption which A and Z are suspected of committing is, ipso facto, non-bailable. The court before which the bail application was filed dismissed the suspects claim and ordered that they remain in custody until the trial court hands down a final judgment over the merit of the case. A and Z, dissatisfied with the court`s decision, filed an appeal before the Federal Supreme Court.

On the other side of the story, the investigation continued to uncover material evidence. While investigating the matter, the task force approached 12 witnesses and interviewed 6 of them; interrogated the suspects after duly warning them of their right to remain silent. Despite successive interrogations, the suspects insisted that they have committed no offence. But at a later stage in the investigation, following X `s soft advice that confession rewards in terms of sentence as well as in their heavenly life; and prosecutor`s promise not to include earlier records, if any, while charging, Z admits he has committed the alleged offence-corruption. Yet, A insisted on his innocence. To consolidate its case, police obtained search warrant and thoroughly searched the suspects` belongings and found some evidence including their pass book (bank) with a staggering sum of money.

Relying on the above findings the commission decided to prosecute A and Z of the crime of corruption. Consequently, prosecutor M who took charge of the prosecution instituted charge before Lideta high court.

BASED ON THE ABOVE FACTS, ANSWER THE FOLLOWING QUESTION.

3. A and Z, assisted by their lawyers, argue before the Federal Supreme court that they have a constitutionally guaranteed right to bail. And this right can only be limited in a manner consistent with Article 19(6) of the Constitution i.e. in exceptional circumstances provided by law. The phrase 'exceptional circumstances' does not allow the law maker to make an offence non- bailable ipso facto and thereby erode the constitutional protection. Rather, it limits the role of the law maker to defining the conditions and facts under which bail may be denied. Thus, they conclude, since the Anti corruption law which denies bail apriori is unconstitutional; the petition to be released on bail should be sustained. On the other hand, prosecutor M rejects the above argument and contends that the constitution authorizes denial of bail in exceptional circumstances provided by law. What the Anti corruption law does in the crime of corruption squarely

fits in to this exception. Assess the validity of A and Z`s argument. (15 Marks)

ANSWER SHEET FOR PART III

DIRECTIONS:

Please read the following directions carefully before starting to work on the examination.

1. **Write your Name, Father Name and Grand Father Name, the Name of your University and your Registration Number on the spaces provided in BLOCK letters.**
2. **Do not write your Name, Registration number or any other information regarding yourself inside the answer sheet.**
3. **Code Number is for use by the Agency. Therefore nothing should be written on it.**

EXIT EXAM (2003/2011)

PART III

_____ _____ _____

NAME F. NAME G. F. NAME

UNIIVERSITY_____

REGISTRATION NUMBER_____

CODE NUMBER

CODE NO._____

SECTION I: CHOOSE THE BEST ANSWER

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____

SECTION II: SAY TRUE IF THE STATEMENT IS CORRECT AND FALSE IF THE STATEMENT IS INCORRECT

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

CODE NO._____

SECTION III: FILL IN THE BLANK SPACES

1. _____
2. _____
3. _____ and _____ _____
4. _____ and _ _____ _____
5. _____, _____

6. _____
7. _____ and _____ _____

SECTION IV: MATCHING

1. _____
2. _____
3. _____
4. _____
5. _____

SECTION V: GIVE SHORT ANSWERS TO THE FOLLOWING QUESTIONS

1. _____

2. _____

3. CODE NO._____

4. _____

5. _____

6. _____

7. _____

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SECTION VI: WRITE SHORT ESSAYS FOR THE FOLLOWING QUESTIONS

1. _____

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2. CODE NO._____

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3. _____

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4. _____

5. CODE NO._____

6. _____

SECTION VII: HYPOTHETICAL CASE QUESTIONS

1. _____

CODE NO._____

2. _____

CODE NO._____

CODE NO._____

3. _____