National Educational Assessment and Examinations Agency (NEAEA)

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

Academic Year 2012/2013

Part III: Procedural Laws and Skills Courses

21 March 2013
Time Allowed: 3 Hours

Instructions:

- This is a closed book exam for all materials except clean copies of CIVIL PROCEDURE CODE and the CRIMINAL PROCEDURE CODE 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!

SECTION 1- MULTIPLE CHOICE QUESTIONS (25 points)

There are 25 multiple choice questions in this exam. Each carries 1 point. Choose the best answer and write the letter of your choice on a separate answer sheet appended to this exam booklet.

1. In which one of the following do Ethiopian courts have ***subsidiary*** but **not *principal*** jurisdiction?

   A. Crime committed in a foreign country by an Ethiopian enjoying immunity
   B. Crime committed outside Ethiopian territory in violation of an International treaty to which Ethiopia is a party
   C. Crime committed outside Ethiopia against the state of Ethiopia
   D. Crime committed by a member of the House of Peoples' Representatives
   E. None of the above.

2. The appellate counsel is required to:

A. represent and defend the cause of her/his client with utmost diligence,
competence and integrity
B. respect the law as s/he performs her/his obligation stated under "a"
C. be amicable and respectful to the other party in the performance of tasks
V and "b"
D. respect the court and witnesses
E. All of the above.

3. Assume that Ms. **"A"** is charged before a court of law on suspicion that she has committed crime 'x'. If the court at the end of the trial, rightly, convicts Ms. "A" for crime y but not for crime 'x', then one of the following is ***necessarily correct***

A. The accused could have been charged for crime y either alternatively
or concurrently with crime 'x\
B. The gravity of crime y is lesser than or equal to that of crime 'x'.
C. Crime y is within the jurisdiction of the trial court or a lower court.
D. The facts to be established to prove crime 'x' and y are the same.
E. All of the above except A.

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8. Which of the following is false about duration of investigation under Ethiopian
law?

A. The law does not regulate duration of investigation where a suspect is
not under arrest
B. Except for the offence of vagrancy, the law is silent on the duration of
further investigation when ordered by the public prosecutor.
C. The law provides not only for the duration of each remand but also for
the number of remands for vagrancy, terrorism, and corruption offences.
D. Except for terrorism and vagrancy related offences, the law is silent as
to the total period of investigation.
E. A and C.

9. Which one of the following is neither relevant for deciding whether or not to
grant bail nor for the amount of bail to be deposited?

A. Nature of the offence the arrestee is suspected for
B. Age of the arrestee
C. Behavior of the arrestee
D. Status of investigation
E. None of the above.

10. Under the FDRE Constitution, the power to enact conflict of laws rules is
give

n:
A. explicitly to the Federal law maker.
B. explicitly to the regional parliaments.
C. implicitly to the Federal law maker.
D. There is no provision which implicitly or explicitly deals with the matter.
E. None of the above.

11. In fixing the domicile/residence of juridical/artificial persons:

A. the statutory seat doctrine bases itself on the place of formal registration or incorporation.
B. the effective or actual seat doctrine bases itself on the place of formal registration or incorporation.
C. the middle path doctrine bases itself on the place of principal activities.
D. the preference of the juridical person in question is the controlling factor.
E. All of the above.

Which one of the following statements is **incorrect** about choice of the applicable law in conflict of laws?

A. The determination of the applicable law depends on the nature of the dispute involved.
B. Characterization is an indispensable step towards identifying the applicable law.
C. Public policy considerations may be relevant when identifying the applicable law.

D. Determination of the applicable law comes after a decision on judicial jurisdiction is given.
E. None of the above.

13. In principle, hearsay evidence is not admissible; but there are certain exceptional circumstances where such evidence could be admissible. Which of the following grounds fall under this exception?

A. Dying declaration
B. Statements made in the ordinary course of business
C. Declarations against interest
D. Statements of opinion as to the existence of a public or general right or custom
E. All of the above.

14. In a murder trial, which of the following could be regarded as demonstrative evidence?

A. The victim's body
B. Weapon used, if any
C. Casts of footprints found at the scene of the crime
D. Evidence showing the lifestyle of the alleged murderer
E. All except "D".

