National Educational Assessment and Examinations Agency (NEAEA)

National Exit Examination for LL.B Programme Students of Ethiopian Law Schools

Academic Year 2013/2014

Part I: Private Laws

18 March 2014
Time Allowed: 3 (Three) Hours

Instructions:

- This is a closed book exam for all materials except clean copies pertinent Ethiopian Laws which can neither be lent to nor borrowed from other students.
- The Exam has five sections. The grades allotted for each are indicated beside the title of the section.
- Whenever Appropriate buttress your arguments with pertinent legal provisions
- You are expected to allocate your time based on the marks allotted per question.
- Write your answers in the answer sheet provided.
- Switch off your mobile phone.

Please do not turn this page until you are told to do so!

_____ _____ _____

First Name **Father's Name** **Grandfather's Name**

Registration. Number _____

University _____

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SECTION I: CHOOSE THE BEST ANSWER (25%, 1% EACH)

1. Which of the following is different among the given alternatives?

   A. Product liability.
   B. Vicarious liability.
   C. Strict liability.
   D. Absence of fault not a defense.
   E. Liability imposed on producers.

2. Which one of the following statements is true?

   A. The provisions of a contract are as strong as legal provisions as far as the rights and duties of the contracting parties are concerned.
   B. The provisions of a contract are the same as legal provisions as both of them are stipulated by the law-maker.
   C. The Ethiopian law maker can make contracts on behalf of the contracting parties in some exceptional circumstances.
   D. Contracts are always expected to be interpreted by the executive branch of the government.
   E. B & C.

3. Identify the correct statement (s) regarding ordinary and special movable things under Ethiopian law.

   A. Both movable and special movable goods are subject to same legal rules governing acquisition and extinction of ownership.
   B. Title to both ordinary and special movable things is in principle transferred up on transfer of possession.
   C. A movable thing is special movable if its transfer is regulated by special laws otherwise than as provided under Article 1186(1) of the Civil Code.
   D. Laptops are special movable things.
   E. C & D.

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4. If one of the spouses sells a common immovable property to a third party without the consent of the other, which of the following statements is correct among the given alternatives?

A, The contact is void and can be invalidated at the request of any interested person.
B. The contact is voidable and can be invalidated at the request of the spouse who has not given consent.
C. The invalidation of the contract may be sought at anytime.
D. All.
E. B & C.

5. Which of the following statements is **incorrect** among the following alternatives?

A. A tortfeasor's liability under Ethiopian law is limited only to such damages as he anticipated or ought to have anticipated to occur.
B. Compensation may not be awarded under Ethiopian law in relation to future damage where there is complete uncertainty as to the damage to occur.
C. A mere threat of danger through dangerous activities may never constitute a cause of civil action under the extra contractual liability law of Ethiopia.
D. A & B.
C. A & C.

6. Which of the following statements is correct among the given alternatives?

A. Desire to injure is not necessarily a requirement to make the author of an utterance liable for defamation.
B. There is no liability for negligence unless the defendant breached a duty of care owed to the plaintiff.
C. The position of the Ethiopian strict liability law simply shifts from the victim to the defendant the burden of proving fault or its absence.
D. A & B.
E. A & C.

7. Which of the following acts does **not** constitute fault under the Ethiopian tort law?

A. Battering.
B. Defamation.
C. Breach of one's contractual obligation.
D. Stealing.
E. None.

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8. Identify **incorrect** statement about expropriation under the current constitutional order.

A. Public interest/purpose is defined in terms of direct or indirect benefit derived from use of a property.
B. Courts are not allowed to review whether the public purpose requirement is satisfied.
C. Compensation decided by experts cannot be reviewed by courts.
D. The measure of compensation for private property in expropriation of land holding is market value.
E. C & D.

9. Which of the following may be regarded as non-traders under the Commercial Code even when they undertake the activity professionally and for gain?

A. Handicraftsmen.
B. Farmers.
C. Ranchers.
D. Fishermen.
E. All.

10. Which one of the following statements is **incorrect** among the given alternatives?

A. In case of divorce by mutual consent, the court shall automatically declare divorce.
B. Divorce by mutual consent is necessarily a divorce without a cause.
C. Divorce by petition is a right to all spouses including the newly married ones.
D. All.
E. A & C.

11. Which one of the following is ground for defective possession under the Ethiopian property law?

A. Violence.
B. Secrecy.
C. Discontinuity.
D. All.
E. B & C.

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12. In which of the following business organizations can contributions be owned by the members?

A. Limited partnerships.
B. Ordinary partnerships.
C. Private limited companies.
D. Companies limited by shares.
E. General partnerships.

