

# COUNCIL OF LEGAL EDUCATION



EXAMINATION FOR ADMISSION  
TO THE ROLL OF ADVOCATES

## **ATP 104: TRIAL ADVOCACY**

THURSDAY 19TH NOVEMBER, 2015

DURATION: 3 HOURS

### Instructions to Candidates

- (a) Candidates MUST attempt FOUR questions
- (b) QUESTIONS ONE AND TWO ARE COMPULSORY
- (c) All questions carry 15 marks each
- (d) Marks shall be lost for illegibility

PLEASE TURN OVER

1. "Cross-examination is hard. It is frequently dramatic, often exciting and in many ways it defines our adversarial system of justice. Cross-examination is the ultimate challenge for the trial lawyer... A poor cross examination... can be truly disastrous. The witnesses can range from unco-operative to hostile, and you constantly run the risk of actually adding weight or sympathy to the other side's case. Moreover, most cross examinations will inevitably be perceived by the trier of fact as a contest between the lawyer and witness. You can seldom afford to appear to lose.

In other words, cross examination is inherently risky. The witness may argue with you. The witness may fill in the gaps left in the direct testimony. The witness may make you look bad. You may make yourself look bad. And whatever good you accomplish may be subject to immediate cure on re-direct examination.

None of these problems can be avoided entirely, but they can be minimized." *Lubert, Steven; Modern Trial Advocacy, Law School Edition (2004)*

- (a) Discuss the rules that an advocate must adhere to in order to minimize the problems and perils of cross-examination and execute it effectively. **(10 marks)**
- (b) Give an outline of the critical rules or warnings regarding what an advocate must not do in re-examination. **(5 marks)**

2. "Of course there's a search for truth going on in a trial, but it is not the main objective. Watching and listening to the witnesses, the factfinder is bound to be on the lookout for the liar. But trials often end up — usually end up, indeed — without any liars being unmasked. What the factfinders normally have to do is decide which parts of the evidence they prefer. An advocate's job is to lead his or her fact finder to a *preference* and thus to an *opinion*."

Keith Evans, The Golden Rules of Advocacy, p.51

Do you agree with this proposition? In this context, discuss the role of a trial advocate in court and indicate aspects of the psychology of advocacy that are critical in trial advocacy.

**(15 marks)**

3. Tabu has been having a land dispute with his brother Bravo since the death of their father. The protracted dispute led the village elders to mediate between the two brothers on several occasions.

Unknown to them, Tabu was not satisfied with the outcome of the mediation and still remained bitter with his brother.

One evening while leaving his local club after a couple of drinks Tabu bumped into his brother. A war of words ensued and Tabu attacked his brother with a big stone from the road-side and left him for dead. Bravo died after getting to the hospital.

Tabu has approached you to represent him in the matter.

- (a) Against the above facts discuss any five basic UN Principles on the role of lawyers. **(5 marks)**