



**NATIONAL OPEN UNIVERSITY OF NIGERIA**  
**14/16 AHMADU BELLO WAY, VICTORIA ISLAND, LAGOS**  
**FACULTY OF LAW**  
**2019\_1 EXAMINATION**

**COURSE CODE: PPL324**

**COURSE TITLE: LAW OF TORTS 2**

**CREDIT UNIT: 4**

**INSTRUCTION: ANSWER QUESTION ONE AND ANY OTHER 3 (THREE) QUESTIONS. QUESTION ONE ATTRACTS 25 MARKS WHILE OTHER QUESTIONS CARRY 15 MARKS EACH**

**TIME : 2 ½ HOURS**

**Question 1**

Funtua L.G.A has set aside a portion of the L.G.A to Oasis Ltd where they have created Desert- Beauty land Park. Mrs. Bameyi and her son Norman 5 years old buy tickets and settle down to spend the afternoon at the park. By the ticket booth is a large neon sign which reads 'Desert- Beauty land Park accepts no liability for loss or damage howsoever caused'. Furthermore, there are signs around the children's paddling pool reading 'no running'.

'Enjoyment Yakata Ltd' are repairing the drainage filter system and working next to the children's pool. While they're working the filter releases a toxic gas which causes 2 of its workers Musa and Bako Fred to pass out.

Norman who has been watching them begins to vomit. Mrs. Bameyi hears him and runs to help. She slips on the floor and falls breaking her hip.

That evening whilst the moonlight is up Tunde and Ologun are on their way home from the local pepper-soup joint. Responding to a dare from Tunde, Ologun ignores signs outside the complex stating 'the pools are closed between 10 p.m. and 7 a.m. no entry'. He climbs the fence surrounding the pool and dives into the pool. He hits his head and sustains severe concussions his new iPad is ruined in the process.

What issues of tort arise in this scenario? **25 Marks.**

### Question 2

- i. Not every act of inconvenience or annoyance can in law amount to nuisance. Discuss.
- ii. The defendants, a firm of solicitors, employed a managing clerk who was authorized to do conveyancing work for the firm. The clerk induced the plaintiff who owned a number of properties, to instruct him to sell the properties. He then persuaded her to execute this documents, which he falsely told her were necessary for the sale, but which infact were conveyances of the properties to himself. He then dishonestly sold the properties and misappropriated the proceeds.

With the help of decided cases discuss instances when a master can be liable for the fraud or theft of his servant

### Question 3

Honourablekatakata is a member of the Federal House of Representatives of Shineyaeye Republic. Whilst campaigning for electoral votes at the forthcoming elections to be held in October, in order to secure his position in the house, he advised his campaign machinery to do all they can to smear the name of Ms. Boldbeautifulandproud. He led the way by urging the crowd to avoid any attempt by Ms. Boldbeautifulandproud, whom he called 'a prostitute and an unwed', therefore,

irresponsible mother who does not respect men enough to give them way in politics; deceiving them into voting for her because of her sweet mouth and beauty.

- a. Ms. Boldbeautifulandproud heard this, and she is furious as her pride has taken a severe dent. She approaches your firm 'actionnodey' for immediate necessary action. Advise her accordingly.
- b. What defenses are available to Honourablekatakataunder the law?

#### Question 4

- (a) Discuss the locus and the rule in Rylands v. Fletcher (1866) LRL. Exch. 265.
- (b) A clerk used a water tap about ten minutes after office hours in a washroom provided for employees and forgot to turn it off before leaving for home. The adjoining office was flooded with water as a result.
  - i. Advise the adjoining office

#### Question 5

Mr. Mkpandever is the owner of a large expanse of land in Vandekia Village. He has been farming various crops on the land for more than 20 years. In 2017, he was introduced into the business of poultry farming by the agents of the Federal Government through the Federal Ministry of Agriculture. He was issued with a certificate of training and a license of recognition as a professional and reputable poultry farmer.

Justice TouchintonAjebor is a retired judge of the Federal High Court in his late 70s. He has used his retirement benefits to erect a mansion a few meters from Mr. Mkpandever's poultry farm. Two weeks after moving into his new house, Justice Ajebor (rtd.) was admitted at the hospital. He underwent a CT Scan and was diagnosed of a heart problem

said to have been caused by continuously inhaling contaminated oxygen and lack of adequate sleep. His son, Terver concluded that the noise and foul air must have been from Mr. Mkpandever's farm.

- a. Terver as approached you to seek legal remedy for his father. What advice would you give him? 10 marks
- b. Advise Mr. Mkpandever on the defenses available to him under the law 5 marks

#### **Question 6**

With the help of decided cases discuss the nature and legal basis for the tort of passing off.

15 marks