15. Which of the following is **not** a means of authentication of documentary evidence?

A. Admission of authorship by the writer

B. Proof of signature or handwriting
C. Opinions of experts
D. "A" and "C"
E. None.

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16. Which of the following are the circumstances under which the contents of a document are proved by employing secondary evidence under the Ethiopian Draft Evidence Rules?

A. When the original is shown or appears to be in possession or power of the person against whom the document is sought to be proved
B. When the existence of the condition or contents of the original have been proved to have been admitted in writing by the person against whom it is proved
C. When the original has been destroyed, lost, or when the party offering evidence or its contents cannot for any other reason produce it in reasonable time
D. "A"and"C
E. All of the above.

17. One of the following is not among a lawyer's tasks during litigation planning:

A. Determining the client's needs
B. Identifying the client's priorities
C. Drafting pleadings

D. Identifying the potential counterclaims of the other party
E. Analysing the possible defences of the other party.

18. One of the following is true about burden of proof under Ethiopian law.

A. It may refer to burden of production and burden of persuasion.
B. As the issue (claim) in a case varies, the burden of proof shifts from one party the other.
C. The plaintiff shall bear the burden of proving the cause of action.
D. When the defendant raises an affirmative defense, he shall bear the burden of proof.
E. All of the above.

19. One of' r.o following is true regarding examination-in- chief under Ethiopian law?

A. It is a process whereby a party who has called a witness to give evidence questions him/her with the view to elicit evidence favorable to the examiner.
B. It is applicable in both civil and criminal cases.
C. Leading questions are prohibited in examination-in-chief.
D. Answers 'A' to 'C\
E. Answers 'A' and 'C\

20. One of the following is **not** true regarding cross examination under Ethiopian law:

A. Cross examination is the right of the party against whom the witness testifies to probe questions to undermine the credibility of the witness.
B. Unlike in the case of examination-in-chief, in the case of cross examination leading questions can be posed to a witness.
C. It applies only to criminal cases.
D. "A" and "B."
E. None.

21. Which of the following is a sound statement regarding the relationship between evidence and procedural laws (rules) of Ethiopia?

A. Both are adjective laws.
B. Evidence law can be part of procedural law.
C. Procedural laws are integral part of evidence law.
D. "B" and "C".
E. "A" and "B".

22. Which one of the following is **not** valid about judicial admissions in civil cases?

A. Facts could be expressly admitted in pleadings.
B. General (evasive) denial may amount to admission.
C. Facts admitted need not be proved.
D. "B" and "C".

E. None.

23. The party that is entitled to appeal is:

A. The plaintiff or the respondent in a civil suit.
B. The public prosecutor or the defendant in criminal cases.
C. Answers "a" and "b".
D. Any party on behalf of public interest.
E. None of the above.

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24. Indicate a statement among the following that is the **least acceptable** with regard to client interview:

A. Client interview usually precedes the identification of legal issues and the gathering of evidence.
B. Tape-recording client interview sessions can render the client overcautious and very reserved.
C. Client interview needs a setting of friendliness and informal conversation without taking notes during the first session.
D. The client opens up depending upon the level of trust and confidence
E. that develops between the client and the attorney.
Client interview can be made in the presence of other clients.

25. Choose the most appropriate sentence regarding the content that appellate litigation usually embodies:

A. Appellate litigation mainly involves legal issues, and possibly issues of fact as well.

B. Appellate litigation only involves legal issues. Appellate

C. litigation only involves issues of fact. Appellate litigation

D. always involves a few legal issues, and predominantly issues of fact. None of the above.

E.

SECTION **2-** MATCHING (10 points)

Match each item under Column "A" (i.e., numbers **1** to **10)** with its best corresponding item (among letters "A" to "O") under Column "B".