13. Which of the following statements is **correct** among the given alternatives?

A. Employers' vicarious liability for their employees in Ethiopia is based substantially on the fault of employers.
B. In relation to the vicarious liability law of Ethiopia, it is not necessary to prove either the fault or strict liability of the doer of the act.
C. The causes of action in extra-contractual liability suit begin to exist when harm is caused by a person through non-compliance with standard behavior set by law.
D. A & B.
E. A & C.

14. If contracting parties fail to determine place of performance a contract,

A. The contract will be invalidated.
B. The contract is *void ab initio.*
C. The contract will be performed at the place where it is convenient to the creditor.
D. A & B.
E. None.

15. If an heir dies shortly after the death of the deceased, which one of the following is true?

A. His right to succeed shall pass to his co-heirs.
B. He loses the capacity to succeed.
C. His right to succeed shall pass to his heirs.
D. He will be declared unworthy.
E. He is considered as failing to meet the survivorship requirement.

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16. Succession through representation comes to the picture when_____

A. The heir appoints an agent according to the law.
B. The person who is to be called to succeed directly died before the death of the deceased.
C. The person who is to be called to succeed directly died before the opening of the succession.
D. B & C.
E. All.

17. One of the following statements is wrong regarding sharing profits and losses in business organizations.

A. In companies limited by shares, members get profits in proportion to their shareholding.
B. In ordinary partnerships, share of profits and losses can be equal for all partners regardless of their shareholding.
C. In private limited companies, loses can be shared between members who have not made their contributions.
D. In companies, members always stand to share losses arising out of the business in proportion of their shareholding.
E. In limited partnerships, general partners share losses jointly and severally.

18. Which one of the following is **not** true about public will?

A. It shall be of no effect unless it is attended by four witnesses.
B. It can be valid notwithstanding that it is written by a third party.
C. It shall be of no effect unless it is read in the presence of the testator and witnesses.
D. It shall be of no effect unless it is signed by the testator and the witnesses forthwith.
E. A&B.

19. Which of the following statements is **incorrect** among the given alternatives?

A. The fact that it is impossible to prove the fault of the defendant exempts the latter from strict liability in the Ethiopian extra contractual liability law.
B. The period of limitation for tortious actions in Ethiopia may sometimes exceed the general limitation period specified in the law of contracts.
C. A person is not liable under the Ethiopian tort law for damage caused due to his negligence unless the law specifically provides otherwise.
D. All.
E. A & C.

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20. Which of the following statements is correct among the given alternatives?

A. The fact that a person is legally declared liable for the act of the tortfeasor, according to the Ethiopian law, is not a bar for a plaintiff to have a claim against the doer of the act.
B. The Ethiopian law of strict liability always provides surrender options.
C. Third party creditors, under Ethiopian law, may claim compensation from a tortfeasor as legal representatives of the victim irrespective of the nature of the damage the plaintiff suffers.
D. A & B.
E. A & C.

21. How should the existence and contents of a will be proved for the purpose of execution of a will?

A. By four witnesses who attended the making of the will.
B. By producing the will itself.
C. By witnesses who can testify the destruction of a will by a third party.
D. By the testimony of the heirs of the testator.
E. A & B.

22. Which one of the following is true if the testator bequeathed a thing to two or more persons without specifying the portion of each?

A. The will shall be invalidated owing to undefined object.
B. The legatees shall take their part according to their degree of relationship with the deceased.
C. The legatees shall have equal rights to the thing bequeathed to them.
D. The legacy shall pass to the heirs-at-law.
E. A & D.

23. Which one of the following statements is wrong about customary and religious marriages?

A. The validity of both types of marriage is not affected by their registration.
B. Their substantive requirements are to be prescribed by the relevant custom and religion.
C. Their formality requirements are to be prescribed by the relevant custom and religion.
D. They cannot be divorced without the involvement of the curt.
E. None.

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24. Which one of the following statements is true about acceptance of succession by heirs?

A. It can be revoked.
B. Conditional acceptance is allowed under the law.
C. An heir may accept a succession through his/her agent.
D. An heir may tacitly accept the succession.
E. Acceptance may be made by the creditors of the heirs.

25. What do you think is the distinction between property categorized as public domain and private domain?

A. Public domain refers to property owned by the state while private domain refers to property owned privately.
B. Private domain is governed by rules regulating privately owned property.
C. The state cannot impose any charge with respect to exploitation of public domain.
D. Public domain is not subject to acquisition by possession in good faith.
E. All.

