



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**PLOT 91, CADASTRAL ZONE, NNAMDI AZIKWE EXPRESS WAY,**  
**JABI, ABUJA**  
**FACULTY OF LAW**  
**2021\_2 EXAMINATION...**

**COURSE CODE: PPL518**

**COURSE TITL: ALTERNATIVE DISPUTE RESOLUTION II**

**TIME ALLOWED: 3 HOURS**

**Instruction: ANSWER QUESTION 1 (ONE) AND ANY OTHER 3 (THREE) QUESTIONS. (QUESTION 1 (ONE) ATTRACTS 25 MARKS)**

**Question 1**

Dairo and Tiwa formed a consultancy partnership. Prior to signing the partnership agreement, Tiwa observed that the agreement was silent on their verbal promise to arbitrate in the event of a dispute. Dairo sent her an sms stating ‘please sign. No time to amend now, I assure you that if any dispute should ever arise, I will submit to arbitration by a sole arbitrator.’ Following a disagreement between them, Tiwa declared a dispute and asked Dairo to suggest his choice of arbitrator. Dairo ignored her and filed a law suit at the High Court instead. Tiwa intimated the court of the existence of an arbitration agreement though Dairo denied. The court stayed proceedings and directed the parties to submit to arbitration. When Dairo refused to cooperate, the court, on application by Tiwa appointed Ajanaku SAN as sole arbitrator. Dairo appealed the decision of the court but lost. In the course of arbitral proceedings, Tiwa sought leave of the arbitrator to present expert evidence. Dairo immediately applied to court for an interim injunction prohibiting the tribunal from considering Tiwa’s application. The court granted Dairo’s application. Discuss the legal issues. (25 marks)

**Question 2**

Your services have been engaged to provide administrative/secretarial assistance in the dispute between AB Pharmacy and CD Vaccine Production Ltd. Advise on the following:

- a. arrangements that are required to be made following a request for an on-site inspection of AB Pharmacy’s Laboratories. (5 marks)
- b. safeguards in place to ensure that electronic copies of paper-based documents are exchanged seamlessly without any technical difficulties. (5 marks)
- c. the use of telefax to submit written evidence (5 marks)

### Question 3

- a. In the dispute between Okon Electronics and Ajala Logistics, the arbitral panel require advance notice about parties' witnesses. Okon wishes to call Fatima to testify that she was present on the date that Okon and Ajala entered into a verbal agreement to merge their services. In the profile headed 'PROFILE OF 'WITNESS 1' FOR OKON ELECTRONICS', Okon states Fatima's qualifications, marital status, number of children, hobbies, religion and medical history. Advise him on the likelihood of the profile being found acceptable to the tribunal and any other information that should be provided. (7.5 marks)
- b. Titus wishes to call Philemon as a witness in his dispute with Phoebe. Having been advised by Segun (a law student). Titus obtains an unsigned statement of Philemon's testimony made under oath before Segun. Advise on why Titus' son may have considered the written statement advantageous and the validity of the Philemon's statement (7.5 marks)

### Question 4

'Although it is common to talk of an arbitration award as a single concept ... there are several sub-categories' Discuss giving examples. (15 marks)

### Question 5

Observing COVID 19 protocols, the 3 man arbitral panel delivered their arbitral award from their respective hotel rooms via video link to the disputing parties who joined via Zoom. The award did not give any reasons upon which it was based. This, the tribunal chairman pointed out was due to the need not to keep the award succinct. Afterwards, a copy of the award was delivered to the claimant and the respondent was asked to make a photocopy of the award. The award was signed by the administrative secretary to the Tribunal Chairman. When the Claimant observed that the award was not dated, the despatch rider sent to deliver the award to the claimant apologised and filled in the date of delivery. From the above scenario, discuss any actions which may and may not invalidate the award under the Arbitration and Conciliation Act 2004. (15 marks)

### Question 6

- a. The Irish Republic of Iran entered into a contract with Flowers (East Germany) Ltd but failed to meet its obligations. Flowers Ltd. claimed damages for the breach and was awarded 6 Billion USD by the LCIA. Flowers Ltd. have applied to the US Circuit Court to attach IRI's assets in the US but IRI claims sovereign immunity. Advise Flowers Ltd. (7.5 marks)

- b. Beads Ltd. is in a dispute with Diamonds Ltd. Bead's key witness is exhibiting COVID symptoms and has been quarantined by NCDC. The witness is also showing signs of depression and irrational behaviour due to lack of human contact. Beads Ltd. has asked for an adjournment but the arbitral tribunal insist that its witness can give its evidence via video link from the isolation centre and has delivered an award in favour of Diamonds Ltd. Advise Beads Ltd. (7.5 marks)