Column A	Column B
1. Adversarial	3. Appeal
2. Aggravated robbery	4. Cassation petition

5. Likely source of proof

6. Flagrant offence

7. Preponderance of evidence

8. Pre-trial planning

9. Primary authority in legal investigation

10. The legal method

A) Arrest with warrant

B) Arrest without warrant

C) Cause of action

D) Choice of law clause

E) Common law system

F) Determine needs and priorities of the client

G) Fundamental error in law

H) Lawful method

I) Mandatory preliminary inquiry

J) No charge is necessary

K) Post conviction procedure L) Proclamation

M) Research, Analysis, Communication N) Standard of

proof in civil cases O) Witnesses

SECTION 3- SHORT ANSWERS (15 points)

Give a short answer to the following questions:

1. Is bad character of the accused considered as relevant evidence in criminal proceedings? Explain. (6%) 6 lines.

2. Explain the notion of "standard of proof (6%). 6 lines.

3. State three type of legal services given by a person who is attorney and consultant at law (3%), 3 lines.

SECTION 4- **ESSAY TYPE QUESTIONS** (20 points)

1. When faced with cases containing a foreign element, Ethiopian courts have in practice developed three different approaches to the issue of judicial jurisdiction.
   What are these three ways of dealing with the question of judicial jurisdiction and what drawbacks does each have?
   (About 12 lines), 12 points

2. Explain the difference between issues that can be grounds of appeal and issues that can be grounds for a cassation petition. What are the parties called during appeal and cassation litigation?

(About 8 lines), 8 points

SECTION 5- CASE PROBLEM (30 points) **Read the following hypothetical case and answer the three questions that follow.**

"A" sued "B" to claim compensation for an alleged bodily injury (70% loss according to a medical certificate). He sustained the injury while he was travelling by a bus owned by "B" which "C" was driving. The court, being satisfied with the requirements of cause of action and jurisdiction, sent a copy of the statement of claim and annexes thereto together with summons to the defendant. The court instructed the defendant to file his

statement of defense with the court's registrar far ahead of the date it fixed in the summons for a hearing. In his statement of defense (filed as instructed by the court), "B" admitted liability as the owner of the bus but contested the amount of compensation claimed by "A" as exaggerated compared to the injury sustained. He asked the court to proportionally reduce it. On the date fixed in the summons for hearing the suit only "B" was present. The court then dismissed the suit.

Answer the following questions based on the above facts and other additional facts given below.

Question 1

"A" was not in Ethiopia on the day the court dismissed the suit. He thought the court would simply proceed with the case even in his absence as he had submitted all the necessary documentary evidences

that establish the liability of "B" and the amount of compensation due to him. He returned to Ethiopia a day after the court dismissed the case and found out that his suit was no longer pending. On the next day, he filed an appeal against the order of the lower court. If you were the appellate judge, would you admit this appeal? Why or why not?

[10 points]

Question **2**

Assume that "A" also sued "C" as co-defendant with "B". "C" did not bother to go to court on the date fixed in the summons for the hearing of the suit although he had filed
his defense with the court's registrar long before the time set for the hearing. The court heard the suit ***ex parte.*** The court then adjourned the case to hear A's witnesses on whether "C" was professionally at fault to

cause injury while driving the bus. "C" appeared on the date set to hear A's witnesses. He did not want to invoke setting aside procedure; yet he asked the court to allow him cross-examine A's witnesses and to introduce his own defense witnesses. "A" has objected to C's move. If you were the judge, would you allow him? Why or why not?

[10 points]

Question 3

Assume that the court had heard the case and rendered judgement in A's favour. "B" filed an appeal against the decision of the court to challenge the amount of compensation the court has ordered him to pay "A". The appellate court confirmed the decision of the lower court. B's attempt at cassation also failed. "B" later discovered that the medical certificate on the extent of A's bodily injury was obtained through the corrupt practices

of the board of physicians who examined him. The extent of A's bodily injury was only 20%! "B" wants to challenge the former judgment on this ground. Can he do so, if he files his application within the legally prescribed time and upon payment of the required court fee? Why or why not?

[10 points]

Good Luck

Answer Sheet Cover Page
Part II, LL.B Exit Exam

The data on this page is accessible only to NEAEA

DIRECTIONS:

IP

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

1. Write your first name, father's name (patronymic) and grandfather's name (surname) in BLOCK letters in the spaces provided below.
2. Write the Name of your University and your Identification Number on the spaces provided below in BLOCK letters.
3. Do not write your Name, Registration number or any other information regarding yourself inside the answer sheet.
4. Code Number is for use by the National Agency for Examinations (NEAEA). Therefore nothing should be written on it.

LL.B EXIT EXAM PART III, NEAEA 2013 (2005 E.C.) PROCEDURAL LAW AND SKILLS COURSES

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

I.D. Number .

University

Code Number *(To be filled by NEAEA)* _^