SECTION II: MATCH THE ITEMS UNDER 'A' WITH THOSE UNDER 'B' (10%, 1% EACH)

COLUMN A	COLUMN B
1. Accessory contract	A. Contract of insurance
2. Condition precedent	B. Good faith
3. Vice of consent	C. Contract of surety
4. Extinction of contract	D. Benefit of discussion
5. Termination of contract	E. Aleatory contract
6. Rule of interpretation	F. Compensation
7. Subrogation	G. Benefit of division
8. Simple guarantee	H. Action of preservation
9. Element of object of contract	I. Substitution
10. Exception to privity doctrine	J. Duress
	K. Lawfulness
	L. Assignment of rights
	M. Confusion of obligation
	N. Non- retroactive effect
	O. Invalidation

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SECTION III: ANSWER THE FOLLOWING QUESTIONS IN NOT MORE THAN 4 LINES (15%)

1. Is there any possibility for the adopted child to claim maintenance from his family of origin? Why/why not? (5%)
2. Briefly explain the different class of shares in share companies (5%)
3. Can spouses dissolve their marriage by physically destroying their certificate of marriage without following any additional procedure? Why/ why not? (5%)

SECTION IV: WRITE SHORT ESSAYS FOR THE FOLLOWING QUESTIONS IN NOT MORE THAN 10 LINES (20%)

1. The age and/or the mental condition of a person is not taken into consideration in determining whether a person is at fault in the extra contractual liability law of Ethiopia. This approach is totally unparalleled with the Country's criminal justice system where the age and mental conditions of the suspect makes a difference in the determination of his guilty.

   Explain the major reason (s) for this difference of approach in the criminal and extra contractual liability law of Ethiopia. (7%)

2. Why do you think is the law so strict in laying down stringent procedures and requirement for the making of a valid will? (7%)

3. Demonstrate the difference between private limited company and company limited by shares. (6%)

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SECTION V: HYPOTHETICAL CASES (30%)

HYPOTHETICAL CASE I

Ato Wubetu Midekssa has a three storey-building in Shashemene Town. Ato Wubetu leased the whole building to Awash College of Business and Economics S.C. The lease contract was concluded on the 10th of August 2010 in which it was stipulated that the contract of lease would enter into force as of the 1st date of September 2010. In the contract, it was also agreed that the lessee would pay 50,000.00 Birr at the end of every month of the Gregorian calendar. Though lessee was paying the lease money as agreed for the first six months, it stopped making payments after that. The lessee used the building for six months without paying anything to the lesser. After the end of August 2011, the lessee left the building and delivered same to the agent of the lesser as the latter was not in Ethiopia by then.

Ato Wubetu Midekssa sued the lessee on the 8th of October 2013 alleging that it should pay him 300,000.00 lease prices that should have been paid as per the contract of lease concluded between them on the 10th of August 2010. Although the defendant was duly summoned to appear and defend its case, it was not voluntary to receive the summons and did not appear at the time of the hearing of the case. However, to the surprise of the plaintiff, the court to which the case was taken dismissed the suit saying that there was presumption of payment in favor of the defendant according to Art.2024 of the Civil Code of Ethiopia.

Do you think that the stance taken by the court is tenable in light of the relevant provisions of the Civil Code of Ethiopia? Why/ why not? (15%)

HYPOTHETICAL CASE II

Mr. A had three houses in Addis Ababa city until 1976. In 1976, the new socialist regime in Ethiopia came up with a proclamation that nationalized all extra houses. The proclamation provided for the procedures to object the propriety of the taking. Accordingly, anyone who believed that his property was taken wrongly without the satisfaction of the requirements in the proclamation could file petition before relevant office. The city government nationalized two of A's houses and the Rental Houses Agency took over the houses and started renting same. However, there was no title certificate issued in favor of the agency; nor was the title issued in favor of Mr. A nullified by any decision of any organ. In 1991, a new government came to force and embraced market economy. Mr. A, cognizant of the presumed new ideological inclinations of the new regime (against the previous system), speculated how to reassert 'his title' to the two houses under the control of the Rental Houses Agency. In one Sunday, he simply moved in to one of the houses in the absence of residents who rented the houses. The lessees, on return from vacation abroad, were confronted by Mr. A and

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his family and had no choice but report to the Rental House Agency. The Rental House Agency brought possessory action before a federal court against Mr. A invoking interference of possession of the houses it rented. Mr. A, on his part, tabled his objections as follows.

1. He objected that the agency could not bring possessory action under the law as it was not in possession of the house which was in control of (and occupied) by the lessees.

2. He further argued that even if the court allowed the agency to bring possessory action, it could not be successful as he held title certificate to the immovable issued by competent city authority and not in any way nullified by any organ of the government.

Do you think Mr. A will succeed in the above two counts of arguments? Why/ why not? (15%)

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