

KENYA SCHOOL OF LAW



EXAMINATION FOR ADMISSION  
TO THE ROLL OF ADVOCATES

**ATP 104: TRIAL ADVOCACY**

FRIDAY 22<sup>ND</sup> NOVEMBER, 2013

DURATION: 3 HOURS

**Instructions to Candidates**

- (a) Candidates should attempt **FOUR** questions
- (b) Answer **questions one and two** and **any other two questions**
- (c) All questions carry 15 marks each
- (d) Marks shall be lost for illegibility

PLEASE TURN OVER

1. You are a trial lawyer specializing in civil litigation. You have been instructed to institute legal proceedings for compensation for wrongful death and total loss of motor vehicle arising out of a road traffic accident. Drawing from your knowledge of case analysis, prepare a comprehensive legal brief based on your client interview and research documentation.

Tip: use the technique of Who?; Where?; When?; Elements; Pleadings; Issues; Evidence.

**(15 marks)**

2. You are a prosecutor in the office of the Director of Public Prosecutions. The Director has tasked you to handle a case of murder.

On perusing the file, you discover that the death occurred in the home of the accused who claims that he was provoked by the deceased's suspicious intrusion into his home. Some other information suggests that the accused had laid a trap for the deceased who he suspected of carrying on an affair with the accused's wife. Prepare a comprehensive Opening Statement capturing all the elements of such a statement.

**(15 marks)**

3. You are the plaintiff's advocate in a land ownership case.

a) Prepare fifteen (15) questions in examination-in-chief of the plaintiff.

b) Prepare fifteen (15) questions in examination-in-chief of a surveyor whom you have called as an expert witness in the case.

**(15 marks)**

4. Present a concise analysis of cross-examination capturing the following aspects:

What is cross-examination?

What is the purpose of cross examination?

What statutory rules govern cross-examination:?

What techniques should one apply in cross-examination?

How can one avoid or minimize the problems and perils of cross-examination?

**(15 marks)**

5. The last witness has testified in a case involving division of matrimonial property. The plaintiff (wife) seeks a 50% share of the property while the husband maintains that she is entitled to nothing or at most a 20% share.

a) As counsel for the wife, prepare your closing argument.

b) As counsel for the husband, prepare your closing argument.

**(15 marks)**

6.

a) Distinguish between Trial Advocacy and Appellate Advocacy setting out the salient features of each.

**(6 marks)**

b) What are the key differences between negotiation, mediation and arbitration as methods of Alternative Dispute Resolution?

**(9 marks)**